



Isle of Man

Ellan Vannin

AT 3 of 1981

**ENDANGERED SPECIES (IMPORT AND
EXPORT) ACT 1981**



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**Isle of Man***Ellan Vannin*

ENDANGERED SPECIES (IMPORT AND EXPORT) ACT 1981

Received Royal Assent: 18 February 1981
Passed: 17 March 1981
Commenced: 1 June 1981

AN ACT to restrict the importation and exportation (including removal from and to the United Kingdom) of certain animals, plants and items and to restrict certain transactions in respect of them or their derivatives; to confer on the Isle of Man Board of Agriculture and Fisheries power to restrict by order the places at which live animals may be imported; to restrict the movement after importation of certain live animals; and for connected purposes.

GENERAL NOTE: The maximum fines in this Act are as increased by the *Fines Act 1986* and by the *Criminal Justice (Penalties, Etc.) Act 1993* s 1.

Preamble

Whereas a Convention of International Trade in endangered Species of Wild Fauna and Flora (in this Act referred to as **the Convention**) which was signed in Washington on 3rd March, 1973 is in force in the Island.

And whereas it is expedient to give effect in the Island to the restrictions on international trade contained in the Convention and to make certain other provisions in connection with the conservation of endangered animals and plants:

1 **Restriction of importation and exportation, etc, of certain animals and plants**

[P1976/72/1(1); P1976/72/1(2); 1976/21/3(3); 1976/21/3(4)]

- (1) Without prejudice to any other enactment, subject to subsection (2), the importation and the exportation of the following things are hereby prohibited, namely —
- (a) a live or dead animal of any of the kinds which are prescribed for the purposes of this paragraph;¹

- (b) a live or dead plant of any of the kinds which are prescribed for the purposes of this paragraph;²
 - (c) a prohibited item.³
- (2) Subsection (1) does not apply to the importation or exportation of anything under and in accordance with the terms of a licence issued by the Department of Environment, Food and Agriculture (in this Act referred to as 'the Department').⁴
- (3) Where the Department is satisfied that the issue of a licence authorising the importation or exportation of any item which —
 - (a) is part of or derives from or is made wholly or partly from an animal or plant to which paragraph (a) or (b) of subsection (1) applies; but
 - (b) is not a prohibited item,would facilitate the importation or exportation of that item, it may, if it considers it expedient to do so, issue such a licence.⁵
- (4) Any person duly authorised in writing by the Department may, at any reasonable time and (if required to do so) upon producing evidence that he is so authorised, enter any premises where any animals or plants to which paragraph (a) or (b) of subsection (1) applies are kept (whether temporarily or permanently) in order to ascertain whether any of the animals or plants kept there have been imported contrary to this section.⁶
- (5) Any person who wilfully obstructs a person acting under subsection (3) shall be liable on summary conviction to a fine not exceeding £5,000.⁷

2 Licences to import and export, etc

[P1976/72/1(3)- (8)]

- (1) The Department shall submit any application for a licence under section 1(2) to the Committee; and before it issues or declines to issue a licence in pursuance of the application, the Department shall allow the Committee not more than one month from the date of application so to advise it.⁸
- (1A) Subsection (1) shall not apply in relation to an application of any description if the Committee has advised the Department as to whether licences should be issued in pursuance of applications of that description and, if so, their terms.⁹
- (2) A licence issued under section 1(2) or (3) shall, unless sooner revoked, be valid for a period of 12 months commencing with the date the licence is issued or such shorter period as is stated in the licence.¹⁰
- (3) The Department may charge for the issue of a licence under section 1(2) or (3) such sum (if any) as is for the time being prescribed by order of the

Department, but no such order shall have effect until it has been approved by Tynwald.¹¹

- (4) A person who, for the purpose of obtaining, whether for himself or another, the issue of a licence under section 1(2) or (3) —
- (a) makes a statement or representation which he knows to be false in a material particular; or
 - (b) furnishes a document or information which he knows to be false in a material particular; or
 - (c) recklessly makes a statement or representation which is false in a material particular; or
 - (d) recklessly furnishes a document or information which is false in a material particular,

shall be guilty of an offence and shall be liable —

- (i) on conviction on information, to imprisonment for a term not exceeding 2 years or to a fine, or to both;
 - (ii) on summary conviction, to a fine not exceeding £5,000.¹²
- (5) Where a licence is issued under section 1(2) or (3) and, for the purpose of obtaining its issue, a person commits an offence under subsection (4), the licence shall be void.¹³
- (6) Where —
- (a) any live or dead animal or plant; or
 - (b) a prohibited item,¹⁴

is being imported or exported or has been imported or brought to any place for the purpose of being exported, a person authorised by the Treasury may require any person possessing or having control of the animal, plant or item to furnish proof that its importation or exportation is or was not unlawful by virtue of section 1; and if such proof is not furnished to the satisfaction of the Treasury, the animal, plant or item shall be liable to forfeiture under the Customs and Excise Management Act.¹⁵

- (7) Where, in the case of a live animal or plant of any kind which is condemned or deemed to be condemned as forfeited, the Treasury incurs any expenses in connection with, or with a view to —
- (a) its return to the wild; or
 - (b) its being kept at premises (whether within or outside the Island) which are suitable for the keeping of animals or plants of that kind,

those expenses may be recovered, as a debt due to the Crown from the importer or intending exporter of the animal or plant or any person possessing or having control of it at the time of its seizure.¹⁶

- (8) In subsection (7), expressions which are also used in the Customs and Excise Management Act have the same meaning as in that Act.¹⁷

3 Scientific Advisory Committee

- (1) The Department shall establish a committee, to be called the Scientific Advisory Committee (in this Act referred to as 'the Committee') consisting of such members as it may from time to time appoint, to discharge the duty referred to in subsection (2).¹⁸
- (2) It shall be the duty of the Committee to advise the Department on any question which the Department may refer to it, and on any question on which it considers it should offer its advice —
- (a) in connection with the administration of this Act;
 - (b) generally in connection with the importation and exportation of animals and plants of kinds which appear to the Department or, as the case may be, the Committee to be or to be likely to become, endangered as a result of international trade or otherwise, and items derived wholly or partly from animals and plants of those kinds.¹⁹
- (3) Without prejudice to the generality of subsection (1), the Department may appoint one or more of its officers to be a member or, as the case may be, members, of the Committee.²⁰
- (4) The Department may, subject to the concurrence of the Treasury, defray or contribute towards the expenses of the Committee or any members thereof, and any sums required by the Department for such purposes shall be paid out of money provided by Tynwald.²¹

4 Power to prescribe animals and plants

[P1976/72/3]

- (1) The Department may, after consultation with the Committee, by order specify —
- (a) the animals which are prescribed for the purposes of sections 1(1)(a) and 5(1A)(a);
 - (b) the plants which are prescribed for the purposes of sections 1(1)(b) and 5(1A)(b);
 - (c) any items which are part of or which derive from or are made wholly or partly from any animal or plant and which are to be prohibited items for the purposes of this Act.
- (1A) An order under subsection (1) may prescribe animals, plants or items by reference to the Convention on International Trade in Endangered Species in Wild Flora and Fauna (CITES), Community instruments or to any other document as it has effect from time to time.²²

- (1B) Where an order under subsection (1) prescribes anything by reference to another document in accordance with subsection (1A), the Department shall —
- (a) cause a notice of any amendment to such document to be given in 2 newspapers published and circulating throughout the Island; and
 - (b) cause a copy of such document incorporating such amendments to be available for inspection at the principal office of the Department and at the Tynwald Central Reference Library.²³
- (2) An order under this section shall be laid before Tynwald.²⁴

5 Offence to sell etc. things imported contrary to section 1 or their derivatives

[P1976/72/4]

- (1) Subject to subsections (1B) and (2), a person who sells, offers or exposes for sale, has in his possession or transports for the purpose of sale, or displays to the public —
- (a) anything which has been imported contrary to section 1; or
 - (b) anything which is made wholly or partly from anything referred to in paragraph (a) and which at the time of the alleged offence (though not necessarily at the time of importation) constitutes an item to which Schedule 3 for the time being applies,
- shall be guilty of an offence.²⁵
- (1A) Subject to subsections (1B) and (2), a person who sells, offers or exposes for sale, or has in his possession or transports for the purposes of sale —
- (a) a live or dead animal of any of the kinds which are prescribed for the purposes of this paragraph or an egg or other immature stage of such an animal;
 - (b) a live or dead plant of any of the kinds which are prescribed for the purposes of this paragraph;
 - (c) any part of or anything which derives from or is made wholly or partly from anything referred to in paragraph (a) or (b),
- shall be guilty of an offence; but nothing in this subsection shall apply in relation to anything falling within subsection (1) or anything which has been imported, or is part of or derives from or is made wholly or partly from anything which has been imported before this subsection came into operation.²⁶
- (1B) Subsections (1) and (1A) do not apply to anything done under and in accordance with the terms of a licence issued by the Department; and section 2(2) to (5) shall apply in relation to a licence issued under this section as they apply in relation to a licence issued under section 1(2).²⁷

- (1C) In subsections (2) to (8), 'restricted article' means anything falling within subsection (1) or (1A).²⁸
- (2) A person shall not be guilty of an offence under subsection (1) or (1A) with respect to a restricted article if he proves to the satisfaction of the court —
- (a) that at the time when it first came into his possession he made such enquiries (if any) as in the circumstances were reasonable in order to ascertain whether it was a restricted article, and
 - (b) that, at the time the alleged offence was committed, he had no reason to believe that it was a restricted article.²⁹
- (3) Without prejudice to the generality of subsection (2)(a), a person shall be taken to have made such enquiries as are there mentioned if he produces to the court a certificate which was furnished by the person from whom the accused obtained possession of the restricted article (the supplier), which was signed by the supplier or by a person authorised by him, and which states that —
- (a) the supplier made enquiries at the time the restricted article came into his possession in order to ascertain whether it was a restricted article; and
 - (b) the supplier had no reason to believe at the time he relinquished possession of the restricted article to the accused that the article was at that time a restricted article.
- (4) A person who furnishes for the purpose of subsection (3) a certificate which he knows to be false in a material particular, or recklessly furnishes for those purposes a certificate which is false in a material particular, shall be guilty of an offence.
- (5) A person guilty of an offence under subsection (1), (1A) or (4) shall be liable —
- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine, or both;
 - (b) on summary conviction, to a fine not exceeding £5,000.³⁰
- (6) In this section, any reference to sale includes references to hire, barter and exchange.³¹
- (7) For the purposes of this section, a restricted article is displayed to the public if it is displayed to the public generally or any section of it, and (in either case) whether in return for money or otherwise.
- (8) For the purposes of any proceedings under section 47 or 178 of the Customs and Excise Management Act (penalties for improper importation and evasion of restriction on importation) for an offence in connection with the importation of anything contrary to section 1, this

section shall not be taken expressly to provide a penalty for that offence.³²

6 Power to restrict places at which live animals may be imported

[P1976/72/5]

- (1) If it appears to the Department desirable to do so for the purpose of assisting the discovery of any importation contrary to section 1 of any live animal of any of the kinds to which Schedule 1 for the time being applies, it may make an order under this section relating to any kind of animal.³³
- (2) An order under this section may provide that (subject to such exceptions as may be specified in the order) it is prohibited to do such one or more of the following things as is (or are) specified in the order, that is to say —
 - (a) to import by sea any live animal of any kind to which the order is expressed to relate;
 - (b) to import any such animal by sea unless it is imported at a port or one of the ports specified in the order in relation to animals of that kind;
 - (c) to import any such animal by air;
 - (d) to import any such animal by air unless it is unloaded at an airport or one of the airports specified in the order in relation to animals of that kind.
- (3) Any prohibition or restriction in any order under this section shall not apply to an animal which the Department authorises to be imported otherwise than in accordance with the order and which is imported in accordance with that authorisation.³⁴

- (4) In subsection (2) —

“airport” means an aerodrome for the time being designated as a customs and excise airport under section 14(7) of the Customs and Excise Management Act;³⁵

“port” means any area for the time being appointed and named under section 12(1) of that Act as a port for the purposes of customs and excise.³⁶

7 Restriction of movement of certain live animals after importation

[P1976/72/6]

- (1) Where a licence under section 1(2) has been issued or applied for in respect of the importation of a live animal of any of the kinds to which Schedule 1 for the time being applies and, after consulting the

Committee the Department considers that it is desirable to do so, it may give a direction under this section in relation to the animal.³⁷

- (2) Where a direction has been given under this section in relation to an animal, and has not been revoked by the Department, the animal shall, immediately after the relevant event, be taken to and subsequently kept at the specified premises until such time as the Department may require or permit the animal to be moved to other specified premises or revoke the direction.³⁸
- (3) Where a direction has been given under this section in relation to an animal, and has not been revoked by the Department, any person who knows or ought to know that a direction has been so given and who —
- (a) knowingly takes the animal, or knowingly permits it to be taken, at any time after the relevant event to premises which he knows or ought to know are not at the time of the taking the specified premises; or
 - (b) knowingly moves that animal, or knowingly permits it to be moved, at any time after the relevant event, the circumstances of the removal being that —
 - (i) it is made from the premises which he knows or ought to know are at the time of the removal the specified premises, and
 - (ii) he knows or ought to know that the removal is made in the absence of, or otherwise than in accordance with any condition attached to, such a requirement or permission as is referred to in subsection (2); or
 - (c) knowingly keeps the animal at any time after the relevant event at premises which are occupied by him and which he knows or ought to know are not at the time of the keeping the specified premises,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £2,500.³⁹

- (4) In this section, 'relevant event' means, in relation to an animal, whichever of the following occurs later —
- (a) the completion by the animal of any period of detention (whether in quarantine or otherwise) in accordance with any provision made by or under any enactment, being detention connected with the importation in respect of which the direction concerned was given;
 - (b) the departure of the animal from any premises connected with the importation in respect of which the direction concerned was given.

- (5) In this section, 'specified premises' means, in relation to an animal, such premises as are for the time being (and in whatever manner) specified in relation to that animal by the Department for the purposes of this section.⁴⁰
- (6) Proceedings for an offence under subsection (3) may be brought within a period of 6 months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge; but no such proceedings shall be brought by virtue of this section more than 3 years after the commission of the offence.

8 Provisions supplementary to section 7

[P1976/72/7]

- (1) Before it specifies any premises for the purposes of section 7 or revokes a direction given under that section, the Department shall consult the Committee.⁴¹
- (2) The Department shall not specify any premises for those purposes unless they are such that in its opinion the animal in relation to which it proposes to give, or has given, a direction under section 7 may suitably be kept there.⁴²
- (3) Any person duly authorised in writing by the Department may, at any reasonable time and (if required to do so) upon producing evidence that he is so authorised, enter any premises which are for the time being specified in relation to any animal for the purposes of section 7 for one or both of the following purposes —
 - (a) in order to enable the Department to decide whether the premises remain such that in its opinion the animal may suitably be kept there;⁴³
 - (b) in order to ascertain whether the animal is being kept on the premises.⁴⁴
- (4) Any person who wilfully obstructs a person acting under subsection (3) shall be liable on summary conviction to a fine not exceeding £5,000.

9 Offences by corporations

[P1976/72/8]

- (1) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

- (2) In subsection (1), ‘director’, in relation to a body corporate established by or under any enactment for the purpose of carrying on a public undertaking, being a body corporate whose affairs are managed by its members, means a member of that body corporate.

10 Financial provisions

[P1976/72/10]

Any expenses incurred in consequence of this Act by any Board of Tynwald or Statutory Board, shall be defrayed out of money provided by Tynwald.⁴⁵

11 Interpretation, etc

[P1976/72/12]

- (1) For the purposes of this Act, an individual of the family *Hominidae* (man) is not an animal.
- (2) In this Act a reference to a dead animal of any particular kind includes a reference to the body of an animal of that kind —
- (a) which is frozen, dried or preserved by chemicals, or
 - (b) which, although not complete (whether because it has been eviscerated or because it has had the whole of its inside removed and has been stuffed, or for any other reason), is substantially complete and externally substantially resembles the complete body of an animal of the kind concerned.
- (3) In this Act a reference to a dead plant of any particular kind includes a reference to a plant of that kind —
- (a) which is frozen, dried or preserved by chemicals, or
 - (b) which, although for any reason not complete, is substantially complete and externally substantially resembles a complete dead plant of the kind concerned.

- (4) In this Act —

“**the Board**” [Repealed]⁴⁶

“**the Committee**” has the meaning assigned to it by section 3(1);

“**the Convention**” has the meaning assigned to it in the preamble to this Act;

“**the Customs and Excise Management Act**” means the *Customs and Excise Management Act 1986*;⁴⁷

“**the Department**” has the meaning given by section 1(2);⁴⁸

- (5) Nothing in this Act shall prejudice the operation of any enactment relating to the prohibition or regulation of the importation into, or the exportation from, the Island of flora or fauna, and in particular any animal imported in contravention of the provisions of such an enactment may be seized, and disposed of or otherwise dealt with accordingly.

(6) In this Act —

“**exportation**” includes removal from the Island to the United Kingdom;

“**importation**” includes removal from the United Kingdom to the Island, and
the Customs and Excise Management Act shall apply accordingly.⁴⁹

12 [Repealed]⁵⁰

13 Short title and commencement

(1) This Act may be cited as the Endangered Species (Import and Export) Act 1981.

(2) This Act shall come into operation on such day as the Board may by order appoint, and different days may be appointed for different provisions and different purposes.⁵¹

SCHEDULES 1 TO 3⁵²

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References

¹ Para (a) substituted by Wildlife Act 1990 Sch 9.

² Para (b) substituted by Wildlife Act 1990 Sch 9.

³ Para (c) substituted by Wildlife Act 1990 Sch 9.

⁴ Subs (2) amended by SD155/10 Sch 3.

⁵ Subs (3) substituted by Wildlife Act 1990 Sch 9.

⁶ Subs (4) substituted by Wildlife Act 1990 Sch 9.

⁷ Subs (5) added by Wildlife Act 1990 Sch 9.

⁸ Subs (1) amended by GC121/86.

⁹ Subs (1A) inserted by Wildlife Act 1990 Sch 9.

¹⁰ Subs (2) amended by Wildlife Act 1990 Sch 9.

¹¹ Subs (3) amended by Wildlife Act 1990 Sch 9.

¹² Subs (4) amended by Wildlife Act 1990 Sch 9.

¹³ Subs (5) amended by Wildlife Act 1990 Sch 9.

¹⁴ Para (b) substituted by Wildlife Act 1990 Sch 9.

¹⁵ Subs (6) amended by Treasury Act 1985 Sch 2.

¹⁶ Subs (7) substituted by Wildlife Act 1990 Sch 9.

¹⁷ Subs (8) added by Wildlife Act 1990 Sch 9.

¹⁸ Subs (1) amended by GC121/86.

¹⁹ Subs (2) amended by GC121/86. Para (b) amended by GC121/86.

²⁰ Subs (3) amended by GC121/86.

²¹ Subs (4) amended by Treasury Act 1985 Sch 2 and by GC121/86.

²² Subs (1A) inserted by Wildlife Etc. (Amendment) Act 1994 s 1 and amended by Statute Law Revision Act 1997 Sch 1.

- ²³ Subs (1B) inserted by Wildlife Etc. (Amendment) Act 1994 s 1.
- ²⁴ S 4 substituted by Wildlife Act 1990 Sch 9.
- ²⁵ Subs (1) amended by Wildlife Act 1990 Schs 9 and 10.
- ²⁶ Subs (1A) inserted by Wildlife Act 1990 Sch 9.
- ²⁷ Subs (1B) inserted by Wildlife Act 1990 Sch 9.
- ²⁸ Subs (1C) inserted by Wildlife Act 1990 Sch 9.
- ²⁹ Subs (2) amended by Wildlife Act 1990 Sch 9.
- ³⁰ Subs (5) amended by Wildlife Act 1990 Sch 9.
- ³¹ Subs (6) amended by Wildlife Act 1990 Sch 9.
- ³² Subs (8) amended by Wildlife Act 1990 Sch 9.
- ³³ Subs (1) amended by GC121/86.
- ³⁴ Subs (3) amended by GC121/86.
- ³⁵ Definition of 'airport' amended by Wildlife Act 1990 Sch 9.
- ³⁶ Definition of 'port' amended by Wildlife Act 1990 Sch 9.
- ³⁷ Subs (1) amended by GC121/86.
- ³⁸ Subs (2) amended by GC121/86.
- ³⁹ Subs (3) amended by GC121/86.
- ⁴⁰ Subs (5) amended by GC121/86.
- ⁴¹ Subs (1) amended by GC121/86.
- ⁴² Subs (2) amended by GC121/86.
- ⁴³ Para (a) amended by GC121/86.
- ⁴⁴ Subs (3) amended by GC121/86.
- ⁴⁵ S 10 amended by Treasury Act 1985 Sch 3.
- ⁴⁶ Definition of 'the Board' repealed by GC121/86.
- ⁴⁷ Definition of 'the Customs and Excise Management Act' amended by Wildlife Act 1990 Sch 9.
- ⁴⁸ Definition of 'the Department' inserted by GC121/86.
- ⁴⁹ Subs (6) added by Wildlife Etc. (Amendment) Act 1994 s 1.
- ⁵⁰ S 12 repealed by Wildlife Act 1990 Schs 9 and 10.
- ⁵¹ ADO (whole Act) 1/6/1981 (GC113/81).
- ⁵² Schedules 1 to 3 repealed by Wildlife Act 1990 Schs 9 and 10.