



ENDANGERED SPECIES ACT 2010
ENDANGERED SPECIES (GENERAL) REGULATIONS 2011

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ENDANGERED SPECIES ACT 2010

ENDANGERED SPECIES (GENERAL) REGULATIONS 2011

Laid before Tynwald: 2011

Coming into operation: 1st January 2012

The Department of Environment, Food and Agriculture, after consulting the Wildlife Committee, makes these Regulations under sections 9, 10(1) and (2), 11(1), (2) and (3), 12(1), 13(8), 15(3), 16(1), (2) and (3), 20(2), 21(1) and (3), 22(1), (2) and (3), 23, 39(1) and 40(1), (2), (3), (4), (5), (6) and (8) of, and paragraph 12 of Schedule 2 to, the Endangered Species Act 2010¹:

PART 1

INTRODUCTORY

1 Title

These Regulations are the Endangered Species (General) Regulations 2011.

2 Commencement

These Regulations shall come into operation on 1st January 2012.

3 Interpretation

In these Regulations —

"the Act" means the Endangered Species Act 2010;

"the 1996 Regulation" means Council Regulation (EC) No. 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein², as it has effect from time to time;

¹ 2010 c.7

² OJ L 61, 3.3.1997, p.1

"the 2006 Regulation" means Commission Regulation (EC) No. 865/2006 of 4 May 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 therein³, as it has effect from time to time.

4 Documentary evidence

- (1) The Department shall not recognise a document, or a copy of a document, issued by a management authority of a country or territory outside the Island as equivalent to a document that the Department may issue unless the requirements set out in Articles 4.1, 4.2, 5.3, 5.4, 5.5 and 6.1 of the 2006 Regulation are satisfied in relation to the first-mentioned document.
- (2) Without prejudice to paragraph (1), the Department shall not, in relation to the import of a specimen into the Island, recognise a document issued by a management authority of a country or territory outside the Island, or a copy of such a document, as equivalent to —
 - (a) the requisite documents for an export or a re-export if its stated period of validity has been exceeded or it was issued —
 - (i) more than 12 months before the date of import, in the case of a certificate of origin relating to a class C specimen, or
 - (ii) more than 6 months before the date of import, in any other case;
 - (b) a travelling exhibition certificate or a personal ownership certificate if it was issued more than 3 years before the date of import.

PART 2

PERMITS AND CERTIFICATES

5 Import permits for Class A specimens

For the purposes of section 15(3) of the Act, the condition that must be complied with if a permit for the import of a Class A specimen is to be issued is that the Department is satisfied that —

- (a) the specimen is not to be used for primarily commercial purposes;
- (b) the import will be for purposes that are not detrimental to the survival of the species;
- (c) if the specimen is a living specimen, and has suitable accommodation to be able, to house and care for it;

³ OJ L166, 19.6.2006, p.1

- (d) there is no restriction in force on the introduction of the specimen into the European Community in accordance with Article 4.6 of the 1996 Regulation;
- (e) the specimen was obtained in accordance with legislation, relating to the protection of species of animals or plants, in the country or territory in which the specimen was obtained; and
- (f) there are no other factors, including conservation factors, against import.

6 Import permits for Class B specimens

For the purposes of section 15(3) of the Act, the condition that must be complied with if a permit for the import of a Class B specimen is to be issued is that the Department is satisfied that —

- (a) the import will be for purposes that are not detrimental to the survival of the species;
- (b) if the specimen is a living specimen, and has suitable accommodation to be able, to house and care for the specimen;
- (c) there is no restriction in force on the introduction of the specimen into the European Community in accordance with Article 4.6 of the 1996 Regulation;
- (d) the specimen was obtained in accordance with legislation relating to the protection of species of animals or plants, in the country or territory in which the specimen was obtained; and
- (e) there are no other factors, including conservation factors, against import.

7 Export permits for Class A specimens

For the purposes of section 15(3) of the Act, the condition that must be complied with if a permit for the export of a Class A specimen is to be issued is that the Department is satisfied that —

- (a) the export will be for purposes that are not detrimental to the survival of the species;
- (b) the specimen was obtained in accordance with the Wildlife Act 1990⁴;
- (c) in the case of a living specimen of an animal, the specimen will be prepared and transported in a manner that minimises any risk to the animal of injury, damage to health or cruel treatment;
- (d) in the case of a species listed in Appendix I to the Convention —

⁴ 1990 c.2

- (i) the specimen is not to be used for primarily commercial purposes, or
- (ii) a State party to the Convention has granted an import permit ;
and
- (e) there are no other factors, including conservation factors, against export.

8 Export permits for Class B and Class C specimens

- (1) For the purposes of section 15(3) of the Act, the conditions that must be complied with if a permit for the export of a Class B or a Class C specimen is to be issued are that the Department is satisfied that —
 - (a) the specimen was obtained in accordance with the Wildlife Act 1990;
 - (b) the export will be for purposes that are not detrimental to the survival of the species;
 - (c) if the specimen is an animal claimed to have been bred in captivity, it was bred in captivity;
 - (d) if the specimen is a living animal, it will be prepared and transported so as to minimise any risk to the animal of injury, damage to health or cruel treatment; and
 - (e) there are no other factors, including conservation factors, against export.

9 Re-export certificates for Class A specimens

- (1) For the purposes of section 16(4) of the Act, the condition that must be complied with if a re-export certificate in respect of a Class A specimen is to be issued is that the Department is satisfied that —
 - (a) the specimen was imported in accordance with the statutory provisions in force at that time;
 - (b) if the specimen is a living animal, it will be prepared and transported so as to minimise any risk to the animal of injury, damage to health, or cruel treatment; and
 - (c) in the case of a species listed in Appendix I to the Convention —
 - (i) the specimen is not to be used for primarily commercial purposes, or
 - (ii) a State party to the Convention has granted an import permit; and
 - (d) there are no other factors, including conservation factors, against re-export.

10 Re-export certificates for Class B and Class C specimens

For the purposes of section 16(4) of the Act, the condition that must be complied with if a re-export certificate in respect of a Class B specimen or a Class C specimen is to be issued is that the Department is satisfied that –

- (a) the specimen was imported in accordance with the statutory provisions in force at that time;
- (b) if the specimen is a living animal, it will be prepared and transported so as to minimise any risk to the animal of injury, damage to health or cruel treatment; and
- (c) there are no other factors, including conservation factors, against re-export.

11 Introduction from the sea certificates for Class A and Class B specimens

(1) For the purposes of section 16(4) of the Act, the conditions that must be complied with if an introduction from the sea certificate is to be issued is that the Department is satisfied that –

- (a) in the case of a Class A specimen –
 - (i) the introduction will not be detrimental to the survival of the species;
 - (ii) if the specimen is a living animal or plant, the proposed recipient is suitably equipped to house and care for it;
 - (iii) if the specimen is a living animal, it will be prepared and transported so as to minimise any risk to the animal of injury, damage to health or cruel treatment;
 - (iv) the specimen is not to be used for primarily commercial purposes;
- (b) in the case of a Class B specimen –
 - (i) the introduction will not be detrimental to the survival of the species;
 - (ii) if the specimen is a living animal, it will be prepared and transported so as to minimise any risk to the animal of injury, damage to health or cruel treatment.

(2) The Department, after consulting the Committee, may grant an introduction from the sea certificate in respect of a maximum number of specimens of a species.

(3) For the purpose of paragraph 12(6)(b) of Schedule 2 to the Act, the maximum duration of an introduction from the sea certificate is one year.

12 Travelling exhibition certificates

- (1) For the purposes of section 16(4) of the Act, the conditions that must be complied with if a travelling exhibition certificate in respect of a specimen is to be issued are that —
 - (a) the Department is satisfied that the specimen —
 - (i) was born and bred in captivity or artificially propagated, or
 - (ii) is a pre-Convention specimen;
 - (b) the Department is satisfied that the specimen —
 - (i) is to be imported, exported or re-exported as part of a travelling exhibition;
 - (ii) is uniquely and permanently marked; and,
 - (iii) in the case of a live animal, will be transported to and from and within the Island, and cared for within the Island, so as to minimise the risk to the animal of injury, damage to health or cruel treatment; and
 - (c) the Department is provided with such information relating to the specimen as it reasonably requires.
- (2) A travelling exhibition certificate may not relate to more than one live animal.
- (3) For the purpose of paragraph 12(5)(d) of Schedule 2 to the Act, the maximum duration of a travelling exhibition certificate is 3 years.

13 Personal ownership certificates

- (1) For the purposes of section 16(4) of the Act, the condition that must be complied with if a personal ownership certificate in respect of a live animal is to be issued is that the Department is satisfied that —
 - (a) the person to whom the certificate is issued —
 - (i) is the owner of the animal,
 - (ii) legally acquired it, and
 - (iii) holds it for personal non-commercial purposes;
 - (b) the animal was either —
 - (i) born and bred in captivity, or
 - (ii) is a pre-Convention specimen;
 - (c) the animal is uniquely and permanently marked.
- (2) A personal ownership certificate may relate to more than one specimen.

14 Pre-Convention certificates

For the purposes of section 16(4) of the Act, the condition that must be complied with if a pre-Convention certificate is to be issued is that the Department is satisfied that the specimen is a pre-Convention specimen.

15 Marking of specimens

- (1) This regulation applies to any specimen to which any of the requirements of Articles 64 to 68 (marking of specimens) of the 2006 Regulation applies.
- (2) Without prejudice to any other provision of this Part, a condition or further condition that must be complied with if any permit or certificate under Part 4 of the Act is to be issued in relation to a specimen to which this regulation applies is that the Department is satisfied that any applicable requirement mentioned in paragraph (1) is complied with.

16 Commercial use

- (1) The Department may, on a case by case basis, issue in relation to a Class A specimen or a Class B specimen a certificate authorising its commercial use for one or more of the following purposes —
 - (a) the advancement of science,
 - (b) essential biomedical purposes,
 - (c) breeding in captivity or artificial propagation; or
 - (d) research or education aimed at the preservation or conservation of the species.
- (2) For the purposes of section 16(4) of the Act, the condition that must be complied with if a certificate under paragraph (1) is to be issued is that the Department is satisfied that —
 - (a) the commercial use is for purposes that are not detrimental to the survival of the species;
 - (b) the specimen is uniquely and permanently marked;
 - (c) in the case of a certificate authorising commercial use for a purpose mentioned in paragraph (1)(a) or (b) —
 - (i) the circumstances are exceptional, and
 - (ii) the species in question is the only one suitable, and
 - (iii) in the case of a Class A specimen, there are no specimens born and bred in captivity;
 - (d) in the case of a certificate authorising commercial use for a purpose mentioned in paragraph (1)(c), that conservation benefits will accrue to the species.

- (3) In addition to the matters specified in section 16(3)(a) and (b) of the Act, a certificate under paragraph (1) shall specify —
 - (a) the commercial use authorised by the certificate, and
 - (b) the purpose or purposes mentioned in paragraph (1) for which the commercial use is required.
- (4) In this regulation "commercial use" means an activity specified in section 13(2) of the Act.

17 Consultation with Committee

The Department shall not determine under this Part that any purposes of import, export, introduction from the sea or commercial use of any description of specimens is not detrimental to the survival of the species except after consulting the Wildlife Committee.

PART 3

DOCUMENTS TO ACCOMPANY MOVEMENT OF SPECIMENS

18 Documents to be produced on import of Class A or B specimens

- (1) For the purposes of section 11(1)(a) of the Act, the documents to be produced when a Class A specimen or a Class B specimen is imported into the Island are —
 - (a) a document issued by the recognised management authority of the country or territory from which the animal is being exported or re-exported and recognised by the Department as equivalent to an export permit or a re-export certificate
 - (b) an import permit issued by the Department.
- (2) For the purposes of section 11(1)(b) of the Act, the prescribed period that the documents referred to in paragraph (1), or official copies of such documents provided by the Department (where the originals have been surrendered), must be kept after the import of the specimen is —
 - (a) in the case of a live animal or plant, until the specimen dies;
 - (b) in any other case, 3 years.

19 Documents to be produced on import of Class C specimens

- (1) For the purposes of sections 6(1) and 11(1)(a) of the Act, the document to be produced when a Class C specimen to which this paragraph applies is imported into the Island is a document —
 - (a) issued by the recognised management authority of the country or territory from which the specimen is being exported; and
 - (b) recognised by the Department as equivalent to an export permit.

- (2) Paragraph (1) applies to a Class C specimen which —
 - (a) is being imported from a country or territory which is a country or territory of a State party to the Convention and is specified in Annex C to the 1996 Regulation in relation to the species to which the specimen belongs; and
 - (b) is not being re-exported from that country or territory.
- (3) For the purposes of sections 6(1) and 11(1)(a) of the Act, the document to be produced when a Class C specimen to which this paragraph applies is imported into the Island is a document —
 - (a) issued in relation to the specimen by —
 - (i) the recognised management authority of the country or territory from which the animal is being re-exported, or
 - (ii) in the case of a country or territory of a State which is not party to the Convention, an authority competent for the purpose,
 - (b) recognised by the Department as equivalent to an export permit, a re-export certificate or a certificate of origin, and
 - (c) in the case of a copy document, endorsed by the customs authority of a member State of the European Community.
- (4) Paragraph (3) applies to a Class C specimen which —
 - (a) is being imported from a country or territory which is not specified in Annex C to the 1996 Regulation in relation to the species to which the specimen belongs; or
 - (b) is being re-exported from any country or territory that is a party to the Convention (whether or not the country or territory is specified as mentioned in sub-paragraph (a)).
- (5) For the purposes of section 6(1) of the Act, the document referred to in paragraph (1) or (3) must be produced to an authorised officer at or within 28 days after the time of import.
- (6) For the purposes of section 11(1)(b) of the Act, the document referred to in paragraph (1) or (3) must be kept after the import of the specimen —
 - (a) in the case of a live animal or plant, until the specimen dies;
 - (b) in any other case, 3 years.

PART 4

EXEMPTIONS AND DEFENCES

20 Import of personal or household effects

- (1) Subject to the following provisions of this regulation, the import by an individual of personal or household effects which –
- (a) were legally acquired; and
 - (b) are either –
 - (i) worn or carried or included in the personal luggage of the individual;
 - (ii) contained in the personal property of the individual who is in the course of removing to the Island from another country or territory; or
 - (iii) a hunting trophy of a specimen killed by the individual and being imported at a later date.

is exempt from the requirements of sections 5 and 6 of the Act.

- (2) In the case of a Class A specimen, the exemption in paragraph (1) does not apply where it is imported into the Island for the first time by a person who has his or her normal place of residence in, or is in the course of removing to, the Island.
- (3) In the case of a Class B specimen which is being imported into the Island for the first time by a person who has his or her normal place of residence in the Island, the exemption in paragraph (1) applies on condition that –
- (a) a document specified in paragraph (5) is available for inspection on entry; or
 - (b) the specimens are of a description and quantity specified in columns 1 and 2 of the table in paragraph (6).
- (4) In the case of a Class A specimen or a Class B specimen which has previously been imported into the Island and is being imported by a person who has his or her normal place of residence in the Island, the exemption in paragraph (1) applies on condition that –
- (a) the following –
 - (i) either a copy of an import permit, export permit or re-export certificate previously issued by the Department in respect of the specimen and endorsed by an officer of Customs and Excise, or a document specified in paragraph (5); or
 - (ii) proof that the specimens were acquired within the Island,

- are available for inspection on entry; or
- (b) the specimens are of a description and quantity specified in columns 1 and 2 of the table in paragraph (6).
- (5) The document referred to in paragraphs (3)(a) and (4)(a)(ii) is a document —
- (a) issued in relation to the specimen by —
- (i) the recognised management authority of the country or territory from which the animal is being exported or re-exported, or
- (ii) in the case of a country or territory of a State which is not party to the Convention, an authority competent for the purpose,
- (b) recognised by the Department as equivalent to an export permit, a re-export certificate or a certificate of origin, and
- (c) in the case of a copy document, endorsed by the customs authority of a member State of the European Community.
- (6) The following is the table referred to in paragraphs (3)(b) and (4)(b) —

<i>Description of specimens</i>	<i>Not exceeding</i>
Caviar of sturgeon species <i>Acipenseriformes spp.</i>	250 grams
Rainsticks of <i>Cactaceae spp.</i>	3 no.
Dead worked specimens of <i>Crocodylia spp.</i> , excluding meat and hunting trophies	4 no.
Shells of <i>Strombus gigas</i>	3 no.
Dead specimens of <i>Hippocampus spp.</i>	4 no.
Shells of <i>Tridacnidae spp.</i> , where a specimen may be one intact shell or two matching halves.	3 no. and 3 kilograms

21 Export or re-export of personal or household effects

- (1) Subject to the following provisions of this regulation, the export or re-export by an individual of personal or household effects is exempted from the requirements of section 7 of the Act.
- (2) In the case of export, the exemption in paragraph (1) applies only to Class B specimens of a description and quantity specified in columns 1 and 2 of the table in regulation 20(6).
- (3) In the case of re-export by a person who has his or her normal place of residence in the Island, the exemption in paragraph (1) applies on condition that —
- (a) the following —

- (i) either a copy of an import permit, export permit or re-export certificate previously issued by the Department in respect of the specimen and endorsed by an officer of Customs and Excise, or a document specified in regulation 20(5); or
 - (ii) proof that the specimens were acquired within the Island, are available for inspection on export; or
- (b) the specimens are of a description and quantity specified in columns 1 and 2 of the table in regulation 20(6).

22 Travelling exhibition certificates

- (1) The import, export or re-export of a specimen in respect of which a document specified in paragraph (3) is in force is exempt from the requirements of sections 5 to 7 of the Act.
- (2) The display to the public for commercial purposes of a specimen in respect of which a document specified in paragraph (3) is in force is exempt from section 13(2)(d) of the Act.
- (3) The document referred to in paragraphs (1) and (2) is —
 - (a) a travelling exhibition certificate, or
 - (b) a document issued by a recognised management authority and recognised by the Department as equivalent to a travelling exhibition certificate .

23 Personal ownership certificates

The import, export or re-export of a specimen —

- (a) in respect of which —
 - (i) a personal ownership certificate, or
 - (ii) a document issued by a recognised management authority and recognised by the Department as equivalent to a personal ownership certificate,

is in force, and

- (b) which is accompanied by the owner named in the certificate or document,

is exempt from the requirements of sections 5 to 7 of the Act.

24 Pre-Convention certificates

The import, export or re-export of a specimen in respect of which —

- (a) a pre-Convention certificate, or

- (b) a document issued by a recognised management authority and recognised by the Department as equivalent to a pre-Convention certificate,

is in force are exempt from the requirements of sections 5 to 7 of the Act.

25 Commercial use

In proceedings for an offence under section 13(2) of the Act relating to a specimen it is a defence for the accused to show that the specimen –

- (a) is a pre-Convention specimen;
- (b) originated in the Island and was obtained in accordance with the Wildlife Act 1990; or
- (c) is or is derived from an animal born and bred in captivity or an artificially propagated plant.

26 Transfers between scientific institutions

(1) This section applies to the following specimens –

- (a) herbarium specimens,
- (b) other preserved, dried, frozen or embedded museum specimens, and
- (c) live plant material.

(2) The import, export or re-export by a recognised scientific institution registered under section 20 of the Act of a specimen to which this regulations applies for the purpose of a non-commercial loan, donation or exchange between the institution and a recognised scientific institution in another country or territory (an "overseas institution") is exempt from the requirements of sections 5 to 7 of the Act on condition that –

- (a) the specimen has been legally obtained; and
- (b) a label approved for this use by the Department or by the recognised management authority by which the overseas institution is designated ("the overseas authority"), as the case may be, is attached to the specimen;
- (c) the label is completed by each institution and details of it are provided by both institutions to the Department and the overseas authority.

27 Phytosanitary certificates

(1) Under section 10(1) of the Act, the import, export or re-export of –

- (a) artificially propagated plants of Class B or Class C; or
- (b) artificially propagated hybrid plants produced from plants of a Class A species which is unannotated in Annex A to the 1996 Regulation,

is exempt from the requirements of sections 5 to 7 of the Act if a phytosanitary certificate complying with paragraph (2) is provided.

- (2) The phytosanitary certificate referred to in paragraph (1) shall —
- (a) state the type and quantity of specimens (described in accordance with article 14.2 of the 2006 Regulation); and
 - (b) bear a stamp, seal or other specific indication that ‘the specimens are artificially propagated as defined by CITES’.

PART 5

REGISTRATION

Registration of scientific institutions

28 Conditions for entry in register of scientific institutions

For the purposes of section 22(1) of the Act, the condition that must be complied with for an institution to be entered in the register kept under section 20 of the Act is that the Department is satisfied that —

- (a) the institution is a bona fide scientific institution dedicated to scientific research;
- (b) the institution has sufficient expertise, and is otherwise suitable, to be entered in the register; and
- (c) specimens held or acquired by the institution are or will be —
 - (i) acquired primarily for research to be reported in scientific publications;
 - (ii) prepared and arranged in a manner that ensures their utility;
 - (iii) permanently housed and professionally cared for;
 - (iv) accessible to all qualified users, including those from other institutions;
 - (v) in the case of Class A specimens, permanently housed under the direct control of the institution, and so managed as to preclude their use for decoration, trophies or other purposes incompatible with the principles of the Convention.

29 Records to be kept

An institution entered in the register kept under section 20 of the Act must ensure that —

- (a) all specimens held or acquired by it are —
 - (i) accurately marked or labelled, and

- (ii) recorded in a permanent catalogue; and
- (b) a permanent record of all loans and transfers to other institutions is maintained.

30 Cancellation of entry

The Department may cancel the entry of an institution in a register kept under section 20 of the Act if it is satisfied that —

- (a) the institution no longer satisfies one or more of the criteria specified in regulation 28; or
- (b) the institution has persistently failed to comply with —
 - (i) a conditions subject to which it is registered, or
 - (ii) a requirement of regulation 29.

Registration of traders

31 Registers of traders

- (1) The Department may keep any of the following registers —
 - (a) a register of persons importing, exporting or re-exporting biological samples of types specified in Annex XI to the 2006 Regulation;
 - (b) a register of persons exporting or re-exporting Class B specimens or Class C specimens (other than live animals or plants);
 - (c) a register of persons artificially propagating in the Island plants of Class A or Class B.
- (2) In addition to the matters specified in section 21(2)(a) of the Act, an entry in any such register shall include the following particulars —
 - (a) the registered person's name and contact details;
 - (b) the address where the registered person carries on business;
 - (c) an authorisation of the registered person to complete specified parts of specified types of permits or certificates;
 - (d) the duration of the registration; and
 - (e) the conditions of the registration.
- (3) The Schedule shall have effect with respect to registration under this regulation.
- (4) In this Part "registered person" means a person entered in a register kept under this regulation.

32 Simplified procedures

- (1) The Department may supply to a registered person completed, or partly completed, permits or certificates of a type which the person is authorised to complete.
- (2) A registered person shall send to the Department a copy of any permit or certificate within 24 hours after it is completed or within such longer period as the Department may agree in writing.
- (3) A registered person who contravenes paragraph (2) shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2,500.
- (4) A registered person shall maintain a record of any import, export or re-export authorised by a permit or certificate completed by that person, including particulars of —
 - (a) the number and type of biological samples, or the number of specimens and the species concerned, as the case may be,
 - (b) the name and address of the person by or to whom they were consigned, and
 - (c) the date of the import, export or re-export;and shall produce the record for inspection when requested to do so by an authorised officer.
- (5) A registered person shall, when requested to do so, provide to the Department such annual returns relating to the permits or certificates completed by that person as are specified in the request.

PART 6

MISCELLANEOUS

33 Certificate as to application of Convention etc.

- (1) For any purposes of the Act —
 - (a) a copy of a document referred to in section 40(3)(a) or (b) of the Act certified by an officer of the Department to be a true copy shall, in any proceedings, be sufficient evidence of the document unless the contrary is proved;
 - (b) a document purporting to be a copy of such a document and to be so signed shall be deemed to be such a copy and so signed unless the contrary is proved;
 - (c) a certificate signed by an officer of the Department that —

- (i) a species of animal or plant was included, or first included, in a list of species contained in a provision mentioned in paragraph (2), or
- (ii) that a State was or was not party to the Convention, or
- (iii) a country or territory was or was not a country or territory of a State party to the Convention,

on a date specified in the certificate shall, in any proceedings, be sufficient evidence of that fact unless the contrary is proved; and

- (d) a certificate purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

(2) The provisions referred to in paragraph (1)(c)(i) are —

- (a) Annex A, Annex B and Annex C to the 1996 Regulation; and
- (b) Appendix I, Appendix II and Appendix III to the Convention.

34 Requirements in relation to transport and transshipment of specimens

Where any specimen, being a live animal, is —

- (a) transported into, from or within the Island, or
- (b) held during any period of transit or transshipment,

and is prepared, moved or cared for in a manner which does not minimise the risk of injury, damage to health or cruel treatment, the person by whom it is transported or held is guilty of an offence and liable on summary conviction to a fine not exceeding £2,500.

35 Notice of import, etc

The notice required by section 9 of the Act must —

- (a) be given in writing to an officer of customs and excise, and
- (b) include the following details —
 - (i) the numbers and types of specimens involved.
 - (ii) the mode of transport;
 - (iii) the expected time the specimen will leave or enter the Island;
 - (iv) the harbour or airport by which it will leave or enter;
 - (v) the name of the carrier.

MADE: 15th November 2011

Phil Gawne

Minister for Environment, Food and Agriculture

Regulation 31(3).

SCHEDULE
REGISTRATION PROCEDURE

Application for registration

1. (1) An application for registration shall be made in writing to the Department in such form as the Department may reasonably require.
- (2) The application shall include —
 - (a) the applicant's name and contact details;
 - (b) the address where the applicant carries on business;
 - (c) whether the applicant wishes to be entered in the register kept under regulation 31(1)(a), (b) or (c);
 - (d) the descriptions of biological samples, prescribed species, or descriptions of animals or plants of prescribed species, as the case may be, in respect of which the applicant wishes to be registered;
 - (e) the types of permits or certificates which the applicant wishes to be authorised to complete; and
 - (f) such other information as the Department may reasonably require.
- (3) The Department may request the applicant to provide to the Department further information in relation to the application, and may decline to determine the application unless and until the information is provided.
- (4) In relation to any application under this paragraph, references in the following provisions of this Schedule to "the register" are to the register specified under sub-paragraph (2)(c).

Determination of application

2. The Department may —
 - (a) grant an application under paragraph 1 and enter the applicant in the register —
 - (i) in respect of all the matters specified under paragraph 1(2)(d); or
 - (ii) in respect of some (but not all) of those matters;
 - (iii) in respect of all the types of permit or certificate specified under paragraph 1(2)(e);
or
 - (iv) in respect of some (but not all) of those types;
 - (v) for an unlimited period; or
 - (vi) for a specified period; and
 - (vii) in any case, subject to such conditions as the Department thinks fit; or
 - (b) refuse the application.

Grounds for determination

3. (1) The Department shall not grant an application under paragraph 1 unless it is satisfied that the use of simplified procedures is justified due to the volume of trade or the urgency of administering the relevant permits or certificates.
- (2) Without prejudice to sub-paragraph (1), the Department shall not grant an application under paragraph 1 in respect of a description of biological samples, a prescribed species, or a description of animals or plants of prescribed species, if —

- (a) the Committee has advised that the grant of an application in respect of that description of biological samples, that species, or that description of animals or plants, as the case may be, would be detrimental to —
 - (i) the survival of a prescribed species, or
 - (ii) the survival, health or welfare of live specimens,
 - (b) the applicant is for the time being disqualified under paragraph 9 for entry in the register; or
 - (c) it appears to the Department that the grant of the application would not comply with any relevant guidelines adopted by the Conference of the Parties to the Convention.
- (3) In determining an application under paragraph 1, the Department shall have regard to whether —
- (a) the applicant, an employee of the applicant, or a person acting on behalf of or under the general supervision of the applicant, has been convicted of an offence against this Act or against any other enactment, or the law of another country or territory, relating to the conservation or welfare of animals or plants; and
 - (b) to enter the applicant in the register would be detrimental to the survival, health or welfare of living specimens of a prescribed species.

Notification of determination

4. (1) The Department shall notify the applicant in writing of the determination of an application under paragraph 1.
- (2) A notification under sub-paragraph (1) shall —
- (a) where the application is granted, specify —
 - (i) the descriptions of biological samples, prescribed species, or descriptions of animals or plants of prescribed species, as the case may be, in respect of which it is granted;
 - (ii) the types of permit or certificate in respect of which it is granted;
 - (iii) specify the period for which it is granted;
 - (iv) specify the conditions subject to which it is granted, and
 - (v) state the reasons for those conditions;
 - (b) where the application is granted in respect of some (but not all) of —
 - (i) the descriptions of biological samples, prescribed species, or descriptions of animals or plants of prescribed species, as the case may be, or
 - (ii) the types of permit or certificate,in respect of which it was made, state the reasons for refusing the application in respect of the remainder;
 - (c) where the application is refused, state the reasons for the refusal; and
 - (d) in any case, state the right of appeal under paragraph 8 and the time within which an appeal may be brought.

Amendment of registration

5. (1) A registered person may apply for the amendment of the relevant entry in a register, including —
- (a) the description of biological samples, prescribed species, or description of animals or plants of prescribed species, as the case may be, specified in the entry;

- (b) the types of permit or certificate so specified;
 - (c) the duration of the entry;
 - (d) the amendment or revocation of a condition.
- (2) An application under sub-paragraph (1) shall be made in writing to the Department in such form as the Department may reasonably require.
- (3) The application shall be accompanied by such information as the Department may reasonably require.
- (4) The Department may request the registered person to provide to the Department further information in relation to the application, and may decline to determine the application unless and until the information is provided.
- (5) The Department may —
- (a) grant an application under sub-paragraph (1), or
 - (b) refuse the application.
- (6) The Department shall not grant an application under paragraph (1) if it would not have granted the application, had it been for an entry in the register in the amended terms applied for.
- (7) If the Department is advised by the Committee that an activity specified in an entry in a register is detrimental to —
- (a) the survival of a prescribed species, or
 - (b) the survival, health or welfare of live specimens,
- the Department may on its own initiative amend the entry, including —
- (i) deleting a description of biological samples, a prescribed species, or a description of animals or plants of prescribed species, as the case may be, in the entry;
 - (ii) amending a condition, or
 - (iii) imposing an additional condition.

Cancellation of registration

6. (1) A registered person may apply for the cancellation of the relevant entry in a register.
- (2) The Department may cancel an entry in a register on its own initiative if it is satisfied that —
- (a) the registered person provided false or misleading information in the application for registration;
 - (b) the registration was made in error;
 - (c) the registered person has failed to comply with —
 - (i) a condition subject to which he or she is registered, or
 - (ii) a requirement imposed on him or her by these Regulations;
 - (d) the registered person, an employee of the registered person, or a person acting on behalf of or under the general supervision of the registered person, has committed an offence against this Act or any other enactment, or against the law of another country or territory, relating to the conservation or welfare of animals or plants; or
 - (e) the registered person has not provided, or is not or will not be able to provide, satisfactorily for the health and welfare of living specimens of a description specified in the entry of which the person has had, has or will have possession, as the case may be.

- (3) The Department may cancel an entry in a register on its own initiative if it is advised by the Committee that it is desirable to do so to assist in —
 - (a) the survival of a prescribed species, or
 - (b) the survival, health or welfare of live specimens.

Notification of amendment or cancellation

- 7. (1) The Department shall notify the registered person in writing of —
 - (a) the determination of an application under paragraph 5(1), and
 - (b) the amendment or cancellation of an entry under paragraph 5(7) or 6(2) or (3).
- (2) A notification under sub-paragraph (1)(a) shall —
 - (a) where the application is granted, specify the amendments made in the relevant entry;
 - (b) where the application is refused, state —
 - (i) the reasons for the refusal; and
 - (ii) the right of appeal under paragraph 8 and the time within which an appeal may be brought.
- (3) A notification under sub-paragraph (1)(b) shall —
 - (a) in the case of the amendment of an entry under paragraph 5(7), specify the amendments made, and
 - (b) in any case, state —
 - (i) the reasons for the amendment or cancellation; and
 - (ii) the right of appeal under paragraph 8 and the time within which an appeal may be brought.

Appeals against registration decisions

- 8. (1) A person who has applied for registration may appeal to the High Bailiff against a decision by the Department —
 - (a) to grant the application in respect of some (but not all) of the matters specified under paragraph 1(2)(d), or the types of permit or certificate specified under paragraph 1(2)(e);
 - (b) to impose a condition on the registration; or
 - (c) to refuse the application.
- (2) A registered person may appeal to the High Bailiff against a decision by the Department —
 - (a) to grant an application under paragraph 5(1) for amendment of an entry in the register in respect of some (but not all) of —
 - (i) the descriptions of biological samples, prescribed species, or descriptions of animals or plants of prescribed species, as the case may be, specified in the application; or
 - (ii) the types of permit or certificate so specified;
 - (b) to refuse such an application;
 - (c) to amend an entry in the register under paragraph 5(7); or
 - (d) to cancel an entry in the register under paragraph 6(2) or (3).
- (3) An appeal under this section shall be brought within 21 days after the appellant is notified in writing of the decision appealed against or within such further time as the High Bailiff may allow.

- (4) Unless the High Bailiff so orders, the lodging of an appeal shall not operate to stay the effect of a decision pending the determination of the appeal.
- (5) On an appeal under this section the High Bailiff may reverse or vary the decision appealed against if the High Bailiff considers that the relevant authority —
 - (a) erred in law;
 - (b) based its decision on any incorrect material fact;
 - (c) exercised its discretion in an unreasonable manner; or
 - (d) otherwise acted beyond its powers.
- (8) In subsection (7) "the relevant authority" means —
 - (a) in any case, the Department; and
 - (b) where the Department in making its decision acted on the advice of the Committee, the Committee.

Power of court to cancel registration etc.

- 9. (1) Where a person is convicted of an offence against the Act, the court by which he or she was convicted may order that —
 - (a) an entry in a register relating to that person be cancelled; or
 - (b) the person be disqualified for entry in any register, or in a specified register, kept under section 21 of the Act;for such period as it thinks fit.
- (2) Where a court has made an order under sub-paragraph (1), it may, if it thinks fit, suspend the operation of the order —
 - (a) for such period as it thinks necessary for enabling arrangements to be made for the disposal of any specimen; or
 - (b) pending an appeal.
- (3) A person who is disqualified by virtue of an order under sub-paragraph (1) may, at any time after the expiration of —
 - (a) one year from the date of the order; or
 - (b) two-thirds of the period of the disqualification,whichever is the later, and from time to time, apply to the court by which the order was made to remove the disqualification.
- (4) On an application under paragraph (3), the court may, as it thinks fit, having regard to —
 - (a) the character of the applicant and his or her conduct since the making of the order;
 - (b) the nature of the offence of which he or she was convicted; and
 - (c) any other circumstances of the case,
 - either —
 - (i) direct that, as from such date as may be specified in the direction, the disqualification be removed or that the order be so varied so as to apply only to a register, permit or certificate of a kind specified in the direction; or
 - (ii) refuse the application.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations make provision supplementing the Endangered Species Act 2010.

Part 1 (regulations 1 to 3) is introductory.

Part 2 (regulations 5 to 17) deals with permits and certificates under the Act; regulations 5 to 14 specify the conditions for the issue of permits and certificates; regulation 16 enables the issue of a certificate authorising the commercial use of certain specimens; regulation 17 requires consultation with the Wildlife Committee in certain cases.

Part 3 (regulations 18 and 19) specifies the documents to be produced on the import of specimens.

Part 4 (regulations 20 to 27) provide exemptions and defences for certain imports and exports.

Part 5 (regulations 28 to 32) deals with registration; regulation 28 makes further provision for the register of recognised scientific institutions under section 20 of the Act, regulation 31 and the Schedule provide for the registration of certain traders, and regulation 32 for simplified procedures for the issue of permits and certificates to such traders.

Part 6 (regulations 33 to 35) deals with certificates for the purpose of legal proceedings, requirements as to the transport of live animals, and the notice to be given of intended import or export.