

EXPLANATORY MEMORANDUM TO
THE TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA
(COMMISSION REGULATION (EC) NO 865/2006) (AMENDMENT)
REGULATIONS 2020

2020 No. 1668

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department for Environment, Food and Rural Affairs (“Defra”) and is laid before Parliament by Command of Her Majesty.
- 1.2 This Memorandum contains information for the Joint Committee on Statutory Instruments (“JCSI”).

2. Purpose of the instrument

- 2.1 Under the EU Regulations implementing the Convention on International Trade in Endangered Species (“CITES”), specimens of endangered species (“CITES specimens”) have moved freely between the UK and other EU Member States. Following the UK’s departure from the EU, and the subsequent Transition Period (“TP”), those moving certain CITES specimens will need to present import/(re-)export documents to a designated customs office (also referred to as a point of entry/exit (“PoE”). The purpose of this instrument is to set the criteria for authorising traders, individuals or their representatives, who mistakenly use a non-designated PoE in respect of import or (re-)export to or from Great Britain, to do so on one occasion after the end of the TP.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This instrument will come into force before it is laid. The Secretary of State’s power to make this instrument only comes into force at the end of the TP (that is at 11pm on 31st December 2020). It is necessary for this instrument to come into force before being laid so that the use of non-designated ports can be authorised straight after the end of the TP, to avoid delays at ports immediately after the end of the TP. The first possible day for laying is therefore the 4th January 2021. An explanation of why this is necessary has been sent to Speakers of the House of Lords and House of Commons.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As this instrument is simply laid before Parliament after being made and is not subject to further Parliamentary procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the United Kingdom.

4.2 The territorial application of this instrument is the United Kingdom. However, this instrument will only have practical application in Northern Ireland in relation to import or (re-)export to or from Great Britain.

5. European Convention on Human Rights

5.1 As this instrument is laid before Parliament after being made and is not subject to further parliamentary procedure, no statement is required.

6. Legislative Context

6.1 EU Regulations implementing CITES will become retained EU law at the end of the TP, with amendments made by the Environment and Wildlife (Miscellaneous Amendments etc.) (EU Exit) Regulations 2020 (SI 2020/1395), which come into force at the end of the TP.

6.2 The retained EU law version of Article 12(4) of Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein provides for the management authority to authorise, in exceptional cases, the introduction, export or re-export of specimens of endangered species through a customs office which has not been designated under Article 12(1). The authorisation must be in accordance with criteria set out by the Secretary of State in regulations.

6.3 This instrument sets out the criteria in an amendment to the retained EU law version of Commission Regulation (EC) No 865/2006 laying down detailed rules concerning the implementation of Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein. It inserts provisions into Regulation 865/2006 setting out criteria which traders, individuals, or their representatives must meet to benefit from such authorisations. It is intended that authorisations of movement through non-designated PoE in accordance with these criteria will be limited by policy to a short period after the end of the TP. This instrument will be kept under review and may be revoked once no longer necessary.

7. Policy background

What is being done and why?

7.1 After the end of the TP, CITES controls and checks on imports and (re-)exports will apply to trade in CITES specimens between the EU and Great Britain. As a result of the Protocol on Ireland/Northern Ireland (“The Protocol”), CITES controls will also apply on trade between Northern Ireland and Great Britain. CITES specimens can continue to move freely between Northern Ireland and the EU.

7.2 In the exceptional circumstances of the UK’s exit from the EU, and consequent regulatory changes following the end of the TP, some individuals or traders may, despite our concerted communications efforts, not be aware of the need to use a designated point of entry/exit (PoE) for CITES specimens. As a result, such traders or individuals may mistakenly present CITES specimens at PoE other than those designated for CITES purposes. In these circumstances Border Force may seize these items and would not allow the import into/(re-)export from the UK. Defra is therefore making provision for the use of non-designated PoE in respect of import or (re-)export to or from Great Britain by importers/(re-)exporters of CITES specimens to be authorised on one occasion. The intention is that authorisations to use non-designated PoE will only be given for a short period after the end of the TP. The same

arrangements will not be available in respect of Northern Ireland; this instrument amends retained EU law, under powers contained within retained EU law, and which will only be applicable in respect of Great Britain.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument is not being made under the European Union (Withdrawal) Act but relates to the withdrawal of the United Kingdom from the European Union because it contains provisions which are required as a result of exit from the EU and the end of the TP.

9. Consolidation

9.1 The Department does not intend to consolidate the relevant legislation at this time.

10. Consultation outcome

10.1 No public consultation was undertaken.

11. Guidance

11.1 No new guidance will be produced.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because no, or no significant, impact on the private, voluntary or public sector is foreseen.

13. Regulating small business

13.1 This instrument applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise regulatory burdens on small businesses.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is regular monitoring and review after the end of the TP. Consideration will be given to revoking this instrument once the policy is no longer warranted.

15. Contact

15.1 Rhiannon Hudson-Jones at the Department for Environment, Food and Rural Affairs email: Rhiannon.Hudson-jones@defra.gov.uk can be contacted with any queries regarding this instrument.

15.2 Sally Waples/Eleanor Schuricht, jointly Deputy Directors for ODA Management, Funds, and Wildlife, at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Rt Hon Lord Goldsmith, Minister of State for Pacific and the Environment at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.