

L.N. 203 of 2003

**ENVIRONMENT PROTECTION ACT
(CAP. 435)**

Marine Mammals Protection Regulations, 2003

BY virtue of the powers conferred by articles 6, 9, 10(2), 11 and 23 of the Environment Protection Act, the Minister for Rural Affairs and the Environment has made the following regulations:–

1. The title of these regulations is the Marine Mammals Protection Regulations, 2003. Title.

2. In these regulations, unless the context otherwise requires:– Interpretation.

“Act” means the Environment Protection Act; Cap. 435.

“Competent Authority” means the Malta Environment and Planning Authority as prescribed by the notice entitled Nomination of the Planning Authority as the Central Authority, and such other body or person as the Minister responsible for the Environment may by order in the Gazette prescribe, and different bodies or persons may be designated as the competent authority for different provisions and different purposes of these regulations;

“Director” means the Director responsible for environment protection with the Competent Authority, or his designated representative;

“export” means the taking out of Malta of any specimen;

“import” means the bringing into Malta of any specimen;

“maltreat” means to subject a specimen to treatment or to put a specimen in a situation which is not natural in its life cycle, with the exception of specimens held for medical treatment or in dolphinarium or oceanarium with the permission of the Director of the Competent Authority;

“Minister” means the Minister responsible for the Environment;

“permit” means a prior permission issued in terms of these regulations, and on the basis of the provisions of articles 7 and 8 of these regulations;

“specimen” means any marine mammal of the species or lower taxon listed in the Schedule annexed to these regulations, whether alive or dead, 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 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 those species;

“take” means to remove from the natural habitat.

Declaration.

3. The species of marine mammals listed in the Schedule annexed to these regulations are declared to be protected marine mammal species for the purpose of subparagraph (ii) of paragraph (k) of subarticle (2) of article 9 of the Act.

Administrative Authority.

4. The Competent Authority shall be responsible for the administration and implementation of these regulations.

Protection of species.

5. (1) No person shall, directly or indirectly, pursue, take or attempt to take, maltreat or attempt to maltreat, kill or attempt to kill, possess, sell by any method, buy, exchange, re-introduce, import or export any specimen of species listed in the Schedule to these regulations.

(2) Any marine mammal accidentally caught during normal fishing activities shall be immediately released, and if such release is not possible it shall be landed at the fish market in Valletta or in Gozo, and shall be surrendered immediately to the Director responsible for fisheries, who shall then deal with it in consultation with the Director responsible for veterinary services and the Competent Authority.

Documentary evidence.

6. Any person who has in his possession any specimen the import of which is subject to these or other regulations, shall retain in his possession and until such time as that specimen remains in his possession, all permits, certificates and licences relative to the import of that specimen.

Permits and Conditions.

7. (1) The Competent Authority may issue a permit to authorize:

(a) the taking and keeping of any specimen for bona fide scientific studies or educational purposes,

(b) the import or export of any specimen,

(c) the re-introduction of specimens,

(d) the performance of any activity which would otherwise not be permitted under these regulations to *dolphinaria* or *oceanaria* which at the time of the coming into force of these regulations are already in possession of live specimens, provided that such permit is limited to the replacement or replenishment of specimens:

Provided that the Competent Authority shall not issue such a permit if in its opinion such activities threaten any species or lead to the endangering of the biological diversity of Malta.

(2) The person requesting a permit for activities referred to in subregulation (1) of this regulation, hereafter referred to as the applicant, shall submit an application in writing to the Competent Authority.

(3) In order to enable the Competent Authority to assess a permit request, the application shall contain the relevant documents and any other requisite information requested by the Competent Authority.

(4) The Competent Authority may, to ensure compliance with these regulations:

(a) amend, suspend or revoke any permit and/or other such authorization instruments,

(b) impose such conditions as it may deem fit, provided that a special condition may be imposed upon the applicant, to submit within a month from the expiry of the permit or at the end of the calendar year, whichever is the earliest, information relevant to the activities permitted.

(5) A copy of any published results and other publications relevant to activities carried out in accordance with the permit shall reach the Competent Authority within three months from the date of publication.

(6) The period of validity of such permit shall also be established at the discretion of the Competent Authority, provided that the validity of the permit may not exceed one calendar year from date of issue.

(7) The Competent Authority shall reserve the right not to issue or renew any permit if the applicant in question has not fulfilled or honoured any of the conditions and obligations arising from any other permit issued by the Director or the Competent Authority under these regulations or other relevant regulations.

(8) The Director may, on behalf of the Competent Authority, in cases of emergency or grave danger, authorize the possession or keeping on a temporary basis, or the disposal of any specimen, and in so doing he may issue any such directives he may deem fit.

Public Register and confidential information.

8. (1) Persons, public entities and other institutions having been granted a permit under these regulations will be maintained in a national public register.

L.N. 217 of 2001.

(2) Where its disclosure affects one or more of the items mentioned in the Freedom of Access to Information on the Environment Regulations, 2001, the applicant may indicate the information in the permit application submitted pursuant to these regulations that should be treated as confidential. Verifiable justification must be given in such cases.

(3) The Competent Authority shall decide, after consultation with the applicant, which information will be kept confidential and shall inform the applicant of its decision.

(4) Except where the Competent Authority determines that there is a threat to the safeguarding of the biodiversity, in no case may the following information be kept confidential:

- the name and address of the applicant,
- the institution, if any, requiring the permit,
- the species, biotope, natural habitat, site or area involved,
- the aim and purpose of the application,
- the benefits arising from the permit,
- the possible impacts on local biodiversity, including the species, biotope, natural habitat, or area involved,
- the evaluation of foreseeable effects, in particular any harmful effects on the environment.

(5) The Competent Authority shall not divulge to third parties any information decided to be confidential according to subregulation (2) of this regulation, and shall protect intellectual property rights relating to the data received.

(6) If, for whatever reasons, the applicant withdraws the application, the Competent Authority must respect the confidentiality of the information supplied.

9. Nothing contained in these regulations shall be construed to prejudice the observance of any another law or regulations. Relation with other Regulations.

10. (1) Any person who shall take, maltreat, kill, possess, sell by any method, buy, exchange, import or export any specimen in contravention of these regulations, and any person who contravenes any restriction, prohibition or requirement imposed by or under these regulations, and any person who conspires or attempts, or aids, abets, counsels, or procures any other person to commit any of the above offences, shall be guilty of an offence. Offences and Penalties.

(2) Any person who commits an offence against these regulations shall, on conviction, be liable -

(a) on a first conviction, to a fine (*multa*) of not less than one hundred Maltese liri (Lm100) for each specimen;

(b) on a second or subsequent conviction, to a fine (*multa*) of not less than two hundred and fifty Maltese liri (Lm250) but not exceeding one thousand Maltese liri (Lm1,000) for each specimen, or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

(3) Without prejudice to the provisions of subregulation (2) of this regulation, the Court may also order any person who is found guilty of committing an offence under these regulations, to pay for the expenses incurred by the Competent Authority as a result of the said offence, the revocation of the permit issued under these regulations and the confiscation, retention and disposal of the *corpus delicti*.

11. The Marine Mammals (Protection) Regulations, 1992, are hereby being repealed. Repeal of L.N. 77 of 1992.

SCHEDULE

PROTECTED MARINE MAMMALS

Scientific name	Maltese name	English name
CETACEA		
<i>Balaenoptera acutorostrata</i>	Balena Zghiraġ Balenottera Zghira, Balena ta' Geddumha Ppuntat	Minke Whale
<i>Balaenoptera borealis</i>	Balenottera tan-Nofsinhar	Sei Whale
<i>Balaenoptera physalus</i>	Balena Kbiragħ Balenottera Kbira, Baliena Mbacca	Fin Whalebġ Finback Whale
<i>Delphinus delphis</i>	Denfil Komuni	Common Dolphin
<i>Eubalaena glacialis</i>	Baliena tat-Tramuntana	Northern Right Whale
<i>Globicephala melas</i> (= <i>Globicephala meleana</i>)	Balena Sewda	Long-Finned Pilot Whale
<i>Grampus griseus</i>	Denfil Grizġ Denfil ta' Rissogħ Monka tal-Punent	Risso's Dolphin
<i>Kogia simus</i>	Balena ta' Mnehirha Catt	Dwarf Sperm Whale
<i>Megaptera novaeangliae</i>	Balena tal-Gwienah Kbar	Humpback Whale
<i>Mesoplodon densirostris</i>	Balena ta' Blainville	Blainville's Beaked Whale
<i>Orcinus orca</i>	Orka	Killer Whale
<i>Phocoena phocoena</i>	Denfil Iswed	Common Porpoiseġ Harbour Propoise
<i>Physeter macrocephalus</i> (= <i>Physeter catodon</i>)	Gabdoll	Sperm Whale
<i>Pseudorca crassidens</i>	Pseudorka	False Killer Whale
<i>Sousa chinensis</i>	Denfil tal-Bahar l-Ahmar	Indo-Pacific Humpback Dolphin
<i>Stenella coeruleoalba</i>	Stenella	Striped Dolphin
<i>Steno bredanensis</i>	Denfil tat-Tikki	Rough-Toothed Dolphin
<i>Tursiops truncatus</i>	Denfil Geddumu Qasir	Bottlenose Dolphin
<i>Ziphius cavirostris</i>	Balena ta' Kuvjer	Cuvier's Beaked Whale
PINNIPEDIA		
<i>Monachus monachus</i>	Bumerin; Monka, Foka Monka	Mediterranean Monk Seal