

L.N. 86 of 2022

**ENVIRONMENT PROTECTION ACT
(CAP. 549)**

Conservation of Wild Birds (Amendment) Regulations, 2022

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

Citation. **1.** The title of these regulations is the Conservation of Wild Birds (Amendment) Regulations, 2022, and these regulations shall be read and construed as one with the Conservation of Wild Birds Regulations hereinafter referred to as the "principal regulations".
S.L. 549.42.

Amends regulation 9 of the principal regulations. **2.** In sub-regulation (2) of regulation 9 of the principal regulations, the word "obtain" shall be substituted by the words "are in place".

Amends regulation 11 of the principal regulations. **3.** Immediately after sub-regulation (8) of regulation 11 of the principal regulations there shall be added the following new sub-regulations:

"(9) The Wild Birds Regulation Unit, assisted by the Executive Police, shall immediately suspend the relevant general licence for a period of one (1) year whenever a licensee accumulates in aggregate twelve (12) penalty points or more during a two (2) year period, in accordance with regulation 27A.

(10) During the period of suspension of the relevant licence in accordance with sub-regulation (9), the licensee shall be rendered ineligible to apply for a special licence associated with the relevant general licence that has been suspended, which special licence is issued under the terms of the relevant Framework Regulations, and shall also be rendered ineligible to apply for a licence or permit to participate in any research activity provided for in accordance with the first proviso to regulation 23(1).

(11) The Wild Birds Regulation Unit shall return the relevant general licence to the licensee following termination of the suspension period in accordance with sub-regulation (9).".

4. Regulation 23 of the principal regulations shall be amended as follows:

Amends regulation 23 of the principal regulations.

(a) in sub-regulation (1) thereof, the words "and/or geo-tagging." shall be substituted by the words "and/or geo-tagging:" and immediately thereafter there shall be added the following new proviso:

"Provided that without prejudice to any research Framework Regulations, a person who is not licensed as a bird-ringer in accordance with regulation 23(2)(a), may capture certain birds for the purpose of geo-tagging, followed by their immediate release back into the wild, insofar as that person satisfies the following requirements:

(a) the submission of an application to the Wild Birds Regulation Unit, not later than two (2) months prior to the commencement of the geo-tagging activity, which application must be accompanied by the following information:

(i) a detailed explanation of the objectives of the proposed research and the reasons thereof;

(ii) the alternatives considered;

(iii) the proposed quantity per species to be captured for the purpose of geo-tagging;

(iv) the proposed methodology;

(v) the location of the sites where geo-tagging is proposed to be carried out in the format prescribed in paragraph (c) of sub-regulation (3);

(vi) details of the persons who will be entrusted with handling birds and the management of the geo-tags' software, including data collection and analysis;

(vii) the proposed research dates for geo-tagging;

(viii) the proposed duration of the data collection and analysis; and

(ix) the date when the report on the outcome of the research is expected to be submitted to the Wild Birds Regulation Unit;

(b) the submission, together with the application referred to in paragraph (a), of a signed declaration, either:

(i) by the applicant, confirming that he has proven experience in bird-handling and affixing geo-tags on avian species, including knowledge of the geo-tags' software, data collection, management and analysis if the data will also be managed by the same applicant, supported by a biography that lists his previous ornithological research conducted by means of geo-tagging, including the research period, outcome of the research and a link to each publication in peer-reviewed scientific journals; or

(ii) by the applicant's trainer, who has proven experience in bird-handling and affixing geo-tags on avian species, as supported by the trainer's biography, which shall be submitted together with the declaration and shall contain all the information specified in sub-paragraph (i), confirming that he has trained the applicant who is knowledgeable about all aspects related to geo-tagging, including affixing of geo-tags on the target avian species proposed in the application referred to in paragraph (a) and, if the data will also be managed by the same applicant, a confirmation that he is conversant with the geo-tags' software, including data collection, management and analysis;

(c) the inclusion, in the proposed methodology as referred to in paragraph (a) of sub-regulation (1), of a bird-ringing component as provided for in sub-regulation (2), for all species not listed in Schedule II:

Provided that if the geo-tagging activity involves species listed in Schedule II, the proposed methodology should preferably also include a bird-ringing component as provided for in sub-regulation (2);

(d) the recommendations and conditions of the Ornis Committee, in accordance with regulation 10(6); and

(e) the conditions specified in the licence issued for the purpose of geo-tagging by the Wild Birds Regulation Unit, including reporting obligations and the submission of a detailed report on the outcome of the geo-tagging activity to the Wild Birds Regulation Unit:

Provided that the Wild Birds Regulation Unit shall present the report as referred to in paragraph (e) to the Ornis Committee in terms of the proviso to regulation 10(6)(c):

Provided further that in the event that the applicant fails to submit the report as referred to in paragraph (e) within the deadline stipulated by the Wild Birds Regulation Unit in the licence conditions, the applicant shall be rendered ineligible to apply for any other research permit or renewal."; and

(b) in paragraph (h) of sub-regulation (2) thereof, the words "practicing hunting." shall be substituted by the words "practicing hunting;" and immediately thereafter there shall be added the following new paragraph:

"(i) no nets, including mist-nets, or any other equipment used for bird ringing and/or geo-tagging shall be left unattended.".

5. Regulation 27 of the principal regulations shall be amended as follows:

Amends regulation 27 of the principal regulations.

(a) sub-regulation (2) thereof shall be amended as follows:

(i) in paragraph (a) thereof, the words "suspension of any licence or permit" shall be substituted by the words "suspension of the relevant licence or permit";

(ii) in paragraph (b) thereof, the words "permanent revocation of any licence or permit" shall be substituted by the words "permanent revocation of the relevant licence or permit";

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(iii) in paragraph (a) of the third proviso thereof, the words "permanent revocation of any license or permit granted under these regulations and the confiscation of the *corpus delicti*;" shall be substituted by the words "permanent revocation of the relevant licence or permit, issued under these regulations and under Part XV of the Code of Police Laws, and the confiscation of the *corpus delicti*;" and

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(iv) in paragraph (b) of the third proviso thereof, the words "in the case of such prior conviction where any permit or license was previously not revoked, the Court shall order the permanent revocation of any permit or license issued under these regulations upon the second conviction:" shall be substituted by the words "in the case of such prior conviction where the relevant permit or licence was previously not revoked, the Court shall order the permanent revocation of the relevant permit or licence issued under these regulations and under Part XV of the Code of Police Laws upon the second conviction:" and

(b) sub-regulation (3) thereof shall be amended as follows:

(i) in the second proviso thereof, the words "order the suspension of the licence or permit" shall be substituted by the words "order the suspension of the relevant licence or permit"; and

(ii) in the third proviso thereof: the words "shall be disqualified from obtaining a licence under these regulations and" shall be substituted by the words "shall be disqualified from obtaining the relevant licence or permit under these regulations and" and the words "ordered the disqualification from obtaining a hunting licence for life" shall be substituted by the words "ordered the disqualification from obtaining the relevant licence or permit for life".

Substitutes
regulation 27A
of the principal
regulations.

6. Regulation 27A of the principal regulations shall be

substituted by the following new regulation:

"27A. (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 VIII, 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 VIII, the Executive Police shall confiscate the *corpus delicti* as specified in Schedule VIII and shall inform the Wild Birds Regulation Unit which shall, within thirty (30) days from such information, give notice in writing to such person describing the offence of which the person is accused, including the penalty points for each offence in terms of Schedule VIII, 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) If at any time during a two (2) year period a person accumulates in aggregate twelve (12) penalty points or more as specified in Schedule VIII, the offence or offences committed shall be punishable in terms of sub-regulation 11(9) and the immediate confiscation of the *corpus delicti* as specified in Schedule VIII:

Provided that the accumulated points shall revert back to zero and the two (2) year period shall be reset if the licensee does not commit other offences listed in Schedule VIII within two (2) years from the date of last offence:

Provided further that in all cases, following reversion to zero points and resetting of the two (2) year period, the licensee shall remain subject to accumulation of penalty points for offences listed in Schedule VIII:

Provided further that, should the licensee appeal to the Administrative Review Tribunal and until the Tribunal decides whether or not to revoke or modify the administrative penalty, the two (2) year period shall continue to apply and the penalty points related to the offence in question shall remain valid and shall be added to any penalty points that the accused may have subsequently accumulated, and shall only be deducted from his total if he is acquitted of the charges brought against him.

(3) Where a notice under this regulation has been given, the person named in the notice may, within twenty-one (21) 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 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 27. The two (2) year period shall continue to apply and the penalty points relating to the offence in question shall remain valid and shall be added to any penalty points that the accused may have accumulated, and shall only be deducted from his total if he is acquitted of the charges brought against him.

(4) The provisions of this regulation shall not apply in any case where the offence listed in Schedule VIII 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 VIII, and in such circumstances the provisions of regulation 27 shall automatically apply.

(5) Where a person holding a special licence issued in terms of the relevant Framework Regulations has committed an offence in terms of this regulation during the period of a derogation, the special licence obtained shall not be suspended:

Provided that when such person accumulates the twelve (12) penalty points, in terms of the provisions of sub-regulation (2), during the period of a derogation or is charged or accused under regulation 27 in lieu of this regulation, such special licence shall be automatically revoked."

7. Schedule VIII to the principal regulations shall be substituted by the following new Schedule:

Substitutes
Schedule VIII to
the principal
regulations.

"SCHEDULE VIII
Administrative Fines
(Regulation 27A)

Regulation	Offence category	First offence	Second offence	Penalty points for each offence category
7(1)(d)	<p>Use or possession of any electric or electronic device, use or possession of bird caller:</p> <p>Provided that where the offence is carried out during any closed season or during prohibited hours or within any Bird Sanctuary listed in Schedule V or Protected Beach listed in Schedule VII, or where the pre-recorded bird calls correspond to species not listed in Schedule II, the offence shall not be subject to an administrative fine but shall be punishable in terms of regulation 27 and immediate confiscation of the <i>corpus delicti</i>.</p>	€250 and confiscation of the <i>corpus delicti</i>	€250 and confiscation of the <i>corpus delicti</i>	4

7(1)(f)	<p>Use of any kind of portable cage-trap during any time of the year, whether with a net or not, which does not exceed the length of 60cm on any of its sides:</p> <p>Provided that when the use of a portable cage-trap is combined with the use of live-decoys, within or in the surrounding area of the cage-trap, irrespective of whether the live-decoys are located in cages or in an aviary, this offence shall not be subject to an administrative fine but shall be punishable in terms of regulation 27.</p>	€250 and confiscation of the <i>corpus delicti</i>	€250 and confiscation of the <i>corpus delicti</i>	3
8(2)	Live-decoys in excess of the limit permitted by virtue of a live-capturing special licence.	€50 for each live-decoy in excess of the permitted limit	€50 for each live-decoy in excess of the permitted limit	3
8(2) 20(a)(ii)	Failure to comply with the minimum cage dimensions as specified in the special licence for the relevant species.	€50 for each cage smaller than the minimum dimensions	€50 for each cage smaller than the minimum dimensions	2
Schedule IV(1)(c) 7(p) of S.L.549.74	Failure to report birds fitted with a scientific ring to the Wild Birds Regulation Unit and/or failure to immediately release them back into the wild after the details of the scientific ring have been recorded.	€50 for each specimen not reported or released back into the wild and confiscation of the specimens not released into the wild	€50 for each specimen not reported or released back into the wild and confiscation of the specimens not released into the wild	4

12(6)	<p>Failure to declare every bird hunted or taken:</p> <p>Provided that if the failure consists in more than five (5) undeclared birds or, during the period of any derogation, more than the number of birds allowed as daily bag limit or more than the number of birds allowed as seasonal bag limit, if such limits are imposed, the offence shall not be subject to an administrative fine but shall be punishable in terms of regulation 27.</p>	€50 per undeclared bird up to a maximum of €250	€50 per undeclared bird up to a maximum of €250	4
12(9)	Failure to submit the information as required in paragraph 1(c) of Schedule IV of these regulations.	€50	€50	3
14(1)	Trespassing of private property, unless such trespassing is an offence under any other law.	€250	€250	4

16(a) and (b)	<p>Hunting and, or taking without the relevant licence / identity documentation and failure to produce such documentation to the Police within two days:</p> <p>Provided that this fine shall not apply in the absence of a valid licence to hunt or to take, or to hunting and/or taking during the period of a derogation, in which case the offence shall not be subject to an administrative fine but shall be punishable in terms of regulation 27.</p>	€250	€250	3
18(2)(a)	<p>Carrying a firearm, whether loaded or not, that is not in its case while within 200 metres from any town or village, or other inhabited area:</p> <p>Provided that where the carrying of a firearm, whether loaded or not, that is not in its case occurs within less than 150 metres from any town or village, or other inhabited area or of any of the beaches listed in Schedule VII, or within distance of 50 metres from main or arterial roads the offence shall not be subject to an administrative fine but shall be punishable in terms of regulation 27.</p>	€250	€250	3
18(2)(b) and 7(1)(k)	Magazine capable of more than two shots.	€250	€250	4".