

L.N. 207 of 2014**ENVIRONMENT AND DEVELOPMENT PLANNING ACT
(CAP. 504)****Protection of Wild Rabbit Regulations, 2014**

BY VIRTUE of the powers conferred by articles 61, 66, and 93 of the Environment and Development Planning Act, the Minister for Sustainable Development, the Environment and Climate Change has made the following regulations:-

Citation. **1.** The title of these regulations is the Protection of Wild Rabbit Regulations, 2014.

Interpretation. **2.** For the purpose of these regulations and unless the context otherwise requires:

Cap. 504. "the Act" means the Environment and Development Planning Act;

"air rifle" means a weapon which fires projectiles by means of compressed gas and, or air;

"*carnet de chasse*" means a permit issued in accordance with the criteria shown in Schedule I, which permit also includes an annual census of rabbits captured or hunted from the wild in accordance with the provisions of these regulations;

"closed season" means those periods which fall outside the open season during which no shooting or capturing of wild rabbit shall be allowed;

"Commissioner" means the Commissioner of Police;

"dog" means a dog trained or bred to assist a person in finding or retrieving wild game;

"inhabited area" means any area in which there is an aggregation of houses inhabited or capable of being inhabited by more than one hundred persons;

"licence" includes *carnet de chasse*;

"open season" means the period as established in regulation 6, during which the shooting or capture of wild rabbit shall be allowed;

"organisation representing persons licensed to shoot or capture wild rabbit" means an organisation having paid-up members, a

statute, a committee which is elected at least once every three years, is enrolled with the Commissioner for Voluntary Organisations and which has its accounts verified and certified by a qualified auditor and approved by the general meeting of the organisation;

"pellet" means a projectile designed to be fired from an air rifle;

"rabbit net" or "net" means a net used exclusively to capture wild rabbit and no other species whatsoever; such net shall have a mesh size not smaller than 40mm and is to be operated manually by the person licensed to capture or shoot wild rabbit;

"restricted area" means any of the Bird Sanctuaries and, or beaches listed in Schedules V and VII of the Conservation of Wild Birds Regulations, and, or within a distance of 50 metres from main or arterial roads, areas within 200 metres from towns, villages and other inhabited areas, as well as the area at Rdum tal-Madonna designated on site plan enclosed in Schedule III or any other area designated as such by the Minister through a notice in the Gazette; S.L. 504.71

"shooting" means to hunt by using a fire-arm or any other weapon for hunting, which by burning propellant or by means of compressed air, fires a projectile or projectiles;

"shot" means projectiles, contained in a cartridge, excluding the gun powder and wad;

"shotgun" means a weapon which fires projectiles by burning propellant;

"to capture" or "capturing" means to capture live specimens of wild rabbit using nets, dogs and, or ferrets and does not include to shoot, shooting and the use of firearms or air rifles;

"weapon" means an air rifle or a shotgun;

"Wild Birds Regulation Unit" means the Wild Birds Regulation Unit established in accordance with the Conservation of Wild Birds Regulations. S.L. 504.71

3. The wild rabbit (*Oryctolagus cuniculus*) is declared protected in Malta: Protection of wild rabbit.

Provided that the capture and shooting of wild rabbit shall be in accordance with the provisions of these regulations.

4. Without prejudice to regulation 8, no person shall shoot, capture, kill or take, or attempt to shoot, capture, kill or take any specimen of wild rabbit: Restrictions on taking wild rabbit.

(a) unless such person is in possession of a licence issued by the Commissioner and the Wild Birds Regulation Unit to shoot and, or capture wild rabbit;

(b) during the closed season for the shooting and, or capture of wild rabbit;

(c) by means and methods other than those allowed in the provisions of these regulations;

(d) unless he is carrying his identity card or any other recognised means of identification and the proper licence for the activity issued to him under these regulations or any other law; as well as documentation provided for under paragraph (e):

Provided that where any such person is not carrying such documents at the time, he shall be freed of any liability arising from such omission if within 48 hours he produces to the Police such documentation;

(e) unless the land where shooting of wild rabbit is practiced during the open season during the period from 1st June until 31st August of any year, inclusive of both dates, is registered with the Ministry responsible for agriculture and is marked as such on an official site plan issued by the Ministry responsible for agriculture, and unless the title-holder of such land has consented, in writing, to the practicing of such activity:

Provided that the provisions of this paragraph shall not apply to capture of wild rabbit exclusively by use of dogs or ferrets and nets, not involving the use of any gun or ammunition:

Provided further that the provisions of this paragraph shall not apply to shooting and, or capture of wild rabbit during open season during the period from 1st September to 31st December of any year, inclusive of both dates;

(f) unless he is carrying the document or documents referred to in paragraph (e).

Licences for the capture and shooting of wild rabbit.

5. (1) Licences for the shooting and, or capture of wild rabbit may be granted by the Commissioner if an applicant satisfies the criteria set by the latter and the Wild Birds Regulation Unit.

(2) For the purpose of sub-regulation (1), the Wild Birds Regulation Unit shall set exams to determine the knowledge of these regulations and the use and safe-carrying of fire-arms of those applicants, who have already satisfied the criteria set by the Commissioner, in accordance with the provisions of Part XV of the Code of Police Laws.

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(3) Re-sits will be set for those applicants who fail the exams established in sub-regulation (2).

(4) Sittings, including re-sits, for the exams established under the provisions of sub-regulations (2) and (3) shall be set against the payment of a fee, the value of which shall be published by the Minister in the Gazette.

(5) The Commissioner shall be responsible for issuing the licences for the shooting and, or capture of wild rabbit to those applicants who pass the exams set by the Wild Birds Regulation Unit.

(6) No person shall be issued with a licence or have his licence renewed, unless such person:

(a) has effected all the necessary payments as required by these regulations, including having paid for and obtained the necessary licences required under Part XV of the Code of Police Laws;

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(b) is a member of a recognised hunting organisation;

(c) in the case of shooting, holds an insurance policy against third party risks to persons or damage to property;

(d) in the case of licence renewal, has handed over the *carnet de chasse* for the previous year to the Wild Birds Regulation Unit;

(e) without prejudice to the provisos to regulation 4(e), has had the applicable documents referred to in regulation 4(e) endorsed by the Commissioner, provided that should the circumstances associated with such documents change during the validity of the licence, the licensee shall immediately inform the Commissioner and provide revised documents for endorsement as the case may be.

(7) Every person who obtains a license for the shooting and, or capture of wild rabbit under these regulations shall faithfully participate in the census done yearly through the *carnet de chasse* system or any other study organised by the Wild Birds Regulation

Unit and shall faithfully record all data and abide by the conditions set out in the permit.

(8) A person licensed under these regulations shall hand over the permit for the previous year to the Wild Birds Regulation Unit within ten days from the end of the period for which it has been issued. Annual licences or renewals of licences shall be issued by the end of February of every year or by such date as the Wild Birds Regulation Unit may prescribe.

Open seasons
and time
restrictions.

6. (1) The open season for the shooting and, or capture of wild rabbit shall be from the 1st June till the 31st December, both days included:

Provided that, through a notice in the Gazette, the Minister may revoke or amend the duration of the open season when, on the basis of relevant scientific knowledge, there is concern on the conservation status of the wild rabbit and, or on the maintenance of the population of wild rabbit at a satisfactory level.

(2) During the period established in sub-regulation (1), the shooting of wild rabbit shall only be practised:

(a) between two hours before sunrise and two hours after sunset from Monday to Saturday; and

(b) between two hours before sunrise and one o'clock in the afternoon on Sundays and on public holidays:

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Provided that the shooting of wild rabbit between 1st September and 31st December shall also be prohibited during such times when the hunting of wild birds is prohibited in terms of the Conservation of Wild Birds Regulations or any other subsidiary legislation connected therewith or related thereto:

Provided further that the prohibitions laid out in sub-regulation (2) shall not apply to the capture of wild rabbit.

Capture and
shooting
methods.

7. (1) The shooting of wild rabbit can only be carried out using:

(a) shots of size smaller than or equivalent to 3.3mm in diameter for shotguns; and

(b) pellets for air rifles.

(2) The capture of wild rabbit should be carried out by means of dogs, ferrets and, or rabbit nets only:

Provided that ferrets used in pursuit of the capturing activity shall at all times be muzzled:

Provided further that the use of any kind of vertical nets, mist nets or clap nets or any other net that can be used to capture any species other than wild rabbit is prohibited:

Provided further that the nets used for the capture of wild rabbits shall not be left unattended at any time:

Provided further that whilst practicing capturing activity during the night, licensed persons may use small sources of dimmed light only insofar as the use of light is necessary for the capturing activity using dogs and, or ferrets and nets, and insofar as the use of such light shall not cause disturbance to any species other than wild rabbit:

Provided further that any use of light in pursuit of wild rabbit with any gun is prohibited.

(3) No person shall sell, offer for sale, exhibit for sale, carry, be in possession of, use, import or manufacture devices other than those mentioned in the provisions of sub-regulation (1)(a) and (b) for the purpose of shooting and, or capture of wild rabbit.

(4) Without prejudice to the Conservation of Wild Birds Regulations, and without prejudice to regulation 4(e), including the provisos thereof, no person shall at any time keep or carry a firearm which is loaded, or with cartridges in its magazine, or out of its case, unless at the place where the shooting of wild rabbit is allowed for that person. S.L.504.71

(5) No person shall be in possession of any firearm which is loaded or outside its case, or go in pursuit of wild rabbit, or shoot or attempt to shoot, capture or attempt to capture wild rabbit while in or on any motor vehicle.

(6) No person shall carry a firearm, whether loaded or not, that is not in its case, or discharge any firearm, while within 200 metres from any town or village, or other inhabited area, or any restricted area, or within a distance of 50 metres from main or arterial roads:

Provided that this distance of 50 metres shall not apply in the case of secondary roads and country lanes:

Provided further that the firearm is not aimed in the direction of the road, whether main, arterial, secondary or a country lane.

(7) No person licensed for shooting wild rabbit shall be in possession of any firearm which has a magazine capable of holding more than two rounds of ammunition at any time.

Exceptions.

8. The Wild Birds Regulation Unit may, for reasons of public health or safety, or any scientific reason, issue a permit for the shooting and, or capture of wild rabbit during the closed season:

Provided that in authorising such exceptions, the following shall be specified:

- (a) the means, arrangements or methods authorised for capture and killing;
- (b) the conditions of risk and the circumstances of time and place under which such exceptions may be granted; and
- (c) the controls which will be carried out.

Activities in restricted areas.

9. No person shall:

(a) shoot and, or capture or attempt to shoot and, or capture wild rabbit in restricted areas:

Provided that, within the restricted area marked on the site plan in Schedule III, this prohibition shall only apply to the capture of wild rabbit;

(b) at any time and by any means whatsoever, have in his possession or under his control any wild rabbit, in a restricted area:

Provided that the foregoing shall not apply to any person licensed to shoot and, or to capture wild rabbit in accordance with the provisions of these regulations, who, while on a moving vehicle, is carrying a fire-arm which is unloaded and without any cartridges in the magazine, and inside its case, or who has nets for the capturing of wild rabbits while passing through the main roads of a bird sanctuary.

Entry into fields and tenements.

10. (1) No person in search or in pursuit of wild rabbits shall enter any field, land, tenement or other enclosure belonging to, or occupied by, third parties against their consent.

(2) It shall be presumed that there is this prohibition with regards to any field, tenement or other enclosure which is sown or planted or in which there are vegetables or fruits that are yet unpicked or unplucked.

11. (1) Any person who -

Offences and penalties.

(a) fails to comply with any provision of these regulations or with any order lawfully given in terms of any provision of these regulations; or

(b) contravenes any restriction, prohibition or requirement imposed by or under these regulations; or

(c) acts in contravention of any provision of these regulations; or

(d) conspires or attempts to conspire, or aids or attempts to aid, abets or attempts to abet, counsels or attempts to counsel, procures or attempts to procure any other person to contravene the provisions of these regulations, or to fail to comply with any such provisions (including any order lawfully given in terms of any provision of these regulations) or to contravene any restriction, prohibition or requirement imposed by or under the said regulations,

shall be guilty of an offence against these regulations.

(2) Any person who commits an offence against these regulations shall be liable:

(a) on a first conviction to a fine (*multa*) of not less than five hundred euro (€500) but not exceeding two thousand and five hundred euro (€2,500), and the confiscation of the *corpus delicti*;

(b) on a second or subsequent conviction, to a fine (*multa*) of not less than one thousand euro (€1,000) but not exceeding five thousand euro (€5,000) or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment as well as the confiscation of the *corpus delicti*:

Provided that the Court may, in its discretion, impose a Community Service Order on the offender in terms of the Probation Act: Cap. 446.

Provided further that the Court may also order the suspension of the licence or permit issued under these regulations and Part XV of the Code of Police Laws for a period of not less than two years but not exceeding five years: Cap. 10.

Provided further that any person who commits an offence against these regulations without a valid licence shall be liable to the

punishments contemplated under paragraph (b).

Cap. 9. (3) Notwithstanding the provisions of section 370 of the Criminal Code, proceedings for an offence against these regulations shall be taken before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, and shall be in accordance with the provisions of the Criminal Code regulating the procedure before the said courts as courts of criminal judicature.

Cap. 9. (4) Notwithstanding the provisions of the Criminal Code, the Attorney General shall always have a right of appeal to the Court of Criminal Appeal from any judgement given by the Court of Magistrates (Malta) or the Court of Magistrates (Gozo) in respect of proceedings for any offence against these regulations.

Special procedure. **12.** (1) Notwithstanding anything contained in these regulations for the trial and punishments of offences and subject to the provisions of this regulation and of Schedule II, where the Wild Birds Regulation Unit and, or the Executive Police believe that a person has committed an offence against these regulations as found in Schedule IV, the Executive Police shall confiscate the *corpus delicti* in terms of the Schedule and shall inform the Wild Birds Regulation Unit which shall, within thirty days from such information, give notice in writing to such person describing the offence of which the person is accused, indicating the steps to be taken to remedy the offence and the administrative penalty which he is required to pay in respect of that offence:

Cap. 9. Provided that this regulation shall be without prejudice to the powers granted to the Executive Police under the Criminal Code:

Cap. 490. Provided further that any person served with the notice, who feels aggrieved by a decision of the Wild Birds Regulation Unit under this sub-regulation, may appeal to the Administrative Review Tribunal established under the Administrative Justice Act for a revocation or modification of such administrative penalty, and the return of the *corpus delicti* confiscated in terms of this regulation.

(2) Where a notice under this regulation has been given, the person named in the notice may, within twenty-one days of the service of the notice, accept responsibility for the offence specified in the notice and within the same period, remedy the offence and pay, or undertake in writing to pay, the penalty indicated in the notice:

Provided that where the person to whom notice is given under sub-regulation (1) does not accept or, having accepted such responsibility, fails to remedy the offence within the time aforesaid, ordinary criminal proceedings shall be taken against him in

accordance with regulation 11.

(3) The provisions of sub-regulations (1) and (2) shall not apply in any case where the offence listed in Schedule II is accompanied by any offence which is not listed in the same Schedule including where the offence is committed in conjunction with any other offence under these regulations, with the exception of the administrative offences listed in Schedule II, and in such circumstances the provisions of regulation 11 shall automatically apply.

13. The provisions of these regulations shall be without any prejudice whatsoever to the provisions of the Majjistrat Nature and History Park Site Regulations.

Applicability.
S.L. 504.118.

14. The Protection of Birds and Wild Rabbit Regulations, 1993, are hereby revoked.

Revocation of
the Protection of
Birds and Wild
Rabbit
Regulations,
1993.
L.N. 146 of
2013.

SCHEDULE I

Carnet de Chasse

1. The *Carnet de Chasse* is a document that shall be entitled *Carnet de Chasse* and will indicate the year in which it can be used.
 2. The *Carnet de Chasse* shall provide for the recording of dates and locations within which the wild rabbit is hunted and, or captured.
 3. Before leaving the hunting/capturing area, the person licensed to hunt and, or take wild rabbit shall indicate on the *Carnet de Chasse* the date and the total amount of rabbits hunted or captured per occasion, even if such total is nil.
 4. Each person licensed to hunt and, or capture wild rabbit is to note his full name and surname, together with the address of his residence and a legally valid identification document number on the *Carnet de Chasse* for reference purposes.
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SCHEDULE II

Special Procedures

Offence	Penalty
Failure to return completed licence to Wild Birds Regulation Unit within ten days from the end of the period for which it has been issued.	€50
Failure to declare hunting of wild rabbit in <i>carnet de chasse</i> before leaving the hunting area.	€50
Failure to declare wild rabbits hunted or taken in <i>carnet de chasse</i> .	€50 per undeclared wild rabbit
Failure to provide documentary proof that the land where shooting and, or capture of wild rabbit is practiced during the open season during the period from 1st June until 31st August of any year, inclusive of both dates, is registered with the Ministry responsible for agriculture, and, or failure to provide documentary proof that the title-holder of such land has consented, in writing, to the practicing of such activity.	€250
Hunting without the relevant licence/identity documentation and, or documentation required under regulation 4(e) of these regulations and failure to produce such documentation to the Police within two days; however this fine shall not apply in the absence of a valid licence to hunt or to take, in which case the offender shall be charged before the Court of Magistrates.	€250
Possession of firearm having a magazine capable of holding more than two rounds of ammunition.	€250
Use of unmuzzled ferrets during capturing of wild rabbit.	€100

SCHEDULE III

Restricted area where capturing of wild rabbit is prohibited

