

	DRAFT ROYAL DECREE IMPLEMENTING THE LIST OF DOMESTIC COMPANION ANIMAL SPECIES AND THE POSITIVE LIST OF COMPANION ANIMALS	P1 (June 2026) Page 1
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DRAFT ROYAL DECREE IMPLEMENTING THE LIST OF DOMESTIC COMPANION ANIMAL SPECIES AND THE POSITIVE LIST OF COMPANION ANIMALS.

Law 7/2023 of 28 March 2023 on the protection of animal rights and welfare sets out the regulatory framework for ensuring the highest level of protection for the rights and welfare of animals falling within its scope, which is limited to companion animals and wild animals kept in captivity.

In light of this need and the corresponding allocation of powers, Law 7/2023 of 28 March 2023 on the protection of animal rights and welfare is based on the competences set out in Article 149(1)(13), (16) and (23) of the Spanish Constitution. However, it should be noted that the Council of State, in its Opinion No 2409/2010, observes that the State has competence in the field of animal welfare, even though this new public policy is not based on a single specific head of competence but on several of the heads of competence set out in the aforementioned Article 149(1).

Title II of Law 7/2023 of 28 March 2023 on the responsible keeping of and coexistence with animals sets out the obligations and prohibitions applicable to guardians or those responsible for animals, whose treatment must take into account their status as sentient beings, as also indicated in Article 13 of the Treaty on the Functioning of the European Union. Chapter V thereof limits the keeping of companion animals to certain groups of animals and establishes a List of Domestic Companion Animal Species and a Positive List of Companion Animals.

The restriction on the species that may be kept as companion animals, through the establishment of positive lists, as set out in the explanatory memorandum to Law 7/2023 of 28 March 2023, is intended to preserve biodiversity, as well as to ensure the welfare of companion animals and to protect public health and public safety.

The creation of positive lists, based on scientific assessment, prioritises prevention and is grounded in the precautionary principle, unlike negative lists, whose approach is, by its very nature, reactive and less precautionary, as recognised in the European Parliament Resolution of 24 November 2022, on improving European Union regulation of wild and exotic animals kept as companion animals in the European Union through a European Union positive list.

	DRAFT ROYAL DECREE IMPLEMENTING THE LIST OF DOMESTIC COMPANION ANIMAL SPECIES AND THE POSITIVE LIST OF COMPANION ANIMALS	P1 (June 2026) Page 2
---	---	--

The creation of a List of Domestic Companion Animal Species stems from the need to regulate, as companion animals, those domestic species other than dogs (*Canis familiaris*), cats (*Felis catus*) and ferrets (*Mustela putorius furo*), to which the domestic animals defined by Law 8/2003 of 24 April on animal health belong. In this regard, it is worth noting that a domestic animal belongs to a species or subspecies descended from a wild ancestor. Therefore, a wild animal bred in captivity is not a domesticated animal, but one that has become accustomed to the presence of humans.

Furthermore, the positive list fulfils the commitment undertaken through the ratification of the European Convention for the Protection of Companion Animals with regard to their keeping in accordance with Article 4, and in particular, with regard to the fulfilment of their ethological needs, in accordance with their species and breed, whilst in captivity.

In addition, the creation of a positive list of companion animals is a tool for combating illegal trafficking of wild species and for mitigating the economic impact that this activity has on legitimate operators. Similarly, the lists set out in this regulation serve as a means of raising public awareness of the responsibility to protect wild fauna species and to ensure the responsible keeping of animals in the home, as well as a preventative tool designed to avoid the economic, ecological and health impacts caused by invasive alien species.

The creation of this list follows the trend set by other Member States that have already developed positive lists of companion animals to regulate the keeping of animals in the home, in light of potential health, safety, environmental or animal welfare risks.

In this sense, in order to specify the species whose keeping is permitted and therefore comply with the regulatory development established in Law 7/2023 of 28 March 2023, it is necessary to regulate the procedure for the approval and the criteria for inclusion in the list of domestic companion animal species, as well as the procedure for the approval and the criteria for inclusion and exclusion of species from the positive list of companion animals.

The approval of these lists will provide citizens with greater legal certainty by setting out the species that are permitted as companion animals and are therefore subject to the obligations and prohibitions laid down by law for this type of animal.

	DRAFT ROYAL DECREE IMPLEMENTING THE LIST OF DOMESTIC COMPANION ANIMAL SPECIES AND THE POSITIVE LIST OF COMPANION ANIMALS	P1 (June 2026) Page 3
---	---	--

The regulation of pet ownership through the implementation of a positive list will also ensure compliance with Article 36 of the Treaty on the Functioning of the European Union, in those areas that may entail restrictions on the internal market, where such restrictions are justified grounds of public safety, the protection of the health and lives of humans and animals, and in accordance with the applicable international trade agreements.

Similarly, where there are reasonable grounds to fear that potentially dangerous effects may adversely affect animal welfare, the environment or human, animal or plant health, but the available data do not permit a detailed risk assessment, the precautionary principle shall be applied as a management strategy, in accordance with COM(2000) 1 final, 2 February 2000.

In any event, this regulation governs the keeping of animals which, although belonging to species not included in the list, were already in the owner's possession prior to the regulation coming into force, by providing for the issuance of exceptional authorisations. This measure will prevent animals from being abandoned as well as the negative consequences this has for their welfare, public health, safety and the environment.

In addition, the Royal Decree regulates the keeping, breeding, transfer and trade of wild animals that do not belong to the Positive List of Companion Animals but that are the subject of a specific authorisation, in accordance with the provisions of Article 32(4) of Law 7/2023 of 28 March 2023.

This Royal Decree is structured as follows: an explanatory memorandum, 14 articles divided into four chapters, three final provisions and an annex.

Chapter I sets out the purpose, objectives, scope of application and definitions of this Royal Decree in relation to the List of Domestic Companion Animal Species and the Positive List of Companion Animals, and also designates the competent authority.

Chapter II establishes the procedure for the approval of the List of Domestic Companion Animal Species, as well as its content.

Chapter III sets out the content, the approval, the specific criteria for inclusion and exclusion, the procedure for inclusion and exclusion from the Positive List of Companion Animals, as well as the application of the precautionary principle and the conditions governing the opinions issued by the Scientific and Technical Committee for the Protection and Welfare of Animals.

Chapter IV establishes the exceptional and specific authorisations in relation to the Positive List of Companion Animals.

	DRAFT ROYAL DECREE IMPLEMENTING THE LIST OF DOMESTIC COMPANION ANIMAL SPECIES AND THE POSITIVE LIST OF COMPANION ANIMALS	P1 (June 2026) Page 4
---	---	--

The first final provision establishes the legal basis of competence empowering the State to develop the regulations, and the second final provision provides that the entry into force shall be the day after its publication.

Finally, Annex I sets out the specific criteria to be assessed for the Positive List of Companion Animals.

This Royal Decree respects the principles of good regulation referred to in Article 129 of Law 39/2015 of 1 October 2015 on the Common Administrative Procedure of Public Administrations.

Specifically, it complies with the principles of necessity and effectiveness by addressing matters of general interest, such as the protection of the environment, animals and public health, and the keeping of animals in the home, whilst simplifying the regulatory framework and administrative controls applicable to the keeping of companion animals. Furthermore, it complies with the principle of proportionality by establishing the minimum regulations necessary to give effect to the regulatory requirements set out in Law 7/2023 of 28 March 2023.

As regards the principles of legal certainty, transparency and efficiency, this regulation complies with those principles, as it establishes a clear procedure that facilitates understanding and decision-making, streamlines the use of public resources, is consistent with the rest of the legal system, and has sought to involve stakeholders through the public consultation process.

Furthermore, in accordance with the provisions of Government Law 50/1997 of 27 November 1997, this legislation has been subject to the public consultation and hearing procedure, and the Autonomous Communities and the cities of Ceuta and Melilla have been consulted.

It has also been subject to the information procedure in the area of technical rules and regulations relating to information society services provided for in Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015, laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, as well as that set out in Royal Decree 1337/1999 of 31 July 1999, regulating the transmission of information in the field of technical standards and regulations and of regulations on information society services.

By virtue thereof, at the proposal of the Minister for Social Rights, Consumer Affairs and 2030 Agenda, with the prior approval of the Minister for Digital Transformation and the Civil Service, in agreement with the Council of State and after deliberation by the Council of Ministers at its meeting on XXXXXX

	DRAFT ROYAL DECREE IMPLEMENTING THE LIST OF DOMESTIC COMPANION ANIMAL SPECIES AND THE POSITIVE LIST OF COMPANION ANIMALS	P1 (June 2026) Page 5
---	---	--

THE FOLLOWING IS DECREED

CHAPTER I

General provisions

Article 1. *Object and purpose.*

1. The purpose of this Royal Decree is to give partial effect to Law 7/2023 of 28 March on the protection of animal rights and welfare, in order to establish:
 - a. The approval and content of the List of Domestic Companion Animal Species (LEDC).
 - b. The development of specific criteria and procedures for the inclusion or exclusion of species from the Positive List of Companion Animals (LPAC).
 - c. The authorisation regime applicable to animals not included in the LPAC.
2. This Royal Decree is intended to:
 - a. Ensure the welfare and protection of the rights of animals falling within the scope of this Royal Decree.
 - b. Protect public health, public security and biodiversity.
 - c. Facilitate the regulation and monitoring of the keeping of companion animals.

Article 2. *Scope of application*

1. This Royal Decree shall apply to the animals defined in points (b) and (d) of Article 3 of Law 7/2023 of 28 March 2023.
2. This Royal Decree shall not apply to the animals referred to in Article 1(3) of Law 7/2023 of 28 March 2023.

Article 3. *Definitions.*

1. For the purposes of this Royal Decree, the definitions laid down in Law 7/2023 of 28 March shall apply.
2. Similarly, domestication is understood to mean the process by which a wild

	DRAFT ROYAL DECREE IMPLEMENTING THE LIST OF DOMESTIC COMPANION ANIMAL SPECIES AND THE POSITIVE LIST OF COMPANION ANIMALS	P1 (June 2026) Page 6
---	---	--

species has undergone significant changes to its genotype and phenotype in order to be kept in captivity by humans, thereby giving rise to a domestic species or subspecies that differs from the wild species from which it originated.

Article 4. Competent authority.

1. For the purposes of this Royal Decree, the term “competent authority” shall be understood to refer to the Autonomous Communities and the cities of Ceuta and Melilla.
2. The Ministry of Social Rights, Consumer Affairs and 2030 Agenda will notify the competent authorities of any amendments made to the LEDC and the LPAC, for the appropriate purposes.

CHAPTER II List of Domestic Companion Animal Species

Article 5. Approval of the List of Domestic Companion Animal Species

1. In accordance with Article 34(b) of Law 7/2023 of 28 March 2023, the Ministry of Social Rights, Consumer Affairs and 2030 Agenda shall, by ministerial order, and following a report from the Scientific and Technical Committee for the Protection and Welfare of Animals, approve the LEDC.

Article 6. Contents of the List of Domestic Companion Animal Species.

1. Any species, subspecies or breed included in the LEDC must have originated through a process of domestication.
2. The following may not be included in the List of Domestic Companion Animal Species:
 - a. Dogs, cats and ferrets, since, according to the provisions of Article 3(a) of Law 7/2023 of 28 March 2023, are already regarded as companion animals.
 - b. Species, subspecies or breeds of animals used as production animals in accordance with Article 3(2) of Law 8/2003 of 24 April 2003, the keeping of which as companion animals is permitted in accordance with Article 34(d) of Law 7/2023 of 28 March 2023.
 - c. Species considered wild animals and wild animals kept in captivity, in

	DRAFT ROYAL DECREE IMPLEMENTING THE LIST OF DOMESTIC COMPANION ANIMAL SPECIES AND THE POSITIVE LIST OF COMPANION ANIMALS	P1 (June 2026) Page 7
---	---	--

accordance with Articles 3(c) and 3(d) of Law 7/2023 of 28 March 2023.

3. The content of the LEDC may be amended ex officio, at the reasoned request of the Scientific and Technical Committee for the Protection and Welfare of Animals.
4. Individuals belonging to species, subspecies or breeds included in the LEDC shall acquire the status of companion animals and must be registered as such in the relevant regional register, in the case of species subject to compulsory individual identification in accordance with Royal Decree XXX/2026 of XXX on the identification of companion animals.

CHAPTER III

Positive List of Companion Animals

Article 7. Content of the Positive List of Companion Animals

1. The LPAC shall contain a set of lists of wild species kept in captivity that may be kept as companion animals.
2. These lists shall be as follows:
 - a. Positive list of mammals.
 - b. Positive list of birds.
 - c. Positive list of reptiles.
 - d. Positive list of amphibians.
 - e. Positive list of fish.
 - f. Positive list of invertebrates.
3. The LPAC will be public and shall be kept permanently up to date.

Article 8. Initial approval of the Positive List of Companion Animals.

The approval of the initial lists established in Article 7(2) and in accordance with the provisions of this chapter, will be carried out by ministerial order of the Ministry of Social Rights, Consumer Affairs and 2030 Agenda, and will include the opinion of the Scientific and Technical Committee for the Protection and Welfare of Animals.

	DRAFT ROYAL DECREE IMPLEMENTING THE LIST OF DOMESTIC COMPANION ANIMAL SPECIES AND THE POSITIVE LIST OF COMPANION ANIMALS	P1 (June 2026) Page 8
---	---	--

Article 9. *Specific criteria for inclusion in the Positive List of Companion Animals.*

1. In order to include a species in the LPAC, the general criteria set out in Article 36 of Law 7/2023 of 28 March 2023 must be met.
2. Furthermore, when considering the inclusion of a species in the LPAC, the specific criteria set out in Annex I will be assessed. Those criteria will be applied objectively, proportionately and non-discriminatorily, and on the basis of the available scientific evidence.
3. In any case, species included in any of the following lists may not be included in the LPAC:
 - a. List of invasive alien species of concern for the European Union and its outermost regions, regulated by Regulation (EU) No 1143/2014 of the European Parliament and of the Council of 22 October 2014 on the prevention and management of the introduction and spread of invasive alien species.
 - b. Wild species not naturally occurring in Spain that are listed in the annexes to European Union legislation or in international treaties ratified by Spain which establish protection regimes, without prejudice to the exceptions or conditions set out in such legislation or in ratified treaties that permit their keeping.
 - c. Animals held in zoos, in accordance with Article 32(2) of Law 7/2023 of 28 March 2023, as well as animals held in RAS-type animal protection organisations, in accordance with the provisions of Articles 32(1) and 46 of Law 7/2023 of 28 March 2023.
 - d. Aquarium animals not included in national or autonomous-community catalogues of invasive alien species or protected wild species, or wild animal species not naturally occurring in Spain that are protected under European Union law and/or international treaties ratified by Spain, in accordance with Article 34(e).
 - e. All primates.

Article 10. *Procedure for inclusion or exclusion of species.*

1. The inclusion or exclusion of a species from the lists of wild species may be initiated ex officio or at the request of any public administration, animal protection entity or public or private association. For this purpose, the

	DRAFT ROYAL DECREE IMPLEMENTING THE LIST OF DOMESTIC COMPANION ANIMAL SPECIES AND THE POSITIVE LIST OF COMPANION ANIMALS	P1 (June 2026) Page 9
---	---	--

Ministry of Social Rights, Consumer Affairs and 2030 Agenda shall allow a period between 1 January and 1 March of each year for the receipt of applications for inclusion or exclusion.

2. The application for inclusion must include the following minimum information:
 - a. Scientific name of the species, as listed in the Standard List of Wild Species Present in Spain maintained by the Ministry for the Ecological Transition and the Demographic Challenge.

Where scientific names are not present in this standard list, the applicant shall indicate the reference list used.
 - b. Proposed identification system and procedure for the species whose inclusion is requested, if applicable.
 - c. List of conditions for keeping the species and, where appropriate, welfare conditions for their breeding, transfer and/or trade.
 - d. Scientific reference documentation or bibliographic information providing sufficient evidence that the species to be included meets the criteria set out in Article 36 of Law 7/2023 of 28 March 2023, and enabling the assessment of the criteria laid down in Annex I.
3. The application for exclusion must include scientific reference information or available bibliographical information on the grounds for seeking to exclude the species from the LPAC.
4. Applications shall be submitted to the Ministry of Social Rights, Consumer Affairs and 2030 Agenda, which, in accordance with the provisions of Article 12, shall request a non-binding opinion from the Scientific and Technical Committee for the Protection and Welfare of Animals on its assessment in relation to the criteria set out in Article 36 of Law 7/2023 of 28 March 2023, and the criteria set out in Annex I, as well as a mandatory report from the ministerial departments responsible for biodiversity, agriculture, fisheries and food, in accordance with Article 37(2) of Law 7/2023 of 28 March 2023.
5. The competent body for determining the procedure will be the Ministry of Social Rights, Consumer Affairs and 2030 Agenda.
6. The maximum period for determining the procedure shall be six months from the date of the agreement to initiate the procedure, or, from the date on which the application was entered in the register of the General State Administration. If, upon expiry of that period, the relevant decision has not been issued and notified, the application shall be deemed to have been

	DRAFT ROYAL DECREE IMPLEMENTING THE LIST OF DOMESTIC COMPANION ANIMAL SPECIES AND THE POSITIVE LIST OF COMPANION ANIMALS	P1 (June 2026) Page 10
---	---	---

rejected, in accordance with the second paragraph of Article 24(1) of Law 39/2015 of 1 October 2015. An optional application for reconsideration may be lodged against the decision on the application within one month of its publication.

7. Reasons must be given for the decision in the proceedings.
8. The decision approving the inclusion of species in the LPAC shall contain at least the following aspects:
 - a. Identification system assigned to the species, if applicable.
 - b. Minimum conditions for keeping the species.
 - c. Terms and conditions for breeding, transfer and trade.
 - d. Minimum content of the responsible keeping course for keepers of the animals, if applicable.
 - e. Requirements and, where applicable, the mandatory nature of veterinary examinations.
9. The refusal decision shall include the opinion of the Scientific and Technical Committee for the Protection and Welfare of Animals.
10. The inclusion in the LPAC of any species designated as requiring individual identification will enable individuals belonging to that species to be registered in the relevant autonomous-community register of companion animals.
11. The exclusion or non-inclusion of a wild species from the LPAC will mean that individuals of that species may only be regarded, where applicable, as wild animals in captivity, in accordance with the provisions of Article 3(d) of Law 7/2023 of 28 March 2023, and may not be kept, bred or traded. This prohibition may be waived only under the conditions established in Article 32 of Law 7/2023 of 28 March 2023. For animals kept as companion animals prior to the date of the species' exclusion from, or non-inclusion in, the LPAC, the keeper may apply for exceptional authorisation to keep them, in accordance with the provisions of Article 13.

Article 11. *Application of the precautionary principle.*

1. The precautionary principle shall apply where, following the assessment of a species, it is determined that there is scientific uncertainty which, whether due to insufficient data, inconclusive findings or imprecise data, leads to the conclusion that there are reasonable grounds for not including that species in

	DRAFT ROYAL DECREE IMPLEMENTING THE LIST OF DOMESTIC COMPANION ANIMAL SPECIES AND THE POSITIVE LIST OF COMPANION ANIMALS	P1 (June 2026) Page 11
---	---	---

the LPAC.

2. This principle will be applied in a proportionate, non-discretionary and consistent manner, and will, in any event, be subject to subsequent review in the light of future, more robust and conclusive scientific evidence.

Article 12. Opinion of the Scientific and Technical Committee for the Protection and Welfare of Animals.

1. The Scientific and Technical Committee for the Protection and Welfare of Animals shall issue its opinion in accordance with the general criteria set out in Article 36 of Law 7/2023 of 28 March 2023, the additional criteria contained in Article 9 of these regulations, and the specific criteria set out in Annex I.
2. In preparing its opinion, the Scientific and Technical Committee for the Protection and Welfare of Animals may call upon the assistance of professionals from fields relevant to the scope of Law 7/2023 of 28 March 2023, organised into study panels or working groups comprising professionals with extensive and demonstrable scientific, technical or professional expertise in the areas of animal protection, welfare, animal rights, biodiversity conservation, animal health, public safety and public health.
3. The appointment of these professionals, subject to a prior declaration of the absence of any conflict of interest, shall be made by resolution of the chair of the Scientific and Technical Committee for the Protection and Welfare of Animals, in accordance with the specific criteria relating to academic qualifications previously established by the Scientific and Technical Committee for the Protection and Rights of Animals, depending on the subject matter of the study panel or working group. Requests shall be submitted through the members of the State Council for the Protection of Animals.
4. The opinion shall include an assessment of each of the criteria set out in Annex I, and shall indicate, where appropriate, whether any of those criteria has been considered to be exclusionary.

CHAPTER IV

Approvals for animals not included in the LPAC.

	DRAFT ROYAL DECREE IMPLEMENTING THE LIST OF DOMESTIC COMPANION ANIMAL SPECIES AND THE POSITIVE LIST OF COMPANION ANIMALS	P1 (June 2026) Page 12
---	---	---

Article 13. *Exceptional authorisations for animals that cease to qualify as companion animals.*

1. In accordance with the Fifth Transitional Provision of Law 7/2023 of 28 March 2023, the keeping of captive specimens of wild species that were kept, transferred, traded or bred as companion animals before the adoption or updating of the LPAC may be authorised, solely for that purpose.
2. In cases where the animals belong to species not included in the LPAC, the persons concerned must demonstrate their prior ownership by means of a purchase invoice or transfer agreement, veterinary medical records, or documentation issued or recognised by a competent authority evidencing such possession.
3. The application for an exceptional authorisation shall be submitted to the competent authority of the autonomous community within a period of six months from the entry into force of the LPAC. That authority in turn shall issue its decision within a maximum period of six months. If no express decision has been notified by the end of that period, the application shall be deemed to have been rejected, in accordance with the provisions of the second paragraph of Article 24(1) of Law 39/2015 of 1 October 2015. This application must be accompanied by a veterinary certificate certifying that the conditions under which the animals are kept are deemed to be appropriate, as well as the methods used to ensure that the animals do not reproduce.
4. The authorisation issued must state the animals' identification numbers and their place of residence, and shall be valid solely for the keeping of the individual animal or group of animals existing at the date of the application. Their breeding, transfer or trade is not permitted. If they are not identified, the competent authority shall establish a traceability system to ensure that they are not bred, transferred or placed on the market.
5. Any person who owns or keeps animals belonging to species not included in the LPAC and who do not hold an exceptional authorisation for keeping them in accordance with the conditions set out in the preceding paragraphs of this article, or who hold such an exceptional authorisation but are subsequently unable to guarantee the conditions of keeping, shall make such animals available to the competent authorities of the Autonomous Communities, who shall determine how to deal with them, giving priority to their welfare.

Article 14. *Specific authorisation for keeping, breeding, transferring or*

	DRAFT ROYAL DECREE IMPLEMENTING THE LIST OF DOMESTIC COMPANION ANIMAL SPECIES AND THE POSITIVE LIST OF COMPANION ANIMALS	P1 (June 2026) Page 13
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trading wild animals kept in captivity

1. The breeding, keeping, transfer or trade of wild animals in captivity may be authorised, as provided for in Article 32(4) of Law 07/2023 of 28 March 2023, for reasons of conservation or research.
2. The application shall be submitted to the corresponding autonomous community in accordance with the procedure that autonomous community establishes.
3. The application shall be duly reasoned and shall include information on the applicant's knowledge of the habits and needs of the species, the purpose of maintaining the breeding, transfer or trade of the wild animals covered by the application, and the facilities for the accommodation and care to be provided for the animals, ensuring in all cases animal welfare, public health and animal health.
4. Before granting a specific authorisation, the Autonomous Community shall seek the opinion of the Scientific and Technical Committee for the Protection and Welfare of Animals. This opinion must be favourable and must set out the conditions for breeding and marketing to ensure the welfare of these animals, without prejudice to the provisions of Articles 24 and 25 of Law 7/2023 of 28 March 2023.
5. The holder of the animals subject to specific authorisation shall communicate annually to the competent authority the individual number and identification, if applicable, of the specimens kept, as well as any changes made to their housing or care conditions.
6. Authorised persons shall comply with the applicable regulations on zoological centres.

First final provision. *Constitutional basis.*

This Royal Decree is issued pursuant to Article 149(1)(10), (13), (16), (23) and (29) of the Constitution, which confers on the State exclusive competence in matters of customs and tariff arrangements and foreign trade, basic rules and coordination of the general economic planning, basic rules and general coordination of health, and basic legislation on environmental protection and public security.

	DRAFT ROYAL DECREE IMPLEMENTING THE LIST OF DOMESTIC COMPANION ANIMAL SPECIES AND THE POSITIVE LIST OF COMPANION ANIMALS	P1 (June 2026) Page 14
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Second final provision. *Entry into force.*

This Royal Decree shall enter into force on the day following its publication in the Official State Gazette, without prejudice to the provisions of Article 8, which shall enter into force six months after the publication of the relevant Ministerial Order.

ANNEX I

The following specific criteria will be taken into account when considering the inclusion of a species in the LPAC:

- a. Characteristics of the natural distribution range that can be replicated under captive conditions in terms of available space, temperature, humidity, light, substrate, the physicochemical quality of the water, and enrichment elements to meet the animals' anatomical, physiological and ethological needs.
- b. Mortality rate during transport and in captive conditions.
- c. Migratory nature of the species.
- d. Availability of food on the market that does not present environmental and/or health risks to humans or animals.
- e. Whether the species feeds on other live vertebrate animals.
- f. Any morphological or ethological characteristic that may pose a serious risk to the safety of humans or other animals.
- g. Production of venom or urticating substances.
- h. Size and weight of the species in the adult state.
- i. Risks to public health and animal health associated with the species:
 - Capacity to transmit diseases to humans or other animals.
 - Possible role as a reservoir or vector for pathogens of zoonotic significance.
 - The existence of epidemiological records or health incidents associated with the species or its keeping.
 - Availability of measures for the detection, reporting and management of diseases of public health significance.
- j. Whether the species or subspecies is listed in Royal Decree 139/2011 of 4 February 2011, for the development of the List of Wild Species under Special Protection and the Spanish Catalogue of Threatened Species.

	DRAFT ROYAL DECREE IMPLEMENTING THE LIST OF DOMESTIC COMPANION ANIMAL SPECIES AND THE POSITIVE LIST OF COMPANION ANIMALS	P1 (June 2026) Page 15
---	---	---

- k. The species must not be included on the List of alien species liable to compete with native wild species, in accordance with Royal Decree 570/2020 of 16 June 2020, which regulates the administrative procedure for the prior authorisation for the importation of alien species into the national territory for the purpose of preserving Spain's native biodiversity.
- l. Risk of extinction of the species, based on existing global assessments grounded in the most recent population trends and population sizes, taking into account species considered vulnerable, endangered or critically endangered at a global level and that do not benefit from relevant regulatory protection.