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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations provide for the enforcement of Council Regulation (EC) No 338/97 on the protection of species of wild flora and fauna by regulating trade therein (OJ No L 61, 3.3.97, p 1) (“the Principal Regulation”) and Commission Regulation (EC) No 865/2006 laying down detailed rules concerning the implementation of that Council Regulation (OJ No L 166, 19.6.2006, p 1) (“the Subsidiary Regulation”). In addition, they confer powers and functions on the Secretary of State.

The Principal Regulation implements in the European Union the 1973 Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES). Contravention of articles 4 and 5 of the Principal Regulation is an offence under the Customs and Excise Management Act 1979 (c.2).

Regulation 3(1) (and Schedule 1) provides that a person who fails to comply with certain provisions of this Regulation, the Principal Regulation or the Subsidiary Regulation (“the instruments”) is guilty of an offence. Regulation 3(2) (and Schedule 2) provides for civil sanctions for failure to comply with certain provisions of the instruments.

Regulation 4 provides for defences to offences under Article 8 of the Principal Regulation.

Regulation 5 relates to the case where it is possible that a specimen is both of a category listed in Annex A and a category listed in Annex B, and in this case provides for a statutory presumption in favour of Annex A.

Regulation 6 requires that an advertisement for the sale of an Annex A specimen includes a reference to the certificate authorising commercial use of the specimen.

Regulation 7 provides for seizure of specimens by a general customs official and forfeiture of a seized specimen.

Regulation 8 provides for powers of entry for police and wildlife inspectors.

Regulation 9 provides for powers of seizure by the police and provides for reimbursement of expenses incurred by police in connection with seizure.

Regulation 10 provides powers for the courts to order forfeiture of specimens and other items, and to impose a ban on a convicted person preventing the person from holding a specimen for a period of time.

Regulation 11 provides for offences by corporations and Scottish partnerships.

Regulation 12 provides that the Secretary of State is the management authority for the purposes of the instruments and that the Secretary of State may designate scientific authorities for the purposes of the instruments.

Regulation 13 provides that the Secretary of State may designate ports of entry and exit for the purposes of the instruments.

Regulation 14 provides for revocations.

Regulation 15 provides for savings and transitional provisions.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

**Changes to legislation:**

There are currently no known outstanding effects for the The Control of Trade in Endangered Species Regulations 2018.