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LEGISLATION

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GAME AND WILD BIRDS (AMENDMENT) ORDINANCE 2013

An Ordinance to amend the Game and Wild Birds Ordinance 2008

J. S. WRIGHT
DEPUTY ADMINISTRATOR

1st March 2013.

BE it enacted by the Administrator of the Sovereign Base Areas of Akrotiri and Dhekelia as follows:—

1. Short title and commencement

- (1) This Ordinance may be cited as the Game and Wild Birds (Amendment) Ordinance 2013.
- (2) This Ordinance comes into force on 1 April 2013.

2. Game and Wild Birds Ordinance 2008 amended

The Game and Wild Birds Ordinance 2008(a) is amended in accordance with sections 3 to 17.

3. Section 2 amended (Interpretation)

- (1) Section 2 is amended by inserting in the appropriate alphabetical positions—
“alien species” means a species or sub-species of animal which is either accidentally or intentionally introduced in areas which are outside its historical range of propagation and where it would not ordinarily live;
“biodiversity” means the various forms of life at its different stages, from the genes, the species, the ecosystems to the landscapes where these forms are found which includes the land, the water or the air;
“dog” means a dog of either gender;
“ecosystem” means the environment, defined by specific biotic and abiotic factors in which the species lives at any stage of its biological cycle;
“firearm” has the meaning given in the Firearms and Other Weapons Ordinance 2009(b);

“invasive alien species” means an alien species which—

- (a) by extending through dispersion, establishes populations in natural or semi-natural ecosystems far from the location at which it was first introduced, and has an adverse impact on the ecosystems and the way they function; and
- (b) is prescribed in an order which may be made under section 40C(1)(b);

“marking” means a closed ring, a microchip, a tattoo or any other form of tag used on an animal;

“non-native wild fauna” means wild fauna which, although not indigenous, now live in a natural state within the boundaries of the Areas;

“possession permit” means a possession permit issued by the Republic under the corresponding Republican Law;

“sub-species” means organisms of populations which, although phenotypically the same, are genetically and morphologically distinct from other organisms of the same species and which propagate either in the geographical regions in which the species is found or they are geographically isolated;

“wild bred fauna” means wild fauna born or bred in captivity;

“wild fauna” means species or sub-species of wild animal (including game) which—

- (a) naturally live in natural or semi-natural ecosystems; but
- (b) includes animals which were born or bred in captivity.”.

(2) Section 2 is amended by repealing the definitions of “animal” and “shotgun” and substituting the following—

““animal” means any species of live animal which includes birds and other non-mammals;”

““shot gun” means a firearm listed in Schedule 1, Part 2, Category D of the Firearms and Other Weapons Ordinance 2009;”.

4. Section 3 amended (Principal objectives of this Ordinance)

Section 3 is amended by—

- (a) omitting “and” at the end of paragraph (c); and
- (b) inserting the following paragraph after paragraph (e)—
 - (f) the protection of biodiversity and the containment of the loss of biodiversity, ecosystems, wild fauna and flora in the Areas as well as the prevention of diseases to wild fauna.”.

5. Section 11 amended (Protection of wild birds)

Section 11(2) is amended by inserting “and is liable on conviction to imprisonment for a term not exceeding 3 years or to a fine not exceeding €50,000 (or to both)” after “offence”.

6. Section 17 amended (Regulations on hunting game)

- (1) Section 17(1) is amended by inserting after paragraph (e) the following paragraphs—
- (f) prescribe the number of hunting dogs that a holder of a game licence may train;
 - (g) prescribe the areas, times and periods in which the holder of a game licence who uses hunting dogs may train the holder’s dogs;
 - (h) prohibit the training or roaming in areas reserved for the training of hunting dogs the following breeds of dogs or dogs of similar breeds which are also used in dog races—
 - (i) greyhounds;
 - (ii) Afghan hounds;
 - (iii) saluki;

- (iv) basenji;
 - (v) borzoi;
 - (vi) whippet;
 - (vii) Italian greyhound;
 - (i) during the period between sunset and sunrise, prohibit in any area, irrespective of whether hunting is permitted or prohibited, the roaming or exercise of any dog except if the dog is accompanied by its owner who is controlling the dog by way of a leash;
 - (j) prohibit the roaming or exercise of hunting dogs within a game reserve, whether or not accompanied by a person, unless the area has been designated as a training area in accordance with regulations made under paragraph (g);
 - (k) subject to subsection (2), during any period, prescribe the number of dogs that may accompany a shepherd or other animal breeder when attending to sheep or other animals grazing in any area, depending on the number of animals in the flock or herd.”.
- (2) Section 17 is amended by repealing subsection (2) and inserting after subsection (1) the following subsections—
- “(2) No dog listed in subsection (1)(h) may accompany a shepherd or an animal breeder in the circumstances described in subsection (1)(k).”.
 - (3) A person who contravenes a regulation made under subsection (1) or who contravenes subsection (2) commits an offence and on conviction is liable to a term of imprisonment for a period not exceeding 2 years or to a fine not exceeding €3,417 (or to both).”.

7. New section 17(A) inserted

The following section is inserted after section 17—

“17A. Transportation of dogs

- (1) Subject to subsection (2), the owner of a hunting dog or other person accompanying the hunting dog, if transporting the dog in a vehicle, must transport the dog in a cage which—
 - (a) protects the dog from climatic conditions which would cause the dog discomfort or from pollution emitting from the vehicle used for transporting the dog;
 - (b) prevents the dog moving freely within the vehicle; and
 - (c) enables the dog owner or other accompanying person to control the dog when entering or exiting the vehicle or other means of transport.
- (2) Subsection (1) also applies to other breeds of dogs when being transported on unpaved roads.
- (3) A person who contravenes subsection (1) or (2) commits an offence.”.

8. Section 19 substituted

Section 19 is repealed and substituted with the following section—

“19. Requirement for a game licence

- (1) A person must not shoot, kill, possess, capture or pursue in any manner any game, unless the person is the holder of a game licence.
- (2) A person must comply with conditions attached to a game licence.

- (3) A person who contravenes subsection (1) or (2) commits an offence.”.

9. Section 24 amended (Disposal of spent cartridges)

Section 24 is amended by—

- (a) repealing subsection (2); and
- (b) inserting after subsection (1) the following subsections—
 - (2) Whilst hunting, the holder of a game licence must keep a quantity of spent cartridges which is at least equal in number to the number of game in the person’s possession.
 - (3) A person who contravenes subsection (1) or (2) commits an offence and on conviction is liable to imprisonment for a term not exceeding 2 years or to a fine not exceeding €3,317 (or to both).”.

10. Section 26 amended (Prohibited methods of hunting)

Section 26 is amended by inserting after subsection (2) the following subsection—

“(2A) The holder of a game licence must kill immediately all game caught alive.”

11. New section 28A inserted

The following section is inserted after section 28—

“28A. Prohibition on hunting at night

- (1) A person must not pursue, kill or capture game during the period between sunset and sunrise.
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to imprisonment to a term not exceeding 4 years or to a fine not exceeding €50,000 (or to both).”.

12. Section 30 substituted

Section 30 is repealed and substituted with the following section—

“30. Possession of killed game

- (1) Subject to subsection (2), a person must not possess any game (whether alive or dead) or any part of such game during a close season.
- (2) By order made as a public instrument, the Chief Officer may prescribe—
 - (a) a period during the close season within which it is permissible to possess game killed in accordance with this Ordinance (the “prescribed period”);
 - (b) the species of game killed in accordance with this Ordinance which must bear a marking;
 - (c) the type of marking;
 - (d) the area of the body on the game where the marking must be placed;
 - (e) the fee for such marking;
 - (f) the maximum number of game killed in accordance with this Ordinance that a person may possess during any period; or
 - (g) in relation to paragraphs (b) to (f), offences with penalties not exceeding the maximum provided for in section 59(2).
- (3) A person who possesses game during any part of a close season which is not a prescribed period commits an offence and is liable on conviction to imprisonment for a period not exceeding 3 years or to a fine not exceeding €17,086 (or to both).”.

13. Section 40 substituted

Section 40 is repealed and substituted with the following section—

“40. Restrictions on wild fauna and alien species

- (1) A person must not carry out any of the following acts in relation to wild fauna or alien species—
 - (a) possess (including keep in captivity);
 - (b) capture;
 - (c) release into a natural or semi-natural ecosystem;
 - (d) sell or make available for sale;
 - (e) transport for sale;
 - (f) import or export;
 - (g) breed.
- (2) A person who contravenes subsection (1) commits an offence, unless the act is authorised under section 40A or 40B.”.

14. New sections 40A, 40B and 40C inserted

The following sections are inserted after section 40—

“40A. Permitted activities for wild fauna

- (1) On an application being made, the Chief Officer may authorise in writing a person to carry out 1 or more of the acts referred to in section 40(1) in relation to wild fauna (which includes wild bred fauna and non-native wild fauna) or alien species,—
 - (a) for the purposes of—
 - (i) repopulation;
 - (ii) reintroduction of a species or a sub-species; or
 - (iii) scientific research; or
 - (b) for a natural history museum, a zoo or a botanical garden if its establishment is authorised in writing by the Chief Officer.
- (2) Subsection (1) does not apply to an act in relation to wild fauna or an alien species if it is a prescribed species under section 40C.
- (3) The Chief Officer may impose conditions when authorising an act.
- (4) A person must comply with a condition imposed under subsection (3).
- (5) A person who contravenes subsection (4) commits an offence.”.

40B. Further permitted activities for wild bred fauna

- (1) By order made as a public instrument, the Chief Officer may determine the species or sub-species of wild bred fauna (“prescribed wild bred species”) for which authorisation may be granted under subsection (2).
- (2) On an application being made in writing, the Chief Officer may authorise the applicant to carry out any of the acts referred to in section 40(1) in relation to a prescribed wild bred species.
- (3) If an order is made under subsection (1), the Chief Officer may also prescribe 1 or more of the following conditions—
 - (a) the type of premises at which prescribed wild bred species must be kept;
 - (b) the marking of a prescribed wild bred species;

- (c) the prescribed wild bred species that may be sold;
 - (d) the means of selling those prescribed wild bred species which may be sold.
- (4) The Chief Officer must not grant an authorisation if the applicant has been convicted of an offence under this Ordinance or under the corresponding Republican Law during a period of 5 years ending with the date the person applies to the Chief Officer for authorisation.
 - (5) The Chief Officer may impose conditions when authorising an act under subsection (2).
 - (6) A person must comply with a condition imposed under the order or under subsection (5).
 - (7) A person who contravenes subsection (6) commits an offence.

40C. Restrictions on non-native wild fauna, alien species and alien invasive species

- (1) By order made as a public instrument, the Chief Officer may determine the following (the “prescribed species”)—
 - (a) those non-native wild fauna or alien species for the purposes of subsection (2); and
 - (b) invasive alien species.
- (2) Subject to subsections (3) and (10), a person (“P”) must not possess an animal of a prescribed species (“A”).
- (3) Subject to subsection (6), if P possesses A before an order under subsection (1) comes into force, P may continue to possess A if A is the subject of a possession permit.
- (4) If a possession permit is granted, P may possess A until A’s natural death.
- (5) Subject to subsection (10), P must apply for a possession permit not later than 6 months after the order made under subsection (1) comes into force.
- (6) If P applies for a possession permit within the 6 month period, P may possess A for the period before being notified that the possession permit has been granted or is refused, unless informed within the period before making an application that, if an application for a possession permit were to be made, the application would be refused.
- (7) If P does not apply for a possession permit within the 6 month period, A may be seized by the Republic’s Treatment and Rehabilitation of Wild Fauna Centre or the Republic’s Game Fund and A may be dealt with in accordance with the corresponding Republican Law.
- (8) If P applies for a possession permit within the 6 month period but the possession permit is refused and P is informed of the refusal or P is informed that any application would be refused, A may be seized by the Republic’s Treatment and Rehabilitation of Wild Fauna Centre or the Republic’s Game Fund and A may be dealt with in accordance with the corresponding Republican Law.
- (9) P must pay to the Republic’s Game Fund the expenses associated with the capture, retention, transport or export of A and any expenses may be recoverable as a civil debt.
- (10) The Chief Officer may authorise in writing P to possess A for the purpose of scientific research.
- (11) The Chief Officer may impose conditions when granting the authorisation under subsection (10).
- (12) P must comply with any conditions imposed by way of a possession permit or under subsection (10).
- (13) A person who contravenes subsection (2) or (12) commits an offence.”.

15. Section 41 amended (Restrictions on introducing game and wild birds into the environment)

Section 41(1) is amended by inserting “, or other animal which has been bred in captivity to be used as quarry for hunting” after “any species of game or wild birds”.

16. Section 55A inserted

Section 55A is inserted after section 55—

“55A. Fixed penalty notice

If there is a suspected contravention of a provision which is a criminal offence under this Ordinance, section 3 of the Fixed Penalty Ordinance 2010(c) permits the service of a fixed penalty in respect of those offences listed in Schedule 2 to the Fixed Penalty Ordinance 2010.”.

17. Section 56 amended (Subsequent offences)

Section 56 is amended by—

- (a) renumbering it as subsection (1); and
- (b) inserting after subsection (1) the following subsection—

“(2) Where a person is convicted on a fourth or subsequent occasion of an offence under this Ordinance or under the corresponding Republican Law, the Court may make an order confiscating any firearm or other weapon in the person’s possession.”.

Notes

- (a) Ordinance 21/08 as amended by Ordinances 3/09, 17/09, 29/09 and 34/10.
- (b) Ordinance 21/09 as amended by Ordinance 6/12.
- (c) Ordinance 25/10.

EXPLANATORY NOTE

(This note is not part of the Ordinance)

Introduction

1. This explanatory note relates to the Game and Wild Birds (Amendment) Ordinance 2013 (the “Ordinance”). It has been prepared by the Office of the Attorney General and Legal Adviser in order to assist the reader of the Ordinance. It does not form part of the Ordinance. It replicates some of the amendments made to Republican Law 152(I)2003 by Republican Law 129(I)2012.

2. This note should be read in conjunction with the Ordinance. It is not, and is not meant to be, a comprehensive description of the Ordinance. So, when a section or part of a section does not seem to require any explanation or comment, none is given.

The Ordinance

3. Section 11 of the Game and Wild Birds Ordinance 2008 (the “principal Ordinance”) is amended so that the penalties for a breach of the provision are contained within the section; the fine also is increased substantially.

4. The regulation-making powers in section 17 of the principal Ordinance are expanded to enable the Chief Officer to regulate, by way of a public instrument, amongst other things—

- (a) the training of hunting dogs;
- (b) prohibition on dogs roaming or exercising, except if controlled on a leash, in any area during the hours of darkness; and
- (c) the type and number of working dogs which can accompany a shepherd when attending to animals grazing in pasture.

5. Section 17A is inserted in the principal Ordinance to prescribe the type of cage which must be used for safety and humane reasons when transporting hunting dogs and, in more limited circumstances, when transporting other types of dog.

6. Section 19 of the principal Ordinance is replaced. The new section 19 replicates the previous section by prohibiting hunting without a game licence if the hunter does not have a game licence, but also makes it an offence.

7. Section 24 of the principal Ordinance is amended so that the number of spent cartridges kept by the hunter must at least equal the number of game in the hunter’s possession.

8. Section 28A is inserted to ban hunting between dusk and dawn, irrespective of whether or not the hunter has a game licence.

9. Section 30 is replaced. The new section 30 provides that an order may be made to determine the length of time during which it is lawful to keep killed game outside the hunting season; the maximum number which may be kept at any period and, where game requires marking, details of the regulation-making power in respect of this marking.

10. New provisions are inserted into the principal Ordinance in order to protect the biodiversity of the Areas and, more widely, the island of Cyprus, including preventing the spread of disease to wild fauna. The implementing measures are incorporated by replacing section 40 and inserting sections 40A, 40B and 40C. Section 40 prohibits various activities including the possession, capture, release or breeding of wild fauna, which includes wild birds and game, and alien species, and makes it a criminal offence to do so.

11. Section 40A permits the possession, import, export or sale of wild fauna or alien species, if not prescribed under section 40C, for the purposes of repopulation and the other permitted purposes if authorised by the Chief Officer.

12. In addition, section 40B permits the possession etc. of species of wild bred fauna prescribed by order if authorised by the Chief Officer. The order may also set out conditions for the keeping or selling of the permitted species.

13. Section 40C facilitates the determination of those non-native fauna, alien species and invasive alien species which are considered particularly detrimental to biodiversity and the natural environment. These species must not, amongst other things, be possessed, imported or

released. They may only be kept if the owner has a possession permit granted by the Republic for a particular animal. If no permit is issued, the animal may be seized by the Republic's Treatment and Rehabilitation of Wild Fauna Centre or the Republic's Game Fund.

14. Section 41 is also amended to make it an offence to release animals used as quarry for hunting into the natural environment without the Chief Officer's permission.

15. New section 55A refers to the Fixed Penalty Notice Ordinance 2010, Schedule 2 of which lists those offences where, if it is suspected that they have been committed, a fixed penalty notice may be issued.

16. If a person has been convicted of 4 or more offences under this Ordinance (not necessarily concurrently) or the corresponding Republican Law, section 56 is amended to enable the court to make an order for the confiscation of all weapons in the person's possession.

