

NATURE PROTECTION ACT, 1991**Principal Act**

Act. No. 1991-11		<i>Commencement</i>	9.5.1991
		<i>Assent</i>	9.5.1991
Amending enactments	Relevant current provisions	Commencement date	
Act. 1992-08	ss. 5(1)(d)(e)(f), (4), 10(1)(d)(e)(f),(2),3(a) and (6)	9.7.1992	
LN. 1995/118	ss. 2(1)(3A), 2A, 3(1)(d)(c), 5(1)(e)(ee), 17A to Z, 17AA, 17BB, 17CC, 17DD, 18(1) and Schs 4 to 7	1.9.1995	
Act. 1997-15	Sch 5	10.4.1997	

Transposing:
Directive 92/43/EEC

ARRANGEMENT OF SECTIONS.**PART I.
PRELIMINARY.**

Section

1. Short Title.
2. Interpretation and application.

**PART II.
PROTECTION OF WILD BIRDS, WILD ANIMALS AND WILD
PLANTS.**

- 2A. Disapplication.
3. Protection of wild birds, their nests and eggs.
4. Exceptions to section 3.
5. Prohibition of certain methods of killing or taking wild birds.
6. Sale etc of wild or dead wild birds, eggs etc.
7. Protection of captive birds.
8. Protection of certain wild animals.
9. Exceptions to section 8.
10. Prohibition on certain methods of killing or taking wild animals.
11. Protection of wild plants.
12. Introduction of new species.
13. Power to grant licences.
14. False statements
15. Attempts to commit offences.
16. Enforcement.
17. Penalties, forfeitures etc.

**PART IIA
IMPLEMENTATION OF THE HABITATS DIRECTIVE**

- 17A. Application etc..
- 17B. Selection of sites eligible for identification as of Community importance.
- 17C. Adoption of list of sites: designation of special areas of conservation.
- 17D. Consultation as to inclusion of site omitted from the list.
- 17E. Meaning of “European site” and “European Marine site”.
- 17F. Notice to landowners, relevant persons, etc..
- 17G. Management agreements.
- 17H. Notification of potentially damaging operations.
- 17J. Restriction on carrying out operations specified in notification.
- 17K. Supplementary provisions as to consents.
- 17L. Provisions as to existing notices and consents.
- 17M. Power to make special nature conservation order.

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- 17N. Restriction on carrying out operations specified in a special nature conservation order.
- 17P. Supplementary provisions as to consents.
- 17Q. European Marine Site.
- 17R. Management scheme for European Marine Site.
- 17S. European protected species of animals.
- 17T. Protection of wild animals of European protected species.
- 17U. Exemptions from section 17T.
- 17V. Prohibition of certain methods of taking or killing wild animals.
- 17W. European protected species of plants.
- 17X. Protection of wild plants of European protected species.
- 17Y. Grant of licences for certain purposes.
- 17Z. Licences: supplementary provisions.
- 17AA. False statements made for obtaining licence.
- 17BB. General provisions for protection of European sites.
- 17CC. Considerations of overriding public interest.
- 17DD. Information for Commission.

PART III.

NATURE CONSERVATION.

- 18. Areas of special interest.
- 19. Penalties in relation to nature conservation areas and marine nature areas.
- 20. Nature Conservancy Council.
- 21. Wildlife Warden.
- 22. Offences by bodies corporate etc.
- 23. Amendment to Schedules.
- 24. Regulations.
- 25. Amendment to Animals and Birds Act.

SCHEDULE 1 – SPECIFIED WILD ANIMALS.

SCHEDULE 2 – EXCLUDED PLANTS.

SCHEDULE 3 – ENDANGERED WILD BIRDS, WILD ANIMALS
AND WILD PLANTS.

SCHEDULE 4 – PROCEDURE IN CONNECTION WITH ORDERS
UNDER SECTION 17M.

SCHEDULE 5 – EUROPEAN PROTECTED SPECIES OF ANIMALS.

SCHEDULE 6 – ANIMALS WHICH MAY NOT BE TAKEN OR
KILLED IN CERTAIN WAYS.

SCHEDULE 7 – EUROPEAN PROTECTED SPECIES OF PLANTS

1991-11

Nature Protection

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AN ACT TO PROVIDE FOR THE PROTECTION OF WILD BIRDS, ANIMALS AND PLANTS AND FOR THE DESIGNATION AND PRESERVATION OF PROTECTED AREAS FOR THE PURPOSE OF NATURE CONSERVATION AND MATTERS INCIDENTAL THERETO.

PART I. PRELIMINARY.

Title and commencement.

1. This Act may be cited as the Nature Protection Act 1991 and shall come into effect on a date to be appointed by the Governor by notice in the Gazette and different days may be so appointed for different purposes.

Interpretation and application.

2.(1) In this Act, unless the context otherwise requires—

“advertisement” includes a catalogue, circular or pricelist;

“aviculture” means the breeding and rearing of birds in captivity;

“destroy”, in relation to an egg, includes doing anything to the egg which is calculated to prevent it from hatching, and “destruction” shall be construed accordingly;

“European site” and “European marine site” have the meanings given them in section 17E;

“firearm” has the meaning given to it in section 2 of the Firearms Act;

“habitat” means an area used in relation to wild birds and animals for feeding, breeding and nesting and in relation to wild plants the area in which normal growth occurs;

“Habitats Directive” means Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora;

“marine nature area” means an area designated under section 18(2);

“Minister” means the Minister charged under section 48 of the Constitution with responsibility for the Environment;

“Nature Conservancy Council” means the Gibraltar Nature Conservancy Council which is the scientific authority established under section 4 of the Endangered Species Act 1990;

“nature conservation area” means an area designated under section 18(1);

“pick”, in relation to a plant, means gather, cut or pluck any part of the plant without uprooting it;

“poultry” means domestic fowls, geese, ducks, guinea fowls, pigeons, quails and turkeys;

“sale” includes hire, barter and exchange and cognate expressions shall be construed accordingly;

“uproot”, in relation to a plant, means dig up or otherwise remove the plant from the land or other medium on which it is growing;

“vehicle” includes aircraft, hydrofoil, hovercraft and boat;

“wild animal” means any animal (other than a bird) of a kind which is or (before it was killed or taken) was resident in or a visitor to Gibraltar in a wild state;

“wild bird” means any bird of a kind which is ordinarily resident in or a visitor to Gibraltar in a wild state but does not include poultry;

“Wild Birds Directive” means means Council Directive 79/409/EEC on the conservation of wild birds, as adapted consequent upon the accession of Greece by Council Directive 81/854/EEC and as amended by Commission Directive 91/244/EEC on the conservation of wild birds and Council Directive 94/24/EEC on the conservation of wild birds;

“wild plant” means any plant which is or (before it was picked, uprooted or destroyed) was growing wild and is of a kind which grows in Gibraltar in a wild state.

(2) A bird shall not be treated as bred in captivity for the purpose of this Act unless its parents were lawfully in captivity when the egg was laid.

(3) Any reference in this Act to an animal or bird or any species includes, unless the context otherwise requires, a reference to an egg, larva, pupa, or other immature stage of an animal or bird of that species.

(3A) Unless the context otherwise requires expressions used in Part IIA and in the Habitats Directive have the same meaning as in that Directive.

(4) The provisions of this Act extend to the territorial waters adjacent to Gibraltar.

PART II
PROTECTION OF WILD BIRDS, WILD ANIMALS AND WILD
PLANTS.

Disapplication.

2A. Unless otherwise stated, this Part shall not apply in respect of an animal which is a European protected species listed in Schedule 5, or a European protected plant listed in Schedule 7.

Protection of wild birds, their nests and eggs.

3.(1) Subject to the provisions of this Part, if any person intentionally—

- (a) kills, injures or takes any wild bird;
- (b) takes, damages or destroys the nest of any wild bird by any method while that bird's nest is in use or being built;
- (c) takes or destroys an egg of any wild bird; or
- (d) deliberately disturbs any wild birds,

he shall be guilty of an offence.

(2) Subject to the provisions of this Part, if any person has in his possession or control—

- (a) any live or dead wild bird or any part of, or anything derived from, such a bird; or
- (b) any egg of a wild bird or any part of such an egg,

he shall be guilty of an offence.

(3) A person shall not be guilty of an offence under subsection (2) if he shows that—

- (a) the bird or egg had not been killed or taken, or had been killed or taken otherwise than in contravention of the provisions of this Part; or
- (b) the bird or egg or other thing in his possession or control had been sold (whether to him or any other person) otherwise than in contravention of those provisions.

- (4) Subject to the provisions of the Part, if any person intentionally—
- (a) disturbs any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or
 - (b) disturbs dependent young of such a bird,

he shall be guilty of an offence.

- (5) In this section “wild bird” does not include any bird which is shown—
- (a) to have been bred in captivity; or
 - (b) to have been imported into Gibraltar in accordance with the requirements of any other relevant Act.

Exceptions to section 3.

4.(1) Notwithstanding anything in the provisions of section 3, a person shall not be guilty of an offence by reason of—

- (a) the taking of any wild bird, if he shows that the bird had been disabled otherwise than by his unlawful act and was taken solely for the purpose of passing that bird within a period of 12 hours to a person licensed under section 13(1) to tend it and release it when no longer disabled;
- (b) the killing of any wild bird, if he shows that the bird had been so seriously disabled otherwise than by his unlawful act that there was no reasonable chance of its recovering; or
- (c) any act made unlawful by those provisions, if he shows that the act was the incidental result of a lawful operation and could not reasonably have been avoided.

(2) Notwithstanding anything in the provisions of section 3, a person licensed under section 13 shall not be guilty of an offence by reason of—

- (a) the killing or taking of a wild bird or the injuring of such bird in the course of an attempt to kill it;
- (b) the taking, damaging or destruction of the nest of a wild bird;
- (c) the taking or destruction of any egg of a wild bird; or
- (d) the disturbance of a wild bird or dependent young of such a bird,

where that act was carried out in accordance with and for the purposes of the licence.

Prohibition of certain methods of killing or taking wild birds.

5.(1) Subject to the provisions of this Part, if any person-

- (a) sets in position any of the following articles, being an article which is of such a nature and is so placed as to be calculated to cause bodily injury to any wild bird coming into contact therewith, that is to say, any spring, traps, gin, snare, hook and line, any electrical device for killing, stunning or frightening or any poisonous, poisoned or stupefying substance;
- (b) uses for the purpose of killing or taking any wild bird any such article as is specified in paragraph (a), whether or not of such a nature and so placed as specified in paragraph (a), or any net, baited board, bird-lime or substance of a like nature to bird-lime;
- (c) uses for the purpose of killing or taking any wild bird –
 - (i) any bow or crossbow, sling or catapult;
 - (ii) any explosive;
 - (iii) any automatic or semi-automatic weapon;
 - (iv) any shotgun;
 - (v) any device for illuminating a target or any sighting device for night shooting;
 - (vi) any form of artificial lighting or any mirror or other dazzling device;
 - (vii) any gas or smoke not falling within paragraphs (a) or (b);
 - (viii) any chemical wetting agent; or
 - (ix) any live animal or bird;
- (d) uses as a decoy, for the purpose of killing or taking any wild bird, any sound recording or any live bird or other animal whatever which is tethered, or which is secured by means of braces or other similar appliances, or which is blind, maimed or injured;

- (e) uses any mechanically propelled vehicle in immediate pursuit of a wild bird for the purpose of killing or taking that bird;
- (ee) keeps, transports, sells or exchanges or offers for sale or exchange any live or dead wild bird of a European prohibited species or any part of it, or anything derived from such animal; or
- (f) knowingly causes or permits to be done an act which is mentioned in the foregoing provisions of this subsection,

he shall be guilty of an offence.

(2) The Governor may by order, either generally or in relation to any kind of wild bird specified in that order, amend subsection (1) by adding any method of killing or taking wild birds, or by omitting any such method which is mentioned in that subsection.

(3) In any proceedings under subsection (1)(a), it shall be a defence for a person charged thereunder to show that the article was set in position for the purpose of killing or taking, in accordance with a licence granted under section 13, any wild animals which could be lawfully killed or taken by those means and that he took all reasonable precautions to prevent injury thereby to wild birds.

(4) In any proceedings under sub-section (1)(f) relating to an act which is mentioned in sub-section (1)(a), it shall be a defence for a person charged thereunder to show that the article was set in position for the purpose of killing or taking, in accordance with a licence granted under section 13, any wild animals which could be lawfully killed or taken by those means and that he took or caused to be taken all reasonable precautions to prevent injury thereby to wild birds.

Sale etc. of wild or dead wild birds, egg etc.

6.(1) Subject to the provisions of this Part, if any person—

- (a) sells, offers or exposes for sale, or has in his possession or transports the purpose of sale, any live wild bird or an egg of a wild bird or any part of such an egg; or
- (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things,

he shall be guilty of an offence.

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(2) Subject to the provisions of this Part, if any person shows or causes or permits to be shown for the purposes of any competition or in any premises in which a competition is being held—

- (a) any live wild bird; or
- (b) any live bird one of whose parents was such a wild bird,

he shall be guilty of an offence.

(3) In this section “wild bird” does not include any bird which is shown—

- (a) to have been bred in captivity; or
- (b) to have been imported into Gibraltar in accordance with the requirements of any other Act.

Protection of captive birds.

7.(1) If any person keeps or confines any bird whatever in any cage or other receptacle which is not sufficient in height, length or breadth to permit the bird to stretch its wings freely, he shall be guilty of an offence.

(2) Subsection (1) does not apply to poultry, or to the keeping or confining of any bird—

- (a) while that bird is in the course of conveyance, by whatever means;
- (b) while that bird is being shown for the purpose of any public exhibition or competition, if the time during which the bird is kept or confined for those purposes, does not in the aggregate exceed 72 hours; or
- (c) while that bird is undergoing examination or treatment by a veterinary surgeon or veterinary practitioner.

(3) Every person who—

- (a) promotes, arranges, conducts, assists in, receives money for, or takes part in, any event whatever at or in the course of which captive birds are liberated by hand or by any other means whatever for the purpose of being shot immediately after their liberation; or
- (b) being the owner or occupier of any land, permits that land to be used for the purposes of such an event,

shall be guilty of an offence.

Protection of certain wild animals.

8.(1) Subject to the provisions of this Part, if any person intentionally kills, injures or takes any wild animal of a kind specified in Schedule 1, he shall be guilty of an offence.

(2) Subject to the provisions of this Part, if any person has in his possession or control any live or dead wild animal of a kind specified in Schedule 1, or any part of, or anything derived from, such an animal, he shall be guilty of an offence.

(3) A person shall not be guilty of an offence under subsection (2) if he shows that—

- (a) the animal had not been killed or taken, or had been killed or taken otherwise than in contravention of the provisions of this Part; or
- (b) the animal or other thing in his possession or control had been sold (whether to him or any other person) otherwise than in contravention of those provisions.

(4) Subject to the provisions of this Part, if any person intentionally—

- (a) damages or destroys, or obstructs access to, any structure or place which any wild animal of a kind specified in Schedule 1 uses for shelter or protection; or
- (b) disturbs any such animal while it is occupying the structure or place which it uses for that purposes,

he shall be guilty of an offence.

(5) Subject to the provisions of this Part, if any person—

- (a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live or dead wild animal (other than such an animal shown to have been imported into Gibraltar in accordance with the provision of any other relevant law) of a kind specified in Schedule 1, or any part of, or anything derived from, such an animal; or

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- (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things,

he shall be guilty of an offence.

(6) In any proceedings for an offence under subsections (1), (2) or (5)(a), the animal in question shall be presumed to have been a wild animal unless the contrary is shown.

Exceptions to section 8.

9.(1) Nothing in subsection (4) of section 8 shall make unlawful anything done within a dwelling house.

(2) Notwithstanding anything in section 8, a person shall not be guilty of an offence by reason of—

- (a) the taking of any such animal if he shows that the animal had been disabled otherwise than by his unlawful act and was taken solely for the purpose of tending it and releasing it when no longer disabled;
- (b) the killing of any such animal if he shows that the animal had been so seriously disabled otherwise than by his unlawful act that there was no reasonable chance of it recovering; or
- (c) any act made unlawful by that section if he shows that the act was the incidental result of a lawful operation and could not reasonably have been avoided.

(3) Notwithstanding anything in section 8, a person licensed under section 13(2) shall not be guilty of an offence by reason of the killing or injuring of a wild animal of a kind specified in Schedule 1, if he shows that his actions are in accordance with the terms of that licence.

Prohibition of certain methods of killing or taking wild animals.

10.(1) Subject to the provisions of this Part, if any person—

- (a) sets in position any self-locking snare which is of such a nature and so placed as to be calculated to cause bodily injury to any wild animal coming into contact therewith;
- (b) uses for the purpose of killing or taking any wild animal any self-locking snare, whether or not of such a nature or so placed as aforesaid, any bow or crossbow, any sling or catapult, any

explosive, and electrical device for killing or stunning, any seine or gill net, any pot or device for raking of sea-bed, any automatic or semi-automatic weapon, any shotgun, any device for illuminating a target or sighting device for night shooting, any form of artificial light or any mirror or other dazzling device or any gas or smoke;

- (c) uses as a decoy, for the purpose of killing or taking any wild animal, any live animal or bird whatever or any sound recording;
- (d) uses any mechanical propelled vehicle in immediate pursuit for the purpose of driving, killing or taking any wild animal;
- (e) uses any live bird, mammal for the purpose of killing or taking any wild animal; or
- (f) knowingly causes or permits to be done an act which is mentioned in the foregoing provisions of this subsection,

he shall be guilty of an offence.

(2) Subject to the provisions of this Part, if any person sets in position or knowingly causes or permits to be set in position any of the following articles, being an article which is of such a nature and so placed as to be calculated to cause bodily injury to any wild animal of a kind specified in Schedule 1 which comes into contact therewith, that is to say, any trap or snare or any poisonous, poisoned or stupefying substance, he shall be guilty of an offence.

- (3) subject to the provisions of this Part, if any person—
 - (a) sets in position or knowingly causes or permits to be set in position any snare which is of such a nature and so placed as to be calculated to cause bodily injury to any wild animal coming into contact therewith; and
 - (b) while the snare remains in position fails, without reasonable excuse, to inspect it, or cause it to be inspected, at least once every day,

he shall be guilty of an offence.

(4) The Governor may be order, either generally or in relation to any kind of wild animal specified in that order, amend sub-section (2) by adding any method of killing or taking wild animals, or by omitting any such method which is mentioned in that sub-section.

(5) In any proceedings for an offence under this section the animal in question shall be presumed to have been a wild animal unless the contrary is shown.

(6) In any proceedings for an offence under sub-section (2) it shall be a defence for a person charged thereunder to show that the article was set in position for the purpose of killing or taking in accordance with a licence granted under section 13(2), any wild animals which could be lawfully killed or taken by those means and that he took or caused to be taken all reasonable precautions to prevent injury thereby to any wild animals of a kind specified in Schedule 1.

Protection of wild plants.

11.(1) Subject to the provisions of this Part, if any person intentionally picks, cuts, uproots or destroys any wild plant (other than a plant specified in schedule (2) otherwise than in accordance with the licence granted under section 13 he shall be guilty of an offence.

(2) Subject to the provisions of this Part, if any person—

- (a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live or dead wild plant (other than a plant specified in Schedule 2), or any part of, or anything derived from, such a plant; or
- (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things,

he shall be guilty of an offence.

(3) Notwithstanding anything in sub-section (1), a person shall not be guilty of an offence by reason of any act made unlawful by that sub-section if he shows that the act was an incidental result of a lawful operation and could not reasonably have been avoided.

(4) In any proceedings for an offence under sub-section (1) or (2)(a), the plant in question shall be presumed to have been a wild plant unless the contrary is shown.

Introduction of new species.

12.(1) Subject to the provisions of this Part, if any person releases or allows to escape into the wild any animal which is of a kind which is not ordinarily resident in and is not a regular visitor to Gibraltar in a wild state, he shall be guilty of an offence.

(2) Subject to the provisions of this Part, if any person plants or otherwise causes to grow in the wild any plant which does not ordinarily grow in the wild in Gibraltar, he shall be guilty of an offence.

(3) Subject to sub-section (4), it shall be a defence to a charge of committing an offence under sub-section (1) or (2) to prove that the accused took all reasonable steps and exercised all diligence to avoid committing the offence.

(4) Where the defence provided by sub-section (3) involves an allegation that the commission of the offence was due to the act or default by another person, the person charged shall not, without leave of the Court, be entitled to rely on the defence unless, within a period ending 7 clear days before the hearing, he has served on the prosecutor a notice giving such information identifying or assisting in the identification of the other person as was then in his possession.

Power to grant licences.

13.(1) Sections 3,4,5,6(2) and 7 do not apply to anything done—

- (a) for scientific or educational purposes;
- (b) for the purpose of ringing or marking, or examining any ring or mark on, wild birds;
- (c) for the purpose of conserving wild birds;
- (d) for the purpose of tending a disabled wild bird and releasing it when no longer disabled;
- (e) for the purposes of preserving public health or public or air safety;
- (f) for the purpose for preventing the spread of disease;

if it is done under and in accordance with the terms of a licence granted by the Governor after consultation with the Nature Conservancy Council.

(2) Sections 8(1), (2) and (4), 10(1) and (2) and 11(1) do not apply to anything done—

- (a) for scientific or educational purposes;
- (b) for the purpose of ringing or marking, or examining any ring or mark on, wild animals;

- (c) for the purpose of conserving wild animals or wild plants or introducing them to particular areas;
- (d) for the purpose of preserving public health or public safety;
- (e) for the purpose of preventing the spread of disease;

if it is done under and in accordance with the terms of a licence granted by the Governor after consultation with the Nature Conservancy Council.

(3) Subject to sub-section (4), a licence under the foregoing provisions of this section—

- (a) may be, to any degree, general or specific;
- (b) may be granted either to persons of a class or to a particular person;
- (c) may be subject to compliance with any specified conditions;
- (d) may be modified or revoked at any time by the Governor after consultation with the Nature Conservancy Council; and
- (e) subject to paragraph (d), shall be valid for the period stated in the licence;

and the Governor may charge therefor such reasonable sum (if any) as he may determine.

(4) A licence under sub-sections (1) or (2) which authorises any person to kill wild birds or wild animals shall specify the area within which the methods by which the wild bird or wild animals may be killed.

(5) No licence may be granted under this section which may have the effect of causing the extinction in Gibraltar of any wild birds, wild animals or wild plants specified in Schedule 3.

(6) A licence granted for the purpose of allowing disabled wild birds to be tended shall specify the arrangements to be made for registering with the Nature Conservancy Council any bird so tended and for recording the release or otherwise of such bird.

(7) Notwithstanding the provisions of this section the Governor shall grant to a public officer such licence as may be necessary to enable that officer to carry out his duties under any other Act.

False statements made for obtaining a licence.

14. A person who, for the purposes of obtaining, whether for himself or another, the grant of a licence under section 13–

- (a) makes a statement or representation, or furnishes a document or information, which he knows to be false in a material particular; or
- (b) recklessly makes a statement or representation, or furnishes a document or information, which is false in a material particular, shall be guilty of an offence.

Attempts to commit offences.

15.(1) Any person who attempts to commit an offence under the foregoing provisions of this Part, shall be guilty of an offence and shall be punishable in like manner as for the said offence.

(2) Any person who for the purposes of committing an offence under the foregoing provisions of the Part, has in his possession anything capable of being used for committing the offence, shall be guilty of an offence and shall be punishable in like manner as for the said offence.

Enforcement.

16. If a Police officer or a person appointed for the purpose of enforcing this Act under section 21 suspects with reasonable cause that any person is committing or has committed an offence under this Part, the officer or person appointed may without warrant–

- (a) stop and search that person;
- (b) search or examine any thing or vehicle which that person may then be using or have in his possession;
- (c) seize and detain for purposes of proceedings under this Part, anything which may be evidence of the commission of the offence or may be liable to be forfeited under section 17.

Penalties, forfeitures etc.

17.(1) Subject to sub-section (3), a person guilty of an offence under sections 3, 5, 6, 8, 10, 11 or 15 shall be liable–

- (a) on summary conviction to a fine at level 5 on the standard scale or 6 months imprisonment or both; or

(b) on conviction on indictment to imprisonment for 2 years and to a fine.

(2) Subject to sub-section (3), a person guilty of an offence under sections 7, 12 or 14 shall be liable on summary conviction to a fine at level 4 on the standard scale or 6 months imprisonment or to both.

(3) Where an offence to which sub-sections (1) or (2) applies was committed in respect of more than one bird, nest, egg, other animal, plant or other thing, the fine which may be imposed under that subsection shall be determined as if the person convicted had been convicted of a separate offence in respect of each bird, nest, egg, animal, plant or thing.

(4) The Court by which any person is convicted of an offence under this Part—

(a) shall order the forfeiture of any bird, nest, egg, other animal, plant or thing in respect of which the offence was committed; and

(b) may order the forfeiture of any vehicle, animal, weapon or other thing which was used to commit the offence and, in the case of an offence under section 12, any animal or plant which is of the same kind as that in respect of which the offence was committed and was found in his possession.

PART IIA

IMPLEMENTATION OF THE HABITATS DIRECTIVE

Application etc..

17A. (1) This Part makes provision for the purpose of transposing into the law of Gibraltar the Habitats Directive.

(2) Where this Act creates a function (including a power or duty) to be carried out by any person, that person shall carry out that function so as to secure compliance with the Habitats Directive.

Selection of sites eligible for identification as of Community importance.

17B. (1) On the basis of the criteria set out in Annex III (Stage 1) to the Habitats Directive, and relevant scientific information, the Minister shall propose a list of sites indicating with respect to each site —

- (a) which natural habitat types in Annex I to the Directive the site hosts, and
- (b) which species in Annex II to the Directive that are native to Gibraltar the site hosts.

(2) Where appropriate after having carried out surveillance of the conservation status of the natural habitats and species in Gibraltar the Minister may propose modification of the list in the light of the results of the surveillance.

(3) The list shall be transmitted to the Secretary of State for sending to the Commission as soon as practicable together with information on each site including—

- (a) a map of the site,
- (b) its name, location and extent, and
- (c) the data resulting from application of the criteria specified in Annex III (Stage 1),

provided in a format established by the Commission.

Adoption of list of sites: designation of special areas of conservation.

17C.(1) Once a site of Community importance in Gibraltar has been adopted in accordance with the procedure laid down in paragraph 2 of Article 4 of the Habitats Directive, the Minister shall designate that site as a special area of conservation as soon as possible and within six years at most.

(2) The Minister shall establish priorities for the designation of sites in the light of—

- (a) the importance of the sites for the maintenance or restoration at a favourable conservation status of —
 - (i) a natural habitat type in Annex I to the Habitats Directive, or
 - (ii) a species in Annex II to the Directive,

and for the coherence of Natura 2000; and

- (b) the threats of degradation or destruction to which those sites are exposed.

(3) In this section “Natura 2000” means the European network of special areas of conservation and special protection areas under the Wild Birds Directive provided for in Article 3(1) of the Habitats Directive.

Consultation as to inclusion of site omitted from the list.

17D. If consultation is initiated by the Commission in accordance with Article 5(1) of the Habitats Directive with respect to a site in Gibraltar hosting a priority natural habitat type or priority species and—

- (a) the Minister agrees that the site should be added to the list transmitted in accordance with section 17B, or
- (b) the Council, acting on a proposal from the Commission in pursuance of paragraph 2 of Article 5 of the Habitats Directive, so decides,

the site shall be treated as added to the list as from the date of that agreement or decision.

Meaning of “European site” and “European Marine site”.

17E. (1) In this Act a “European site” means—

- (a) a special area of conservation,
- (b) a site of Community importance which has been placed on the list referred to in the third sub-paragraph of Article 4(2) of the Habitats Directive,
- (c) a site hosting a priority natural habitat type or priority species in respect of which consultation has been initiated under Article 5(1) of the Habitats Directive, during the consultation period or pending a decision of the Council under Article 5(3), or
- (d) an area classified pursuant to Article 4(1) or (2) of the Wild Birds Directive,

(2) In this Act a European marine site means a European site which consists of, or so far as it consists of, marine areas.

Notice to landowners, relevant persons, etc..

17F. (1) As soon as practicable after a site is designated as a European site, or ceases to be so designated, or there is any change in the designation the Minister shall give notice of this to—

- (a) every owner or occupier of land within the site;
- (b) the Nature Conservancy Council; and
- (c) such other persons or bodies as it may determine.

(2) A notice required to be issued by virtue of sub-section (1) shall be accompanied by a copy of the document by which the site has been designated as a European site in so far as it relates to land owned or occupied by or, as the case may be, to land within the area of responsibility of the person or body to whom the notice is given.

(3) The Government may make rules as to the form and content of notices to be given under this section.

Management agreements.

17G.(1) The Nature Conservancy Council may enter into an agreement (a “management agreement”) with every owner, lessee and occupier of land forming part of a European site, or land adjacent to such a site, for the management, conservation, restoration or protection of the site, or any part of it with the purpose of attaining the objectives of the Habitats Directive.

(2) A management agreement may impose such restrictions as may be expedient for the purposes of the agreement on the exercise of rights over the land by the persons who can be bound by the agreement.

(3) A management agreement—

- (a) may provide for the management of the land in such manner, the carrying out thereon of such work and the doing thereon of such other things as may be expedient for the purposes of the agreement;
- (b) may provide for any of the matters mentioned in paragraph (a) being carried out, or for the costs thereof being defrayed, either by the said owner or other person or by the Nature Conservancy Council, or partly in one way and partly in another;
- (c) may contain such other provisions as to the making of payments by the Nature Conservancy Council, and in particular for the payment by the Council of compensation for the effect of the restrictions mentioned in sub-section (2) as may be specified in the agreement.

(4) Where land is subject to a management agreement, the Nature Conservancy Council shall, as respects the enforcement of the agreement

against persons other than the original contracting party, have the like rights as if—

- (a) they had at all material times been the absolute owners in possession of ascertained land adjacent to the land subject to the agreement and capable of being benefited by the agreement; and
- (b) the management agreement had been expressed to be for the benefit of that adjacent land.

Notification of potentially damaging operations.

17H.(1) Any designation made under section 17C(1) in relation to a European site may specify—

- (a) the flora, fauna, or geological or physiographical features by reason of which the land is of special interest, and
- (b) any operations appearing to the Nature Conservancy Council to be likely to damage that flora or fauna or those features.

(2) The Minister may, for the purpose of securing compliance with the requirements of the Habitats Directive, at any time amend the designation with respect of any of the matters mentioned in sub-section (1) and shall notify those persons to whom he gave notification of the original designation of the amendment.

Restriction on carrying out operations specified in notification.

17J.(1) The owner or occupier of any land within a European site shall not carry out, or cause or permit to be carried out, on that land any operation specified in relation to the site under section 17H unless—

- (a) one of them has given the Nature Conservancy Council written notice of a proposal to carry out the operation, specifying its nature and the land on which it is proposed to carry it out, and
- (b) one of the conditions specified in sub-section (2) is fulfilled.

(2) The conditions referred to in sub-section (1)(b) are—

- (a) that the operation is carried out with the written consent of the Nature Conservancy Council;
- (b) that the operation is carried out in accordance with the terms of a management agreement.

(3) A person who, without reasonable excuse, contravenes sub-section (1) commits an offence and is liable on summary conviction to a fine at level 4 on the standard scale.

(4) For the purposes of sub-section (3) it is a reasonable excuse for a person to carry out an operation—

- (a) that the operation was an emergency operation particulars of which (including details of the emergency) were notified to the Nature Conservancy Council as soon as practicable after the commencement of the operation; or
- (b) that the operation was authorised by a planning permit granted on an application under the Town Planning Act.

Supplementary provisions as to consents.

17K.(1) Where it appears to the Nature Conservancy Council that an application for consent given in accordance with section 17J(2)(a) relates to an operation which is or forms part of a plan or project which —

- (a) is not directly connected with or necessary to the management of the site, and
- (b) is likely to have a significant effect on the site (either alone or in combination with other plans or projects),

the Council shall make an appropriate assessment of the implications for the site in view of that site's conservation objectives.

(2) In the light of the conclusions of the assessment, the Nature Conservancy Council may give consent for the operation only after having ascertained that the plan or project will not adversely affect the integrity of the site.

(3) The Nature Conservancy Council shall give notice of its decision in respect of an application for consent to the owner and the occupier of the land to which the application relates and where the Nature Conservancy Council does not give consent for the operation the Council shall give to those persons reasons for its decision.

(4) The owner or the occupier of the land in question may—

- (a) within two months of receiving notice of the refusal of consent, or

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- (b) if no notice of a decision is received by him within three months of an application for consent being made,

by notice in writing to the Nature Conservancy Council require the Council to refer the matter forthwith to the Minister.

(5) If on the matter being referred to the Minister he is satisfied that, there being no alternative solutions, the plan or project should be carried out for imperative reasons of overriding public interest (which, subject to sub-section (6), may be of a social or economic nature), he may direct the Nature Conservancy Council to give consent to the operation.

(6) Where the site concerned hosts a priority natural habitat type or a priority species, the reasons referred in sub-section (5) shall be either—

- (a) reasons relating to human health, public safety or beneficial consequences of primary importance to the environment, or
- (b) other reasons which in the opinion of the European Commission are imperative reasons of overriding public interest.

(7) Where the Minister directs the Nature Conservancy Council to give consent under this section, he shall secure that such compensatory measures are taken as are necessary to ensure that the overall coherence of Natura 2000 is protected.

(8) This section does not apply in relation to a site which is a European site by reason only of section 17E(1)(c).

Provisions as to existing notices and consents.

17L.(1) Any notice or consent previously given under section 18 in relation to land which on or after the commencement of this Part becomes land within a European site shall have effect, subject to the provisions of this section, as if given in accordance with section 17J(1)(a) or (2)(a).

(2) The Minister shall review any such consent as is referred to in sub-section (1) to assess its compatibility with the conservation objectives of the site, and—

- (a) to the extent that it is not so compatible may modify the consent, or
- (b) if in the opinion of the Minister the consent cannot by modification be made compatible with the conservation objectives of the site, may withdraw it.

(3) Notice of any such modification or withdrawal of consent shall be given to every owner and occupier of land within the site who in the opinion of the Nature Conservancy Council may be affected by it, and the modification or withdrawal shall come into effect in relation to an owner or occupier upon such notice being given to him.

(4) The modification or withdrawal of a consent shall not affect anything done in reliance on the consent before the modification or withdrawal takes effect.

Power to make special nature conservation order.

17M. (1) The Minister may, after consultation with the Nature Conservancy Council make in respect of any land within a European site a special nature conservation order specifying operations which appear to him to be likely to destroy or damage the flora, fauna, or geological or physiographical features by reason of which the land is a European site.

(2) A special nature conservation order may be amended or revoked by a further order.

(3) Schedule 4 has effect with respect to the making, amending or revoking of special nature conservation orders.

Restriction on carrying out operations specified in a special nature conservation order.

17N.(1) No person shall carry out on any land within a European site in respect of which a special nature conservation order is in effect any operation specified in the order, unless the operation is carried out, or caused or permitted to be carried out, by the owner or occupier of the land and—

- (a) one of them has, after the making of the order, given the Nature Conservancy Council written notice of a proposal to carry out the operation, specifying its nature and the land on which it is proposed to carry it out, and
 - (b) one of the conditions specified in sub-section (2) is fulfilled.
- (2) The conditions referred to in sub-section (1)(b) are—
- (a) that the operation is carried out with the written consent of the Nature Conservancy Council;
 - (b) that the operation is carried out in accordance with the terms of a management agreement.

- (3) A person who, without reasonable excuse, contravenes sub-section (1) commits an offence and is liable—
- (a) on summary conviction, to a fine at level 5 on the standard scale;
 - (b) on conviction on indictment, to a fine.
- (4) For the purposes of sub-section (3) it is a reasonable excuse for a person to carry out an operation—
- (a) that the operation was an emergency operation particulars of which (including details of the emergency) were notified to the Nature Conservancy Council as soon as practicable after the commencement of the operation; or
 - (b) that the operation was authorised by a planning permit granted on an application under the Town Planning Act.

Supplementary provisions as to consents.

17P.(1) Where it appears to the Nature Conservancy Council that an application for consent in accordance with section 17N(2)(a) relates to an operation which is or forms part of a plan or project which—

- (a) is not directly connected with or necessary to the management of the site, and
- (b) is likely to have a significant effect on the site (either alone or in combination with other plans or projects),

the Council shall make an appropriate assessment of the implications for the site in view of the conservation objectives the Council considers appropriate to that site.

(2) In the light of the conclusions of the assessment referred to in sub-section (1), the Nature Conservancy Council may give consent for the operation only after having ascertained that the plan or project will not adversely affect the integrity of the site.

(3) The Nature Conservancy Council shall give notice of its decision in respect of an application for consent to the person making that an application and where the Nature Conservancy Council does not give consent for the operation the Council shall give to that person reasons for its decision.

(4) The owner or occupier, as the case may be, of the land in question may—

- (a) within two months of receiving notice of the refusal of consent, or
- (b) if no notice of a decision is received by him within three months of an application for consent being made,

by notice in writing to the Nature Conservancy Council require the Council to refer the matter forthwith to the Minister.

(5) If on the matter being referred to the Minister he is satisfied that, there being no alternative solutions, the plan or project should be carried out for imperative reasons of overriding public interest (which, subject to sub-section (6), may be of a social or economic nature), he may direct the Nature Conservancy Council to give consent to the operation.

(6) Where the site concerned hosts a priority natural habitat type or a priority species, the reasons referred to in sub-section (5) shall be either—

- (a) reasons relating to human health, public safety or beneficial consequences of primary importance to the environment, or
- (b) other reasons which in the opinion of the European Commission are imperative reasons of overriding public interest.

(7) Where the Minister directs the Nature Conservancy Council to give consent under this section, he shall secure that such compensatory measures are taken as are necessary to ensure that the overall coherence of Natura 2000 is protected.

(8) This section does not apply in relation to a site which is a European site by reason only of section 17E(1)(c).

European Marine Site.

17Q.(1) The Minister may install markers indicating the existence and extent of a European marine site.

(2) As soon as possible after a site becomes a European marine site, the Minister shall publish in the Gazette —

- (a) the conservation objectives for that site, and
- (b) any operations which may cause deterioration of natural habitats or the habitats of species, or disturbance of species, for which the site has been designated.

Management scheme for European Marine Site.

17R.(1) The Minister may by notice in the Gazette establish a management scheme for a European marine site.

(2) The scheme may, in particular —

- (a) appoint the Nature Conservancy Council to co-ordinate the establishment of the scheme;
- (b) set time limits within which any steps by the Nature Conservancy Council are to be taken;
- (c) require the Nature Conservancy Council to supply to the Minister such information concerning the establishment of the scheme as may be specified in the notice.

(3) The Government may amend a management scheme for a European marine site, either generally or in any particular respect.

European protected species of animals.

17S. The species of animals listed in Annex (IV)(a) to the Habitats Directive whose natural range includes any area in Gibraltar are listed in Schedule 5 and references in this Act to a “European protected species” of animal are to any of those species.

Protection of wild animals of European protected species.

17T.(1) It is an offence —

- (a) deliberately to capture or kill a wild animal of a European protected species;
- (b) deliberately to disturb any such animal;
- (c) deliberately to take or destroy the eggs of any such animal; or
- (d) deliberately to damage or destroy a breeding site or resting place of any such animal.

(2) It is an offence to keep, transport, sell or exchange, or offer for sale or exchange, any live or dead wild animal of a European protected species, or any part of, or anything derived from, such any animal.

(3) Sub-sections (1) and (2) apply to all stages of the life of the animals to which they apply.

(4) A person shall not be guilty of an offence under sub-section (2) if he shows —

- (a) that the animal had not been taken or killed, or had been lawfully taken or killed, or
- (b) that the animal or other thing in question had been lawfully sold (whether to him or any other person).

(5) For the purpose of sub-section (4) “lawfully” means without any contravention of this Act.

(6) In any proceedings for an offence under this section, the animal in question shall be presumed to have been a wild animal unless the contrary is shown.

(7) A person guilty of an offence under this section is liable on summary conviction to a fine at level 5 on the standard scale.

Exceptions from section 17T.

17U. (1) Nothing in section 17T(1)(b) or (d) shall make unlawful anything done within a dwelling-house.

(2) Notwithstanding anything in section 17T, a person shall not be guilty of an offence by reason of —

- (a) the taking of a wild animal of a European protected species if he shows that the animal had been disabled otherwise than by his unlawful act and was taken solely for the purpose of tending it, or passing to a person authorised under section 17Y(2)(a) to tend it, and releasing it when no longer disabled;
- (b) the killing of such an animal if he shows that the animal had been so seriously disabled otherwise than by his unlawful act that there was no reasonable chance of its recovering; or
- (c) any act made unlawful by that section if he shows that the act was the incidental result of a lawful operation and could not reasonably have been avoided.

(3) A person shall not be entitled to rely on the defence provided by sub-sections (1) and (2)(c) as respects anything done in relation to a bat otherwise than in the living area of a dwelling-house unless he had notified the Nature Conservancy Council of the proposed action or operation and allowed the

Council a reasonable time to advise him as to whether it should be carried out and, if so, the method to be used.

Prohibition of certain methods of taking or killing wild animals.

17V. (1) This section applies in relation to the taking or killing of a wild animal—

- (a) of any of the species listed in Schedule 6 (which shows the species listed in Annex V(a) to the Habitats Directive, and to which Article 15 applies, whose natural range includes any area of Gibraltar, or
- (b) of a European protected species, where the taking or killing of such animals is permitted in accordance with this Part.

(2) It is an offence to use for the purpose of taking or killing any such wild animal as is referred to in sub-section (1)—

- (a) any of the means listed in sub-section (3) or (4), or
- (b) any form of taking or killing from the modes of transport listed in sub-section (5).

(3) The prohibited means of taking or killing of mammals are the use of—

- (a) blind or mutilated animals used as live decoys;
- (b) tape recorders;
- (c) electrical and electronic devices capable of killing or stunning;
- (d) artificial light sources;
- (e) mirrors and other dazzling devices;
- (f) devices for illuminating targets;
- (g) sighting devices for night shooting comprising an electronic image magnifier or image converter;
- (h) explosives;
- (j) nets which are non-selective according to their principle or their conditions of use;

- (k) traps which are non-selective according to their principle or their conditions of use;
 - (l) crossbows;
 - (m) poisons and poisoned or anaesthetic bait;
 - (n) gassing or smoking out;
 - (p) semi-automatic or automatic weapons with a magazine capable of holding more than two rounds of ammunition.
- (4) The prohibited means of taking or killing fish are the use of—
- (a) poison;
 - (b) explosives.
- (5) The prohibited modes of transport are—
- (a) aircraft;
 - (b) moving motor vehicles.
- (6) A person guilty of an offence under this section is liable on summary conviction to a fine at level 5 on the standard scale.

European protected species of plants.

17W. The species of plants listed in Annex IV(b) to the Habitats Directive whose natural range includes any area in Gibraltar are listed in Schedule 7 and references in this Part to a “European protected species” of plant are to any of those species.

Protection of wild plants of European protected species.

17X. (1) It is an offence deliberately to pick, collect, cut, uproot or destroy a wild plant of a European protected species.

(2) It is an offence to keep, transport, sell or exchange, or offer for sale or exchange, any live or dead wild plant of a European protected species, or any part of, or anything derived from, such a plant.

(3) Sub-sections (1) and (2) apply to all stages of the biological cycle of the plants to which they apply.

(4) A person shall not be guilty of an offence under sub-section (1) by reason of any act made unlawful by that sub-section if he shows that the act was an incidental result of a lawful operation and could not reasonably have been avoided.

(5) A person shall not be guilty of an offence under sub-section (2) if he shows that the plant or other thing in question had been lawfully sold (whether to him or any other person) and for this purpose “lawfully” means without any contravention of this Act.

(6) In any proceedings for an offence under this section, the plant in question shall be presumed to have been a wild plant unless the contrary is shown.

(7) A person guilty of an offence under this section is liable on summary conviction to a fine at level 4 on the standard scale.

Grant of licences for certain purposes.

17Y. (1) Sections 17S, 17T, 17V, 17W and 17X do not apply to anything done for any of the purposes mentioned in sub-section (2) under and in accordance with the terms of a licence granted by the Minister.

(2) The purposes referred to in sub-section (1) are—

- (a) scientific or educational purposes;
- (b) ringing or marking, or examining any ring or mark on, wild animals;
- (c) conserving wild animals or wild plants or introducing them to particular areas;
- (d) protecting any zoological or botanical collection;
- (e) preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment;
- (f) preventing the spread of disease.

(3) The Minister shall not grant a licence under this section unless he is satisfied—

- (a) that there is no satisfactory alternative, and

- (b) that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

(4) The Minister shall from time to time consult with the Nature Conservancy Council as to the exercise of his functions under this section, and he shall not grant a licence of any description unless he has been advised by that Council as to the circumstances in which, in the opinion of the Council licences of that description should be granted.

Licences: supplementary provisions.

17Z. (1) A licence under section 17Y–

- (a) may be, to any degree, general or specific;
- (b) may be granted either to persons of a class or to a particular person; and
- (c) may be subject to compliance with any specified conditions.

(2) For the purposes of a licence under section 17Y the definition of a class of persons may be framed by reference to any circumstances whatever including, in particular, their being authorised by any other person.

(3) A licence under section 17Y may be modified or revoked at any time by the Minister but otherwise shall be valid for the period stated in the licence.

(4) A licence under section 17Y which authorises any person to kill wild animals shall specify the area within which and the methods by which the wild animals may be killed and shall not be granted for a period of more than two years.

(5) The Government may by notice in the Gazette prescribe such reasonable fees (if any) as it may determine in respect of applications for and the grant of a licence under section 17Y, and for renewal or amendment of such a licence.

False statements made for obtaining licence.

17AA. (1) A person commits an offence who, for the purpose of obtaining, whether for himself or another, the grant of a licence under section 17Y–

- (a) makes a statement or representation, or furnishes a document or information, which he knows to be false in a material particular, or

- (b) recklessly makes a statement or representation, or furnishes a document or information, which is false in a material particular.

(2) A person guilty of an offence under this section is liable on summary conviction to a fine at level 4 on the standard scale.

General provisions for protection of European sites.

17BB. (1) The Minister, or, as the case may be, a person empowered under any enactment to give any consent, permit or other authorisation for a plan or project or works or empowered to undertake a plan or project or carry out works shall if the plan, project or works —

- (a) is, or are, likely to have a significant effect on a European site (either alone or in combination with other plans or projects), and
- (b) is, or are, not directly connected with or necessary to the management of the site,

shall make an appropriate assessment of the implications for the site in view of that site's conservation objectives.

(2) Without prejudice to the generality of sub-section (1), for the purpose of the Town Planning Act material considerations to be taken into account in granting permits shall include considerations which lead to improving the ecological coherence of the Natura 2000 network to encourage the management of features of the landscape which are of major importance for wild fauna and flora.

(3) A person applying for any consent, permit or other authorisation mentioned in sub-sections (1) or (2) shall provide such information as the Minister, or other person, as the case may be, may reasonably require for the purposes of the assessment.

(4) The Minister, or other person, as the case may be, shall for the purposes of the assessment consult the Nature Conservancy Council and have regard to any representations made by that Council within such reasonable time as the Minister, or other person, may specify.

(5) In the light of the conclusions of the assessment, and subject to section 17CC, the Minister or other person, as the case may be, shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site.

(6) In considering whether a plan or project will adversely affect the integrity of the site, the Minister, or other person, as the case may be, shall have regard to the manner in which it is proposed to be carried out or to any

conditions or restrictions subject to which he proposes that the consent, permission or other authorisation should be given.

(7) This section does not apply in relation to a site which is a European site by reason only of section 17E(1)(c).

Considerations of overriding public interest.

17CC.(1) If the Minister is satisfied that, there being no alternative solutions, the plan or project or works mentioned in section 17BB should be carried out for imperative reasons of overriding public interest (which, subject to sub-section (2), may be of a social or economic nature), he may agree to the plan or project or works notwithstanding a negative assessment of the implications for the site.

(2) Where the site concerned hosts a priority natural habitat type or a priority species, the reasons referred to in sub-section (1) shall be either—

- (a) reasons relating to human health, public safety or beneficial consequences of primary importance to the environment, or
- (b) other reasons which in the opinion of the European Commission are imperative reasons of overriding public interest.

(3) Where a person having sufficient interest desires to obtain the opinion of the European Commission as to whether reasons are to be considered imperative reasons of overriding public interest, he shall submit a written request to the Governor —

- (a) identifying the matter on which an opinion is sought, and
- (b) accompanied by any documents or information which may be required.

(4) The Governor shall thereupon forward such request to the Secretary of State who may if he thinks fit, seek the opinion of the Commission, and if he does so, and sends the Commission's opinion to the Government, the Governor shall make the opinion known to the person requesting the opinion.

Information for Commission.

17DD. (1) The Government shall as soon as practicable and thereafter as required by the timetable established under Article 23 of the Habitats Directive forward a report on the implementation of the Directive to the Secretary of State for onward transmission to the Commission.

(2) The report shall in particular include—

- (a) information concerning the conservation measures specified in Article 6(1) of the Habitats Directive;
- (b) an evaluation of the impact of those measures on the conservation status of the natural habitat types set out in Annex I, if appropriate, and the species referred to in Annex II of the Habitats Directive;
- (c) the main results of the surveillance carried out under section 17A(2) in compliance with obligations arising from Article II of the Habitats Directive.

PART III
NATURE CONSERVATION.

Areas of special interest protected for the purpose of nature conservation etc.

18.(1) Subject to the provisions of sub-section (3) where the Governor is of the opinion after consultation with the Nature Conservancy Council that an area of land not being a European site is of special interest—

- (a) by reason of any of its flora, fauna or geological or physiographical features;
- (b) by reason of being the habitat of any wild bird, wild animal of a kind specified in Schedule 1 or wild plant (other than a plant specified in Schedule 2);
- (c) for the purpose of securing the survival in Gibraltar of any kind of wild bird, wild animal of a kind specified in Schedule 1 or wild plant (other than a plant specified in Schedule 2);
- (d) for the purpose of complying with any international obligation;
- (e) for the purpose of providing under suitable conditions and control, special opportunities for the study of, and research into, matters relating to flora and fauna and the physical conditions in which they live, or the study of geological and geophysical features of special interest in the area,

he may by order designate that area to be a nature conservation area.

(2) Subject to the provisions of sub-section (3), where the Governor is of the opinion after consultation with the Nature Conservancy Council that any

land covered (continuously or intermittently) by waters or parts of the sea within territorial waters is of special interest for the purpose of—

- (a) conserving marine flora or fauna or geological or physiographical features of special interest in the area;
- (b) providing under suitable conditions and control, special opportunities for the study of, and research into, matters relating to marine flora and fauna and the physical conditions in which they live, or for the study of geological and physiographical features of special interest in the area;
- (c) for the purpose of complying with any international obligation;

he may by order designate such an area as a marine nature area.

(3) No order shall be made under sub-sections (1) or (2) by the Governor in respect of any land being part of Crown Lands held in right of the Government of the United Kingdom without the consent first obtained of the Secretary of State.

(4) Subject to sub-section (5) no person shall carry out on any land to which this sub-section applies any operation which—

- (a) appears to the Governor to be likely to destroy or damage the flora, fauna, or geological or physiographical features by reason of which the land is land which paragraph (a) or, as the case may be, paragraph (b) of sub-section (1) applies; and
- (b) is specified in the order applying this sub-section to the land.

(5) Sub-section (4) shall not apply in relation to any operation carried out, or caused or permitted to be carried out, by the owner or occupier of the land—

- (a) one of them has, after the commencement date, given the Nature Conservancy Council notice of a proposal to carry out the operation, specifying its nature and the land on which it is proposed to carry it out; and
- (b) the operation is carried out with the written consent of the Nature Conservancy Council.

(6) The Governor may, after consultation with the Nature Conservancy Council, make regulations for the protection of any area designated as a marine nature area under sub-section (2) and without prejudice to the generality of the foregoing such regulations may provide—

- (a) for prohibiting or restricting, either absolutely or subject to any exceptions—
 - (i) the entry into or movement within the area of persons and vessels;
 - (ii) the killing, taking, destruction, molestation or disturbance of animals or plants of any description in the area, or the doing anything therein which will interfere with the sea bed or damage or disturb any object in the area; or
 - (iii) the depositing of rubbish in the area;
 - (b) for the issue, on such terms and subject to such conditions as may be specified in the regulations, of permits authorising entry into the area or the doing of anything which would otherwise be unlawful under the regulations; and
 - (c) may be so made as to apply either generally or with respect to particular parts of the area or particular times of the year.
- (7) Nothing in the regulations made under sub-section (6) shall
- (a) prohibit or restrict the exercise of any right of passage by a vessel other than a pleasure boat; or
 - (b) prohibit, except with respect to particular parts of the area at particular times of the year, the exercise of any such right by a pleasure boat.
- (8) Nothing in regulations made under sub-section (6) shall make unlawful—
- (a) anything done for the purpose of securing the safety of any vessel, or of preventing damage to any vessel or cargo, or of saving life;
 - (b) anything done more than 30 metres below the sea bed; or
 - (c) the exercise by a relevant authority of any powers given to that authority under any enactment.
- (9) In this section "vessel" includes a hydrofoil, hovercraft and any aircraft capable of landing on water and "pleasure boat" shall be construed accordingly.

(10) References in this section to birds, animals or plants of any description include references to eggs, seeds, spores, larva or other immature stages of birds, animals or plants of that description.

Penalties etc. in relation to nature conservation areas and marine nature areas.

19.(1) A person who, without reasonable excuse, contravenes sub-section (4) of section 18, shall be liable—

- (a) on summary conviction to a fine at level 4 on the standard scale or 3 months imprisonment or both;
- (b) on conviction on indictment to 2 years imprisonment and a fine.

(2) Where an operation in respect of which a person is convicted of an offence under sub-section (1) has destroyed or damaged any part of the flora, fauna, or geological or physiographical features by reason of which the land on which it was carried out is of special interest, the Court by which he is convicted, in addition to dealing with him in any way, may make an order requiring him to carry out, within such period as may be specified in the order, such operations for the purpose of restoring the land to its former condition as may be so specified.

(3) In the case of an order under sub-section (2) made by the Magistrates' Court, the period specified in the order shall not begin to run—

- (a) in any case until the expiration of the period for the time being prescribed by law for the giving of notice of appeal against the decision of the Magistrates' Court;
- (b) where notice of appeal is given within the period so prescribed, until the determination of the appeal.

(4) At any time before an order under sub-section (2) has complied with or fully complied with, the Court by which it was made may, on the application of the person against whom it was made, discharge or vary the order if it appears to the Court that a change in circumstance has made compliance or full compliance with the order impracticable or unnecessary.

(5) If, within the period specified in an order under this section, the person against whom it was made fails, without reasonable excuse, to comply with it, he shall be liable on summary conviction—

- (a) to a fine at level 4 on the standard scale or 3 months imprisonment or both; and

- (b) in the case of a continuing offence, to a further fine not exceeding one tenth of the maximum fine under (a) above for each day during which the offence continues after conviction.

(6) If, within the period specified in an order under this section, any operations specified in the order have not been carried out, the Nature Conservancy Council may enter the land and carry out these operations and recover from the person against whom the order was made any expenses reasonably incurred by them in doing so.

(7) Regulations made under section 18(6) may provide, in relation to offences created by those regulations—

- (a) on summary conviction for a fine not exceeding the maximum fine at level 4 on the standard scale and a period of imprisonment not exceeding 3 months;
- (b) on conviction on indictment for a period of imprisonment not exceeding 2 years and a fine.

PART IV MISCELLANEOUS

Nature Conservancy Council.

20.(1) It shall be the duty of the Nature Conservancy Council to advise the Governor—

- (a) on any question which he may refer to it; and
- (b) on any question on which it considers it should offer its advice,

and shall provide such advice—

- (a) in connection with the administration of this Act; and
- (b) generally in connection with the protection and survival in Gibraltar of wild birds, wild animals and wild plants and the protection of areas of special interest.

(2) The Nature Conservancy Council may publish reports relating to the performance of its duties under this Act.

Wildlife Warden.

21.(1) The Governor may, after consultation with the Nature Conservancy Council appoint by notice any person to be a Wildlife Warden or an honorary Wildlife Warden for the purposes of this Act.

(2) The Governor may make regulations for the purpose of determining the powers and duties of any person appointed under sub-section (1).

Offences by bodies corporate etc.

22.(1) Where body corporate is guilty of an offence under this Act and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who is purporting to act in any such capacity he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of the body corporate are managed by its members, sub-section (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Amendment of Schedules.

23. The Governor may, after consultation with the Nature Conservancy Council vary by order any Schedule to this Act.

Regulations.

24. The Governor may, after consultation with the Nature Conservancy Council, make regulations for carrying into effect the provisions of this Act and without prejudice to the generality of the foregoing such regulations may provide for—

- (a) fees or charges payable in respect of any application, licence or other document under this Act, or any other matter in the administration of this Act;
- (b) the forms or contents of applications, licences, registers and other documents required for the purposes of this Act;
- (c) the procedure to be followed for the establishment of a nature conservation area or a marine nature area;
- (d) the protection and regulation of (subject to the provisions of section 18) nature conservation areas and marine nature areas;

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- (e) the powers and functions of Wildlife Wardens appointed under section.22;

SCHEDULE 1.

Section 8

SPECIFIED WILD ANIMALS

NAME	COMMON NAME
MAMMALIA	MAMMALS
Insectivora	Insectivores
Erinaceidae	hedgehogs
Talpidae	moles
Soricidae	shrews
Chiroptera	Bats
all species	all species
Primates	Apes & monkeys
Macaca sulvanus	Barbary Macaque
Carnivora	Carnivores
Vulpes vulpes	Red Fox
Rodentia	Rodents
Eliomys quercinus	Garden dormouse
Lagomorpha	Rabbits & hares
Oryctolagus cuniculus	Rabbit
Pinnipedia	Seals
Monachus monachus	Monk Seal
Cetacea	Whales, porpoises and dolphins
all species	all species
AMPHIBIA	AMPHIBIANS
all species	all species
REPTILIA	REPTILES
all species	all species
PISCES	FISH
Hippocampus spp.	seahorses
Syngnathus spp.	pipefish
Thalassoma spp.	Turkish wrasse
Blennius spp.	blennies
Gobius spp.	gobies

This version is out of date

Chromogobius spp.
Thorogobius spp.

gobies
gobies

INSECTA

Lepidoptera

Iphiclides podalinius
Euchloe tagis
Anthocaris belia
Gonepteryx rhamni
Danaus chryssipus
Melanargia ines
Pyronia cecilia
Strymonidia spini
Tomares ballus
Zizeenia knysna
Carcharodus alceae
Spialia sertorius
Gegenes nostradamus
Borbo borbonica
Zygaena fausta gibraltaria

INSECTS

Butterflies and Moths

Scarce Swallowtail
Portuguese Dappled White
Morroco Orange Tip
Brimstone
Plain Tiger
Spanish Marbled White
Southern Gatekeeper
Blue-spot Hairstreak
Provence Hairstreak
African Grass Blue
Mallow Skipper
Red Underwing Skipper
Mediterranean Skipper
Zeller's Skipper
Bibraltar Burnet Moth

Dictyoptera

all species

Mantids

all species

ARACHNIDA

Macrothele calpetana

SPIDERS

Gibraltar Funnel-web Spider

CRUSTACEA

Lepas anatifera
Maja spp.

CRUSTACEANS

Goose Barnacle
spider crabs.

CHILOPODA

Scholopendra cingulatus

CENTIPEDES & MILLIPEDES

MOLLUSCA

Bivalvia

Atrina pectinata
Pinna nobilis
PINNA RUDIS

MOLLUSCS

Bivalves

Brittle Pen Shell
Noble Pen Shell
Rough Pen Shell

Gastropoda

Haliotis tuberculata
Patella ferruginea
Monodonta spp.
Jujubinus spp.
Gibbula spp.
Acicula norrisi

Gastropods

Sea Ormer
Ribbed Mediterranean Limpet
toothed topshells
top shells
top shells

This version is out of date

Thais haemastoma	Rock Shell
Aplysia spp.	sea hares
Onchidella celtica	
Lauria cylindracea	Chrysalis Snails
Truncatellina cylindrica	Cylindrical Whorl Snail
Pyramidula rupestris	Rock Snail
Chondrina calpica	
Granopupa granum	
Ferussacia follicula	
Charonia spp.	tritons
Epitonium spp.	wentletraps
Trivia spp.	cowries
Cypraea spp.	cowries
Mitra zonata	Zoned Mitre Shell
Bolinus brandaris	Purple Dye Murex
Hexaplex trunculus	Banded Murex
Ceciliooides spp.	
Testacella maugei	Mauge's slug
Vitrea contracta	Glass Snail
Oxychilus draparnaudi	
Oxychilus hudatinus	
Parmacella valencienii	
Milax nigricans	Black slug
Deroceras ponsonbyi	Ponsonby's slug
Trichia hispida	Hairy snail
Helicella apicina	
Helicella conspurcata	
Candidula intersecta	Wrinkled snail
Cerneuella virgata	Striped snail
Cochlicella acuta	Pointed snail
Caracollina lenticula	
Osteophora calpeana	
Cumbium olla	
Cephalopoda	Cephalopods
Argonauta argo	Paper Nautilus
Eledone spp.	Lesser Octopus
ECHINOIDEA	SEA URCHINS
Echinus actutus	Common Sea Urchin
ANTHOZOA	ANEMONES, CORALS,
Madreporaria	
Balanophyllia regia	Regal Coral
Clodocora cespitosa	Carpet Coral
Dendrophyllia ramea	Yellow Coral
Lophelia pertusa	coral

This version is out of date

Leptopsammia pruroti
Astroides calcycularis

Yellow Cup Coral
Star Coral

Alcyonacea

Alcyonium palmatum
Parerythropodium corralloides

Deadman's fingers
soft coral

Gorgonacea

Eunicella cavolinii
Eunicella clavata
Eunicella singularis
Eunicella verrucosa
Corallium rubrum

Yellow Gorgonian
Violet Sea Whip
gorgonian
White Gorgonian
Red Coral

SCHEDULE 2

Section 11

<i>Name</i>		<i>Common Name</i>
	GYMNOGRAMMACEAE	
<i>Anogramma leptophylla</i>		Annual Gymnogram
	ASPLENIACEAE	
<i>Ceterach offfinarum</i>		Rusty-back Fern
<i>Asplenium trichomanes</i>		Maidenhair Spleenwort
	POLYPODIACEAE	
<i>Polypodium australe</i>		Southern Polypody
	EPHEBRACEAE	
<i>Ephedra fragilis</i>		Joint Pine
	MORACEAE	
<i>Ficus carica</i>		Fig
	URTICACEAE	
		Nettle
		Pellitory-of-the-wall
<i>Urtica dubia</i>		
<i>Parietaria diffusa</i>		
<i>Parietaria lusitanica</i>		
	SANTALACEAE	
<i>Osyris quadripartita</i>		
	ARISTOLOCHIACEAE	
<i>Aristolochia baetica</i>		Pipe Vine
	POLYGONACEAE	
<i>Polygonum aviculare</i>		Common Knotgrass
<i>Rumex intermedius</i>		
<i>Emex spinosa</i>		
	CHENOPODIACEAE	
<i>Beta vulgaris</i>		Beet
<i>Chenopodium ambrosioides</i>		
<i>Chenopodium murale</i>		Nettle-leaved Goosefoot
<i>Chenopodium album</i>		Fat Hen
	AMARANTHACEAE	
<i>amaranthus blitoides</i>		
<i>amaranthus lividus</i>		
<i>Achyranthes</i>		
	NYCTAGINACEAE	
<i>Mirabilis jalapa</i>		Four o'clock Plant
	AIZOACEAE	
<i>Carpobrotus edulis</i>		Hottentot Fig
	CARYOPHYLLACEAE	
<i>Arenaria leptoclados</i>		Lersser Thyme-leaved Sandwort
<i>Minuartia hybrida</i>		Fine-leaved Sandwort
<i>Stellaria media</i>		Chickweed
<i>Stellaria pallida</i>		Lesser Chickweed
<i>Cerastium glomeratum</i>		Sticky Mouse-ear Chickweed
<i>Sagia apetala</i>		Common Pearlwort
<i>Paronychia argentea</i>		

This version is out of date

<i>Herniaria lusitancia</i>		Ciliate Rupture-wort
<i>Polycarpon tetraphyllum</i>		Four-leaved All-seed
<i>Spergularia marina</i>		
<i>Silene obtusifolia</i>		
<i>Silene obtusifolia</i>		
<i>Silene colorata</i>		Pink Mediterranean Catchfly
<i>Silene nocturna</i>		
	RANUNCULACEAE	
<i>Clematis cirrhosa</i>		Virgin's Bower
<i>Ranunculus bullatus</i>		Bullate Buttercup
<i>Ranunculus paludosus</i>		Fan-leaved Buttercup
	PAPAVERACEAE	
<i>Papaver rhoeas</i>		Corn Poppy
<i>Glaucium flavum</i>		Yellow Horned Poppy
<i>Fumaria capreolata</i>		Ramping Fumitory
<i>Fumaria sepium</i>		
	CRUCIFERAE	
<i>Sisymbrium officinale</i>		Hedge Mustard
<i>Cardamine hirsuta</i>		Hairy Bittercress
<i>Lobularia maritima</i>		Sweet Alison
<i>Biscutella</i>		Bucklet Mustard
<i>Diplotaxis siifolia</i>		
<i>Hirschfeldia incana</i>		Hoary Mustard
<i>Cakile maritima</i>		Sea Rocket
<i>Raphanus raphanistrum</i>		Wild Raddish
	RESEDACEAE	
<i>Reseda luteola</i>		Dyers Rocket
<i>Reseda alba</i>		Upright Mignonette
	CRASSULACEAE	
<i>Umbilicus rupestris</i>		Wall Pennywort
<i>Umbilicus horizontalis</i>		
<i>Sedum sediforme</i>		
<i>Sedum album</i>		White Stonecrop
<i>Sedum rubens</i>		
	ROSACEAE	
<i>Rubus ulmifolius</i>		
<i>Sanguisorba minor</i>		Salad Burnet
	LEGUMINOSAE	
<i>Albizia lophantha</i>		
<i>Calicotome villosa</i>		Thorny Broom
<i>Teline linifolia</i>		
<i>Astragalus boeticus</i>		
<i>Psoralea bituminosa</i>		Pitch Trefoil
<i>Vicia tenuifolia</i>		Slender-leaved Tufted Vetch
<i>Vicia sativa</i>		Common Vetch
<i>Vicia lutea</i>		Yellow Vetch
<i>Lothyrus clymenum</i>		
<i>Pisum sativum</i>		Pea
<i>Ononis reclinata</i>		Small Restharrow

<i>Ononis viscosa</i>		
<i>Melilotus indica</i>		Small-flowered Melilot
<i>Medicago truncatula</i>		
<i>Medicago littoralis</i>		
<i>Medicago polymorpha</i>		Hairy Medick
<i>Trifolium glomeratum</i>		Clustered Clover
<i>Trifolium tomentosum</i>		Wooly Trefoil
<i>Trifolium campestre</i>		Hop Trefoil
<i>Trifolium scabrum</i>		Rough Trefoil
<i>Trifolium stellatum</i>		Star Clover
<i>Lotus corniculatus</i>		Birdsfoot Trefoil
<i>Lotus edulis</i>		
<i>Lotus ornhithopodioides</i>		
<i>Lotus creticus</i>		Southern Birdsfoot Trefoil
<i>Coronilla valentina</i>		Shrubby Scorpion Vetch
<i>Hippocrepis</i>		
<i>Scorpiurus</i>		
	OXALIDACEAE	
<i>Oxalis pes-caprae</i>		Bermuda Buttercup
	GERANICAEAE	
<i>Geranium rotundifolium</i>		Round-leaved Cranesbill
<i>Geranium molle</i>		Dovesfoot Cranesbill
<i>Geranium purpureum</i>		Lesser Herb Robert
<i>Erodium laciniatum</i>		
<i>Erodium malacoides</i>		Soft Storksbill
<i>Erodium moschantum</i>		Musk Storksbill
	TROPAEOLACEAE	
<i>Tropaeolum majus</i>		Nasturtium
	LINACEAE	
<i>Linum strictum</i>		Upright Yellow Flax
	EUPHORBIACEAE	
<i>Mercurialis annua</i>		Actual Mercury
<i>Euphorbia squamigera</i>		
<i>Euphorbia terracina</i>		
<i>Euphorbia peplus</i>		
<i>Euphorbia medicaginea</i>		
	RUTACEAE	
<i>Ruta angustifolia</i>		Fringed Rue
	ANACARDIASEAE	
<i>Pistacia terebinthus</i>		Terebinth; Turpentine Tree
<i>Pistacia lentiscus</i>		Lentisc
<i>Schinus molle</i>		Californian Pepper Tree
	RHAMNACEAE	
<i>Rhamnus alaternus</i>		Mediterranean Buckthorn
	MALVACEAE	
<i>Malva hispanica</i>		
<i>Malva sylvestris</i>		Common Mallow
<i>Lavatera cretica</i>		Smaller Tree Mallow
	CUCURBITACEAE	
<i>Ecballium elaterium</i>		Squirting Cucumber
	CACTACEAE	

This version is out of date

<i>Opuntia fleus-indiea</i>		Prickly Pear
<i>Opuntia tuna</i>		
	MYRTACEAE	
<i>Eucalyptus camaldulensis</i>		Red Gum
<i>Eucalyptus globulus</i>		Blue Gum
	THELIGONACEAE	
<i>Theligonum cynocrambe</i>		
	ARALIACEAE	
<i>Hedera helix</i>		Ivy
	UMBELLIFERAE	
<i>Smyrniolum olusatrum</i>		Alexanders
<i>Crithmum maritimum</i>		Rock Samphire
<i>Foeniculum vulgare</i>		Fennel
<i>Kundmannia sicula</i>		
<i>Elaeoselinum foetidum</i>		
<i>Thapsia villosa</i>		
<i>Torilis arvensis</i>		Spreading Hedge Parsley
<i>Daucus carota</i>		Wild carrot
	PRIMULACEAE	
<i>Anagallis arvensis</i>		Pimpernel
	OLEACEA	
<i>Jasminum fruticans</i>		Wild Jasmine
<i>Olea europaea</i>		Olive
	GENTIANACEAE	
<i>Blackstonia perfoliata</i>		Yellow Wort
<i>Centaureum erythraea</i>		Common Centaury
	APOCYNACEAE	
<i>Vinca difformis</i>		Intermediate Periwinkle
	RUBIACEAE	
<i>Shersardia arvensis</i>		Field Madder
<i>Galium aparine</i>		Cleavers
<i>Galium verrucosum</i>		
<i>Galium murale</i>		
<i>Valantina muralis</i>		
<i>Rubia peregrina</i>		Wild Madder
	CONVOLVULACEAE	
<i>Convolvulus arvensis</i>		Field Bindweed
<i>Convolvulus althaeoides</i>		Mallow-leaved Bindweed
	BORAGINACEAE	
<i>Heliotropium eurooaemum</i>		
<i>Echium creticum</i>		
<i>Borago officinalis</i>		Borage
	VERBENACEAE	
<i>Limtana camara</i>		
	LABIATAE	
<i>Teucrium fruticans</i>		Tree Germander
<i>Teucrium polium</i>		Felty Germander
<i>Prasium majus</i>		
<i>Phlomis purpurea</i>		Purple Jerusalem Sage
<i>Calamintha sylvatica</i>		
<i>Micromeria graeca</i>		

This version is out of date

<i>Rosmarinus officinalis</i>		Rosemary
<i>Lavandula dentata</i>		Toothed Lavender
	SOLANACEAE	
<i>Solanum luteum luteum</i>		
<i>Solanum luteum alatum</i>		
<i>Solanum sodomaeum</i>		False Sodom
<i>Nicotiana glauca</i>		Apple Shrub Tobacco
	SCROPHULARIACEAE	
<i>Antirrhinum majus cirrhigerum</i>		Snapdragon
<i>Antirrhinum majus tortuosum</i>		Snapdragon
<i>Misopates orontium</i>		Weasel's Snout
<i>Linaria amethystea</i>		
<i>Cymbalaria muralis</i>		Ivy-leaved Toadflax
<i>Veronica cymbalaria</i>		Pale Speedwell
<i>Veronica arvensis</i>		Wall Speed well
	ACANTHACEAE	
<i>Acanthus mollis</i>		Bear's Breech
	OROBANCHACEAE	
<i>Orobanche ramosa</i>		Branched Broomrape
<i>Orobanche minor</i>		Lesser Broomrape
<i>Orobanche crenata</i>		
<i>Orobanche sanguinea</i>		
	PLANTAGINACEAE	
<i>Plantago coronopus</i>		Buckshorn Plantain
<i>Plantago lagopus</i>		Haresfoot Plantain
<i>Plantago afra</i>		Branched Plantain
	CAPRIFOLIACEAE	
<i>Lonicera implexa</i>		Honeysuckle
	VALERIANACEAE	
<i>Fedia cornucopiae</i>		
<i>Centranthus calcitrapae</i>		
<i>Centranthus ruber</i>		Red Valerian
	DIPSACACEAE	
<i>Scabiosa atropurpurea</i>		Mournful Widow
	CAMPANULACEAE	
<i>Campanula erinus</i>		Annual Bellflower
	COMPOSITE	
<i>Aster squamatus</i>		
<i>Conyza albida</i>		
<i>Conyza bonariensis</i>		
<i>Helichrysum rupestre</i>		
<i>Phagnalon saxatile</i>		
<i>Dittrichia viscosa</i>		Aromatis Inula
<i>Pallenis spinosa</i>		
<i>Asteriscus maritimus</i>		Sea Aster
<i>Chrysanthemum coronarium</i>		Crown Daisy
<i>Senecio bicolor</i>		Silver Ragwort; Cineraria
<i>Senecio vulgaris</i>		Groundsel
<i>Calendula suffruticosa</i>		
<i>Calendula arvensis</i>		Marigold

This version is out of date

<i>Carlina corymbosa</i>		Flat-topped Carline Thistle
<i>Carduus tenuiflorus</i>		
<i>Galactites tomentosa</i>		
<i>Centaurea sonchifolia</i>		
<i>Centaurea melitensis</i>		Maltese Star Thistle
<i>Centaurea pullata</i>		
<i>Carthamus arborescens</i>		
	CHICORIOIDEAE	
<i>Scolymus hispanicus</i>		Spanish Oyster Plant
<i>Hyoseris radiata</i>		
<i>Hedypnois arenaria</i>		
<i>Urospermum picroides</i>		
<i>Reichardia picroides</i>		
<i>Reichardia intermedia</i>		
<i>Lenotondon taraxacoides</i>		
<i>Aetheorhiza bulbosa</i>		
<i>Sonchus oleraceus</i>		Common Sow-Thistle
<i>Sonchus tenerrimus</i>		
<i>Lactuca tenerrima</i>		
<i>Andryala intergrifolia</i>		
	LILIACEAE	
<i>Asphodelus albus</i>		White Asphodel
<i>Asphodelus ramosus</i>		Asphodel
<i>Aloe arborescens</i>		
<i>Colchicum lusitanum</i>		
<i>Urginea maritima</i>		Sea Squill
<i>Allium roseum</i>		Rose Garlic
<i>Allium triquetrum</i>		Triquetous Garlic
<i>Allium ampleoprasum</i>		Wild Leek
<i>Allium sphaerocephalon</i>		Round-headed Leek
<i>Nothoscoredum inordorum</i>		
<i>Asparagus albus</i>		Spiny asparagus
<i>Ruscus hypophyllum</i>		
<i>Smilax aspera</i>		Smilax
	AMARYLLIDACEAE	
<i>Narcissus papyraceus</i>		Paper-white Narcissus
	DIOSCOREAGEAE	
<i>Tamus communis</i>		Black Bryony
	IRIDACEAE	
<i>Iris germanica</i>		Fleur-de-Lis
<i>Gynandriris sisyrrinchium</i>		Barbary Nut
<i>Freesia refracta</i>		Freesia
<i>Gladiolus communis</i>		
	GRAMINEAE	
<i>Lolium multiflorum</i>		Italian Rye Grass
<i>Vulpia geniculata</i>		
<i>Vulpia ciliata</i>		
<i>Desmazeria rigida</i>		Hard Poa
<i>Desmazeria marina</i>		Stiff Sand-grass; Darnel Poa
<i>Poa annua</i>		Annual Meadow-grass
<i>Poa infirma</i>		

This version is out of date

<i>Dactyllis glomerata</i>		Cacosfoot
<i>Melica minuta</i>		
<i>Bromus diandrus</i>		Freat Brome
<i>Bromus madritensis</i>		Compact Brome
<i>Brachypodium distachion</i>		
<i>Trisetum paniceum</i>		
<i>Elymus farctus farctus x</i>		Hybrid Sea Couch
<i>Elymus repens</i>		
<i>Triticum aestivum</i>		Bread Sea Couch
<i>Hordeum murinum</i>		
<i>Avena barbata</i>		Bread Wheat
<i>Avena sterilis</i>		Wall Barley
<i>Lagurus ovatus</i>		
<i>Piptatherum miliaceum</i>		Anumated Oat
<i>Piptatherum coerulescens</i>		Hare's Tail
<i>Stipa tenacissima</i>		
<i>Arundo donax</i>		Giant Reed; Cane
<i>Cynodon dactylon</i>		Bermuda Grass
<i>Panicum repens</i>		
<i>Hyparrhenia hirta</i>		
<i>Phalaris canarensis</i>		Canary Grass
<i>Digitaria sanguinalis</i>		Hairy Finger-grass
	ARACEAE	
<i>Arisarum vulgare</i>		Friar's Cowl
	CYPERACEAE	
<i>Cyperus rotundus</i>		

This version is out of date

SCHEDULE 3.

Wild Birds, Wild Animals and Wild Plants in respect of which no licence shall be issued under section 13 which may result in the extinction in Gibraltar of that wild bird, wild animal or wild plant.

<i>Name</i>	<i>Common Name</i>
<i>Phalacrocorax aristotelis desmarestii</i>	Western Mediterranean Shag
<i>Falconiformes</i>	any bird of prey
<i>Alectoris barbara</i>	Barbary Partridge
<i>Tytonidae and Strigiade</i>	any owl
<i>Vulpes vulpes</i>	Red Fox
<i>Macaca sylvanus</i>	Barbary macaque
<i>Acicula norris</i>	(Gibraltar endemic snail)
<i>Osteophora calpeana</i>	(Gibraltar endemic snail)
<i>Cecilioides spp.</i>	(Gibraltar endemic snail)
<i>Macrothele calpetana</i>	Gibraltar Funnel-web Spider
<i>Cerastium gibraltarium</i>	Gibraltar Chickweed
<i>Silene tomentosa</i>	Gibraltar Sea Champion
<i>Iberis gibraltaria</i>	Gibraltar Candytuft
<i>Saxifraga glodulifera</i>	Gibraltar Saxifrage
<i>Ononis natrix</i>	Gibraltar Restharrow
<i>Limonium emarginatum</i>	Gibraltar Sea Lavender
<i>Thymus wildenowii</i>	Gibraltar Thyme
<i>Petroselinum crispum</i>	Parsley
<i>Ferula tingitana</i>	Giant Tangier Fennel
<i>Succowia balearica</i>	

SCHEDULE 4

Section 17M

**PROCEDURE IN CONNECTION WITH ORDERS UNDER
SECTION 17M****Coming into operation.**

1. An order takes effect on its being made.

Publicity for orders.

2.(1) The Minister shall, as soon as practicable after making an order, publish in the Gazette a notice setting out the order (or describing its general effect) and stating that it has taken effect.

(2) The notice shall —

- (a) name a place in the area in which the land to which the order relates is situated where a copy of the order may be inspected free of charge at all reasonable hours; and
- (b) specify the time (not being less than 14 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the order may be made.

(3) A copy of the notice shall be served on —

- (a) every owner and occupier of that land (subject to paragraph 4);
- (b) the Development and Planning Commission; and
- (c) the Nature Conservancy Council.

Procedures when orders opposed.

3. (1) If any representation or objection is duly made within the period specified in accordance with paragraph 2(2)(b) with respect to an order and is not withdrawn, then, as soon as practicable the Minister shall either —

- (a) cause an inquiry to be held; or

- (b) afford any person by whom a representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by the Minister for the purpose.

(2) On considering any representations or objections duly made and the report of any person appointed to hold the inquiry or to hear representations or objections, the Minister shall decide either to take no action on the order, or to make an order amending or revoking it as he thinks appropriate in the light of the report, representations or objections.

(3) An amending or revoking order made by virtue of sub-paragraph (2) takes effect immediately and no representation or objection with respect to it shall be entertained.

Restriction on power to amend orders or confirm them with modifications.

4. The Minister shall not by virtue of paragraph 3(2) amend an order which has taken effect so as to extend the area to which the order applies.

Notice of final decision on order.

5. (1) The Minister shall as soon as practicable after making an order by virtue of paragraph 3(2) give notice —

- (a) setting out the order (or describing its effect) and stating that it has taken effect; and
- (b) naming a place in the area in which the land to which the order relates is situated where a copy of the order may be inspected free of charge at all reasonable hours.

(2) The Minister shall give notice as soon as practicable of a decision under paragraph 3(2) to take no action on an order which has already taken effect.

Proceedings for questioning validity of orders.

6. (1) In this paragraph the “relevant date” is, in the case of an order —

- (a) in respect of which no representations have been made under paragraph 3, 15 days from the publication of the notice under paragraph 2(1); and
- (b) in respect of which representations have been made, the date on which the Minister gives notice under paragraph 5.

(2) If any person is aggrieved by an order to which this paragraph applies and desires to question its validity on the grounds that it is not within the powers of section 17M or that any of the requirements of this Schedule have not been complied with in relation to it, he may within six weeks from the date of the relevant date made an application to the Supreme Court under this paragraph.

(3) On any such application the court may, if satisfied that the order is not within those powers or that the interests of the applicant have been substantially prejudiced by a failure to comply with any of those requirements, quash the order, or any provision of the order, either generally or in so far as it affects the interests of the applicant.

(4) Except as provided by this paragraph, the validity of an order shall not be questioned in any legal proceedings whatsoever.

Interpretation.

7. In this Schedule —

“amending order” and “revoking order” mean an order which amends or, as the case may be, revokes a previous order;

“order” means an order under section 17M.

SCHEDULE 5

Section 17S

EUROPEAN PROTECTED SPECIES OF ANIMALS

Common Name	Scientific Name
Bats (all species)	Chiroptera
Dolphins, porpoises and whales (all species)	Cetacea
Reptiles	
European Pond Terrapin	Emys orbicularis
Striped-necked Terrapin	Mauremys caspica
Bedriaga's Skink	Chalcides Bedriagae
Horseshoe Whipsnake	Coluber hippocrepis
Spiders	
Gibraltar Funnel Web	Macrothele Calpeina
Molluscs	
Ribbed Mediterranean Limpet	Patella Feruginae
Date Mussel	Lithophaga Lithophaga
Noble Pen Shell	Pinna Nobilis

NOTE. The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names shall not be taken into account.

SCHEDULE 6

Section 17V

ANIMALS WHICH MAY NOT BE TAKEN OR KILLED IN
CERTAIN WAYS

Common Name	Scientific Name
Barbel	Barbus barbus
Seal, Mediterranean Monk	Monachus monachus

NOTE. The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names shall not be taken into account.

SCHEDULE 7

Section 17W

EUROPEAN PROTECTED SPECIES OF PLANTS

Common Name

Scientific Name

No Entry¹

No Entry¹

NOTE. The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names shall not be taken into account.

¹ As at 1st September 1995 no European protected species of plant mentioned in the Habitats Directive was found in Gibraltar.