

**SECOND SUPPLEMENT TO THE GIBRALTAR
GAZETTE**
No. 3919 of 19 March, 2012

LEGAL NOTICE NO. 33 OF 2012.

INTERPRETATION AND GENERAL CLAUSES ACT

**NATURE PROTECTION ACT 1991 (AMENDMENT)
REGULATIONS 2012**

In exercise of the powers conferred upon it by section 23(g)(ii) of the Interpretation and General Clauses Act, and for the purpose of further transposing into the law of Gibraltar Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds, the Government has made the following Regulations—

Title and commencement.

1. These Regulations may be cited as the Nature Protection Act 1991 (Amendment) Regulations 2012 and come into operation on the day of publication.

Amendment of Act.

2.(1) The Nature Protection Act 1991 is amended in accordance with the provisions of this Regulation.

(2) After section 2A insert the following sections—

“Assessment and protection of wild bird species.

2B.(1) The Minister, through appropriate means, must establish the conservation status of all wild bird species which are either resident in or visitors to Gibraltar, BGTW or to both, and shall conduct such periodic reviews as may be required to maintain such information relevant and up to date.

(2) Based on the information obtained under subsection (1) the Minister must take such measures as are required to maintain or adapt the population of such wild bird species at a level which corresponds in particular to ecological, scientific and cultural requirements, while taking account of economic and recreational requirements.

- (3) In the light of the duties under subsection (2) the Minister must by order take such measures as are required to preserve, maintain or re-establish a sufficient diversity and area of habitats for all the wild bird species to which this section applies.
- (4) For the purposes of subsection (3) the preservation, maintenance and re-establishment of biotopes and habitats shall include primarily the following measures—
 - (a) creation of protected areas;
 - (b) upkeep and management in accordance with the ecological needs of habitats—
 - (i) inside; and
 - (ii) outside,the protected zones;
 - (c) re-establishment of destroyed biotopes;
 - (d) creation of biotopes.
- (5) Where the Minister makes an Order under this section in respect of an area of land or sea, the Minister may declare that area shall be treated for the purposes of this Act as a European Site or European Marine Site.

Directions.

- 2C.(1) In furtherance of any matter provided for under section 2B, the Minister may issue a Direction in writing specifying the action to be taken by the person named therein and within the time stated.
- (2) A person who without reasonable excuse fails to comply with such a direction shall be guilty of an offence and shall be liable on summary conviction to a fine up to level 3 on the standard scale.”.

(3) In section 7A(2) for paragraphs (a) and (b) substitute the following paragraphs–

- “(a) species in danger of extinction;
- (b) species vulnerable to specific changes in their habitat;
- (c) species considered rare because of small populations or restricted local distribution;
- (d) other species requiring particular attention for reasons of the specific nature of their habitat; and
- (e) trends and variations in population levels as a background for evaluations.”.

(4) For section 13(6A) substitute the following subsection–

“(6A) Notwithstanding any provision, limitation or condition that may be imposed on a licence issued under this section, where the licence to be issued is in respect of a wild bird, the licence must specify–

- (a) the species which are covered by the licence;
- (b) the means, arrangements or methods authorised for capture or killing;
- (c) the conditions of risk and the circumstances of time and place under which the licensed activity may be undertaken;
- (d) the authority empowered to declare that the required conditions obtain and to decide what means, arrangements or methods may be used, within what limits and by whom; and
- (e) the controls which will be carried out.”.

(5) In section 17DA(1)(b) after the words “regularly occurring migratory species not listed in Annex I of the Wild Birds Directive” insert the words “bearing in mind their breeding, moulting and wintering areas and staging posts along their migration routes”.

(6) After section 17E(1)(d) insert the following paragraph–

“(e) where an Order under section 2B so provides, an area designated under that section.”.

(7) In paragraphs (b) and (c) of section 18(1) the words “wild birds,” are repealed.

(8) After section 21 insert the following section–

“Promotion of research etc.

21A.(1) The Government shall take steps to encourage research and any other work that it considers is required as the basis for the protection, management and use of the populations of all wild bird species.

(2) In discharging the obligations set out in subsection (1), the Government shall have particular regard to the subjects that are listed in Annex V to the Wild Birds Directive, which is reproduced in Schedule 8 for information purposes.

(3) The Government shall ensure that the Commission is supplied with such information resulting from the discharge of its obligations under subsection (1) as is required for the Commission to coordinate research in relation to the protection, management and use of wild bird populations.”.

Dated 19 th March, 2012

DR J CORTES,
For the Government.

EXPLANATORY MEMORANDUM

These Regulations amend the Nature Protection Act 1991 to further transpose Directive 2009/147/EC on the conservation of wild birds.