



# Endangered Species (Import and Export) Act 1976

## 1976 CHAPTER 72

### **4 Offence to sell etc. things imported contrary to section 1 or their derivatives**

- (1) Subject to subsection (2) below, a person who sells, offers or exposes for sale, has in his possession for the purpose of sale, or displays to the public,—
- (a) anything which has been imported contrary to section 1 above, or
  - (b) anything which is made wholly or partly from anything referred to in paragraph (a) above and which at the time of the alleged offence (though not necessarily at the time of importation) constitutes an item to which Schedule 3 to this Act for the time being applies,
- shall be guilty of an offence ; and in the following provisions of this section a " restricted article " means anything falling within paragraph (a) or (b) above.
- (2) A person shall not be guilty of an offence under subsection (1) above with respect to a restricted article if he proves to the satisfaction of the court—
- (a) that at the time when it first came into his possession he made such enquiries (if any) as in the circumstances were reasonable in order to ascertain whether it was a restricted article, and
  - (b) that, at the time the alleged offence was committed, he had no reason to believe that it was a restricted article.
- (3) Without prejudice to the generality of subsection (2)(a) above, a person shall be taken to have made such enquiries as are there mentioned if he produces to the court a certificate which was furnished by the person from whom the accused obtained possession of the restricted article (the supplier), which was signed by the supplier or by a person authorised by him, and which states that—
- (a) the supplier made enquiries at the time the restricted article came into his possession in order to ascertain whether it was a restricted article, and
  - (b) the supplier had no reason to believe at the time he relinquished possession of the restricted article to the accused that the article was at that time a restricted article.

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*Status: This is the original version (as it was originally enacted).*

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- (4) A person who furnishes for the purposes of subsection (3) above a certificate which he knows to be false in a material particular, or recklessly furnishes for those purposes a certificate which is false in a material particular, shall be guilty of an offence.
- (5) A person guilty of an offence under subsection (1) or (4) above shall be liable—
  - (a) on summary conviction, to a fine not exceeding £400 ;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (6) In this section any reference to sale includes references to barter and exchange.
- (7) For the purposes of this section a restricted article is displayed to the public if it is displayed to the public generally or any section of it, and (in either case) whether in return for money or otherwise.
- (8) For the purposes of any proceedings under section 45 or 304 of the Customs and Excise Act 1952 (penalties for improper importation and evasion of restriction on importation) for an offence in connection with the importation of anything contrary to section 1 above, this section shall not be taken expressly to provide a penalty for that offence.