

EXPLANATORY MEMORANDUM TO
THE CONTROL OF TRADE IN ENDANGERED SPECIES
(ENFORCEMENT) (AMENDMENT) REGULATIONS 2007

2007 No. 2952

1. This explanatory memorandum has been prepared by Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.
2. **Description**
 - 2.1 These Regulations update the Control of Trade in Endangered Species (Enforcement) Regulations 1997 to reflect amendments to European Regulations on the implementation of the Convention on International Trade in Endangered Species (CITES).
 - 2.2 The Regulations ensure that offences in relation to giving false statements to obtain permits, the misuse of permits or certificates, compliance with permits or certificates, and the movement of specimens from an address specified in a permit, are enforceable in UK law.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Background**
 - 4.1 The Convention on International Trade in Endangered Species (CITES) is directly applicable in UK law by virtue of Council Regulation 338/97 on the protection of species of wild fauna and flora (the principle regulation). Detailed rules on the implementation of the principle regulation were originally laid out in Commission Regulation 939/97 (the subsidiary regulation). The subsidiary regulation has since been replaced twice by subsequent Commission regulations in 2001 (1808/2001) and 2006 (865/2006).
 - 4.2 The Control of Trade in Endangered Species (Enforcement) Regulations 1997 prescribe the offences to be applied in relation to both the principle and subsidiary regulations. However, the COTES regulations have not been updated to refer to the 2001 and 2006 revisions. This means that they are no longer enforceable with respect to the subsidiary regulation relating, in part, to offences under regulations 3 (False statements to obtain permits), 4 (Misuse of permits or certificates), 6 (compliance with permits or certificates), and 7 (movement of specimens from an address specified in a permit). Neither do they refer to certificates under Article 30 (travelling exhibition certificates) or Article 37 (personal ownership certificates) introduced by 865/2006.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

5.2 Matters pertaining to international relations are reserved.

6. European Convention on Human Rights

6.1 Joan Ruddock MP has made the following statement regarding Human Rights:

In my view the provisions of the Control of Trade in Endangered Species (Enforcement) (Amendment) Regulations 2007 are compatible with the Convention rights.

7. Policy background

7.1 The UK is a Contracting Party to the Convention on International Trade in Endangered Species (CITES). This Convention places certain obligations on Parties to ensure arrangements are in place to manage the import and export of species listed under the Convention. Within the European Community, the Convention's obligations are directly transposed in Member States by European Community Regulations. Member States create offences and penalties relating to the European Community Regulations through domestic legislation.

7.2 These Regulations update the UK's domestic legislation to reflect changes made to European Regulations in 2001 and 2006. They introduce offences in relation to giving false statements to obtain permits, the misuse of permits or certificates, compliance with permits or certificates, and the movement of specimens from an address specified in a permit.

8. Impact

8.2 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

Dominic Whitmee at the Department for Environment, Food and Rural Affairs, Tel: 0117 372 8986, or e-mail: Dominic.Whitmee@defra.gsi.gov.uk, can answer any queries regarding the instrument.