

L.N. 252 of 2014

**ENVIRONMENT AND DEVELOPMENT PLANNING ACT
(CAP. 504)**

**Conservation of Wild Birds (Amendment No. 2)
Regulations, 2014**

BY VIRTUE of the powers conferred by articles 61 and 62 of the Environment and Development Planning Act, the Minister for Sustainable Development, the Environment and Climate Change has made the following regulations:-

1. The title of these regulations is the Conservation of Wild Birds (Amendment No. 2) Regulations, 2014, and these regulations shall be read and construed as one with the Conservation of Wild Birds Regulations, hereinafter referred to as "the principal regulations".

Citation.

S.L. 504.71

2. Regulation 2 of the principal regulations shall be amended as follows:

Amends regulation 2 of the principal regulations.

(a) immediately after the definition "licence" there shall be added the following new definitions:

"licensee" means a natural person aged 18 years or over who is in possession of a valid licence issued under these regulations;

"live-capturing site" or "site" means the area clearly outlined on a site plan which is approved for that purpose by the Wild Birds Regulation Unit and registered with the Commissioner of Police which contains not more than two (2) live-capturing stations per licensee;

"live-capturing station" means the footprint area within the live-capturing site containing not more than two pairs of horizontal clap-nets per live-capturing station, with each net having an area not larger than that stipulated in the relevant framework regulations pertaining to live-capturing derogations, which live-capturing station may be registered on one or more licensee and each pair of clap-nets clearly outlined on the approved site plan;"

(b) immediately after the definition "permit" there shall be added the following new definition:

" "protected area" or "protected areas" means areas where live-capturing is prohibited under the Conservation of Wild Birds Regulations; the areas within Natura 2000 sites containing natural habitat types bearing codes 1150, 1210, 1240, 1310, 1410, 1420, 1510, 2110, 2210, 2220, 3140, 3170, 5230, 5330, 5410, 5420, 5430, 6220, 8210, 92A0, 92D0, 9320, 9340, 9540 and 9570 as listed in Schedule I of the Flora, Fauna and Natural Habitats Protection Regulations; and, areas outside Natura 2000 sites that support natural habitats, including Scheduled Level 1 and Level 2 Areas of Ecological Importance and Sites of Scientific Importance, provided that such prohibition shall not apply to cultivated agricultural land located within the boundaries of the above protected areas and officially registered with the Department of Agriculture prior to end of July 2014; provided further that no live-capturing can take place on any site that has either not been registered with the Commissioner of Police prior to the end of December 2012, or that is not identifiable as a live-capturing site on aerial photographs published prior to end of December 2012; provided further that the exemption of registered cultivated agricultural land would not apply to areas where live-capturing is prohibited under these regulations;"

(c) the definition "the Treaty" shall be deleted; and

(d) the definition " "to take" and "taking" "shall be substituted by the following:

" "to take" and "taking" means live-capturing of wild birds, in accordance with the provisions of these regulations;"

Substitutes
regulation 8 of
the principal
regulations.

3. Regulation 8 of the principal regulations shall be substituted by the following:

"Live-
capturing.

8. (1) Any live-capturing of wild birds by any means whatsoever is prohibited except by virtue of derogations authorised in terms of regulation 9.

(2) Notwithstanding the provisions of regulation 4(1)(a) and (e) and regulation 7, and without prejudice to the provisions of regulation 9, certain birds may be deliberately captured by traditional nets known as clap-nets exclusively for the purpose of keeping them in captivity in accordance with the parameters established by the relevant framework regulations pertaining to live-capturing derogations and under the terms of any special live-capturing licences issued thereunder:

Provided that the licensee shall only use traditional manually-operated selective clap-nets, consisting of two parallel nets spread flat on the ground which capture birds by clapping over each other on the ground, and which are armed and operated solely by human intervention without the use of any external power means including electrical, electronic, or mechanical means:

Provided further that such live-capturing may only take place in live-capturing sites within the area clearly outlined on a site plan which is approved for that purpose by the Wild Birds Regulation Unit in terms of regulation 5(4) and registered with the Commissioner of Police, and which contains not more than two (2) live-capturing stations per licensee:

Provided further that each live-capturing station shall consist of the footprint area within the live-capturing site containing not more than two pairs of horizontal clap-nets per live-capturing station, with each net having an area not larger than that stipulated in the relevant framework regulations pertaining to live-capturing derogations, which live-capturing station may be registered on one or more licensee and each pair of clap-nets clearly outlined on the site plan."

4. Regulation 12 of the principal regulations shall be amended as follows:

(a) in proviso to sub-regulation (1) thereof, for the words "pursuant to regulation 10(6)." there shall be substituted

Amends
regulation 12 of
the principal
regulations.

the words "pursuant to regulation 10(6):" and immediately thereafter there shall be added the following new proviso:

"Provided further that any such licence shall be issued against a fee stipulated in Schedule X.";

(b) in sub-regulation (2) thereof, for the words "conservation of wild birds." there shall be substituted the words "conservation of wild birds:" and immediately thereafter there shall be added the following new proviso:

"Provided that such examination shall be held against a fee stipulated in Schedule X.";

(c) subregulation (3) thereof shall be substituted by the following:

"(3) Unless the Commissioner and, or the Wild Birds Regulation Unit has valid reasons to the contrary, and subject to the provisions of these regulations, whosoever is included in the register of persons who had a licence for the live-capturing of birds valid at any time during the period from December 2002 up to the end of December 2011, but has since not renewed his license in accordance with the provisions of these regulations, may opt to apply for a provisional live-capturing licence, which shall be issued after effecting relevant fees stipulated in the second proviso to sub-regulation (1) and in the proviso of sub-regulation (2), and after the live-capturing station(s) have been approved by the Wild Birds Regulation Unit and registered with the Commissioner of Police in terms of regulation 8(2):

Provided that such provisional licence shall be automatically terminated within a period of twelve months from the date of issuance, unless the holder successfully passes the examination in accordance with sub-regulation (2) within twelve months from the date of issuance of the provisional licence."; and

(d) in paragraph (b) of sub-regulation (5) thereof, immediately after the words "by the end of February of every year" there shall be added the words "against payment of a fee stipulated in Schedule X".

5. Immediately after sub-regulation (2) of regulation 19 of the principal regulations there shall be added the following:

"(3) The hunting of birds on land shall be permitted between the 1st September of any given year and the 31st January of the following year, between two hours before sunrise and two hours after sunset on any day between Monday and Saturday, and between two hours before sunrise and 1 o' clock in the afternoon (1:00 pm) on Sundays and Public Holidays:

Provided that hunting of birds on land between the 15th September and the 7th October of any year shall not be permitted from Monday to Saturday between 7:00 pm and two hours before sunrise of the following day.

(4) The hunting of birds at sea shall be permitted between the 1st October of any given year and the 31st January of the following year:

Provided that hunting at sea between the 1st October and 7th of October of any given year shall not be permitted from Monday to Saturday between 7:00 pm and two hours before sunrise of the following day:

Provided further that hunting of birds at sea between 8th October of any given year and 31st January of the following year shall be allowed between two hours before sunrise and two hours after sunset on any day between Monday and Saturday, and between two hours before sunrise and 1 o'clock in the afternoon (1:00 p.m) on Sundays and public holidays.

(5) The Minister may, by means of notice in the Gazette, revise the parameters of the hunting season in any given year at any time on the basis of relevant latest scientific advice concerning conservation status and maintenance of the population of bird species at satisfactory level."

6. Sub-paragraph (ii) of paragraph (a) of regulation 20 of the principal regulations shall be substituted by the following:

Amends regulation 20 of principal regulations.

"(ii) during the open live-capturing season when the cage should not be smaller than the dimensions provided for in the relevant framework regulations pertaining to any live-capturing derogations for that species for which a particular derogation applies;"

7. Schedule VIII to the principal regulations shall be amended as follows:

Amends Schedule VIII to the principal regulations.

(a) the item for "11(3) and 12(5)(a)" shall be substituted

by the following:

" 11(3) and 12(5)(a)	Failure to return the completed licence to the Wild Birds Regulation Unit within ten days from the end of the period for which it has been issued in accordance with Schedule IV of these regulations.	€75 where such delay does not exceed 30 days from the end of period. Where the delay exceeds 30 days, the provisions of regulation 27 shall apply.
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(b) immediately after the item for "13(1)", there shall be added the following new item:

" 13(2)	Failure to declare all the information in the <i>Carnet de Chasse</i> as required by Schedule IV of these regulations.	€50
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(c) in the item for "18(2)(b)", immediately after the figure "18(2)(b)" there shall be added the words "and 7(1)(k)".

Adds Schedule X to the principal regulations.

8. Immediately after Schedule IX to the principal regulations there shall be added the following new Schedule X:

"SCHEDULE X

Administrative Fees

Service	Fee
Issuance of new licences (<i>Carnet de Chasse</i>) in accordance with regulation 12(1)	€20 per licence
Renewals of licences (<i>Carnet de Chasse</i>) in accordance with regulation 12(5)	€20 per licence
Examination fee in accordance with regulation 12(2)	€30 per examination

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