

B 280

L.N. 25 of 2018**ENVIRONMENT PROTECTION ACT
(CAP. 549)****Species Protection
(Designation of National Species) Regulations, 2018**

IN EXERCISE of the powers conferred by articles 54 and 55 of the Environment Protection Act, the Minister responsible for the Environment, Sustainable Development and Climate Change, after consultation with the Environment and Resources Authority, has made the following regulations:-

- Citation. **1.** The title of these regulations is the Species Protection (Designation of National Species) Regulations, 2018.
- Aim. **2.** The aim of these regulations is to declare the National Species of the Maltese Islands and apply provisions for their protection.

PART I: INTERPRETATION

- Interpretation. **3.** In these regulations the following definitions shall apply. In addition, unless already defined in these regulations, the terms defined in the Flora, Fauna and Natural Habitats Protection Regulations shall apply, as applicable:

Cap. 549. "the Act" means the Environment Protection Act;

S.L. 549.42. "bird" and "birds" shall have the same meaning as the terms defined under regulation 2 of the Conservation of Wild Birds Regulations;

"the competent authority" means the authorities designated in regulation 4 who shall be responsible for the implementation of these regulations;

S.L. 549.42. "general licence" shall have the same meaning as the term defined under regulation 2 of the Conservation of Wild Birds Regulations;

"National Species of the Maltese Islands" or "National Species" means native species which may serve as ambassadors by attracting public interest in conservation efforts both for those species and other species at risk. Such National Species are indicated in Schedule I;

"relevant regulations" includes the Trade in Species of Fauna and Flora Regulations, the Conservation of Wild Birds Regulations, the Flora, Fauna and Natural Habitats Protection Regulations and the Trees and Woodlands Protection Regulations;

S.L. 549.38.
S.L. 549.42.
S.L. 549.44.
S.L. 549.64.

"specimen" means any animal or plant, in any stage of its life cycle, whether dead or alive, whether whole or in part, whether in the original form or after having undergone any transformation. It includes any part or derivative thereof, as well as any other goods which appear, from an accompanying document, the packaging or a mark or label, or from any other circumstances, to be parts or derivatives of animals of plants of those species.

4. The competent authority responsible for the administration, implementation, compliance assurance and enforcement of these regulations shall be:

Administration of these regulations.

(a) the Environment and Resources Authority for flora, fauna and other wildlife, as laid down under the Act with the exception of the provisions of the Conservation of Wild Birds Regulations; and

S.L. 549.42.

(b) the Wild Birds Regulation Unit for birds, as laid down under the Conservation of Wild Birds Regulations.

S.L. 549.42.

PART II: PROTECTION OF WILD SPECIES

5. The competent authority may designate further National Species, provided that such species are in line with one or more of the following criteria:

Designation of National Species.

(a) wild species native to Malta or are representative of the Maltese flora and fauna; or

(b) wild species endemic to the Maltese Islands and its waters; or

(c) species of particular importance because of their scientific, ecological, biodiversity, biogeographical, landscape or educational interest; or

(d) species with specific cultural or historical connection with Malta and its identity; or

(e) threatened, rare and possibly extinct species, particularly species with a restricted distribution in Malta; or

B 282

(f) charismatic species that serve as a symbol or focus point to raise environmental awareness and consciousness and can be employed as flagship species; or

(g) species with the potential to enhance acceptance of habitat preservation or capable of favourably influencing attitudes towards environment conservation and management; or

(h) species which in the competent authority's opinion contain similarly relevant criteria.

PART III: PROHIBITIONS

Prohibitions. **6.** (1) Without prejudice to the relevant regulations, the species included in Schedule I are designated as 'National Species' and are protected in terms of the Act.

(2) For species listed in Schedule I the prohibitions referred to under the relevant regulations shall apply, unless duly authorised by the competent authority.

PART IV: SURVEILLANCE AND CONSERVATION

Identification, surveillance and monitoring. **7.** The competent authority shall, as far as possible and as appropriate, in particular for the purposes of these regulations and the related regulations:

(a) undertake surveillance and monitoring of National Species and their habitats;

(b) identify processes and categories of activities which have or are likely to have significant adverse impacts on National Species;

(c) assess the status, range, population trends of National Species; and

(d) maintain and organise, by any mechanism data derived from identification and monitoring activities pursuant to paragraphs (a) and (b).

In situ conservation. **8.** The competent authority shall, as far as possible, and as appropriate:

(a) take measures to promote the conservation of National Species;

(b) take steps to avoid the deterioration of the habitats of National Species within protected sites;

(c) prevent the introduction of, control or eradicate those invasive alien species which may threaten National Species; and

(d) endeavour to provide conditions needed for compatibility between present uses and the conservation of National Species and their habitats.

PART V: COMMUNICATION

9. The competent authority may promote education and general information on the need to protect National Species. In this respect, the competent authority, may promote and encourage:

Communication, education, public awareness.

(a) appropriate publicity for the designation of National Species;

(b) the dissemination of information on National Species and their habitats held by the competent authority, and that this is made available to the public, according to the provisions set by the Freedom of Access to Information on the Environment Regulations; and

S.L. 549:39.

(c) co-operation, as appropriate, with national bodies and entities in developing educational and public awareness programmes, with respect to National Species and their habitats.

PART VI: PERMITTING, OFFENCES AND PENALTIES

10. Any assessment carried out or permit issued by the competent authority in accordance with the relevant regulation shall be deemed as issued under these regulations.

Permits in relation to Schedule I species.

11. Where the competent authority believes that a person has committed an offence under these regulations on species listed under Schedule I(b), the competent authority may issue an administrative fine of not less than seven hundred and fifty euro (€750) for each specimen but not exceeding five thousand euro (€5,000) for each specimen:

Administrative fines.

Provided that the competent authority may issue such administrative fine only once for the same person under these regulations:

Provided that no proceeding may be taken or continued to be taken against the said person in respect of such criminal offence mentioned in this regulation should such a person settle the concerned penalty.

B 284

Offences and penalties.

12. Without prejudice to any applicable regulation under the Act, any person:

(a) who fails to observe the provisions of these regulations; or

(b) who infringes any restriction, prohibition or need imposed by these regulations or by virtue thereof; or

(c) who fails to observe any condition of a permit or authorisation granted under the provisions of these regulations; or

(d) who acts in contravention of any provision of these regulations, or

(e) who conspires or attempts to conspire, 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 from complying with any one of these provisions, or to infringe any restriction, prohibition or need imposed by these regulations or by virtue thereof,

shall be guilty of an offence against these regulations. Such offence shall be subject to the relevant penalties stipulated in Schedule II.

SCHEDULE I

NATIONAL SPECIES OF THE MALTESE ISLANDS

Schedule I(a): National Species (Birds)

SCIENTIFIC NAME	MALTESE NAME	ENGLISH NAME	NATIONAL SPECIES
<i>Monticola solitarius</i>	il-merill; iċ-cikkudiddiju	Blue Rock Thrush	National Bird

Schedule I(b): National Species (excluding Birds)

SCIENTIFIC NAME	MALTESE NAME	ENGLISH NAME	NATIONAL SPECIES
<i>Aphanius fasciatus</i>	il-bużaqq	Mediterranean Killifish	National Fish
<i>Palaeocyamus crassifolius</i> [= <i>Cheirolophus crassifolius</i>]	widnet il-baħar	Maltese Rock-Centaury	National Plant
<i>Tetraclinis articulata</i> [= <i>Callitris quadrivalvis</i>]	l-ghargħar	Arar Tree: Alerce; Sandarac Gum Tree	National Tree
<i>Potamon fluviatile lanfrancoi</i>	il-qabru; il-granċ tal-ilma ħelu	Maltese Freshwater Crab	National Invertebrate

SCHEDULE II

Penalties for offences on species listed in Schedule I(a)

Any person who commits, or attempts to commit an offence relating to birds listed in Schedule I(a) shall, on conviction, be liable:

(a) on a first conviction to a fine (*multa*) of not less than seven hundred and fifty euro (€750) for each specimen but not exceeding five thousand euro (€5,000) for each specimen and the confiscation of the *corpus delicti*.

The Court shall also order the suspension of any general license or permit, issued under these regulations, the Conservation of Wild Birds Regulations and under Part XV of the Code of Police Laws for a period of not less than two years but not exceeding five years.

(b) on a second conviction or subsequent conviction, to a fine (*multa*) of not less than one thousand five hundred euro (€1,500) for each specimen but not exceeding ten thousand euro (€10,000) for each specimen or to imprisonment for a term of not less than six months but not exceeding two years, or to both such fine and imprisonment and also the confiscation of the *corpus delicti*.

The Court shall also order the permanent revocation of any general licence or permit, issued under these regulations, the Conservation of Wild Birds Regulations and under Part XV of the Code of Police Laws:

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

(c) Any person who hunts or attempts to hunt or takes or attempts to take birds listed in Schedule I(a) without a valid general licence shall be liable to the punishments contemplated under paragraph (b) and the Courts shall also order that the convicted person shall be disqualified from obtaining a general licence under the Conservation of Wild Birds Regulations and under Part XV of the Code of Police laws for life and where such general licence has been permanently revoked in terms of paragraph (b) or the Court has already ordered the disqualification from obtaining a general licence for life, such person shall, upon conviction, be liable to a fine (*multa*) of not less than seven thousand euro (€7,000) but not exceeding fifteen thousand euro (€15,000) and to imprisonment for a term of not less than one year but not exceeding two years.

(d) Without prejudice to the provision of this Schedule, in determining the gravity of the offence the Court may consider the factors laid down under the fourth proviso of regulation 27(2) of the Conservation of Wild Birds Regulations.

Penalties for offences on species listed in Schedule I(b)

Any person who commits, or attempts to commit an offence relating to species in Schedule I(b) shall be liable:

(a) in the case of a first offence, a fine (*multa*) of not less than seven hundred and fifty (€750) euro for each specimen, but not exceeding five thousand euro (€5,000) for each specimen and also the confiscation of the *corpus delicti*;

(b) in the case of a second or subsequent offence, a fine (*multa*) of not less than one thousand five hundred euro (€1,500) for each specimen, but not exceeding ten thousand euro (€10,000) for each specimen, or imprisonment for a period not exceeding two years, or both such fine and imprisonment; and also the confiscation of the *corpus delicti*.

(c) With respect to offences involving species in Schedule I(b) additional sanctions, as laid down under sub-regulation (5), (6) and (7) of regulation 49 of the Flora, Fauna and Natural Habitats Protection Regulations shall apply.