



STATUTORY INSTRUMENTS.

S.I. No. 411 of 2019



EUROPEAN COMMUNITIES (CITES SIMPLIFIED PROCEDURES)
REGULATIONS 2019

S.I. No. 411 of 2019

EUROPEAN COMMUNITIES (CITES SIMPLIFIED PROCEDURES)
REGULATIONS 2019

I, JOSEPHA MADIGAN, Minister for Culture, Heritage and the Gaeltacht, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No.27 of 1972) and for the purpose of giving full effect to Commission Regulation (EC) No. 865/2006 of 4 May 2006¹, hereby make the following regulations:

Citation and commencement

1. These Regulations may be cited as the European Communities (CITES Simplified Procedures) Regulations 2019.

Amendment of Wildlife Act 1976

2. The Wildlife Act 1976 (No. 39 of 1976) is amended by -

(a) the substitution, in section 2, of the following definition for the definition of “the CITES Regulations”:

“ ‘CITES Regulations’ means Council Regulation (EC) No. 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein² and Commission Regulation (EC) No. 865/2006 of 4 May 2006 laying down detailed rules concerning the implementation of Council Regulation (EC) No. 338/97 on the protection of species of wild fauna and flora by regulating trade therein, together with any amendments to or replacements of those Regulations;”,

and

(b) the insertion of the following section after section 53A:

“Simplified procedures for export or re-export of dead specimens of species listed in Annexes B and C to Council Regulation

53B. (1) A person may avail of the simplified procedures in respect of the export or re-export of a particular species only if the person is the subject of an entry in the register in respect of the species.

(2) The management authority shall establish and maintain a register (in this section referred to as “the register”) which shall be in such form (including electronic form) as the management authority considers appropriate.

¹ OJ No. L 166, 19.6. 2006, p.1

² OJ No. L 61, 3.3. 1997, p.1

(3) An entry in the register shall -

(a) contain -

- (i) the name of a person who is entitled to trade a species specified under paragraph (b) under the simplified procedures, and
- (ii) the address at which the person referred to in subparagraph (i) ordinarily resides, and

(b) specify the species to which the entitlement of the person referred to in subparagraph (i) relates.

(4) The management authority shall, from time to time, but in any event at least every five years, review the register.

(5) A person may apply to the management authority to be the subject of an entry in the register in respect of a particular species.

(6) An application under subsection (5) shall be made in writing or by electronic means and shall -

- (a) include the name of the applicant and the address at which the applicant ordinarily resides,
- (b) specify the species that the person wishes to trade under the simplified procedures, and
- (c) contain such other information as the management authority may reasonably require for the purpose of determining the application.

(7) The management authority, on receipt of an application made in accordance with subsection (6), shall request the scientific authority to provide it with an opinion in writing as to whether the export or re-export of the species specified in an application will or will not have a detrimental impact on the conservation of the species concerned.

(8) Where the opinion of the scientific authority under subsection (7) is that the export or re-export concerned will have a detrimental impact on the conservation of the species concerned -

- (a) the management authority shall notify the applicant, in writing, that it proposes to refuse the application, which notification shall be accompanied by a copy of the opinion of the scientific authority and a statement of the effect of paragraph (b), and

- (b) the applicant may, within 14 days of the date of the notification under paragraph (a), request the management authority, in writing, to review its proposal, which request shall be accompanied by representations in writing stating the reasons why the applicant considers that the export or re-export concerned will not have a detrimental impact on the conservation of the species concerned.

(9) The management authority, on receipt of a request made in accordance with subsection (8)(b), shall request the scientific authority to consider the applicant's representations under that paragraph and to provide it with a further opinion in writing as to whether the export or re-export concerned will or will not have a detrimental impact on the conservation of the species concerned.

(10) Where the management authority, having considered an application made in accordance with subsection (6), is not satisfied that the requirements of Article 19 of the Commission Regulation will be complied with by the applicant -

- (a) the management authority shall notify the applicant, in writing, that it proposes to refuse the application, which notification shall be accompanied by a statement of the reasons for the proposal and of the effect of paragraph (b), and
- (b) the applicant may, within 14 days of the date of the notification under paragraph (a), request the management authority, in writing, to review its proposal, which request shall be accompanied by representations in relation to the reasons referred to in that paragraph.

(11) The management authority shall make an entry in the register in respect of an applicant and species only where

- (a) the scientific authority has advised under subsection (7) or (9), as the case may be, that the export or re-export concerned will not have a detrimental impact on the conservation of the species concerned, and
- (b) the management authority is satisfied, on the basis of the application or its consideration of representations made in accordance with subsection (10)(b), that the

requirements of Article 19 of the Commission Regulation will be complied with by the applicant.

(12) Where the management authority makes an entry in the register under subsection (11), it shall, as soon as practicable, inform the registered person of the fact, and of the date of the making of the entry.

(13) Where -

- (a) subsection (8) applies, and the applicant does not make a request in accordance with subsection (8)(b), or the further opinion of the scientific authority under subsection (9) is that the export or re-export concerned will have a detrimental impact on the conservation of the species concerned, or
- (b) subsection (10) applies, and the applicant does not make a request in accordance with subsection (10)(b), or the management authority, having considered such representations, is not satisfied that the requirements of Article 19 of the Commission Regulation will be complied with by the applicant,

the management authority shall refuse the application and inform the applicant of the refusal and of the reasons for it.

(14) The management authority may, subject to this section, remove an entry in the register -

- (a) at the request in writing of the registered person, or
- (b) where -
 - (i) after the date of the making of the entry in the register, the registered person has not availed of the simplified procedures for any continuous period of 12 months, or
 - (ii) the management authority is not satisfied that the registered person is complying, or has complied with, the requirements of Article 19 of the Commission Regulation.

(15) (a) The management authority, where it proposes to remove, under subsection 14(b), an entry in the register, shall notify the registered person concerned in writing of the proposal, which notification shall be

accompanied by a statement of the reasons for the proposal and of the effect of paragraph (b).

- (b) Where paragraph (a) applies, the registered person may, within 30 days of the date of the notification under that paragraph, make representations, in writing, in relation to the proposal, which representations may -
 - (i) in the case of a proposal to remove, under subsection (14)(b)(i), the entry, give reasons why the simplified procedures have not been availed of, and
 - (ii) in the case of a proposal to remove, under subsection 14(b)(ii), the entry, include proposals from the registered person to rectify any failure to comply with the requirements of Article 19 of the Commission Regulation.

(16) The management authority shall consider any representations made in accordance with subsection (15) and -

- (a) decide whether to remove the entry in the register, and
- (b) notify the registered person of the decision under paragraph (a) and of the reasons for it.

(17) Where a decision under subsection (16)(a) is to remove the entry in the register, the registered person may, within 14 days of the date of the notification under subsection (16)(b), of the decision, request the management authority, in writing, to have the decision reviewed, which request shall be accompanied by a statement of the reasons why the entry should not be removed.

(18) On receipt of a request under subsection (17) for a review, the management authority shall appoint an officer of the management authority to carry out the review of the decision and the officer so appointed -

- (a) shall not be the person who made the decision the subject of the review, and
- (b) shall be of a grade senior to the grade of the person who made the decision concerned.

(19) The officer appointed under subsection (18), having considered the statement under subsection (17), shall -

- (a) confirm the decision, or
- (b) cancel the decision.

(20) The decision of the officer under subsection (19) shall be notified, in writing, to the registered person as soon as practicable after the decision has been made.

(21) The management authority shall remove an entry in the register as soon as practicable after -

- (a) receipt by it of a request made in accordance with subsection (14)(a) in respect of the entry,
- (b) the expiry of the period referred to in paragraph (b) of subsection (15), where no request is made in accordance with that paragraph,
- (c) the making a decision under subsection (16)(a) to remove the entry, where no request is made in accordance with subsection (17), or
- (d) a decision to remove the entry is confirmed under subsection (19)(a).

(22) The management authority, as soon as practicable after removing an entry in the register under subsection (21), shall notify the person who was the subject of the entry, in writing, of -

- (a) the removal of the entry,
- (b) the date on which the entry was removed, and
- (c) the effect of subsection (23).

(23) Where an entry in the register is removed under subsection (22) -

- (a) any partially completed export permits or re-export certificates provided under the simplified procedures to the person who was the subject of the entry shall cease to be valid, and
- (b) the person who was the subject of the entry shall, within 14 days of the date of the notification under subsection (22), return to the management authority any such permits or re-export certificates.

(24) The Minister may, with the consent of the Minister for Public Expenditure and Reform, prescribe fees (if any) payable in respect of providing under the simplified

procedures to a registered person partially completed export permits or re-export certificates.

(25) In this section -

‘Commission Regulation’ means Commission Regulation (EC) No. 865/2006 of 4 May 2006 laying down detailed rules concerning the implementation of Council Regulation (EC) No. 338/97 on the protection of species of wild fauna and flora by regulating trade therein, together with any amendments to or replacements of those Regulations;

‘Council Regulation’ means Council Regulation (EC) No. 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein together with any amendments to or replacements of those Regulations;

‘management authority’ means the management authority designated under section 53A(1);

‘registered person’ means a person who is the subject of an entry in the register;

‘scientific authority’ means a person designated under section 53A(2)(b);

‘simplified procedures’ mean the simplified procedures, referred to in Article 19 of the Commission Regulation, for the export or re-export of a dead specimen of a species, including any part or derivative thereof, listed in Annexes B and C to the Council Regulation;

‘species’ means a species listed in Annexes B and C to the Council Regulation.

(26) A reference in this section to the trade, export or re-export of a particular species is a reference to the trade, export or re-export of dead specimens of the species, including any parts or derivatives thereof.

(27) A word or expression that is used in the Commission Regulation or the Council Regulation and is also used in this section has, unless the context otherwise requires, the same meaning in this section as it has in the Commission Regulation or the Council Regulation.

(28) For the purposes of subsections (3)(a)(ii) and (6)(a), a company within the meaning of the Companies Acts shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated

body of persons shall be deemed to be ordinarily resident at its principal office or place of business.”.



GIVEN under my Official Seal,
1 August, 2019.

JOSEPHA MADIGAN,
Minister for Culture, Heritage and the Gaeltacht.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations have been developed for the purpose of implementing Article 19 of Commission Regulation (EC) No 865/2006 which provides for simplified procedures for registered persons with regard to the export or re-export of dead specimens listed in Annexes B and C to Council Regulation (EC) No 338/97.

The existing legislative basis for CITES regulation in Ireland is provided for by Section 53A of the Wildlife Act (as amended), which gives effect to elements of the EU Wildlife Trade Regulation (Regulation 338/97).

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2
(Teil: 01 - 6476834 nó 1890 213434)

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2.
(Tel: 01 - 6476834 or 1890 213434)

€ 3.50



(NBP-2) 85. 8/19. Propylon.