

## **Natural History Collections & The Law**

A range of species of animals and plants are protected by law in the UK. This protection extends to the taking, disturbance, possession, sale and exchange of both live and dead specimens. The notes presented here are culled from the presentations given by Nigel Shelton (Senior Specialist at Natural England) and Bob Press (Natural History Advisor to North Herts Museums Service) at a SHARE Museums East training day held on January 18<sup>th</sup> 2012 at the University Museum of Zoology, Downing Street, Cambridge.

They are not intended to provide comprehensive coverage of the laws affecting museum collections: instead, they are meant as a guide for curators wishing to achieve better compliance in this area.

The notes are divided into two sections:

1. The Wildlife and Countryside Act and the Habitats Regulations
2. CITES and EC Wildlife Trade Regulations (commercial use)

## Protected species in museums collections

The major items of legislation covering protected species within the UK are the *Wildlife and Countryside Act of 1981* and the European Union's *Directive 2009/147/EC*, commonly known as the *Habitats Directive*. The two sets of regulations are intertwined.

### The Wildlife and Countryside Act 1981

The Wildlife & Countryside Act (as amended) provides protection (at different levels) for a variety of animal and plant species (including all wild birds) in the UK. It also transposes the following into UK law:

- ! Convention on the Conservation of European Wildlife and Natural Habitats (the 'Bern Convention')
- ! European Union Directive on the Conservation of Wild Birds 79/409/EEC & 2009/147/EC (the 'Birds Directive' & update)

The provisions relating to animals in the Wildlife and Countryside Act only apply to 'wild animals'; these are defined as those that are living wild or were living wild before being captured or killed. It does not apply to captive bred animals being held in captivity.

### The Habitats Regulations

The Habitats Regulations also transposes into UK law the UK Government's obligations under the parent directive (*Conservation of Natural Habitats and of Wild Fauna and Flora, Council Directive 92/43/EEC*, otherwise known as the Habitats Directive). The original UK Conservation (Natural Habitats & Conservation) Regulations date from 1994. Several changes were made to these and consolidated on 1/1/2007; new species were added in 2008; and a revised version of the UK regulations was issued in 2010, now called the Conservation of Habitats and Species Regulations 2010.

Together with *Directive 2009/147/EC on the Conservation of Wild Birds (codified version)* (the '[Birds Directive](#)'), the Habitats Directive forms the cornerstone of Europe's nature conservation policy. It is built around two pillars: the [Natura 2000 network](#) of protected sites and the strict system of species protection. All in all the directive protects over 1.000 animal and plant species of Community interest and over 200 so called "habitat types" (e.g. special types of forests, meadows, wetlands, etc.), which are of European importance.

### European Protected Species

*Species of Community interest* include those which are endemic, rare, endangered or likely to become so. Those given strict protection within the EU are known as *European Protected Species*. They are listed in Appendices IIa (plants) and IV (animals) of the Habitats Directive. Those present in the UK are listed in Schedule 2 of the 2010 Habitats Regulations.!

No species of bird is listed as a European Protected Species *per se*. All wild bird species are protected under the Birds Directive and (in the UK) the Wildlife & Countryside Act.

All of the different regulations list taxa by both latin and common name but taxa are formally recognised (e.g. in disputes) by the latin name only.

An example is the Common or Viviparus Lizard, *Lacerta vivipara*. Only Hungarian populations belonging to subspecies *pannonica* are considered to be in need of protection and only this taxon is listed as an European Protected Species in the Habitats Directive (it does not appear in the Habitats Regulations since this subspecies does not occur in Britain). However, the lizard is listed simply as *Lacerta vivipara* in the Wildlife & Countryside Act, conferring protection on all of the subspecies, even though those present in the UK are not deemed at risk.

Together, the Wildlife & Countryside Act and Habitats Regulations cover the following activities:

- ! Agricultural or fishery damage
- ! Public health and safety
- ! Disease (preventing the spread of)
- ! Falconry
- ! Keeping
- ! Sales
- ! Conservation
- ! Science
- ! Education
- ! Taxidermy

These regulations apply only to England and Wales. Scotland, N. Ireland, the Channel Islands and the Isle of Man have separate legislation enacted to fulfill their obligations. Curators are advised to check the relevant regulations when dealing with specimens from elsewhere in the UK.

### **Management authority**

Although policy is set by Defra, the management authority is Natural England and in particular, their Regulation Team which is now responsible for protection of both sites and species. The Wildlife Licensing Unit (Bristol), delivery and enforcement units are all part of this team.

### **Wildlife Management Licensing**

Licences are used to enable activities which are otherwise banned under the legislation e.g. scientific study that requires capturing protected animals can be allowed by obtaining a license. Trade in the more widespread species is also permitted if licensed.

Providing advice on wildlife management is Natural England's preferred approach – licences are only issued as a last resort e.g. to disturb or shoot species. For most museum work, and certainly for museum collections where the issues are usually acquiring, keeping or disposing of dead specimens, licences are usually the only option.

Any of three types of licence may be used, depending on the activity and the applicant.

#### **Personal Licences**

- ! Tailored licences which require an application and are judged on a case by case basis, e.g. *culling badgers in relation to damage, gulls for health and safety*

#### **General Licences**

- ! Activities that carry a low risk for the conservation or welfare of the protected species in question, e.g. *selling dead wild birds (GL17)*

#### **Class Licences**

- ! Class Licences represent a 'middle way' between Personal and General Licences in cases where a personal licence would be routinely issued, e.g. *to keep European Protected Species Annex IV and IIb specimens (CL01)*

#### **Specific (Individual) Licences**

- ! Applied for and assessed on a case-specific basis, where there is no exemption in the Act or general/class licences available, these can be issued providing there is a licensable purpose in the Act – e.g. for science or education purposes. They can also be issued to organisations facing an unusual situation.

Class licences are the most relevant for museums. They are relatively new and require the 'person or establishment' to register with Natural England, but no actual application is required. The applicant must also fulfil certain criteria – e.g. meet the definition of a museum or educational establishment, be a member of the Guild of Taxidermists etc. So far relatively few museums have registered.

## Sections of the Wildlife and Countryside Act

The Wildlife and Countryside Act is divided into four parts of which Part I covers wildlife. There are 27 Sections in Part I; the most relevant to museums are summarised here. However, there are varying levels of protection ( e.g. full protection, prohibition of sale only, etc). Definitions and wording can be subtly different between sections and reference should always be made to the full text of the legislation to determine the exact provisions that relate to a given species. The species protected under each section are listed in an accompanying schedule.

### Section 1: Protection of birds

Assuming there is no sale of specimens involved, the only section directly affecting specimens in museum collections is Section 1 and the 80+ species listed in Schedule 1. Some of sections 2-8 (and schedules 2-4) may be relevant when ascertaining whether a bird was legally taken before being offered to the museum.

- ! Section 1 prohibits the intentional killing, injuring or taking of any wild bird and the taking, damaging or destroying of the nest (whilst being built or in use) or eggs. It prohibits possession of wild birds (dead or alive) or their eggs. There are additional penalties for offences relating to birds on [Schedule 1](#).

### Section 9: Protection of other animals

Again, assuming there is sale involved, Section 9 covering 106 individually named marine and terrestrial, vertebrate and invertebrate species, plus all species of bats, applies directly to museum collections. As with birds, other sections (10-12) may be relevant when ascertaining whether a specimen was legally taken before being offered to the museum.

- ! Section 9 prohibits the intentional killing, injuring or taking, the possession and the trade in wild animals listed in [Schedule 5](#).

### Section 13: Protection of plants

Only one section applies to plants.

- ! Section 13 identifies measures for the protection of wild plants. It prohibits the unauthorised intentional uprooting of any wild plant species and forbids any picking, uprooting or destruction of plants listed on Schedule 8. It also prohibits the sale, etc, or possession for the purpose of sale of any plants on [Schedule 8](#) or parts or derivatives of Schedule 8 plants. It provides certain defences, e.g. provision to cover incidental actions that are an unavoidable result of an otherwise lawful activity.

It is not normally an offence to pick the 'Four Fs'; fruit, foliage, fungi or flowers - assuming that none of them are protected specifically - which are growing wild if they are for personal use and not for sale. Section 4, subsection 3, of the Theft Act 1968 makes it clear that – *A person who picks mushrooms growing wild on any land, or who picks flowers, fruit or foliage from a plant growing wild on any land, does not (although not in possession of the land) steal what he picks unless he does it for reward or for sale or other commercial purpose. For the purpose of this subsection 'mushroom' includes any fungus, and 'plant' includes any shrub or tree.* Whilst picking may not be theft, it might be theft if you uproot a tree or shrub - because a tree might be worth something - and take it away. [Land owners permission?](#)

### Sections 16 & 17: Licensing

- ! Section 16 provides a mechanism for licensing actions that would otherwise be unlawful; different statutory agencies are responsible for licensing activities depending on the reason for doing them. For example (in England, and in general) Natural England is responsible for licensing most activities done for scientific study, educational reasons or for photography or conservation.
- ! Section 17 comments further on licensing.

## **The Habitats Regulations**

Part 3 (sections 41-46, and 53-56) of the regulations applies to the protection of species, in particular European Protected Species which are defined as:

- ! those species of animals listed in Annex IV(a) to the Habitats Directive and those species of plants listed in Annex IV(b) and II(a) to the Habitats Directive which have a natural range which includes any area in Great Britain.

They are listed in Schedule 2 (animals) and Schedule 5 (plants) of the Habitats Regulations.

Note that museum collections often contain specimens of European Protected Species which occur elsewhere in Europe but not in the UK and therefore are not listed in the Habitats Regulations schedules. Curators should check the full list of European Protected Species in Annexes IV(a) and II(b) of the Habitats Directive.

The deliberate capture, killing or disturbance of listed animal species, including destruction of eggs, nesting places or breeding sites are all prohibited. For plants, collection, uprooting or destruction is prohibited. In addition, the possession, control, transport, sale or exchange (and offering for sale or exchange) of both plants and animals are also prohibited.

As with CITES, the ban applies to live or dead specimens and any part or derivative of a specimen and to any stage of the life cycle.

## **Legal possession of European Protected Species**

There are various defences that may be invoked, including the lawful taking of a specimen.

Circumstances in which it is lawful to possess a European Protected Species are:

- ! Where the specimen is captive bred
- ! Where the specimen was taken outside the EU (but note CITES regulations)
- ! Where the specimen was taken before the relevant date (2007)

Otherwise, possession, control, transport, sale or exchange requires a licence. Among the purposes relevant to museums for which a licence may be granted (providing any action is not be detrimental to favourable conservation status within the species natural range) are:

- ! Science and education
- ! Protection of zoological and botanical collections

## **Important Considerations**

The onus is on the keeper to show that the keeping of the specimen is lawful. Proof is mostly via documentary evidence, including provenance and any other evidence.

Specimens may be taken or kept lawfully if:

- ! They were taken/acquired prior to enactment of the relevant legislation
- ! They were taken under licence (Wildlife & Countryside Act only)
- ! They were not deliberately killed but found dead as a result of another event e.g. RTA, or even natural causes (Wildlife & Countryside Act only)
- ! They were taken outside the EU
- ! They were captive-bred \*

The Wildlife & Countryside Act is unusual in requiring a reverse burden of proof –an individual is presumed guilty until proven innocent – despite this being against the basic principle of criminal law.

\* The situation with captive-bred birds is complex due to slight differences in definitions and other wording, so care is needed here.

# SUMMARY

## What Is protected?

A species listed on any schedule has some level of protection and a licence is possibly needed to keep the specimen. In summary, the following are protected:

- ! All wild birds naturally occurring in the UK and EU states have protection (NB. all bird protection is in the Wildlife And Countryside Act)
- ! Species listed in Schedules 5 (Animals) and 8 (Plants) of the Wildlife & Countryside Act or Schedule 2 of the Habs Regs

## Relevant Dates

Collections or specimens may pre-date the legislation, in which case they are not covered. Relevant dates are:

- ! Wildlife And Countryside Act – 31<sup>st</sup> October 1981
- ! Habitats Regulations – 10<sup>th</sup> June 1994 (for original taking of specimen) AND 21<sup>st</sup> August 2007 (for possession of specimen)
- ! Birds' eggs – 1954 (for original taking of specimens) AND 2007 (for possession of specimens)

## Relevant Licenses

### ! General Licenses

- o GL17 – permits the sale of dead wild birds, other than those already allowed by the law
- o GL20 – permits the sale of dead wild animals, specifically of legally taken specimens of red squirrel and pine marten

### ! Class Licences

- o CL01 (Museums) – permits possession and transport of dead specimens (taken after the relevant date - 10/6/1994) of wild plant and animal species listed on Annex IV and II(b) of the Habitats Directive for scientific or educational purposes provided they were taken lawfully in any EU state.
- o Annex IV and IIb are specified as museums may have specimens from Europe, not just those occurring in the UK.
- o CL07 – permits the sale of dead European Protected Species and Schedule 5 species taken from the wild prior to 30th October 1981. European Protected Species may be sold only for science and education purposes, Schedule 5 species for any purpose.

## **Contacts**

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# Natural History and the Law: Trade and commercial use of natural history objects

These notes essentially repeat the advice given at the 2010 NatSCA meeting on Taxidermy and the Law held at Leicester Museum, with some minor updates and additions. Information from that meeting is available on the NatSCA website.

## 1. Legislation

The following legislation covers commercial use of natural history objects:

- ! CITES  
Convention on International Trade in Endangered Species of Wild Fauna and Flora
- ! EC Wildlife Trade Regulations (ECWT)  
(including *Council Regulation (EC) No. 338/1997*), *Commission Regulation (EC) No. 856/2006*,  
as amended by *Commission Regulation (EC) No. 100/2008* and *Commission Regulation (EC) No. 709/2010*)

### 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 entered into force in the UK in 1976.

### ECWT

This is the mechanism by which CITES has been implemented in the EU. It entered into force in the UK in 1997 where it is implemented under COTES regulations and UK Border Controls.

Implementation occurs at Community level to overcome the bar on trade restrictions between member states (Article 36 of the Treaty conditionally allows such trade restrictions between Member States for the protection of the life and health of animals and plants) and also problems inherent in the absence of systematic border controls between Member States.

The uniform implementation of CITES throughout all 27 EU Member States is done through the adoption of the EC Wildlife Trade Regulations.

### Similarities and differences

Together, CITES and ECWT provide the overarching legal framework for natural history. They are in addition to any relevant national legislation and deal specifically with trade in species.

Although ECWT implements CITES, the two sets of regulations are not precisely the same. Both list the species protected but in practise ECWT include and expand upon CITES by including some non-CITES species and upgrading the level of protection afforded to others. So if a museum meets the ECWT requirements, it also automatically meets CITES requirements.

## 2. Levels of protection

The level of protection afforded to any given species is reflected by which Appendix/Annex it is listed in. For ECWT they are:

- ! **Annex A** - all CITES Appendix I species, plus certain others (including some non-CITES species) that are considered to need a similar level of protection.
- ! **Annex B** - all CITES Appendix II species, plus certain others (including some non-CITES species) that are considered to need a similar level of protection.
- ! **Annex C** - all CITES Appendix III species, apart from those which EU countries have „entered a reservation“ for and are included in annex D. The effect of a reservation is that CITES no longer applies to the country entering it for the species concerned. For example, all EU countries have

entered a reservation for certain species of weasel listed in CITES Appendix III. Within the EU those species have no CITES Appendix status but are still treated as Appendix III species outside of the EU.

- ! **Annex D** - certain non-CITES species that have been imported into the EU in high enough numbers to need monitoring.

Permits and licences apply mainly to the most protected species i.e. those listed in Annex A. Trade in species on the remaining annexes is allowed unless a member state has entered restrictions for a particular species or, for Annex B, the specimens were illegally obtained.

### **3. Authorities**

#### **UK CITES management Authority**

Wildlife Licencing and Registration Service  
Animal Health and Veterinary Laboratories Association  
Bristol

#### **UK CITES Scientific Authorities**

Flora  
Royal Botanic Gardens  
Kew

Fauna  
Joint Nature Conservation Committee  
Peterborough

### **4. Commercial use of specimens of protected species**

ECWT prohibits commercial use of European protected species without a licence (but not simple possession).

When deciding if a licence required, there are two different but equally important aspects to consider. The first is “what constitutes commercial use”?

DEFRA rules on what constitutes commercial use but essentially it is any use which raises revenue. For museums, the mostly likely include:

- Use in displays where a fee is charged (either to enter the display or the museum as a whole)
- Loans for display elsewhere for which a charge is made
- Hiring or photographing specimens for which a charge is made
- Educational services for which a charge is made (e.g loans to schools)
- Sale of specimens

Examples of commercial and non-commercial use are given in Appendix 1.

#### **Loans**

Where a borrowed specimen is used for commercial gain, it is the responsibility of the borrowing institute to obtain the relevant licence, not the lending institute (unless it, too, receives a payment).

#### **Gifts and donations**

Gifts and donations of specimens are not considered commercial transactions. Museums may therefore accept gifts of Annex A specimens without requiring a licence as long as other commercial use conditions are met.

However, if the transaction involves some type of exchange or other benefit in kind, including the right to view, use or benefit from having access to the specimen, this is treated as a commercial transaction so a license is required.

If a gift accepted for non-commercial use is subsequently used purely for commercial gain, a certificate will be required.

Other EU countries may not be prepared to allow a specimen to be sold that has previously been given away, particularly if there is not enough information about how it was received in the first place. Anyone who receives a specimen as a gift should ask the person who gave it to them for details of its origin, as this information will be needed if the new owner applies for a license.

Charitable donations and contributions that are unsolicited (not asked for) are not normally treated as commercial transactions. This means that the controls should not apply to them.

### **Personal Effects Derogation**

Museums may be offered items obtained as souvenirs, trophies etc. As far as import permits are concerned these can be very complex but may come under PED. Such items may have no import license, even if acquired legally.

Museums may accept such items but if they are to be used for commercial purposes, then a license will be required. You should therefore obtain full details of how and when the specimen was acquired and imported as these will be needed to obtain the license.

## **5. European protected species**

The second aspect to consider is what “species are involved”?

The phrase “European protected species” refers to any specimen of a species listed in Annex A of ECWT and further, to any that are **live or dead, or their [readily recognisable] parts and derivatives**.

### **Parts and derivatives**

Parts and derivatives can include eggs, feathers, tusks, teeth, skins, shells, seeds, wood, blood, semen, and tissue.

These may appear in any collections, not just natural history ones. Examples include:

- ! items made from crocodile or snakeskin
- ! ivory and items carved from rhino horn
- ! antiques containing ivory or tortoiseshell
- ! musical instruments e.g. the keys on a piano for example may well be ivory.
- ! traditional medicines which contain extracts from endangered animals and/or plants

### **‘Ghost’ derivatives**

An item only has to claim to contain a controlled species to contravene controls. So, a traditional medicine with packaging saying it contains tiger extract is prohibited – even if no tiger parts have been added!

### **‘Readily recognisable’ parts**

The term “readily recognisable part or derivative” is taken to mean “any specimen which appears from an accompanying document, the packaging or a mark or label, or from any other circumstances, to be a part or derivative of an animal or plant of a species included in the appendices, unless such part or derivative is specifically exempted from the provisions of the Convention”.

If a specimen cannot be identified then CITES permits are not required. The onus is on the applicant to ensure that every effort has been made to identify the specimen where possible. If not recognisable, then since no CITES permit is required, no commercial use license is required either – but note the application

of the 'ghost' derivatives rule, where the claim is sufficient cause even if the species is otherwise unrecognisable.

There are two further variations to this rule.

Where an entire higher taxon such as a family or genus is listed in Appendix A, then the item needs only to be identifiable to that level to be classed as a controlled item. This applies to e.g. orchids, tortoises and species used for Mother of Pearl.

Where there are recognised conservation implications but the exact species is not known, the authorities will treat the specimen as if it belongs to the most protected species within the group. This is the "guilty until proved innocent" approach operated by Customs for imports. There is a way around this but it has not (as far as we know) been tested with the Wildlife Registration Service.

## 6. Licencing factors

Factors which decide whether or not a licence is required to commercially use a specimen in a museum include:

- ! species
- ! country of origin
- ! state (wild or captive bred). NB there are specific rules about the marking of such specimens, even when stuffed!
- ! date of collection (pre- or post-legislation?)
- ! degree of working (modification)
- ! degree of commercial use to which the specimen is put

### Exemptions

Exemptions allowing use without a licence include:

- ! artificially propagated plants and captive born and bred animals of species listed in Annex X of EC Regulation 865/2006.
- ! parts and derivatives which are deemed "not readily recognisable" \*But note 'ghost' derivatives!
- ! worked items

## 7. Worked items

Worked items acquired before June 1<sup>st</sup> 1947 come under the Antiques derogation and do not require a licence.

To qualify as worked, specimens must have been *significantly* altered from their raw state for jewellery adornment, art, utility or musical instruments *more than 50 years before the date of the regulation* (i.e. 1947) and *need no further carving, crafting or manufacture to effect their purpose*.

They include taxidermy and mounted or wired osteology specimens but not disarticulated bones.

Worked items are common in natural history collections but can equally be found in non-natural history collections.

The amount of alteration, degree of original working and any further working needed to qualify for exemption appear to be very grey areas (some examples agreed with the European Commission are shown in Appendix 2) and may require a case-by-case ruling from the licencing authorities. An object originally worked before 1947 but which is further worked after 1947 would not be exempt.

## 8. Licences

Within the EU museum Annex A specimens used for commercial purposes and Annex A-C specimens for re-export outside the EU require either an Article 10 (A10) or Article 60 (A60 – previously A30) certificate.

These are obtained from AHVLA. There is a cost (currently £25 for A10 and £177 for A60) and they are time-limited.

NB. In the past some A30/A60 certificates were issued with no expiry date – check if yours is one.

- A10 certificates cover individual specimens for purely commercial use and for specimens exchanged with a non A60-holding institute.  
Two types: Transaction Specific Certificate (used by a named individual) and Specimen Specific Certificate (used by anyone in possession of the specimen)
- A60 certificates cover all the specimens in a named museum when these are commercially used for science or educational purposes aimed at the conservation of the species.  
NB. Any Annex A specimen used for purely commercial purposes (i.e. non-scientific or educational) still needs an A10 certificate.  
NB. An A60 certificate does not exempt the museum from the need for relevant CITES import/export permits.

## 9. Licence requirements

In order to obtain a licence, various criteria must be met. Principally, the museum must:

- ! Hold data in an electronic register (compatible with EXCEL) of specimens and derivatives, updated annually
- ! Provide proof that the specimen was legally obtained by the museum and/or by the original keeper
- ! Identify specimens using nomenclature as provided by UNEP-WCMC

## 10. Minimum standards

Institutes holding an A60 certificate are expected to meet certain minimum standards. These include:

- ! Collections of live or dead animal or plant specimens, and records ancillary to them, permanently housed and professionally curated
- ! Museum and herbarium specimens must be prepared and collections arranged in a manner that ensure their utility
- ! All accessions properly and permanently recorded
- ! Permanent records maintained for loans and transfers to other institutions holding an Article 60 certificate
- ! Specimens acquired under the terms of the Article 60 are primarily for purposes of research or education aimed at the preservation or conservation of the species
- ! Acquisition and possession of specimens accord with the laws of the State in which the scientific institution is located

Also, the certificate only covers those specimens of species included in Annex A centrally housed under the direct control of the scientific institution and managed in a manner to preclude the use of such specimens for decoration, trophies or other purposes incompatible with the principles of Article 60.

## 11. Stricter measures and other oddities

Stricter measures apply to a few CITES species e.g. tigers, bears, seals etc. Some of these measures may apply to museums: e.g. commercial use of mounted or minimally carved rhino horn was formerly allowed but as of 2011 is illegal in the UK.

### Taxidermy

A licence is not required to stuff most species of bird or animal but it must have been obtained legally.

If you purchase a specimen from a taxidermist this is a commercial transaction. The taxidermist must provide an A10 certificate and permanently mark the specimen in accordance with the regulations.

If the taxidermist is preparing a specimen as a commission this counts as a service and the client is responsible for obtaining any relevant certificate.

### **Human remains**

Some remains were obtained in circumstances now considered unacceptable. For example, those acquired between 100 and 200 years ago from indigenous peoples under colonial rule. Some groups now claim rights over some of these human remains, including genealogical descendants, cultural communities, custodians and the scientific community. Remains less than 100 years old are covered by the Human Tissue Act 2004.

## **12. Moving specimens of protected species**

A specimen of a CITES-listed species may be imported into or exported (or re-exported) from a State party to the Convention only if the appropriate document has been obtained and presented for clearance at the port of entry or exit.

Requirements may vary from one country to another and it is always necessary to check on the national laws that may be stricter, but the basic conditions that apply for the Appendices are described below.

The provisions of the present Convention on import/export do not apply where a specimen was acquired before the Convention came into force where the Management Authority issues a certificate to that effect.

Movement of any specimen of a species listed in Annex A or B into or out of the EU requires a permit (currently £59). For Annex C and D specimens a self completed 'Import Notification' form needs to be completed and stamped by Customs at the point of entry/exit.

## **13. Summary**

ECWT prohibits commercial use of European protected species without a licence.

You do not need a commercial use licence simply to possess Annex A species, nor to give them away (but note possession licences under Wildlife & Countryside Act and Habitat Regulations).

Advice from NatSCA is that non-charging museums holding Annex A specimens for non-commercial purposes do not require ECWT licences.

The Wildlife Licencing and Registration Service say that where lawfully obtained Annex A specimens (incl. all post-1947 ones) held in the collections of a charging museum are used only for non-chargeable scientific (and educational) study and never for display, no ECWT licences are required.

But there are exceptions and you should check that the advice is valid in every case.

## **14. Best practice**

When considering if a commercial use license or certificate is required, you should ask three questions:

- 1 Is the species listed on Annex A?
- 2 Will the specimen be used for any kind of commercial purpose?
- 3 Do any exceptions/derogations apply?

If the answers are: 1) Yes, 2) Yes, 3) No, then you will need a license/certificate.

Always:

- ! Check the rules carefully to see which ones (if any) apply: if in doubt consult the original legislation including any amendments.
- ! Obtain full documentation for the specimen and maintain full and accurate records. These will enable you to apply for or avoid relevant licenses and to prove your position if asked. Also give thought to producing/converting your records into the correct (electronic) format. Licences require an electronic register (compatible with EXCEL) of specimens and derivatives to be kept and updated annually.
- ! Contact the Wildlife Registration Team at AHVLA. They are helpful and respond rapidly to enquiries via either email or telephone. Since many issues are resolved on a case-by-case basis, you will probably end up speaking to them anyway, so get them involved early on.

## Appendix 1. Examples of commercial v non-commercial status:

Commercial (License required)	Non-commercial (License not required)
<i>Permanent displays</i>	
A permanent exhibition or display of Annex A specimens in a museum which charges an entry fee	A permanent exhibition or display of Annex A specimens in a museum which is free to enter
A permanent exhibition or display set up at the entrance to a museum (the gates charging entrance to the institute are beyond the display) containing Annex A artifacts made between 1947 and 1975	As above, but where the museum has a commercial cafeteria or shop on site
	A permanent exhibition or display in a free entry museum, with a box for donations where making a donation is completely voluntary
<i>Temporary events</i>	
A temporary exhibition or display containing Annex A specimens for which there is an entrance fee, within an otherwise free entry museum (even if the Annex A specimens are not themselves the main attraction)	
A one-off commercial event where the display of Annex A specimens is integral to the event	A one-off commercial event where the museum is merely a venue and display of any Annex A specimens is incidental
<i>Behind the scenes</i>	
A museum charging visitors to view their storage area where the Annex A specimens are the main focus of the display	A museum charging visitors to view their storage area where Annex A specimens are on display
<i>Images</i>	
Corporate filming where this is specifically focused on an Annex A specimen (or its display)	Corporate filming where this is not specifically targeted at Annex A specimens, and the museum is simply being used as a backdrop/location
	Sale of postcards of an Annex A specimen, or use of a poster of an Annex A specimen to attract visitors to the museum
<i>Loans/Hires</i>	
Hire of Annex A specimens for educational courses not connected with conservation of the species.	Loans of specimens that include Annex A specimens to another institute for the production of a book (e.g. on the flora of Africa).

## Appendix 2. Examples of worked items agreed with the European Commission

<b>Worked Items</b>	<b>Not worked items</b>
Articulated skeleton of tiger with wired joints and mounted	Tiger bones in box but showing evidence of having been 'articulated' (holes drilled for wires etc).
Taxidermied rhino head, including horn(s), mounted or unmounted	Rhino horn, unmounted or removed from a plaque or base
Deer antlers still attached to skull plate and mounted on wooden plaque	
Rhino horn carved or fashioned into a complete and identifiable artistic or utility object	Rhino horn with minimal or rudimentary carving
Tiger skin with or without taxidermied head and hessian backing but tanned and used as a rug	
Whales tooth scrimshaw	Whales teeth uncarved
Whole marine turtle shell polished and ready for wall mounting	
Two elephant tusks mounted on wooden base with brass gong hung between them	Whole, uncarved but polished single elephant tusk
Broom made with elephant hair	

## Useful links

### European Wildlife Trade

Information on all aspects of CITES, ECWT, commercial licencing, stricter measures etc, including how to apply for relevant permits. <http://animalhealth.defra.gov.uk/cites/index.htm>

For further information on all aspects of wildlife trade for EU countries, including details of all UK-specific legislation see <http://www.eu-wildlifetrade.org/>

NB. The latest version (2010) of ECWT Annexes, including all amendments to date is available at <http://www.ymparisto.fi/download.asp?contentid=122770&lan=en>

### Habitats Directive

[http://ec.europa.eu/environment/nature/legislation/habitatsdirective/index\\_en.htm#interpretationn](http://ec.europa.eu/environment/nature/legislation/habitatsdirective/index_en.htm#interpretationn)

### Human Remains

Department of Culture, Media and Sport site gives guidance on dealing with human remains.

[http://www.culture.gov.uk/what\\_we\\_do/cultural\\_property/3289.aspx](http://www.culture.gov.uk/what_we_do/cultural_property/3289.aspx)

### Wildlife and Countryside Act

Covers Wildlife and Countryside Act, including lists of protected species and their current protection status. <http://jncc.defra.gov.uk/page-3614>

NB. A spreadsheet giving taxon designations for all legislation, together with filters enabling searches on protection categories for all taxa and the ability to produce species lists based on a variety of selection criteria is available at <http://jncc.defra.gov.uk/page-3408>

### NatSCA

Provides a PDF giving information on all regulations affecting natural history collections, including examples of situations where Article 10 or Article 60 licenses are required. Copy available in this pack.

<http://natsca.info/content/natural-science-collections-and-law-0>

NB. For some information on which licenses have changed since this document was updated in August 2011 see [http://www.naturalengland.org.uk/Images/classlicencetable\\_tcm6-24189.pdf](http://www.naturalengland.org.uk/Images/classlicencetable_tcm6-24189.pdf)

### Natural England

Information on species, regulation, licence applications etc. Advice leaflets available but mainly relate to conserving/protecting living populations, introduction of alien species etc.

<http://www.naturalengland.org.uk/ourwork/regulation/wildlife/licences/default.aspx> and

<http://www.naturalengland.org.uk/conservation/wildlife-management/licensing/default.htm>

### The Birds Directive.

Original EU legislation. <http://eur-lex.europa.eu/LexUriServ/site/en/consleg/1979/L/01979L0409-20070101-en.pdf>

### UK Government Legislation

Gives full text of all UK legislation, including lists of relevant species. Enter full name of act and year....

Wildlife and Countryside Act 1981, Conservation (Natural Habitats & Co) Regulations 1994 or

Conservation of Habitats and Species Regulations 2010. <http://www.legislation.gov.uk/>

### Current nomenclature

UNEP-WCMC database giving latest version of species in the EUWT Regs Annexes with current nomenclature. [http://www.unep-wcmc.org/eu-wildlife-trade-regulations\\_690.html](http://www.unep-wcmc.org/eu-wildlife-trade-regulations_690.html)