

A Brief Guide to the Isle of Man Endangered Species Act 2010



Department of Environment, Food and Agriculture
Rheynn Chymmltaght, Bee as Eirinys

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Isle of Man
Government

Reilrys Ellan Vannin

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1. Note

- 1.1 Important: this document is aimed at potential licence/certificate applicants. It is a simplified summary and should not be read as legal guidance. The full Act and secondary legislation is available from the Tynwald Library and the government website <http://www.gov.im/infocentre/acts/>. Specific advice may be sought from the Department of Environment, Food and Agriculture. In this document 'the Act' refers to the Endangered Species Act 2010, 'the Department' refers to the Department of Environment, Food and Agriculture and references are made to 'S' numbers for sections of the Act, Reg numbers for Regulations in the Endangered Species (General) Regulations 2011.

2. Background

2.1 The Convention

This legislation updates our enactment of the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES), which aims to ensure that international trade in specimens of wild animals and plants does not threaten their survival. It replaces the Endangered Species (Import & Export) Act 1981. The Convention was first agreed in 1973 and has been signed by at least 175 parties. The Isle of Man is signed up through the UK, which has party status. The convention operates by restricting trade in some particularly rare, sensitive or over-traded species, but allowing a regulated trade in other species at potential risk of becoming endangered, such that the levels of trade can be monitored and effective measures put in place where necessary. A smaller number of species have been listed at the specific request of a range state, to aid their regulation of trade. Further details of the Convention, its meetings and resolutions, and a variety of guidance are available from the CITES website <http://www.cites.org>.

2.2 Stricter domestic measures

The Convention allows for stricter domestic measures by Parties and the Manx legislation has taken the EU Regulations as its basis, as most movements are between these two areas of jurisdiction. There are therefore differences between the CITES appendices and the lists of prescribed species within the legislation. The CITES website is therefore useful for background information and international considerations, but the national legislation of each jurisdiction involved in a movement should be checked to determine the specific requirements. Contact details for the management authorities are available from the CITES website.

3. The Endangered Species Act 2010

- 3.1 This Act controls the movement of specified species on and off the Isle of Man, including movements to and from the UK or Eire. It also controls the commercial use of particular kinds of specimens (eg. buying and selling). A licence is not required under this legislation specifically for keeping or the possession of a specimen, though a specimen may be held illegally if it was not imported legally and action could result in such

circumstances (see S14). The Act does, however, require suitable accommodation to house and care for live animal specimens and provides a basic requirement for suitable conditions of transport (see Transport and Transshipment Conditions for Live Animals below).

- 3.2 It is not the only legislation controlling the movement of species on and off the island. With regard to exotic species, see also the Destructive Imported Animals Act 1963 and the Wild Animals (Restriction on Importation, etc.) Act 1980. The Forestry, Amenity and Lands Directorate can advise you on these particular Acts.
- 3.3 Species moved under a licence of this Act may also be restricted under animal health or plant health legislation. The Agriculture Directorate of this Department can advise you on these issues.

4. Prescribed species and derivative products

- 4.1 The species prescribed under the Act are specified in an Order. This is the Endangered Species Order 2010 (SD 0956/11) at the time of writing. This links the Classes A, B and C of the Act to EU regulation 338/97 Annexes A, B and C respectively. EU Annex D has no effect in Manx legislation.
- 4.2 Specimens controlled under the Act are:
- (a) any animal or plant, whether alive or dead, of prescribed species;
 - (b) any part or derivative of such an animal or plant, whether or not contained in other goods; and
 - (c) and any other goods which appear from an accompanying document, the packaging or a mark or label, or from any other circumstances, to be or to contain parts or derivatives of an animal or plant of a prescribed species' (S39).
- 4.3 Classes A, B and C are on the whole equivalent to CITES Appendices I, II and III, with some species up-listed to provide greater protection than that required under the Convention. Commercial exploitation of Class A specimens is restricted because these are endangered. Class B specimens are not so restricted but remain regulated in case of endangerment. Class C specimens are regulated to aid the range countries in protecting their wildlife. Some species have been listed as Class B because the introduction of live specimens could constitute an ecological threat to indigenous species. Some species are listed because they are easily confused with others, therefore regulation is necessary for effective protection.
- 4.4 You should read the lists carefully when checking for prescribed specimens. Some groups are listed as a whole for instance the whole parrot order, 'PSITTACIFORMES', the orchid family 'Orchidaceae', the genus '*Euphorbia*' and the tortoise family 'Testudinidae'. These, however, may have exceptions that are not included in the list, either particular species, subspecies, specimen types (eg. seeds or cut flowers), or populations of particular areas. Some exceptions have particular conditions attached, eg. some plants are exempt if they are artificially propagated and have the required form of labelling. It is therefore important that you read all of the relevant notes at the beginning or end of the lists.

4.5 Hybrids

Hybrid animals and plants are controlled 'if at least one of its parents is of a prescribed species' (see the Order). Where the parents are of different classes, the specimen 'shall be treated as of the species of the higher class', where Class A is higher than B and B is higher than C.

5. Import, export, re-export

5.1 Permits

5.1.1 Import, export (first export) and re-export of a listed specimen requires a Manx permit and may also require a permit from the other jurisdiction involved. This includes movements to and from the UK because the Isle of Man is not within the EU legal system for CITES, regardless of the Customs and Excise Agreement.

5.1.2 There are exemptions from the permit requirements which are detailed below. Most require an alternative certificate. A CITES permit should be acceptable to all Parties of the Convention, though they may also require a mirroring permit of their own (eg. an export permit to export from the Isle of Man and an import permit to import into the USA). If you use one of the exemptions you should ensure that this is acceptable to the management authority of both Parties involved. Contact details are on the Convention website www.cites.org

5.1.3 Export and re-export permits are valid for 6 months from the date of signature and import permits are valid for 12 months. They are valid for one movement only, although this may involve transit through other countries. The conditions for the issuance of permits are stated in Regs 5 to 10. Unused import or export permits, or re-export certificates, must be returned to the Department within 28 days of the date of expiry.

5.2 Permit applications

Application forms are available from the government website www.gov.im or from the Department's head office. Please allow at least 2 weeks for permits. In the case of captive bred live animals, evidence of captive breeding and details of any identification marks (eg. closed rings on birds) should be included. It is essential that the species is identified before application: there are few exceptions to this requirement.

5.3 Captive –bred and artificially propagated specimens

Under the Order, captive bred specimens of Class A species and artificially propagated plants of Class A species will be treated as if they were Class B species, thereby allowing commercial use. Evidence or origins will be required, or registration of the breeding facility on the Convention Register of Captive Breeding Operations or Register of Nurseries.

5.4 Notice of import/export

- 5.4.1 Anyone importing, exporting or re-exporting a specimen is required to give at least 48 hours notice in writing to an officer of the Isle of Man Customs and Excise (S9 and Reg 35). This should include the numbers and types of specimens, mode of transport, expected time of entry or exit and site (harbour or airport), and the name of the carrier.

IoM Customs: PO Box 6, Custom house, North Quay, Douglas, Isle of Man, IM99 1AG
Email customs@gov.im Customs Hotline 0800 595000

- 5.4.2 If a Customs officer has not met you at the port/airport, you may get your permit/certificate stamped at the Customs House at the head of Douglas Harbour, adjacent to the steam railway station (important if you wish to use your stamped document in future, eg. under the personal and household effects exemption, or to show legal use of a certificate). You should provide your specimen for inspection with the document.

5.5 Transport and transshipment conditions for live animals and plants

- 5.5.1 Any live animal specimen being transported into, from or within the island, or held during any period of transshipment must be prepared, moved and cared for in a manner which minimises the risk of injury, damage to health or cruel treatment (S12 and Reg 34). Guidelines are provided by the International Air Transport Association (IATA) in their Live Animals Regulations.
- 5.5.2 Guidelines are also provided by IATA for plants, in their Perishable Cargo Regulations, to minimise mortality and thereby maximise the sustainability of trade, but the Act does not include an offence for non-compliance regarding plant transport conditions.

5.6 Introduction from the Sea Certificates

- 5.6.1 Specimens of Class A or B that are brought onto the Isle of Man from an area that is not in the jurisdiction of another country, eg. fish from international waters, must be imported with an Introduction from the Sea Certificate (S5, S16 and Reg 11). Unlike import and export permits, an Introduction from the Sea Certificate may be provided for use on multiple occasions. The certificate can provide for a total quota of specimens and extend for a maximum duration of one year. Reg 11 provides the conditions for the issuance of such certificates.

6. Sale, purchase, etc

- 6.1 Commerce is controlled for all Class A specimens, and for specimens of Class B that have been imported or acquired in contravention of the Act. This includes buying, offering to buy, acquiring for commercial purposes, displaying to the public for commercial purposes, using for commercial gain, selling, keeping for sale, offering for sale and transporting for sale. Sale includes hire, barter and exchange and offer for sale (including advertising or causing to be advertised for sale and inviting to treat). It is a defence to show that the specimen is pre-Convention, originates in the Island and was

obtained in accordance with the Wildlife Act, or is derived from specimens bred in captivity or artificially propagated.

- 6.2 Those involved in buying such items should make enquiries suitable to provide confidence that these were legally acquired and/or legally imported. The possession of specimens known, or that could reasonably be expected to be known, to be illegally imported or illegally acquired is an offence.
- 6.3 A certificate may be provided which permits such commercial use for the advancement of science, essential biomedical purposes, breeding in captivity or artificial propagation, or research or education aimed at the preservation or conservation of the species. The Department must be satisfied that the purpose is not detrimental to the survival of the species and the specimen must be uniquely and permanently marked. If it is for the advancement of science or for essential biomedical purposes, the circumstances must be exceptional, the species must be the only one suitable and or a Class A specimen, there are born specimens born and bred in captivity. For breeding in captivity or artificial propagation, conservation benefits must accrue to the species as a result of the commercial activity.

7. Exemptions to the requirements of import/export/re-export permits

7.1 Travelling Exhibition Certificates

- 7.1.1 These can be provided under S10 and S16 and Regs 12 and 22 for specimens born in captivity or artificially propagated and pre-Convention specimens if they are moving as part of a travelling exhibition, they are uniquely and permanently marked (see 8.4.5), and if live, it will be transported and cared for so as to minimise the risk to the animal of injury, damage to health or cruel treatment. The maximum duration of such a certificate is 3 years.

7.2 Personal Ownership Certificates

- 7.2.1 The owner of legally-held, live specimens held for personal, non-commercial purposes, eg. pets and hobby falcons, may apply for a personal ownership certificate (see S10, S16, Reg 4, Reg 13, Reg 23). This certificate may be used in lieu of an import or export permit on the Isle of Man for moving the specimens, when it is accompanied by the owner. You are recommended to check the requirements of the other jurisdiction involved before travelling. It seems that a mirroring EU document will be required, from the first Member State that you will be visiting. The certificate may be used on multiple occasions, unlike import and export permits, and can last for up to 3 years. Certificates will normally be provided separately for individual specimens, and must be returned to the Department within 28 days of a sale or other disposal, death or loss. Specimens must have been born and bred in captivity or must be pre-Convention specimens. They must also be uniquely and permanently marked (see 8.4.5). Personal Ownership Certificates from the Management Authorities of other jurisdictions may be acceptable for import/re-export in the Isle of Man if they fulfil the requirements set out in Reg 4 and provide the requisite information for such a certificate.

7.3 Phytosanitary Certificates

7.3.1 A phytosanitary certificate may be used for the import, export or re-export of artificially propagated plants of Class B or C, or for artificially propagated hybrid plants produced from plants of a Class A species which is not annotated in Annex A of EU Regulation 338/97 (as amended) if the phytosanitary certificate states the type and quantity of specimens described in accordance with EC Regulation 865/2006, and bears a stamp or seal or other specific indication that 'the specimens are artificially propagated as defined by CITES'. The 2006 Regulation stipulates that the certificate should include the scientific name of the species or, if this is not possible for taxa included by family in the species list, the genus, though artificially propagated cacti and orchids of Class B can be referred to as such. An annotated listing is one for which notes have been provided in the list stating types of specimens which are exempt from restrictions. If you intend to use this provision you should first check that the other jurisdiction involved will accept the use of this kind of certificate in lieu of a permit.

7.4 Pre-Convention Certificates

7.4.1 Specimens that were acquired before the species concerned was first included in the Appendices to the Convention are considered to be pre-Convention specimens. These are exempt from the requirements for import, export or re-export permits if a pre-Convention certificate is provided. Pre-Convention certificates may be provided to an applicant on suitable evidence that the specimen is a pre-Convention specimen. Documentation of the origins of the specimen may be required to satisfy this requirement. The Department will wish to determine the date on which a specimen was 'acquired', this being the date the specimen was known to be either:

i) removed from the wild; or

ii) born in captivity or artificially propagated in a controlled environment; or

iii) if such date is unknown or cannot be proved, any subsequent and provable date on which it was first possessed by a person. This will be included on the certificate and accurate, evidenced information will maximise the acceptability of the certificate for use in other jurisdictions. You are, however, recommended to check that such certification meets the requirements of any other jurisdiction involved before movement of the specimen across a border, as countries differ in their use of such a procedure.

7.5 Transfers between scientific institutions

7.5.1 Scientific institutions may register under S20 in order to make use of special provisions for transferring herbarium specimens, other preserved, dried, frozen or embedded museum specimens, or live plant material between that institution and a recognised scientific institution in another country or territory, as a non-commercial loan, donation or exchange (Reg 26). Such movements are thereby exempt from the requirements for import/export/re-export permits if the specimens were legally obtained, are labelled using a label approved for this use, and the labels are completed by each institution and the details provided by both institutions to their management authorities (DEFA, in the case of the Isle of Man).

7.5.2 The conditions for registration are given in Reg 28. All specimens under this procedure must be accurately marked or labelled and recorded in a permanent catalogue. A

permanent record of all loans and transfers to other institutions must be maintained by the registered institution.

8. Other provisions

8.1 Personal and household effects

8.1.1 The procedures for import and export/re-export of personal or household effects are detailed in Regs 20 and 21. The movement of small quantities of specified tourist souvenirs is dealt with below, though this comes under the same regulations. Other personal or household effects are dealt with as follows.

8.1.2 Personal or household effects should be legally acquired and worn or carried in personal luggage, contained in the personal property of someone who is in the course of removing to the Island from another country or territory, or a hunting trophy of a specimen being imported by the hunter at a later date.

8.1.3 The import of Class A personal or household effects into the Isle of Man is exempt from the requirement for an import permit, unless it is the first importation of the specimen into the Isle of Man by a person who has his or her normal place of residence in, or is in the course of moving to the Island, in which case an import permit will be required. If such a specimen is being imported again at a later date (in effect a re-import), the exemption applies (i.e. an import permit is not required) if a Customs-endorsed copy of an import permit, export permit or re-export certificate issued by the Department is available for inspection on entry, or an export permit, re-export permit, certificate of origin or equivalent document (the latter in case of a non-CITES state or territory) from the country or territory of export, or proof that the specimen was acquired within the Isle of Man. If a document copy is provided, this must be endorsed by Customs in a member state of the European Community.

8.1.4 The import of Class B personal or household effects are generally exempt from the requirement for an import permit, but if it is the first import of the specimen by a person who has his or her normal place of residence in the Island you will need to have an export permit, re-export permit or certificate of origin, or an acceptable equivalent document (the latter in case of a non-CITES state or territory) available for inspection on entry. A copy document must have been endorsed by Customs in a member state of the European Community. If such a specimen is being imported again at a later date (in effect re-imported) then the same provisions apply as for Class A specimens (the paragraph above).

8.1.5 The initial export of specimens requires an export permit, but re-export by a person who has his or her normal place of residence in the Island is exempt from the re-export certificate requirements on the Isle of Man if a copy of an import permit, export permit or re-export certificate provided by the Department and endorsed by Customs is available for inspection on re-export, or proof of acquisition on the Isle of Man.

8.2 Tourist souvenirs

8.2.1 Under Reg 20, small quantities of some common tourist souvenirs that would otherwise be classed as regulated specimens, are exempt from the permit requirements if they are Class B (not Class A) specimens. These are listed in Reg 20.6. Please check the up to date list as this is likely to change in future, as further Class B items are accepted into this category. This exemption covers listed specimens to a stated maximum quantity, that are listed as Class B specimens, and that fulfil the requirements of personal and household effects, i.e. they were legally acquired and are either worn or carried or included in the personal luggage of the individual, contained in the personal property of an individual who is moving to the Island from another country or territory, or are hunting trophies of specimens killed by an individual and are being imported at a later date.

8.3 Registration of traders and simplified procedures

The Department may register persons undertaking regular business that requires significant quantities of permits, in order to allow the use of partly completed permits so as not to unnecessarily impede applications of a regular and standard nature. Businesses involving the regular import and export of CITES specimens may get in touch with the Department for further details.

8.4 Marking

8.4.1 The Regulations link marking requirements to those specified in Articles 64-68 of Commission Regulation (EC) 865/2006, standardising marking requirements with those of the EU, to/from which most trade occurs.

8.4.2 Certain classes of specimens must be marked in an acceptable manner before importation, to show that they are legally sourced: those from an approved captive breeding or ranching operation; CITES Appendix I specimens for which there is a CITES export quota; raw African elephant ivory that is greater than 20cm in length and weighs at least 1kg; raw, tanned and/or finished crocodilian skins or parts of skins; live vertebrates of Class A that are part of a travelling exhibition; and caviar of sturgeon species including tins, jars or boxes into which the caviar is directly packed.

8.4.3 In the same way, caviar to be exported or re-exported must be marked in an acceptable manner, as must live Class A vertebrates for export. Re-exports of entire raw, tanned and/or finished crocodilian skins and flanks must have the original tags intact, or where necessary, a lost tag must have been replaced with a re-export tag. The following types of specimens, for re-export, should have the original marks intact: specimens from an approved captive breeding or ranching operation; CITES Appendix I specimens for which there is a CITES export quota; raw African elephant ivory that is greater than 20cm in length and weighs at least 1kg; and live vertebrates of Class A that are part of a travelling exhibition.

8.4.4 A specimen authorised by certificate for commercial use, or travelling under a Personal Ownership Certificate or a Travelling Exhibition Certificate must be uniquely and permanently marked and this identification will be stated on the certificate. Marking

should be as follows.

8.4.5 Marking methods

- 8.4.5.1. With regard to travelling exhibitions, personal ownership certificates, and the commercial use of or export of Class A live vertebrates, the following apply. Captive born and bred birds shall be marked with a closed ring, or where the Department is satisfied that this is not appropriate due to the physical or behavioural properties of the animal, by microchip transponder. Other live vertebrates shall be marked by microchip or where the Department is satisfied that this is not appropriate due to the physical or behavioural properties of the specimen/species, by uniquely numbered rings, bands, tags, tattoos or other appropriate means.
- 8.4.5.2. If the Department is satisfied that the physical properties of the specimens do not allow the safe application of any marking method, the marking requirement may be set aside if the fact is stated clearly on a transaction specific certificate or permit, but this cannot include the provision of travelling exhibition certificates, personal ownership certificates or another certificate for ongoing use.
- 8.4.5.3. The specimens referred to in paragraphs 8.4.2 and 8.4.3 must be marked in accordance with the method approved or recommended by the Conference of the Parties to the CITES convention and containers of caviar shall be individually marked with non-reusable labels affixed to each primary container. If this does not seal the primary container, the caviar shall be packaged so as to permit visual evidence of any opening of the container.
- 8.4.5.4. The mark details should be included in the permit/certificate application. The requirements for transponder specification are specified in the Regulations as those set out in Regulation 854/2006. The marking of any live animal must be undertaken with due regard for the humane care, well-being and natural behaviour of the specimen.

9. Further information

- 9.1 A digital version of this document is available from the government's website www.gov.im. A paper copy may be consulted at the Department's head office. If you have specific requirements regarding accessible details (eg. large print), please contact the Department to arrange for a suitable copy
- 9.2 The Department intends to review this document periodically, in order to take account of common queries. It is therefore worth checking occasionally for updates on the government website.
- 9.3 Queries regarding the administration of this Act or the contents of this guide may be addressed to:

Dr Richard Selman, Senior Biodiversity Officer (Zoologist)
Directorate of Forestry, Amenity & Lands
Department of Environment, Food & Agriculture
The Slieau Whallian
Foxdale Road

St John's
Isle of Man IM4 3AS
Tel: +44 1624 685835
Fax: +44 1624 685851
Email: richard.selman@gov.im

This document can be provided in large print or audio tape on request.

Front cover photos (left to right): handbags of African dwarf crocodile & African rock python; a black-shouldered kite; a leopard skin rug mount with head. Photos RGSelman.

