# EXPLANATORY MEMORANDUM TO

# THE RINGING OF CERTAIN CAPTIVE-BRED BIRDS (ENGLAND AND WALES) REGULATIONS 2017

## 2017 No. 1213

## 1. Introduction

1.1 This explanatory memorandum has been prepared by Defra and is laid before Parliament by Command of Her Majesty.

## 2. Purpose of the instrument

2.1 These Regulations provide for the ringing of certain birds bred in captivity and which are included in Part 1 of Schedule 3 to the Wildlife and Countryside Act 1981 ("the 1981 Act"). The Regulations set out the requirements for ringing those birds depending upon where the bird is hatched.

2.2 The Regulations apply to England and Wales and will affect anyone in these countries wishing to trade captive-bred birds included in Part 1 of Schedule 3 to the 1981 Act.

2.3 These Regulations revoke The Wildlife and Countryside (Ringing of Certain Birds) Regulations 1982 (SI 1982/1220).

## 3. Matters of special interest to Parliament

***Matters of special interest to the Joint Committee on Statutory Instruments***

3.1 None.

***Other matters of interest to the House of Commons***

3.2 As this instrument is subject to negative resolution procedure, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

## 4. Legislative Context

4.1 Article 6.1 of the Wild Birds Directive (2009/147/EC) requires Member States to prohibit the sale, transport for sale, keeping for sale and the offering for sale of live or dead birds. This obligation does not extend to birds that have been raised in captivity

4.2 Section 6 of the 1981 Act gives effect to this obligation. Subsection (1) provides that it is an offence to sell a wild bird other than a wild bird included in Part 1 of Schedule 3 provided that the conditions in subsection (5) are met. One of these is that the bird has been ringed or marked in accordance with regulations made by the Secretary of State. Birds that do not comply with these requirements can only be traded in accordance with the General Licences or individual licences.

4.3 These Regulations are made in accordance with the power in section 6(5)(b) of the 1981 Act

4.4 This instrument revokes and replaces the Wildlife and Countryside (Ringing of Certain Birds) 1982 (S.I. 1982/1220).

## 5. Extent and Territorial Application

5.1 The extent of this instrument is England and Wales. It applies in respect of any bird included in Part 1 of Schedule 3 to the Wildlife and Countryside Act 1981 which was bred in captivity and has not been lawfully released into the wild as art of an re-population or re-introduction programme.

5.2 The instrument applies only to England and Wales.

## 6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation no statement is required.

## 7. Policy background

***What is being done and why***

7.1 The main objective is to create a simpler means of regulating the trade in captive bred birds which is easier for those wishing to trade imported birds to comply with, whilst continuing to protect wild birds from being unlawfully traded. This is achieved in these Regulations by implementing measures that enable captive-bred birds to be easily distinguished from wild birds of the same species.

7.2 The Regulations also formalise the interim standards which have been in force since 1990, for the ringing standards, and 2012 for the interim measure of reduced documentation requirement (for EU bred birds) by no longer requiring documentary evidence of captive breeding when trading birds that are ringed in accordance with the Regulations.

7.3 These Regulations implement changes to ensure that requirements for trading captive bred birds are consistently achievable, regardless of whether the bird was hatched in England or imported from another EU member State or elsewhere in the world. They ensure a consistent regime in England in relation to the trade in captive bred birds included in Part I of Schedule 3 to the 1981 Act in a manner that continues to meet the requirements of the Wild Birds Directive (2009/147/EC).

7.4 These Regulations allow captive-bred birds of species listed on Part I Schedule 3 of the 1981 Act to continue to be traded under section 6 of the 1981 Act, and most other species to continue to be permitted to be traded under General Licences, so long as they are ringed in accordance with the new minimum ringing standard; namely there is fitted to one of the bird's legs a ring that identifies the bird, has no break or join and has been commercially manufactured for the purposes of ringing birds. The ring must also not exceed the maximum ring size, have been obtained from a specified supplier and specified information must have been given to the ring supplier.

7.5 Birds hatched in another EU Member State must satisfy the minimum ringing standard and be ringed in accordance with the law that implements the Wild Birds Directive in the relevant Member State. Birds hatched anywhere else must be fitted with a ring which satisfies the minimum ringing standard and meets the ringing requirements of the country where they were hatched.

7.6 In 2011 the European Commission raised concerns regarding an alleged restriction on the free movement of goods by the UK (contrary to Articles 34 - 36 of the Treaty on the Functioning of the European Union) in respect of the trade in captive-bred wild

birds. By creating a simpler regime for the trade in captive birds it will be easier for those how to wish to do this.

## 8. Consultation outcome

8.1 A joint England, Scotland and Wales public consultation was held titled "Captive bred birds: changing how we regulate trading in England, Scotland and Wales". The consultation was launched on 28 January 2015 and was open for views until 24 March 2015.

8.2 The consultation sought views on a number of proposed changes to the way the trade in captive-bred birds is regulated in Britain. The options were designed to implement changes to ensure that requirements for trading captive bred birds are consistently achievable, regardless of whether the bird was hatched in Britain or imported from another EU Member State.

8.3 A total of 39 responses was received from individual members of the public, non-government organisations, delivery bodies such as Natural England, representative/membership organisations, and small to medium sized businesses.

8.4 The majority of consultation respondents (69 %) did not raise any issues or concerns with the interim sizes currently in use. The Government Response in the summary of consultation responses document explained that the Government intended to pursue Option A in the consultation which was to amend the maximum allowable ring sizes to reflect the sizes as agreed in the interim measures in 1990.

8.5 The majority of respondents favoured the option being taken forward by these new Regulations.

8.6 All respondents have been notified of the publication of the summary document and outcome.

## 9. Guidance

9.1 Natural England will publish further guidance in addition to the current guidance available on the licensing of captive bred birds. The guidance will be made available on the GOV.UK website.

## 10. Impact

10.1 The impact on business, charities or voluntary bodies is zero net costs. There will be a need for small business to familiarise themselves with the new proposals, but there will be a reduction in the bureaucracy when applying to Natural England for licences.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment is submitted with this memorandum and is published alongside the Explanatory Memorandum on the legislation.gov.uk website.

## 11. Regulating small business

11.1 The legislation applies to activities that are undertaken by small businesses.

11.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the simpler requirements of the 2016 Regulations compared with the 1982 Regulations should facilitate the issue of licences by Natural England. Small

businesses involved in trading captive bred birds will operate under a licensing regime, supported by guidance that is both risk-based and proportionate.

## 12. Monitoring & review

12.1 The Regulations contain a provision for periodic review by the Secretary of State. The first report must be published within five years of the date of coming into force of the Regulations and subsequently at periods not exceeding five years.

## 13. Contact

13.1 Jonathan Tweney at the Department for Environment, Food and Rural Affairs , Telephone: 02080266749 or email: Jonathan.Tweney@defra.gsi.gov.uk , can answer any queries regarding the instrument.