

Subsidiary Legislation made under ss.21 and 24.

Nature Conservation Area (Gibraltar Nature Reserve) (Protection and Regulation) Regulations 1993

LN. 1993/052

		<i>Commencement</i>	1.4.1993
Amending enactments	Relevant current provisions	Commencement date	
LN. 2019/114	rr. 2(1), 8A-8B, 10		6.6.2019
2022/076	rr. 1, 2(1), 3(1)-(2), 4(2)		24.3.2022

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Title and commencement.

1. These regulations may be cited as the Nature Conservation Area (Gibraltar Nature Reserve) (Protection and Regulation) Regulations 1993 and shall come into effect on the 1st day of April 1993.

Interpretation and application.

2.(1) In these regulations, unless the context shall otherwise require,—

“Authority” means the Government or such undertaking as may be appointed by the Government from time to time to be the Authority;

“authorised officer” means—

- (a) a member of the Royal Gibraltar Police as defined in section 2 of the Police Act 2006;
- (b) the Chief Environmental Health Officer or such person as he shall appoint from the Environment Agency Limited;
- (c) a Wildlife Warden appointed under section 21(1) of the Nature Protection Act, 1991;
- (d) the Chief Executive Officer of the Department of the Environment, Heritage and Climate Change or such person as he shall appoint;

“bio-based plastic” means a plastic derived wholly or partially from polymers obtained from biomass sources such as corn, sugarcane, wheat or others, which may be biodegradable or partially biodegradable under industrial composting processes;

“biodegradable plastic” means a plastic capable of undergoing physical, biological decomposition, such that it ultimately decomposes into carbon dioxide (CO₂), biomass and water in conditions containing microorganisms such as anaerobic digestion and industrial composting processes;

“domestic livestock” means any animal whether kept for commercial purposes or for pleasure which is or may be a source of food and includes poultry;

“flying machine” includes hang gliders, microlites and remote control model flying machines;

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“oxo-degradable plastic” means a plastic that includes additives which through oxidation leads to the fragmentation of the plastic material into micro-fragments or to chemical decomposition;

“protected plant” means any wild plant other than a plant specified in Schedule 2 of the Nature Protection Act 1991;

“permitted route” means the roads specified by the Authority by a notice displayed in the Reserve and shall not include paths;

“plastic” means a material consisting of a polymer, to which additives or other substances may have been added, and which functions or can function as a main structural component of final products, including bio-based plastics, oxo-degradable plastics and biodegradable plastics, with the exception of natural polymers that have not been chemically modified;

“Reserve” means the Gibraltar Nature Reserve designated in the Nature Conservation (Designation of Gibraltar Nature Reserve) Order 2019;

“single-use beverage container made with plastic” means a product made wholly or partly from plastic, containing a liquid intended for human consumption, that is not conceived, designed or made available or placed on the market to accomplish, within its life span, multiple trips or rotations by being returned to a producer for refill or reused for the same purpose for which it was conceived;

“Upper Rock Reserve” means the Upper Rock Nature Reserve designated in the Nature Conservation Area (Upper Rock) Designation Order 1993;

“vehicle” includes pedal cycles and motor cycles.

(2) The provisions of section 2 of the Nature Protection Act 1991 shall be applied to these regulations.

Access.

3.(1) No person shall enter or remain in the Upper Rock Reserve between sunset and sunrise except with the prior written consent of the Authority to do so which consent may specify the part or parts of the Upper Rock Reserve that that person may enter or remain in.

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(2) A person to whom written consent has been given in accordance with sub-regulation (1) shall not enter or remain in any part of the Upper Rock Reserve except the part or parts of the Upper Rock Reserve specified in such consent.

(3) The Authority may, in its discretion and for the purpose of the good management of the Reserve, close or restrict access to any part of the Reserve or to any road or path in the Reserve.

(4) Where, in exercise of its powers under sub-regulation (3), the Authority has restricted or closed any part of the Reserve or any road or path, the Authority shall place signs indicating—

- (a) the area to which the closure or restriction applies;
- (b) whether or not the area is closed or if access is restricted, the nature of the restriction;
- (c) the period of time for which the closure or restriction is in operation.

(5) Where, in accordance with the provisions of this regulation, the Authority has closed or restricted access to any area, road or path in the Reserve, no person shall enter in that area or onto the road or path or into the road or path in contravention of the restriction, as the case may be.

Use of vehicles etc.

4.(1) No vehicle shall be used in the Reserve except on permitted routes or with the prior written consent of the Authority.

(2) No person shall use a flying machine in the Reserve without the prior written consent of the Authority.

(3) No person shall ride a horse or donkey or any other animal in the reserve, or use any animal-drawn transport.

(4) No vehicle shall be parked in the Reserve except in an area designated for this purpose by the Authority.

Protection of wild life.

5.(1) No person shall, without the prior written consent of the Authority, in the Reserve,—

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- (a) hunt, shoot or capture wild life by means except in accordance with a licence granted under the Act;
- (b) take into or use firearms or other weapons, traps or snares;
- (c) enter in to any cave or tunnel used as a roost by bats;
- (d) uproot or damage trees or plants or pick any protected plant;
- (e) collect or use any wildlife product;
- (f) graze or permit to graze any domestic livestock;
- (g) plant or grow any plant which, in the view of the Authority, is undesirable in the Reserve;
- (h) introduce any animal or plant which is of a kind which is not ordinarily resident or is not a regular visitor to Gibraltar in a wild state or does not grow in the wild in Gibraltar, as the case may be;
- (i) feed any wild animal in the Reserve;
- (j) disturb any wild animal or wild bird in the Reserve;
- (k) climb or use climbing equipment on any cliff in the Reserve.

(2) Subject to the provisions of sub-regulations (3) and (4), no animal other than a wild animal, may be taken into or kept in the Reserve.

(3) Any person resident in the Reserve or having the exclusive use of property in the area of the Reserve, may apply for a licence to take into the Reserve, an animal other than a wild animal.

(4) A dog which is displaying a current licence disc issued in accordance with the Animals and Birds Act may be taken into any part of the Reserve except a part from which by a notice displayed in the Reserve the Authority has excluded—

- (a) dogs; or
- (b) dogs unless kept on lead, unless kept on a lead.

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(5) Where a person has made an application under sub-regulation (3), the Authority shall grant the application subject to such conditions as to the safe keeping of the animal as in the view of the Authority are necessary to protect the Reserve, unless the Authority is satisfied that because of the species of the animal or the nature of the particular animal or the circumstances of the location in which it is proposed to keep the animal, it would endanger the wild animals, wild birds or wild plants of the Reserve if the application were to be granted.

Structures.

6.(1) No person shall erect whether permanently or temporarily any structure which may obstruct the visibility of the Reserve or change the appearance of the Reserve except with the prior written consent of the Authority and subject to such conditions as the Authority may impose for the protection of the Reserve.

(2) No person shall damage or deface any structure including any natural structure in the Reserve.

Conduct of research in the Reserve.

7. Scientific study may be undertaken in the Reserve—

- (a) with the prior written consent of the Authority and subject to such conditions as the Authority may impose for the purpose of protecting the Reserve;
- (b) subject to the requirement that—
 - (i) the results of such research shall be presented to the Authority;
 - (ii) specimens may only be collected with the prior written consent of the Authority.

Nuisances.

8. No person shall, in the Reserve,—

- (a) deposit litter or waste;
- (b) light a fire except—
 - (i) in an area designated for this purpose by the Authority; and

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- (ii) having previously received the consent in writing of the Authority;
- (c) use a radio, television, cassette or disc player except where such equipment is fitted with headphones and is operated in such a manner as to be inaudible to any person other than the person wearing the headphones:

Provided that a person who is resident in the Reserve or has the exclusive use of property in the area of the Reserve may use such equipment in the property in which he is resident or of which he has exclusive use in such a manner as not to cause disturbance outside the area of that property;

- (d) hawk or sell goods for gain unless having the prior written consent of the Authority and subject to such conditions as may be imposed in that consent;
- (e) camp or set up camping facilities except in an area designated for this purpose by the Authority and with the prior written consent of the Authority.

Prohibition of sale etc. of single-use plastic beverage containers.

8A. No person shall, in the Reserve, sell, offer for sale or otherwise distribute a single-use beverage container made with plastic.

Fixed penalty notice for offence under regulation 8A.

8B.(1) Where an authorised officer has reason to believe that an offence for contravention of regulation 8A has been committed he may issue a notice to the person committing the offence offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty of £250.

(2) Where a person has been issued with a notice under this regulation in respect of an offence—

- (a) no proceedings shall be instituted for that offence before the expiration of fourteen days following the date of the service of that notice; and
- (b) he shall not be proceeded further against for that offence if he pays the fixed penalty before the expiration of that period.

(3) In subregulation (1) and (2)—

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“proceedings” means any criminal proceedings in respect of the offence specified in the notice under subregulation (1); and

“conviction” shall be construed in like manner.

(4) A notice under this regulation shall—

- (a) give reasonably detailed particulars of the circumstances alleged to constitute the offence;
- (b) the period during which, by virtue of subregulation (2), proceedings are not to be taken for the offence;
- (c) the amount of the fixed penalty; and
- (d) the address of the Clerk of the Magistrates’ Court to whom the fixed penalty shall be paid.

(5) Without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise) to the Clerk of the Magistrates’ court at the address.

(6) A notice may be issued to a person under this regulation by—

- (a) handing it to him;
- (b) addressing it to him and leaving it at his last known address; or
- (c) sending it by registered post to him at his last known address.

(7) In any proceedings, a certificate which—

- (a) purports to be signed by or on behalf of the Clerk of the Magistrates’ Court; and
- (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate, shall be conclusive evidence of the facts stated.

Wild life wardens.

9.(1) Any person appointed as a Wild Life Warden in accordance with section 21 of the Nature Protection Act 1991, shall carry out such duties in the Reserve as the Authority shall specify

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and shall have the power, in the Reserve, to stop any person who, it appears to the wild life warden, has failed to comply with the requirements of these regulations and require that person to give to the warden details of the person's name and address evidenced by the production of an identity card or passport.

(2) Any wild life warden shall have, in the Reserve, the powers specified in section 16 of the Nature Protection Act 1991.

Offences.

10. Subject to regulation 8B, failure to comply with the provisions of these regulations, shall be an offence punishable on summary conviction by a fine at level 3 on the standard scale.