

L.N. 69 of 2016**ENVIRONMENT AND DEVELOPMENT PLANNING ACT
(CAP. 504)****Conservation of Wild Birds (Amendment) Regulations, 2016**

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:-

Citation.

S.L. 504.71

Amends
regulation 2 of
the principal
regulations.

1. The title of these regulations is the Conservation of Wild Birds (Amendment) Regulations, 2016, and these regulations shall be read and construed as one with the Conservation of Wild Birds Regulations, hereinafter referred to as "the principal regulations".

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

(a) the definition "*carnet de chasse*" shall be deleted;

(b) for the definition "license" there shall be substituted the following:

"General licence" means a permit issued in accordance with these regulations and which satisfies the criteria listed in Schedule IV and, or, other conditions which may be stipulated by the Wild Birds Regulation Unit from time to time in accordance with these regulations;"
and

(c) the definition "permit" shall be deleted.

Amends
regulation 4 of
the principal
regulations.

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

(a) paragraphs (f) and (g) of sub-regulation (1) thereof shall be deleted;

(b) in the provisos of sub-regulation (1) thereof, for the words "paragraphs (e), (f) and (g)" there shall be substituted the words "paragraph (e)"; and

(c) in sub-regulation (2) thereof, for the words "sub-regulation (1)(e), (f) and (g)" there shall be substituted the words "sub-regulation (1)(e)".

4. Regulation 11 of the principal regulations shall be amended as follows:

Amends regulation 11 of the principal regulations.

(a) sub-regulation (3) thereof shall be substituted by the following new sub-regulation:

"(3) The Wild Birds Regulation Unit will not issue or renew a general licence where the Commissioner provides the advice in terms of sub-regulation (2), and, or, where the criteria established in Schedule VI are not satisfied."; and

(b) in sub-regulation (4) thereof, for the words "not to issue a particular licence" there shall be substituted the words "not to issue or renew a particular licence".

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

Amends regulation 12 of the principal regulations.

(a) the marginal note thereof shall be substituted by the following:

"General Licence.";

(b) immediately after the first proviso to sub-regulation (2) thereof, there shall be added the following new proviso:

"Provided further that, without prejudice to the requirements of any other law or regulation, persons who successfully passed an examination on their ability to identify birds and their knowledge of regulations for the conservation of wild birds as established in this sub-regulation shall not be required to sit for another such examination for that licence category for which they are licensed during the period of validity of such licences in terms of sub-regulation (7), or upon due renewal of such licences in accordance with these regulations within one year from the end of the validity period of that licence:" ;

(c) sub-regulation (5) thereof shall be substituted by the following:

"(5) The Wild Birds Regulation Unit may issue the following general licences in terms of these regulations:

(a) the general licence to hunt birds on land;

(b) the general licence to hunt birds at sea;

(c) the general licence to take birds.";

(d) sub-regulation (6), including the proviso thereof, shall be substituted by the following:

"(6) Subject to the provisions of regulation 11(3), an individual may apply and obtain any one or more of the above general licences or any combination of general licences."; and

(e) immediately after sub-regulation (6) thereof, as substituted, shall be added the following new sub-regulations:

"(7) Without prejudice to the provisions of these regulations, the licence issued in accordance with these regulations shall remain valid for a period of five years and may be renewed for further periods of five years subject to fulfilment of the criteria stipulated in Schedule VI.

(8) A licensee in possession of a general licence issued in terms of these regulations shall not be exempt from obtaining any other licence which may be required where his activity is regulated by any other regulation made under these regulations or by any provision under these regulations or under any other law or regulation.

(9) A licensee in possession of a general licence issued in terms of these regulations shall use the game reporting system indicated by the Wild Birds Regulation Unit to effect the reporting required under Schedule IV."

6. Regulation 13 of the principal regulations shall be substituted by the following:

Substitutes regulation 13 of the principal regulations.

"Payment of general licence fees and other dues.

13. No person shall hunt and, or, take birds unless he has effected the relative payments stipulated under these regulations, including any payments due as prescribed by Schedule VIII and Schedule X, and the relative licences have been issued in his favour, in accordance with the conditions stipulated under Schedule VI."

7. Regulation 21 of the principal regulations shall be amended as follows:

Amends regulation 21 of the principal regulations.

(a) in sub-regulation (5) thereof, for the words "it shall not be lawful for any person to possess any stuffed birds" there shall be substituted the words "it shall not be lawful for any person practicing taxidermy to possess any stuffed birds"; and

(b) sub-regulation (7) thereof shall be substituted by the following:

"(7) The certificate shall only be issued after all the specimens that are in the applicant's possession have been taxonomically identified and marked with an identification device by the Wild Birds Regulation Unit or its predecessor. No action shall be taken with respect to those specimens -

(a) that have been issued with a certificate;

(b) that are found, in the course of an inspection by the Wild Birds Regulation Unit or its predecessor, to taxonomically correspond to the specimens declared by the holder to the Malta Environment and Planning Authority prior to 31st May 2003, notwithstanding that such specimens may not have been tagged with an identification device at the time of the inspection:

Provided that any certificate issued for the purposes of this regulation by the Director of the Environment Protection Directorate within the Malta Environment and Planning Authority, or his successor in title, shall remain valid:

Provided further that the certificate issued in accordance with these regulations may be amended or revoked where it results that it has been issued in error or that it contains an error or that it is based on false information:

Provided further that where it results that the applicant provided false or misleading information, or made a false or fraudulent declaration, the certificate shall be immediately revoked and criminal proceedings shall be taken against the perpetrator in of the Criminal Code."

8. In regulation 22 of the principal regulations, for the words "greater than 3.3mm in diameter." there shall be substituted the words "greater than 3.3mm in diameter:" and immediately thereafter there shall be added the following new proviso:

Amends
regulation 22 of
the principal
regulations.

"Provided that the provisions of this regulation shall not apply to persons who are licensed by the Commissioner to sell, offer for sale, carry, be in possession of, use, import or manufacture any cartridge loaded with lead shots of any size greater than 3.3mm in diameter for purposes other than hunting."

Adds new regulation to the principal regulations.

9. Immediately after regulation 30 of the principal regulations, there shall be added the following new regulation:

"Conservation of Wild Birds Fund.

31. (1) The Minister shall set up a fund, hereinafter referred to as the Conservation of Wild Birds Fund.

(2) The Conservation of Wild Birds Fund shall be used to finance activities, projects, programmes and schemes related to the implementation of the aims and objectives of these regulations, including activities organised by non-governmental organizations.

(3) The Conservation of Wild Birds Fund shall be administered by the Wild Birds Regulation Unit.

(4) There shall be paid into the Conservation of Wild Birds Fund:

(a) any sums appropriated by Parliament for the purpose;

(b) any donations or grants made to the Conservation of Wild Birds Fund by individuals or institutions;

(c) sums received by the Wild Birds Regulation Unit for the purpose of being placed in the Conservation of Wild Birds Fund;

(d) such other sums or monies as may from time to time be provided by, or collected under this or any other law or regulations.

(5) The Conservation of Wild Birds Fund shall keep a proper account of its revenue and expenditure and the Wild Birds Regulation Unit shall, every financial year, deliver to the Minister a copy of its balance sheet together with a report of its activities during the previous financial year.

Cap. 123.
Cap. 364.

(6) The revenue of the Conservation of Wild Birds Fund shall not be subject to tax under the Income Tax Act and the Environment Fund shall not be liable to tax under the Duty on Documents and Transfers Act.

(7) The Wild Birds Regulation Unit may make proposals, for endorsement by the Minister, concerning the procedures to be followed in the functioning of the Conservation of Wild Birds Fund."

10. In Parts A and B of Schedule II to the principal regulations the words "*Mergus serrator*" shall be deleted.

Amends
Schedule II of
the principal
regulations.

11. Schedule IV of the principal regulations shall be substituted by the following:

Substitutes
Schedule IV to
the principal
regulations.

"SCHEDULE IV

Reporting Obligations

1. It shall be the duty of any person licensed to hunt and, or, take birds under these regulations to report to the Wild Birds Regulation Unit the following information, through game reporting system prescribed by the Wild Birds Regulation Unit:

(a) prior to leaving the hunting area, any bird hunted including the species and corresponding quantity; provided that in the case hunting and, or taking that takes place under the terms of any derogation, the above reporting obligation shall apply immediately upon making a catch;

(b) the geographical location where the birds were hunted and, or, taken;

(c) any other information which may be specified by the Wild Birds Regulation Unit from time to time."

12. Schedule VI to the principal regulations shall be substituted by the following:

Substitutes
Schedule VI to
the principal
regulations.

"SCHEDULE VI

General Licence Conditions

1. A general licence shall not be issued, unless the person concerned:

(a) has paid for and obtained the necessary licences required under Part XV of the Code of Police Laws and, or, paid for and obtained the necessary Police licences to hunt and, or take birds as may be applicable;

(b) is a paid member of an organization representing persons who are licensed to hunt and, or to take;

(c) in the case of general hunting licences, holds a duly paid insurance policy against third party risks to persons or damage to property;

(d) has paid necessary licence fees as prescribed in regulations 12 and 13 of these regulations and other applicable fees as listed in Schedule X;

(e) has successfully passed an examination established under regulations 11(3) and 12(2) of these regulations;

(f) has provided to the Wild Birds Regulation Unit the relevant personal details including a personal photo identification and any other information that may be requested in the format prescribed by the Wild Birds Regulation Unit.

2. A general licence shall not be renewed for a further five-year period, unless the person concerned:

(a) has paid for and obtained the necessary licences required under Part XV of the Code of Police Laws and, or, paid for and obtained the necessary Police licences to hunt and, or take birds as may be applicable;

(b) is a paid member of an organization representing persons who are licensed to hunt and, or to take;

(c) in the case of general hunting licences, holds a duly paid insurance policy against third party risks to persons or damage to property;

(d) has paid any administrative fines imposed in accordance with regulation 27A of these regulations, as prescribed in Schedule VIII;

(e) has paid necessary licence fees as prescribed

in regulations 12 and 13 of these regulations and as listed in Schedule X;

(f) has faithfully complied with the reporting obligations found in Schedule IV;

(g) has provided to the Wild Birds Regulation Unit the relevant personal details including a personal photo identification and any other information that may be requested in the format prescribed by the Wild Birds Regulation Unit;

(h) has submitted his application for the renewal of his licence to the Wild Birds Regulation Unit within one year from the date of expiry of his licence.

3. The general licence shall immediately cease to be valid and the person shall not hunt or attempt to hunt or take or attempt to take birds during such time that the person concerned is in default of any of the requirements stipulated in paragraph 2 of this Schedule during the five-year validity period of the licence:

Provided that where the person concerned rectifies his default as referred in this paragraph during the five year period of validity of his licence, the validity of the licence would be reinstated."

13. Schedule VIII of the principal regulations shall be amended as follows:

Amends Schedule VIII to the principal regulations.

(a) the following item

" 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 twenty-one days from the date of service of the notice of the administrative fine issued under the terms of regulation 27A. Where the delay exceeds twenty-one days from the date of service of the notice of administrative fine, the provisions of regulation 27 shall apply.
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shall be deleted;

(b) the following item

" 12(6)	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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shall be substituted by the following:

" 12(9)	Failure to declare and report all the information as required by Schedule IV of these regulations	€50	"
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and

(c) the following item

" 13(1)	Failure to pay / renew licence, unless the licence is handed in to the Wild Birds Regulation Unit indefinitely	€250	"
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shall be deleted.

Amends
Schedule X of
the principal
regulations.

14. Schedule X of the principal regulations shall be amended as follows:

(a) the following two entries

"	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	

shall be deleted; and

(b) immediately after the item

"	Provision of a copy of the site plan approved by the Wild Birds Regulation Unit in terms of the fourth proviso of regulation 8(2)	€2 per copy of the site plan	"
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there shall be added the following new items:

"	New application or renewal of the general licence to hunt birds on land	€50 for a validity period of 5 years
	New application or renewal of the general licence to hunt birds at sea	€50 for a validity period of 5 years
	New application or renewal of the general licence to take birds	€50 for a validity period of 5 years
	Replacement of a lost general licence document (licence card)	€20 for any replacement licence document (licence card) issued

".

15. In the principal regulations, for the words "*carnet de chasse*", wherever they occur, there shall be substituted the words "General Licence",

General amendment to the principal regulations.

16. These regulations shall enter into force immediately upon their publication in the Gazette subject to the following provisos, namely:

Transitory provisions relating to the entry into force of these regulations.

Provided that the provisions of regulations 2, 11, 12, 13, Schedule IV, Schedule VI, Schedule VIII and Schedule X of the principal regulations shall remain in force in the same manner as prior to being amended by these regulations exclusively in regard to those licensees who would have not handed in their *carnet de chasse* in accordance with regulation 12(5)(a) of the principal regulations or in regard to those persons who are in any other way in breach of the regulations specified in this proviso and such persons shall still be liable to the punishments stipulated for breaches of these specified regulations as were in force prior to the publication of these amending regulations:

Provided further that regulation 2 of these regulations shall also enter into force in the same manner as specified in the proviso above.

