

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 therein

## CHAPTER XV

### EXEMPTIONS AND DEROGATIONS

#### *Article 59*

#### **Exemptions from Article 8(1) of Regulation (EC) No 338/97 as provided for in Article 8(3) thereof**

1 The exemption for specimens referred to in Article 8(3)(a), (b) and (c) of Regulation (EC) No 338/97 shall be granted only if the applicant has satisfied the competent management authority that the conditions referred to therein and in Article 48 of this Regulation are met.

[<sup>F1</sup>1a The exemption for specimens referred to in Article 8(3) of Regulation (EC) No 338/97 shall be granted only if the applicant has satisfied the competent management authority that the specimens concerned have been acquired in accordance with the legislation in force for the conservation of wild fauna and flora.]

2 The exemption for specimens referred to in Article 8(3)(d) of Regulation (EC) No 338/97 shall be granted only if the applicant has satisfied the competent management authority, the latter having consulted a competent scientific authority, that the conditions referred to in Article 48 of this Regulation are met and that the specimens concerned were born and bred in captivity or artificially propagated in accordance with Articles 54, 55 and 56 of this Regulation.

3 The exemption for specimens referred to in Article 8(3)(e), (f) and (g) of Regulation (EC) No 338/97 shall be granted only if the applicant has satisfied the competent management authority, the latter having consulted with a competent scientific authority, that the conditions referred to therein and in Article 48 of this Regulation are met.

4 The exemption for specimens referred to in Article 8(3)(h) of Regulation (EC) No 338/97 shall be granted only if the applicant has satisfied the competent management authority that the specimens concerned were taken from the wild in a Member State in compliance with its legislation.

5 An exemption provided for in Article 8(3) of Regulation (EC) No 338/97 shall be granted with regard to live vertebrates only if the applicant has satisfied the competent management authority that the relevant provisions of Article 66 of this Regulation have been met.

#### **Textual Amendments**

**F1** Inserted by [Commission Regulation \(EU\) No 791/2012 of 23 August 2012 amending, as regards certain provisions relating to the trade in species of wild fauna and flora, Regulation \(EC\) No 865/2006 laying down detailed rules for the implementation of Council Regulation \(EC\) No 338/97.](#)

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*Status: Point in time view as at 05/02/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Commission regulation (EC) No 865/2006, CHAPTER XV. (See end of Document for details)*

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### *Article 60*

#### **Derogation from Article 8(1) of Regulation (EC) No 338/97 for the benefit of scientific institutions**

Without prejudice to Article 9 of Regulation (EC) No 338/97 a derogation from the prohibition laid down in Article 8(1) thereof may be granted to scientific institutions, approved by a management authority in consultation with a scientific authority, by the issue of a certificate covering all specimens in their collection of species listed in Annex A to that Regulation, that are intended for either of the following:

- (1) captive breeding or artificial propagation from which conservation benefits will accrue to the species concerned;
- (2) research or education aimed at the preservation or conservation of the species concerned.

Any sale of specimens covered by such a certificate may be made only to other scientific institutions holding such a certificate.

### *Article 61*

#### **Exemptions from Article 8(1) and (3) of Regulation (EC) No 338/97**

Without prejudice to Article 9 of Regulation (EC) No 338/97, neither the prohibition laid down in Article 8(1) thereof of the purchase, offer of purchase, or acquisition of specimens of species listed in Annex A thereto for commercial purposes nor the provision laid down in Article 8(3) thereof, to the effect that exemptions from those prohibitions are to be granted by the issue of a certificate on a case-by-case basis, shall apply where the specimens involved meet either of the following criteria:

- (1) they are covered by one of the specimen-specific certificates provided for in Article 48 of this Regulation;
- (2) they are covered by one of the general exemptions provided for in Article 62 of this Regulation.

### *Article 62*

#### **General exemptions from Article 8(1) and (3) of Regulation (EC) No 338/97**

The provision laid down in Article 8(3) of Regulation (EC) No 338/97, to the effect that exemptions from the prohibitions in Article 8(1) are to be granted by the issue of a certificate on a case-by-case basis, shall not apply to, and no certificate shall be required for, the following:

- (1) specimens of captive born and bred animals of the species listed in Annex X to this Regulation, and hybrids thereof, provided that specimens of annotated species are marked in accordance with Article 66(1) of this Regulation;
- (2) artificially propagated specimens of plant species;

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- (3) worked specimens that were acquired more than 50 years previously as defined in Article 2(w) of Regulation (EC) No 338/97<sup>[F2]</sup>;
- (4) <sup>[F1]</sup>dead specimens of *Crocodylia* species included in Annex A with source code D, provided that they are marked or identified via other means in accordance with this Regulation;
- (5) caviar of *Acipenser brevirostrum* and its hybrids, with source code D, provided that it is contained in a container marked in accordance with this Regulation.]

#### Textual Amendments

- F1** Inserted by Commission Regulation (EU) No 791/2012 of 23 August 2012 amending, as regards certain provisions relating to the trade in species of wild fauna and flora, Regulation (EC) No 865/2006 laying down detailed rules for the implementation of Council Regulation (EC) No 338/97.
- F2** Substituted by Commission Regulation (EU) No 791/2012 of 23 August 2012 amending, as regards certain provisions relating to the trade in species of wild fauna and flora, Regulation (EC) No 865/2006 laying down detailed rules for the implementation of Council Regulation (EC) No 338/97.

### Article 63

#### Pre-issued certificates under Article 8(3) of Regulation (EC) No 338/97

1 For the purposes of Article 8(3)(d) of Regulation (EC) No 338/97, a Member State may make pre-issued certificates available to breeders approved for that purpose by a management authority, provided that they maintain breeding records and that they produce those records, on request, to the competent management authority.

Such certificates shall, in box 20, include the following statement:

‘Certificate only valid for the following taxon/taxa: ...’

2 For the purposes of Article 8(3)(d) and (h) of Regulation (EC) No 338/97, a Member State may make pre-issued certificates available to persons who have been approved by a management authority to sell on the basis of such certificates dead captive-bred specimens and/or small numbers of dead specimens legally taken from the wild within the Community, provided that any such person meets the following requirements:

- a he maintains a record, which is produced on request to the competent management authority and which contains details of specimens/species sold, the cause of death if known, the persons from whom specimens were acquired and the persons to whom they were sold;
- b he submits an annual report to the competent management authority which contains details of sales during that year, the type and number of specimens, the species concerned and how the specimens were acquired.

<sup>[F13]</sup> Pre-issued certificates shall only be valid once they have been completed and a copy of the certificate is transmitted to the issuing management authority by the applicant.]

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*Status: Point in time view as at 05/02/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Commission regulation (EC) No 865/2006, CHAPTER XV. (See end of Document for details)*

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### **Textual Amendments**

- F1** Inserted by [Commission Regulation \(EU\) No 791/2012 of 23 August 2012](#) amending, as regards certain provisions relating to the trade in species of wild fauna and flora, [Regulation \(EC\) No 865/2006](#) laying down detailed rules for the implementation of [Council Regulation \(EC\) No 338/97](#).

**Status:**

Point in time view as at 05/02/2015.

**Changes to legislation:**

There are currently no known outstanding effects for the Commission regulation (EC) No 865/2006, CHAPTER XV.