

This document is intended to give keepers of natural science collections guidance on the legalities of holding specimens. It is not intended to be definitive: for further information/clarification please contact DEFRA (Animal Health) or Natural England.

Whilst the CITES material in this document is relevant to the whole country, the last three sections only consider English law. We will try and update the document to cover the rest of the UK as soon as possible.

If anyone has anything they would like to add/amend to this document, experiences any problems operating under this guidance or would like some help or advice, please contact NatSCA.

Contents

1) Convention on the International Trade in Endangered Species (CITES)

a) Article 10 certificates

- relating to the commercial use of endangered species

b) Article 60 certificates

- an alternative to applying for several Article 10 certificates

c) Stricter Measures

- a few species are subject to stricter controls.

2) European Protected Species

- if you hold specimens of any species on this list you need to let Natural England know that you are operating under licence

3) Badgers

- you do not need a licence but you do need to be satisfied that the badger was killed lawfully

4) Bird Eggs

1) Convention on the International Trade in Endangered Species of wild flora and fauna (CITES)

CITES is an international agreement between governments. Its aim is to ensure that international trade in specimens of wild animals and plants does not threaten their survival. It came into force on 1st July 1975, and today it accords varying degrees of protection to more than 30,000 species of animals and plants, whether they are traded as live or dead specimens e.g. fur coats or dried herbs. CITES works through a system of permits and certificates which can only be issued once certain criteria have been met. The species covered by CITES are listed in one of three Appendices (I, II and III), according to the level of protection they need.

The European Community is not a Party to CITES in its own right. However, all 27 EC Member States are Parties to CITES and the EC has implemented CITES through the common EC Wildlife Trade Regulations since 1984.

EC Council Regulation 338/97 and Commission Regulation 865/06 fully implement CITES throughout the EC. Species are listed on one of four Annexes (A, B, C and D) according to the level of protection they need. The EC Annexes contain all of the species listed on the CITES Appendices and some non-CITES species. The EC Annexes may also afford greater protection than that offered by CITES, for example the Eurasian kestrel (*Falco tinnunculus*) is listed on Appendix II of CITES and Annex A of the EC Regs.

For copies of the EC Annexes and further information see:

www.defra.gov.uk/animalhealth/CITES and
<http://www.defra.gov.uk/animalhealth/CITES/guidance/GN20.htm>

UK CITES Management Authority:

Wildlife Licensing and Registration Service, Animal Health, DEFRA, 1/17 Temple Quay House, 2 The Square, Temple Quay, Bristol, BS16EB. Tel: 0117 372 8774. Wildlife.licensing@animalhealth.gsi.gov.uk

UK CITES Scientific Authorities:

Flora = Kew Gardens

Royal Botanic Gardens, Kew, Richmond, Surrey, TW9 3AB

Fauna = Joint Nature Conservation Committee

Monkstone House, City Road, Peterborough, PE1 1JY

1a) Article 10 Certificates

Commercial use of Annex A specimens is strictly regulated throughout the EC. The prohibitions on commercial use can be found in Article 8.1 of Regulation EC 338/97 which states:

'The purchase, offer to purchase, acquisition for commercial purpose, display to the public for commercial purposes¹, use for commercial gain and sale, keeping for sale, offering for sale or transporting for sale of specimens of the species listed in Annex A shall be prohibited'

The Regulation provides exemptions to these prohibitions and commercial use may be permitted by obtaining an Article 10 certificate, issued by DEFRA, Wildlife Licensing and Registration Service.

For museums, this means that any specimens listed under Annex A that are used for any of the commercial activities outlined above must have an Article 10 certificate. Examples of this might include:

- specimens within a display for which an entry fee is charged
- specimens for which a fee is charged to work on them
- specimens that are loaned out for money.

- Selling postcards featuring the images of Annex A specimens is not considered to constitute 'commercial use' by DEFRA.

- If a normally free-entry museum holds a special event for which a charge is made (e.g. for entry) then any CITES specimens used in that event will need to be covered by a certificate – any CITES specimens held by the museum but NOT involved in that particular event would NOT need to be covered (as they are not being used commercially).

There are exemptions. An Article 10 certificate is not required for:

- worked specimens acquired before 1st June 1947²

¹ As the CITES Management Authority for the UK, it is DEFRA who ultimately decide what constitutes "commercial use". We have had some clarification from them but if you need more than can be found in this document then please contact DEFRA Animal Health directly. Please let NatSCA know if you find out any further information.

DEFRA have some guidance notes on the subject:

<http://www.defra.gov.uk/animalhealth/publications/CITES/Commercial%20Use.pdf>

² This is defined in Article 2(w) of Regulation EC 338/97 as '...a specimen that has been significantly altered from its natural raw state for jewellery adornment, art, utility or musical instrument, more than 50 years before the entry into force of this Regulation and that have been, to the satisfaction of the Management Authority concerned, acquired in such conditions. Such specimens shall be considered as worked only if they are clearly in one of the aforementioned categories and require no further carving, crafting or manufacture to effect their purpose.'

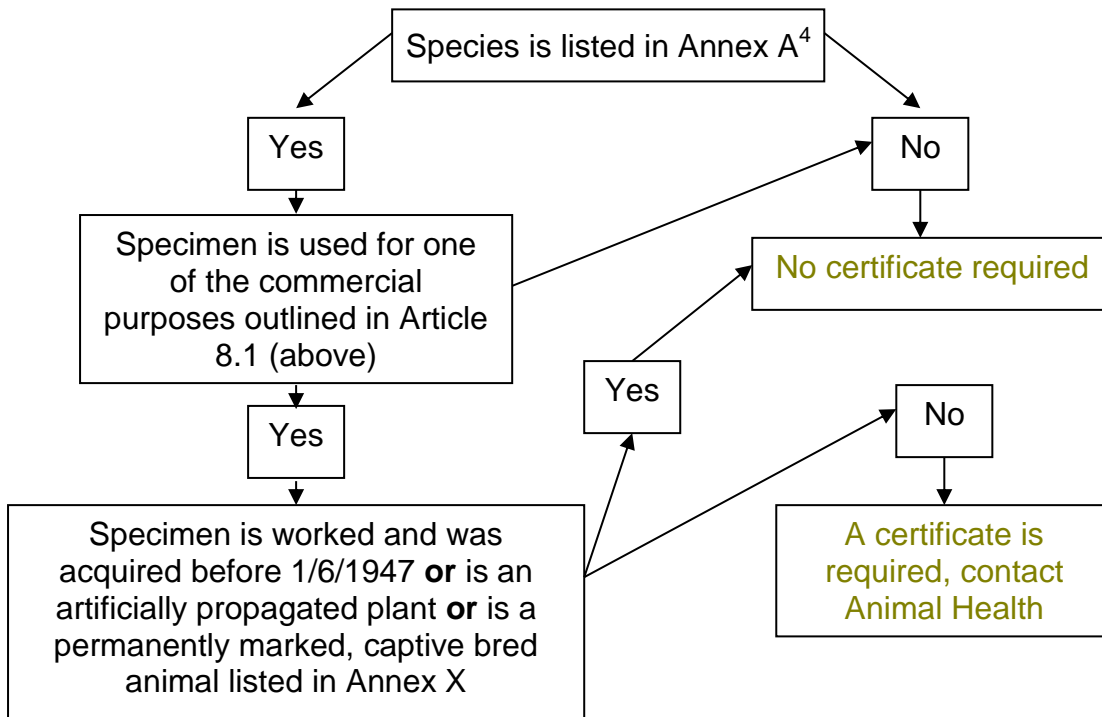
Worked specimens include taxidermy specimens and mounted/wired osteology but not disarticulated bones.

For some examples of worked and un-worked items please see:

<http://www.defra.gov.uk/animalhealth/cites/guidance/pdf/GN7.pdf>

- artificially propagated plant specimens
- specimens of captive born and bred animals of the species listed in Annex X (EC Reg. 865/2006)³ and hybrids thereof

Does a specimen need an Article 10?



If you think you need an Article 10 certificate you need to contact Animal Health for further advice. If an Article 10 is subsequently applied for, the specimen will need to be identified (see UNEP-WCMC for correct nomenclature) and the application should be accompanied by full details of origin and acquisition. If you have any problems in identifying a specimen, please contact NatSCA for help.

³ A list of 21 Annex A species, all of which are bred in captivity in such numbers that the chance of wild taken specimens being found in trade is negligible.

In order to meet this exemption, specimens must be captive bred and permanently and uniquely marked in accordance with Article 66(1) of Regulation EC 865/06.

Taxidermy specimens are only considered to be permanently marked if a microchip has been encased in resin in the head cavity.

The species in question are: *Anas laysanensis*, *Anas querquedula*, *Aythya nyroca*, *Branta ruficollis*, *Branta sandvicensis*, *Oxyura leucocephala*, *Catreus wallichi*, *Colinus virginianus ridgwayi*, *Crossoptilon crossoptilon*, *Crossoptilon mantchuricum*, *Lophophorus impejanus*, *Lophura edwardsi*, *Lophura swinhoii*, *Polyplectron emphanum*, *Syrnaticus ellioti*, *Syrnaticus humiae*, *Syrnaticus mikado*, *Columba livia*, *Cyanoramphus novaezelandiae*, *Psephotus dissimilis*, *Carduelis cucullata*. For an up-to-date list see <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32006R0865:en:NOT>

⁴ For an up-to-date list see: www.unep-wcmc.org

1b) Article 60 Certificates

An Article 60 is not compulsory and NatSCA believe that only a handful of museums would find an Article 60 certificate appropriate/useful. Museums are not required to hold an Article 60 certificate.

As an alternative to obtaining an individual Article 10 certificate for each specimen, museums and zoological establishments may apply for an Article 60 certificate. This single certificate will cover all the Annex A specimens in their collection. Article 60 certificates are only issued to scientific institutions that are using their Annex A specimens for captive breeding, research or education aimed at the conservation of the species. An Article 60 only allows the sale of Annex A specimens to other scientific institutions holding such a certificate. An Article 60 certificate is primarily intended to facilitate the movement of Annex A specimens between institutions or display of large numbers of Annex A specimens without the burden of applying for individual Article 10 certificates.

“Article 60 of Commission Regulation EC 865/2006 allows EU countries to issue a certificate to individual scientific institutions so that the various prohibitions on commercial use set out in Article 8(1) of EC Regulation 338/97 do not apply to them.”

To apply for an Article 60, you will need to provide DEFRA with records for all the Annex A specimens (which do not come within the worked items derogation) on educational display, or being used for conservation related research, at the point the application is made. They also look at the credentials of an institution and apply specific criteria before issuing an Article 60.

Animal Health has produced detailed guidance for customers wishing to apply for an Article 60 certificate. See:
<http://www.defra.gov.uk/animalhealth/CITES/guidance/GN12.htm>

To summarise: only specimens of species listed on Annex A of the EC CITES Wildlife Trade Regulations that are being used for commercial purposes require EC certificates.

Exceptions to this rule include:

- Worked specimens that predate 1st June 1947
- Artificially propagated plants
- Captive bred and permanently marked specimens of species listed on Annex X

Museums holding Annex A specimens for non-commercial purposes do not require EC certificates (normal CITES rules apply for exports/imports with non-EU countries).

1c) Stricter Measures

It is worth bearing in mind that there are some CITES species for which stricter measures apply: Tigers, Bears, Rhinos, African Elephants, Primates, Seals, Mother of Pearl and birds' eggs. These measures are mainly designed to further restrict trade in these animals and should not unduly affect a museum. However, some of this legislation might be relevant: for example the commercial use of un-worked Rhino horn and African Elephant ivory is banned in the UK. For further information on these particular measures please see:

<http://www.defra.gov.uk/animalhealth/cites/strictermeasures.htm>

2) European Protected Species

If your collection includes any plants or animals that feature on the European Protected Species list⁵ that were obtained after 1994 then you will need to operate under the terms of possession licence WML-CL01. This is a general licence for possession of dead specimens for museums, research and educational establishments and you need to ensure you are operating under its terms. This licence can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/422180/CL01_dead_specimens_annex_iv_iib.pdf

You do not need to apply for this licence but according to condition 5, **each English organisation should notify Natural England that they are exercising the licence**. It is also a requirement that you keep a record of specimens held under this licence in an Excel type spreadsheet. Some museums have been told that their own, up-to-date, collections database is a suitable record.

To do this contact:

England: wildlife@naturalengland.org.uk
stuart.miller@naturalengland.org.uk
0845 6014523

In Wales contact:

Wales: CCW, Mae-y-Ffynnon, Penrhosgarnedd, Bangor, Gwynedd,
LL57 2DW
0845 1306229

In Scotland there is not a general licence. However, if you contact Scottish Natural Heritage you can obtain a licence as a museum or educational institution.

Scotland: Scottish Natural Heritage, Great Geln House, Leachkin Road,
Inverness, IV3 8NW
01463 725000
ben.ross@snh.gov.uk

⁵ An up-to-date list of European Protected Species can be found at <http://www.naturalengland.org.uk/ourwork/regulation/wildlife/species/europeanprotectedspecies.aspx>

3) Badgers

Badgers are covered by different legislation but you do not need a licence to have badgers in the collection. You do need to be satisfied that the badger was lawfully killed/died of natural causes and, if possible, record the circumstances it was found in - date, time, and any photos. You will only need to provide this evidence if you are challenged.

4) Eggs

You currently do not need to obtain or seek a licence to possess a bird's egg if you can show that the egg was taken from the wild prior to Part 1 of the 1981 Wildlife and Countryside Act coming into force. However, the onus is on you to show that the material was not taken in breach of any relevant legislation.

Under section 1(2)(b) of the 1981 Wildlife and Countryside Act (WCA1981) it is a strict liability offence to possess a wild bird egg. However there are exceptions and defences to this offence e.g. where you can show that a wild bird egg in your possession was taken before the WCA1981 came into force.

It would obviously be best practice to gather as much information as you can about bird eggs in your possession and record this in an appropriate place.

No wild bird eggs can be sold or bought in the UK.

If you are offered eggs:

- It is an extremely unlikely scenario but if a potential donor explicitly indicates that the material was illegally taken e.g. "I collected these eggs just now from my garden.", then you are duty bound to inform them that the collecting and possession of eggs taken in the UK in contravention of the WCA1981 is illegal and decline the material.
 - You are not obliged to contact the police but do assess the situation on a case-by-case basis. Bear in mind the donor may not have acted deliberately or in any way to bring about the state of affairs. NatSCA suggests that individual museums decide their policy on this.
 - If you would like explicit advice on a particular case then you should contact the [National Wildlife Crime Unit](#) or local police on 101 for guidance.
 - If a donor asks for advice on what to do with this material you could suggest that they pass the collection to the local police and ask them to contact the Senior Curator of Eggs at the Natural History Museum (currently Douglas Russell Bird-Enquiries@nhm.ac.uk, 0207 942 5000).

- Consult your Acquisition Policy but if a potential egg donation was on a 'balance of probabilities' collected before 1981 then a museum could reasonably accept the material.
 - The balance of probabilities is a flexible test. For example, if a donor indicates a collection "was found in their elderly deceased relative's attic and they have had it since they were a child in the 1940s" or "there is a date on some of the eggs of 1921" or "the eggs and box are faded and appear of some antiquity and it has 1908 written on it", these could, in some cases, be taken as indicating that it is more likely than not that the eggs are historical and collected pre-Act. Obviously, this information must be carefully recorded at the time.
- If it cannot be reasonably demonstrated that the eggs were collected pre-Act or if an individual curator is concerned about the collection's provenance then you could decline the material and suggest that they pass the collection to the local police and ask them to contact Douglas Russell at the NHM.
- If both the donor and the museum are unsure as to what to do then, again, suggest that they pass the collection to the local police and ask them to contact Douglas Russell at the NHM.

The Natural History Museum has an operational licence from Natural England allowing it to possess post 1981 eggs. If you require further information on licensing requirements contact Wildlife Licensing at the following address:

Wildlife Licensing
Natural England
Horizon House
Deanery Road
Bristol
BS1 5AH

wildlife@naturalengland.org.uk
020 802 61089

NatSCA, February 2017