

L.N. 106 of 2006**PROTECTION OF ENDANGERED SPECIES OF
ANIMALS AND PLANTS (EXEMPTION FOR
APPENDICES II AND III SPECIES) ORDER**

(Made by the Secretary for the Environment, Transport and Works under section 47(2), (4) and (5) of the Protection of Endangered Species of Animals and Plants Ordinance (3 of 2006))

PART 1**PRELIMINARY****1. Commencement**

This Order shall come into operation on the day appointed for the commencement of the Protection of Endangered Species of Animals and Plants Ordinance (3 of 2006).

PART 2**CONSERVATION PROGRAMMES AND SCIENTIFIC AND
EDUCATIONAL PURPOSES****2. Exemption in respect of import of specimens
for co-operative conservation programmes**

(1) A person who imports a specimen of an Appendix II species shall be exempt from section 11(1) of the Ordinance if, upon the landing of the specimen in Hong Kong—

- (a) he proves to the satisfaction of an authorized officer that the specimen is a programme specimen; and
- (b) he surrenders or causes to be surrendered to an authorized officer for retention and cancellation a Convention certifying document issued in respect of the specimen.

(2) In this section—

“programme specimen” (計劃標本) means a specimen which is arranged to be loaned, donated or exchanged for non-commercial purposes between participants in a co-operative conservation programme and—

- (a) those participants include one or more range states of the species to which the specimen belongs; or
 - (b) the programme is supported by one or more such range states;
- “range state” (分佈國), in relation to a species, means a state whose territory is within the natural range of distribution of the species or a particular population of the species.

3. Exemption in respect of possession or control of specimens for scientific or educational study or for display in museum or herbarium

A person who has in his possession or under his control a specimen of an Appendix II species shall be exempt from section 15(1) of the Ordinance if he proves to the satisfaction of the Director that the specimen is possessed or controlled for the purpose of scientific or educational study or for display in any museum or herbarium.

PART 3

PERSONAL OR HOUSEHOLD EFFECTS

4. Meaning of personal or household effects

For the purposes of this Part, a specimen shall be treated as part of the personal or household effects of a person if—

- (a) the specimen is personally owned or possessed by the person for non-commercial purposes only; and
- (b) where the specimen is being imported, exported or re-exported—
 - (i) it is worn or carried by the person or included in his personal baggage; or
 - (ii) the import, export or re-export forms part of a household move of the person.

5. Exemption in respect of import, etc. of Appendix II species as personal or household effects

(1) A person who imports, exports or re-exports a specimen (other than a live animal) of an Appendix II species shall be exempt from section 11(1), 13(1) or 14(1) (as the case may be) of the Ordinance if—

- (a) the specimen is part of the personal or household effects of the person; and
 - (b) the specimen was legally acquired by the person.
- (2) A person who imports a live animal of an Appendix II species shall be exempt from section 11(1) of the Ordinance if—
 - (a) the animal is part of the personal or household effects of the person;
 - (b) the animal was legally acquired by the person; and
 - (c) upon the landing of the animal in Hong Kong, the person surrenders or causes to be surrendered to an authorized officer for retention and cancellation a Convention certifying document issued in respect of the animal.
- (3) Subsections (1) and (2) do not apply where—
 - (a) the person acquired the specimen outside his usual place of residence; and
 - (b) the specimen—
 - (i) is being taken into Hong Kong;
 - (ii) is being taken out of Hong Kong to the person's usual place of residence; or
 - (iii) is being taken out of Hong Kong with the intention of it being taken to the person's usual place of residence.
- (4) In a case where a person imports, exports or re-exports a specimen (other than a live specimen) of an Appendix II species and subsection (1) does not apply to the case because of subsection (3), he shall be exempt from section 11(1), 13(1) or 14(1) (as the case may be) of the Ordinance if—
 - (a) the specimen is part of the personal or household effects of the person;
 - (b) the specimen was legally acquired by the person;
 - (c) the Director has not been advised through a notification from the Secretariat that—
 - (i) in the case of import, the place from which the specimen is imported requires an export permit or re-export certificate for the export or re-export of the specimen from that place; or
 - (ii) in the case of export or re-export, the place to which the specimen is exported or re-exported requires an export permit or re-export certificate for the export or re-export of the specimen to that place; and
 - (d) where the specimen is of a species specified in column 2 of the Schedule, the quantity of the specimen imported, exported or re-exported by the person at one time and in one lot does not exceed the limit specified in column 3 of that Schedule opposite the species to which the specimen belongs.

6. Exemption in respect of import, etc. of Appendix III species as personal or household effects

A person who imports, exports or re-exports a specimen (other than a live animal) of an Appendix III species shall be exempt from section 11(1), 13(1) or 14(1) (as the case may be) of the Ordinance if—

- (a) the specimen is part of the personal or household effects of the person; and
- (b) the specimen was legally acquired by the person.

7. Exemption in respect of export or re-export of personal or household effects acquired pre-Convention

A person who exports or re-exports a specimen of an Appendix II species or Appendix III species shall be exempt from section 13(1) or 14(1) (as the case may be) of the Ordinance if—

- (a) the specimen is part of the personal or household effects of the person;
- (b) the specimen was legally acquired by the person; and
- (c) before the removal of the specimen from Hong Kong, the person produces or causes to be produced to an authorized officer a pre-Convention certificate issued in respect of the specimen.

8. Exemption in respect of possession or control of personal or household effects

A person who has in his possession or under his control a specimen of an Appendix II species which is a live specimen of wild origin or a live specimen treated as a specimen of an Appendix II species under section 2(2) of the Ordinance shall be exempt from section 15(1) of the Ordinance if—

- (a) the specimen is part of the personal or household effects of the person; and
- (b) the person proves to the satisfaction of the Director that—
 - (i) where the person began to possess or control the specimen before the commencement of the Ordinance, the possession or control before that commencement had never been in contravention of the repealed Ordinance; and
 - (ii) where the person began to possess or control the specimen on or after that commencement—

- (A) the specimen was imported or introduced from the sea in compliance with the repealed Ordinance or the Ordinance (whichever was in force at that time); or
- (B) he legally acquired the specimen in Hong Kong.

PART 4

ARTIFICIALLY PROPAGATED PLANT SPECIES

9. Exemption in respect of export of specimens of artificially propagated plant species

A person who exports a specimen of an Appendix II species shall be exempt from section 13(1) of the Ordinance if he produces or causes to be produced to an authorized officer, before the removal of the specimen from Hong Kong, a phytosanitary certificate—

- (a) that is issued under section 6(3) of the Plant (Importation and Pest Control) Ordinance (Cap. 207) in respect of the specimen and is for the time being in force; and
- (b) that shows that—
 - (i) the specimen is an artificially propagated plant specimen; and
 - (ii) the specimen is not treated as a specimen of an Appendix II species under section 2(2) of the Ordinance.

SCHEDULE

[s. 5]

SPECIES REFERRED TO IN SECTION 5

Item	Species	Limit on quantity
1.	Caviar of any species of the order Acipenseriformes <sturgeons>	Up to 250 grams per person
2.	Rainstick of any species of the family Cactaceae <cacti>	Up to 3 specimens per person
3.	Any species of the order Crocodylia <e.g. alligators, crocodiles or caimans>	Up to 4 specimens per person
4.	Shell of the species Strombus gigas <queen conch>	Up to 3 specimens per person

Item	Species	Limit on quantity
5.	Any species of the genus Hippocampus <seahorses>	Up to 4 specimens per person
6.	Shell of any species of the family Tridacnidae <giant clams>	Up to 3 specimens, each of which may be one intact shell or two matching halves, not exceeding 3 kilograms per person

Note: In the English text of this Schedule, any common name in English of a scientific name, if known, is included within angle brackets (< >) after the scientific name. In the Chinese text of this Schedule, any common name in Chinese of a scientific name or the Chinese translation of the scientific name, if known, is included within angle brackets (< >) after the scientific name.

Dr. Sarah LIAO
Secretary for the Environment,
Transport and Works

10 May 2006

Explanatory Note

The object of this Order is to provide for exemptions from the provisions regulating the import, export, re-export, possession and control of specimens of Appendix II species and Appendix III species under the Protection of Endangered Species of Animals and Plants Ordinance (3 of 2006). The Order contains provisions on the particular circumstances for exemptions in respect of—

- (a) specimens for co-operative conservation programmes;
- (b) specimens for scientific or educational study or for display in a museum or herbarium;
- (c) specimens that form part of a person's personal or household effects; and
- (d) specimens of artificially propagated plants.