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DRAFT STATUTORY INSTRUMENTS

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**2019 No.**

The Environment and Wildlife (Legislative Functions) (EU Exit) Regulations 2019

PART 4

Amendments to retained direct EU legislation on wildlife

**Council Regulation (EEC) No 3254/91 prohibiting the use of leghold traps in the Community and the introduction into the Community of pelts and manufactured goods of certain wild animal species originating in countries which catch them by means of leghold traps or trapping methods which do not meet international humane trapping standards**

**10.**—(1) Council Regulation (EEC) No 3254/91 prohibiting the use of leghold traps in the Community and the introduction into the Community of pelts and manufactured goods of certain wild animal species originating in countries which catch them by means of leghold traps or trapping methods which do not meet international humane trapping standards is amended as follows.

(2) In Article 3—

- (a) in paragraph 1, for the words from “the Commission” to the end substitute “the pelts originate from an approved country”;
- (b) at the end insert—

“4. In paragraph 1, “an approved country”, in relation to the pelts of any species (and goods incorporating such pelts), means a country listed in the Annex to the Council Decision in respect of that species.

5. Subject to paragraph 6, the Secretary of State may, by regulations, amend the Annex to the Council Decision by—

- (a) adding an entry;
- (b) amending an entry;
- (c) omitting an entry.

6. The Secretary of State may not add a country to the list of approved countries in the Annex to the Council Decision unless the Secretary of State is satisfied that, in that country—

- (a) there are adequate administrative or legislative provisions in force to prohibit the use of the leghold trap, or
- (b) the trapping methods used for the species specified in Annex 1 meet internationally agreed trapping standards.

7. In this Article, “the Council Decision” means Council Decision 97/602/EC concerning the list referred to in the second subparagraph of Article 3(1) of Regulation (EEC) No 3254/1991 and in Article 1(1)(a) of Commission Regulation (EC) No 35/97.”.

(3) In Article 4, for the second paragraph substitute—

“The Secretary of State may, by regulations, amend Council Regulation (EC) No 35/97 laying down provision on the certification of pelts and goods covered by Regulation (EEC) No 3254/91.”.

(4) For Article 5 substitute—

*“Article 5*

1. Regulations made under this Regulation are to be made by statutory instrument.
2. A statutory instrument containing regulations made under this Regulation is subject to annulment in pursuance of a resolution of either House of Parliament.
3. Such regulations may contain consequential, incidental, supplementary, transitional or saving provision (including provision amending, repealing or revoking enactments (which has the meaning given by section 20(1) of the European Union (Withdrawal) Act 2018)).”.

**Commission Regulation (EC) No 35/97 laying down provisions on the certification of pelts and goods covered by Council Regulation (EEC) No 3254/91**

11. In Article 2 of Commission Regulation (EC) No 35/97 laying down provisions on the certification of pelts and goods covered by Council Regulation (EEC) No 3254/91—

- (a) in paragraph 1, for “shown in the Annex” substitute “which at the date of importation is for the time being specified by the Secretary of State”;
- (b) after paragraph 3 insert—

“4. The Secretary of State must publish the model forms referred to in paragraph 1 in a manner which the Secretary of State considers appropriate.”.

**Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein**

12.—(1) Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein is amended as follows.

(2) In Article 2(d)—

- (a) for “Community” substitute “United Kingdom”;
- (b) for the words from “by the Commission” to the end substitute “in regulations made by the Secretary of State”.

(3) In Article 4—

(a) in paragraph 6—

(i) in the first subparagraph, in the words before point (a)—

(aa) omit the words from “in accordance” to “Article 18(2)”;

(bb) for “Scientific Review Group, the Commission may” substitute “scientific authority, the Secretary of State may, by regulations,”;

(cc) for “Community” substitute “United Kingdom”;

(ii) in the first subparagraph, in point (d), for “Community”, in both places it occurs, substitute “United Kingdom”;

(iii) in the second subparagraph—

(aa) for “Commission shall” substitute “Secretary of State must”;

(bb) omit “, in the Official Journal of the European Communities”;

(b) in paragraph 7—

- (i) in the first subparagraph—
    - (aa) for “Community” substitute “United Kingdom”;
    - (bb) for “shall be granted by the Commission” substitute “may, by regulations, be prescribed by the Secretary of State”;
  - (ii) omit the second subparagraph.
- (4) In Article 5(7)(b)—
- (a) for “a management” substitute “the management”;
  - (b) for “Commission which shall” substitute “Secretary of State who may”;
  - (c) for “recommend restrictions on” substitute “make regulations restricting”;
  - (d) omit the words from “in accordance” to the end.
- (5) In Article 7—
- (a) in paragraph 1(b), for “laid down by the Commission” substitute “set out in writing, and published, by the Secretary of State”;
  - (b) in paragraphs 1(c) and 2(c)—
    - (i) in the first sentence, for “by the Commission” substitute “in writing, and published, by the Secretary of State”;
    - (ii) omit the second sentence;
  - (c) in paragraph 3—
    - (i) in the first sentence—
      - (aa) for “Community” substitute “United Kingdom”;
      - (bb) for “by the Commission” substitute “in writing, and published, by the Secretary of State”;
    - (ii) omit the second sentence.
- (6) In Article 8(4)—
- (a) in the first sentence, for “Commission” substitute “Secretary of State in regulations”;
  - (b) in the second sentence, for “Community” substitute “United Kingdom”;
  - (c) omit the third sentence.
- (7) In Article 9(6)—
- (a) in the first sentence—
    - (i) for “Commission may” substitute “Secretary of State may, by regulations,”;
    - (ii) for “Community” substitute “United Kingdom”;
  - (b) omit the second sentence.
- (8) In Article 11(5)—
- (a) in the first sentence, for “Commission shall” substitute “Secretary of State may, by regulations,”;
  - (b) omit the second sentence.
- (9) In Article 12(4)—
- (a) in the first sentence—
    - (i) for “defined by the Commission, a” substitute “set out in regulations made by the Secretary of State, the”;
    - (ii) for “Community” substitute “United Kingdom”;

- (b) omit the second sentence.  
 (10) For Article 18 substitute—

*“Article 18  
 Regulations*

1. Regulations made under this Regulation are to be made by statutory instrument.
  2. A statutory instrument containing regulations made under this Regulation is to be laid before Parliament after being made, except for a statutory instrument containing regulations made under the following Articles, which is subject to annulment in pursuance of a resolution of either House of Parliament—
    - (a) Article 4(6);
    - (b) Article 5(7);
    - (c) Article 8(4);
    - (d) Article 9(6);
    - (e) Article 19(4);
    - (f) Article 19(5).
  3. Such regulations may—
    - (a) contain consequential, incidental, supplementary, transitional or saving provision (including provision amending, repealing or revoking enactments (which has the meaning given by section 20(1) of the European Union (Withdrawal) Act 2018));
    - (b) make different provision for different purposes.”.
- (11) In Article 19—
- (a) in paragraph 1—
    - (i) omit the first subparagraph;
    - (ii) in the second subparagraph—
      - (aa) for “Commission shall determine” substitute “Secretary of State may, by regulations, prescribe”;
      - (bb) omit the words from “in accordance” to the end;
  - (b) omit paragraph 2;
  - (c) in paragraph 3—
    - (i) in the first subparagraph, in the words before point (a), for “Commission shall lay down uniform” substitute “Secretary of State must, by regulations, prescribe”;
    - (ii) omit the second subparagraph;
  - (d) in paragraph 4—
    - (i) in the first sentence, for “Commission shall adopt, where necessary, additional measures to” substitute “Secretary of State may, by regulations,”;
    - (ii) omit the second sentence;
  - (e) in paragraph 5—
    - (i) in the first sentence, for “Commission shall” substitute “Secretary of State may, by regulations,”;
    - (ii) for the second sentence substitute—

“Before amending Annex B with respect to species described at Article 3(2)(c) or (d), or amending Annex D with respect to species described at Article 3(4)(a), the Secretary of State must consult the scientific authority regarding the amendment.”.