

2011 No. 1653 (W. 188)

WILDLIFE, WALES

The Wildlife and Countryside
(Registration, Ringing and Marking
of Certain Captive Birds) (Wales)
Regulations 2011

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in relation to Wales about the registration and ringing or marking requirements applicable to birds included in Schedule 4 to the Wildlife and Countryside Act 1981 (“the Act”) for the purposes of section 7(1) of the Act. Section 7(1) of the Act provides that any person who keeps, or has in their possession or under their control, any bird included in Schedule 4 which has not been registered and ringed or marked in accordance with regulations is guilty of an offence.

The power to make regulations in relation to Wales under section 7 of the Act is exercisable by the Welsh Ministers.

These Regulations revoke both the Wildlife and Countryside (Registration, Ringing and Marking of Certain Captive Birds) (Wales) Regulations 2003 (S.I. 2003/3235) and the Wildlife and Countryside (Registration, Ringing and Marking of Certain Captive Birds) (Wales) (Amendment) Regulations 2009 (S.I. 2009/1733).

Regulation 3 requires the Welsh Ministers to maintain a register of birds kept at addresses in Wales for the purposes of section 7(1) of the Act. A bird must not be registered by the Welsh Ministers unless they are satisfied that the bird has been ringed or marked in accordance with regulation 6. An application for registration on a form obtained from the Welsh Ministers must be made by the keeper or prospective keeper of the bird to which the application relates. The Welsh Ministers must require an application to be accompanied by a charge for registration and may

refuse to make an entry in the register in respect of an application until that charge has been paid.

Regulation 4 details those circumstances where registration ceases to have effect and is terminated.

Regulation 5 provides that where a merlin or peregrine falcon has been registered on the register of birds in respect of which a certificate referred to in Article 10 of Council Regulation (EC) No. 338/97 on the protection of species of wild fauna and flora by protecting trade therein (“the Council Regulation”) has been issued, it is treated as being registered for the purposes of section 7(1) of the Act.

Regulation 6 provides that every bird to which these Regulations apply must be ringed with a ring obtained from the Welsh Ministers unless marked in accordance with the specimen marking requirements of Article 66 of Commission Regulation (EC) No. 865/2006 laying down detailed rules concerning the implementation of the Council Regulation.

Both the Council Regulation and the Commission Regulation implement the Convention on International Trade in Endangered Species of Wild Fauna and Flora commonly referred to as CITES.

A regulatory impact assessment has not been prepared for these Regulations.

2011 No. 1653 (W. 188)

WILDLIFE, WALES

The Wildlife and Countryside
(Registration, Ringing and Marking
of Certain Captive Birds) (Wales)
Regulations 2011

Made 5 July 2011

Laid before the National Assembly for Wales 7
July 2011

Coming into force 1 August 2011

The Welsh Ministers, in exercise of the powers conferred by section 7(1) and (2) of the Wildlife and Countryside Act 1981⁽¹⁾, make the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Wildlife and Countryside (Registration, Ringing and Marking of Certain Captive Birds) (Wales) Regulations 2011.

(2) These Regulations come into force on 1 August 2011 and apply in relation to Wales.

Interpretation

2.—(1) In these Regulations—

“keep” (“*cadw*”) means keep, possess or control;

⁽¹⁾ 1981. c.69. The functions of the Secretary of State contained in section 7 of the Wildlife and Countryside Act 1981, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). By virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c.32), those functions have been transferred to the Welsh Ministers.

“keeper” (“*ceidwad*”) means the person who keeps, or has possession of, or control over, a bird; “registered address” (“*cyfeiriad cofrestredig*”) means the address contained in the register maintained by the Welsh Ministers under regulation 3(1);

“registered keeper” (“*ceidwad cofrestredig*”) in relation to a registered bird means the person registered as keeper of the bird in the register maintained by the Welsh Ministers under regulation 3(1);

“ring” (“*modrwy*”) means any ring or band for ringing a bird; and

“the Act” (“*y Deddf*”) means the Wildlife and Countryside Act 1981.

(2) In these Regulations, any reference to a bird to which these Regulations apply is a reference to any bird included in Schedule 4 to the Act which any person keeps.

Registration

3.—(1) The Welsh Ministers must, for the purposes of section 7(1) of the Act, maintain a register of birds to which these Regulations apply which are kept at addresses in Wales.

(2) An application for registration must be made by the keeper, or prospective keeper, of the bird to which the application relates on a form obtained from the Welsh Ministers.

(3) The Welsh Ministers must require an application to be accompanied by such reasonable charge for registration as they have determined under section 7(2A) of the Act⁽¹⁾.

(4) Upon receiving an application for registration, the Welsh Ministers must enter the relevant information on the register. But this is subject to paragraphs (5) and (6).

(5) The Welsh Ministers must not register any bird to which these Regulations apply unless satisfied that the bird has been ringed or marked in accordance with regulation 6.

(6) The Welsh Ministers may decline to make an entry in the register in respect of an application until the charge referred to in paragraph (3) of this regulation has been paid.

(7) Upon being notified in accordance with regulation 4(1)(d)(ii) of a change in the address at which a registered bird will be kept, the Welsh

⁽¹⁾ Section 7(2A) was inserted into the Countryside and Wildlife Act 1981 by section 1(2) of the Birds (Registration Charges) Act 1997 (c.55).

Ministers must ensure that the new address is entered onto the register as the registered address for that bird.

Termination

4.—(1) A registration ceases to have effect—

- (a) when the registered bird—
 - (i) dies;
 - (ii) escapes or is released into the wild;
 - (iii) is disposed of by way of sale or otherwise;
 - (iv) is exported from the United Kingdom;
- (b) when the ring or marking referred to in regulation 6 is removed or the identifying information on it or stored within it becomes unreadable;
- (c) when the registered bird is kept by a person other than its registered keeper, unless it is intended at the time when the bird begins to be so kept that it will be returned to its registered keeper within the specified period and the bird is so returned;
- (d) when the registered bird is kept by its registered keeper but ceases to be kept at its registered address, unless—
 - (i) it is intended at the time when the bird ceases to be so kept that it will be returned to its registered address within 3 weeks and the bird is so returned, or
 - (ii) the Welsh Ministers are notified in writing in accordance with paragraph (2) of the new address at which the bird will be kept.

(2) The notification referred to in paragraph (1)(d)(ii) must—

- (i) be made before the bird ceases to be kept at the registered address; and
- (ii) contain the date from which the bird will be kept at the new address.

(3) In regulation 4(1)(c) “the specified period” (“*cyfnod penodedig*”) means—

- (i) in circumstances where the bird will not be kept continuously at its registered address, a period of 3 weeks; or
- (ii) in circumstances where the bird will be kept continuously at its registered address, a period of 6 weeks.

Birds registered on CITES register

5.—(1) Where a bird of a species listed in the Schedule is registered on the CITES register, it is treated as being registered in accordance with these Regulations for the purposes of section 7(1) of the Act.

(2) Regulation 3 and paragraphs (1)(a)(iii), (c) and (d) of regulation 4 do not apply in relation to birds registered by virtue of paragraph (1).

(3) In this regulation—

“CITES” (“*CITES*”) means the Convention on International Trade in Endangered Species of Wild Fauna and Flora;

“CITES certificate” (“*tystysgrif CITES*”) means a certificate referred to in Article 10 of Council Regulation (EC) No. 338/97 on the protection of species of wild fauna and flora by regulating trade therein⁽¹⁾ issued by the management authority for the United Kingdom⁽²⁾;

“CITES register” (“*cofrestr CITES*”) means any register of birds in respect of which a CITES certificate has been issued.

Ringling and marking

6.—(1) Every bird to which these Regulations apply must be ringed with a ring obtained from the Welsh Ministers.

(2) Paragraph (1) does not apply in respect of birds marked in accordance with the specimen marking requirements of Article 66 of Commission Regulation (EC) No. 865/2006 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⁽³⁾.

(3) Any person who rings a bird under paragraph (1) must complete a declaration of ringling on a form obtained from the Welsh Ministers and return that form to the Welsh Ministers.

Revocations

7. The following instruments are revoked—

(1) O.J. L 61, 3.3.1997, p.1. This Regulation was last amended by Commission Regulation (EU) No. 709/2010 (O.J. L 212, 12.8.2010, p.1).

(2) The Secretary of State for Environment, Food and Rural Affairs is the management authority for the United Kingdom having been designated under Article IX(1) of the Convention on International Trade in Endangered Species of Wild Fauna and Flora to carry out that function and to grant permits or certificates on behalf of the United Kingdom pursuant to that convention.

(3) O.J. L 166, 19.6.2006, p.1. This Regulation was last amended by Commission Regulation (EC) No. 100/2008 (O.J. L 31, 5.2.2008, p.3).

- (a) The Wildlife and Countryside (Registration, Ringing and Marking of Certain Captive Birds) (Wales) Regulations 2003⁽¹⁾;
- (b) The Wildlife and Countryside (Registration, Ringing and Marking of Certain Captive Birds) (Wales) (Amendment) Regulations 2009⁽²⁾.

John Griffiths

Minister for the Environment and Sustainable
Development, one of the Welsh Ministers

5 July 2011

⁽¹⁾ S.I. 2003/3235 (W. 315)

⁽²⁾ S.I. 2009/1733 (W. 161)

SCHEDULE

Regulation 5

BIRDS TO WHICH REGULATION 5 APPLIES

Common name	Scientific name
Merlin	Falco columbarius
Falcon, Peregrine	Falco peregrinus