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Scottish Parliament
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23 February 2026

Dear Edward,

The Control of Trade in Endangered Species (Revocation and Amendment) Regulations 2026 and the Trade in Endangered Species of Wild Fauna and Flora (Council Regulation (EC) No 338/97) (Amendment) Regulations 2026

I am writing in relation to the protocol on obtaining the approval of the Scottish Parliament to proposals by the Scottish Ministers to consent to the making of UK secondary legislation affecting devolved areas and within the competence of the EU at exit day.

That protocol, as agreed between the Scottish Government and then Parliament, accompanied the letter from the then Cabinet Secretary for Government Business and Constitutional Relations, Michael Russell MSP, to the Convener of the Finance and Constitution Committee, and the Convener of the Delegated Powers and Law Reform Committee on 4 November 2020 and replaced the previous protocol put in place in 2018.

I now write to confirm the details of the above Statutory Instruments (“SIs”). The first SI is the Control of Trade in Endangered Species (Revocation and Amendment) Regulations 2026 which the UK Government intend to lay before the UK Parliament on 12 March 2026. This instrument will amend the UK CITES-implementing framework, consolidating and replacing assimilated law under the Retained EU Law (Revocation and Reform) Act 2023. The second SI is the Trade in Endangered Species of Wild Fauna and Flora (Council Regulation (EC) No 338/97) (Amendment) Regulations 2026 which was made on 12 February and laid before the UK Parliament on 13 February 2026. This SI makes changes to the annexes which list species under CITES legislation. The UK Government did not, and does not intend, to seek consent from the Scottish Ministers. The attached SI notifications and summaries set out the details of the SIs.

The UK Government’s position is that the SIs relate to reserved matters entirely and so they did not write to request the consent of Scottish Ministers to the instrument.

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The UK Government take the view that the SIs relates to CITES which is a reserved policy area, and have not factored in formal devolved legislative consent on the final package of proposals and legislation.

This position is not agreed by Scottish Ministers, who consider that the SIs partly engage devolved matters, namely the prohibition and regulation of transactions which do not involve export or import, and so the consent of the Scottish Ministers should have been sought in relation to these Regulations. Scottish Government officials have advised colleagues in the UK Government's Department for the Environment, Food and Rural Affairs (Defra) of this view, and I have written to my Ministerial counterpart in Defra.

I am copying this letter to the Convener of the Delegated Powers and Law Reform Committee.

I would be grateful if the Committee could note the notifications accompanying this letter, noting however that the Scottish Ministers are not being asked to consent to the SIs.

Yours sincerely,

Gillian Martin MSP

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NOTIFICATION TO THE SCOTTISH PARLIAMENT

Name of the SI(s) (if known) or a title describing the policy area

The Control of Trade in Endangered Species (Revocation and Amendment) Regulations 2026

Is the notification Type 1 or Type 2

Notification per section 7 of the Statutory Instrument Protocol. The UK Government take the view that the implementation of CITES is a reserved matter and therefore has not sought formal Devolved Government consent on the final package of proposals and legislation.

We consider it appropriate to notify this SI as it is an exercise by UK Ministers of a power to make secondary legislation in an area which the Scottish Government considers to be devolved and which was within the competence of the EU at exit day (11pm 31 December 2020).

Details of the provisions that Scottish Ministers are being asked to consent to.

These regulations overhaul the UK's CITES-implementing framework, consolidating and replacing assimilated law (formerly retained EU law) under the Retained EU Law (Revocation and Reform) Act 2023

They are intended to modernise import and export permit systems to better align with UK priorities as a standalone CITES Party, aiming for clarity, efficiency, and conservation effectiveness.

Summary of the proposals

The 2026 Regulations mark a significant update to the UK's wildlife trade regime by:

- Consolidating relevant assimilated law into a streamlined UK CITES system,
- Digitising permit procedures and achieving full cost recovery,
- Strengthening conservation and compliance tools,
- Mitigating compliance burdens for low-risk trade,
- Granting Secretary of State adaptive powers for timely species protection.

Does the SI relate to a common framework or other scheme?

No.

Summary of stakeholder engagement/consultation

Defra undertook a public consultation which sought views on proposals and policy options for reforming the UK CITES domestic legislation, updating the associated fees and charges and draft statutory guidance on the use of civil sanctions under CITES 2018.

Summary of reasons for Scottish Ministers' proposing to consent to UK Ministers legislation

N/A – the UK Government (Defra) have not sought agreement or consent from Devolved Governments.

Intended laying date (if known) of instruments likely to arise

12 March 2026

If the Scottish Parliament does not have 28 days to scrutinise Scottish Minister's proposal to consent, why not?

N/A - Scottish Ministers are not being asked to consent to the SI.

While we would typically endeavour to still provide the Scottish Parliament with 28 days notice, that was not possible in this case. The Scottish Government received confirmation of the UK Government's position on 10 February, and an updated SI on 11 February. Unfortunately this did not provide sufficient time to allow 28 days notice to the Scottish Parliament, though as Scottish Ministers are not being asked to consent there is no proposal for the Scottish Parliament to consider. This notification is to ask you to make you aware of the SI.

Information about any time dependency associated with the proposal

The Committee is asked to note the SI.

Are there any broader governance issues in relation to this proposal, and how will these be regulated and monitored post-withdrawal?

No broader governance issues

Any significant financial implications?

No significant financial implications

SI NOTIFICATION: SUMMARY

Title of Instrument
The Control of Trade in Endangered Species (Amendment and Revocation) Regulations 2026.
Proposed laying date at Westminster
12 March 2026
Date by which Committee has been asked to respond
N/A – as Scottish Ministers are not being asked to consent, no formal response is required.
Power(s) under which SI is to be made
Sections 14(1), (2) and (3) and 20(1)(a) of the Retained EU Law (Revocation and Reform) Act 2023
Categorisation under SI Protocol
Notification per section 7 of the Statutory Instrument Protocol
Purpose
The SI makes changes to the application of CITES legislation in the UK, including changes to the process for permits for low risk species and gives the Secretary of State new or clearer powers apply stricter controls where appropriate, or amend permitting processes in future for low risk species.
Other information
N/A
SG Policy contact:

SGLD contact:


NOTIFICATION TO THE SCOTTISH PARLIAMENT

Name of the SI(s) (if known) or a title describing the policy area

The Trade in Endangered Species of Wild Fauna and Flora (Council Regulation (EC) No 338/97) (Amendment) Regulations 2026.

Is the notification Type 1 or Type 2

Notification per section 7 of the Statutory Instrument Protocol. The UK Government take the view that the implementation of CITES is a reserved matter and therefore has not sought formal Devolved Government consent on the final package of proposals and legislation.

We consider it appropriate to notify this SI as it is an exercise by UK Ministers of a power to make secondary legislation in an area which the Scottish Government considers to be devolved and which was within the competence of the EU at exit day (11pm 31 December 2020).

Details of the provisions that Scottish Ministers are being asked to consent to.

The regulations update the UK's endangered species lists (Annexes A–D) to reflect the most recent decisions adopted by the Parties to the Convention adopted at its meeting taking place in late 2025 ("CoP20"), adjusting which species are protected and the level of protection afforded to such species.

These regulations amend the annexes which sets out the species to which CITES protections apply in the UK. The regulations add species such as Sichuan takin and Okapi to the annexes; remove extinct species such as Caribbean monk seal from the annexes, and introduces zero-export quotas for some high risk species including some shark and rays species. The regulations also updates protections for plants, in line with globally agreed CITES plants listings.

Does the SI relate to a common framework or other scheme?

No.

Summary of stakeholder engagement/consultation

These are changes which were either agreed at CoP20, nomenclature and taxonomic updates since EU Exit and updates to Annex D to align with recent EU changes. No public consultation has been undertaken on these as a result.

Summary of reasons for Scottish Ministers' proposing to consent to UK Ministers legislation

N/A – The UK Government (Defra) has not sought agreement or consent from Devolved Governments. As the CITES regime is currently governed and implemented on a UK-wide basis, and various SIs which have been laid previously have not altered policy or the way CITES legislation currently operates in the UK in a manner to which we are not inclined to support, Scottish Ministers are supportive of the aims of the SI.

Intended laying date (if known) of instruments likely to arise

This instrument was laid before the UK Parliament on 13 February 2026

If the Scottish Parliament does not have 28 days to scrutinise Scottish Minister's proposal to consent, why not?

N/A - Scottish Ministers are not being asked to consent to the SI.

While we would typically endeavour to still provide the Scottish Parliament with 28 days notice, that was not possible in this case. The Scottish Government received notice of this SI on 02 February and it was laid by the UK Government on 13 February. We were engaging with the UK Government to seek agreement on the reserved/devolved position until the response from the UK Government on 10 February which confirmed they considered these matters entirely reserved. Unfortunately this did not provide sufficient time to allow 28 days notice to the Scottish Parliament, though as Scottish Ministers are not being asked to consent there is no proposal for the Scottish Parliament to consider. This notification is to ask you to make you aware of the SI.

Information about any time dependency associated with the proposal

The Committee is asked to note the SI.

Are there any broader governance issues in relation to this proposal, and how will these be regulated and monitored post-withdrawal?

No broader governance issues

Any significant financial implications?

No significant financial implications

Title of Instrument
The Trade in Endangered Species of Wild Fauna and Flora (Council Regulation (EC) No 338/97) (Amendment) Regulations 2026.
Laying date at Westminster
13 February 2026
Date by which Committee has been asked to respond
N/A – as consent of Scottish Ministers is not being sought, no formal response is required.
Power(s) under which SI is to be made
Articles 18(3) and 19(5) of Council Regulation (EC) No 338/97
Categorisation under SI Protocol
Notification per section 7 of the Statutory Instrument Protocol
Purpose
The regulations make changes to the species to which CITES regulations apply by updating annexes, and making other minor and typographical amendment of species names.
Other information
N/A
SG Policy contact:

SGLD contact:
