



SUPPLEMENT No. 2
TO
THE SOVEREIGN BASE AREAS GAZETTE
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LEGISLATION

CONTENTS:

The following LEGISLATION is published in this Supplement which forms part of this Gazette : –

	Ordinance No.
Game and Wild Birds Ordinance 2008	21
Refugees (Amendment) Ordinance 2008	22
Water Conservation (Special Measures) (Amendment) Ordinance 2008	23
Motor Vehicles and Road Traffic (Consolidation) (Amendment)(No. 2) Ordinance 2008	24

GAME AND WILD BIRDS ORDINANCE 2008

ARRANGEMENT OF SECTIONS

Part 1

Preliminary Provisions

Section

1. Short title
2. Interpretation

Part 2

GENERAL PROVISIONS

3. Principal Objectives of this Ordinance
4. Chief Officer's general responsibility
5. Advice from experts

Part 3

WILD BIRDS

6. Scope of Part 3
7. General powers of the Chief Officer
8. Special Protection Areas
9. Management and Protection of a Special Protection Area
10. Appropriate assessment
11. Protection of wild birds
12. Dealing in wild birds
13. Prohibited means of pursuing, capturing or killing of wild birds
14. Licence to permit activities otherwise prohibited under sections 11-13
15. Introduction of non-local species of wild birds into the Areas
16. Information to EC Commission

Part 4

GAME

17. Regulations on hunting game
18. Hunting may be prohibited even in a game season
19. Requirement for game licence
20. Carrying of game licence
21. Requirement for insurance cover
22. Hunting orange to be worn

23. Treatment of game which has been killed or captured
24. Disposal of spent cartridges
25. Retention of plumage
26. Prohibited methods of hunting
27. Restrictions on import, manufacture and possession of items

Part 5

GAME SEASONS, CLOSE SEASONS AND GAME RESERVES

28. Prescribing of game season
29. Restrictions on hunting during close season
30. Offence of possessing game during close season
31. General game reserves
32. Temporary game reserves
33. Offences within general game reserves and temporary game reserves
34. Sealing of shot guns

Part 6

MARKETING OF GAME

35. Prohibitions on disposing of game
36. Obligations on a dealer in game
37. Prohibition on offering game or wild birds at premises

Part 7

PROHIBITIONS

38. Restrictions on carrying a shot gun
39. Prohibition on use of cloth or rag as wadding and on using tracer bullets etc
40. Restrictions on capturing or keeping live wild birds or game
41. Restrictions on introducing game and wild birds into the environment
42. Taxidermy
43. Game not to be disturbed
44. Endangered species
45. Game or wild birds not to be fenced in

Part 8

PROTECTION OF HUMAN LIFE, AGRICULTURE AND OTHER FLORA

46. Protection of human life, domestic animals, crops and other flora
47. Permissible means of protecting cultivations

Part 9

CONTROL OF HOUSE SPARROWS AND CERTAIN OTHER SPECIES

48. Control of house sparrows and certain other species

Part 10

GAME WARDENS AND OTHER OFFICIALS

49. Appointment of game wardens and authorising of persons to carry out functions of game warden
50. Power of entry without warrant
51. General duty of a game warden and authorisation to carry a shot gun
52. Powers of game wardens and police officers

Part 11

MISCELLANEOUS PROVISIONS

53. Legal Proceedings
54. Liability of officers of a body corporate
55. Penalty for an offence for which no specific penalty is provided
56. Subsequent offences
57. Additional powers of Court
58. Rewards
59. Regulations
60. Licence to carry out research
61. Delegation
62. Repeals and Transitional Provisions
63. Application to the Crown
64. Commencement

SCHEDULES

- Schedule 2: Game

GAME AND WILD BIRDS ORDINANCE 2008

An Ordinance to amend and consolidate the Ordinances relating to the preservation, protection and development of game and wild birds and for related purposes

J. H. GORDON
ADMINISTRATOR

28th November 2008.

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

PART 1

PRELIMINARY PROVISIONS

1. Short Title

This Ordinance may be cited as the Game and Wild Birds Ordinance 2008.

2. Interpretation

In this Ordinance —

“animal” means any species of live animal;

“biotope” means any area of land or water which has distinguishing abiotic and biotic features and in which any species of game or wild bird lives in natural conditions;

“close season” has the meaning given to it in section 28;

“corresponding Republican Law” means the Protection and Management of Game and Wild Birds Law 2003 of the Republic (Law 152(1) 1003), and includes any Law amending or substituting that Law;

“endangered species” has the meaning assigned to it in section 44;

“game” means any animal which is listed in Schedule 2.

“Game Fund” means the Game Fund established under the Game Fund Laws 1990 of the Republic as amended from time to time;

“game licence” means a game licence issued in the Republic under the corresponding Republican Law;

“game reserve” means a general game reserve or a temporary game reserve;

“game warden” means a person appointed as a game warden under section 49;

“game season” has the meaning given to it in section 28;

“general game reserve” has the meaning given to it in section 31;

“licence as a dealer in game” means a licence as a dealer in game issued by the Republic under the corresponding Republican Law;

“means of transport” means any aircraft, animal, carriage, craft, rail wagon, bicycle, boat, motor vehicle of any description or any other vehicle which is used for transporting persons or goods;

“migratory species” means any species of wild bird which migrates from its breeding area to its wintering area and vice versa at regular intervals;

“Natural habitat” has meaning given to this term in the Protection and Management of Nature and Wildlife Ordinance 2007(a);

“project” has the same meaning given to this term in section 2 of the Environmental Impact Assessment Ordinance 2003(b);

“relevant fee” means the fee that is prescribed for the same purpose in the Republic by or under the corresponding Republican Law;

“repealed Ordinances” means the Ordinances repealed by section 62;

“Schedule 1” means Schedule I of the corresponding Republican Law;

“Schedule 3” means Schedule III of the corresponding Republican Law;

“Schedule 9” means Schedule IX of the corresponding Republican Law;

“Scientific Committee” means the Scientific Committee established under section 4 of the Protection and Management of Nature and Wildlife Law 2003 of the Republic, Law 153(I)2003;

“shot gun” has the meaning given to the term “shot-gun” in section 2 of the Firearms Ordinance 1974(c);

“Special Area of Conservation” means a site of European interest prescribed as such under section 8 of the Protection and Management of Nature and Wildlife Ordinance 2007;

“Special Protection Area” means an area which has been designated as such under section 8;

“species” means any group of organisms whose members actually or potentially interbreed and produce viable offspring;

“taxidermist’s licence” means a taxidermist’s licence issued by the Republic under the corresponding Republican Law;

“temporary game reserve” has the meaning given to it in section 32;

“wild bird” means any bird which by nature lives in the wild and includes birds that are also game.

PART 2

GENERAL PROVISIONS

3. Principal Objectives of this Ordinance

The principal objectives of this Ordinance are to provide for—

- (a) the protection, conservation, management and exploitation of all species of wild birds in the Areas;
- (b) the protection, conservation and adjustment of the population of all wild

birds in the Areas to a level consistent with ecological, scientific and cultural requirements in a manner that also takes account of economic and recreational considerations;

- (c) the conservation of certain species or their re-establishment to a favourable conservation status; and
- (d) the taking of all measures necessary for the establishment of a general system of protection for all species of wild birds;
- (e) the protection and management of game.

4. Chief Officer's general responsibility

The Chief Officer has general responsibility for the protection and management of game and wild birds in the Areas.

5. Advice from experts

- (1) The Chief Officer may, in exercising any of the powers or performing any of the duties conferred or imposed on him by this Ordinance –
 - (a) ask the Scientific Committee to provide a written opinion on the matter under consideration; and
 - (b) in addition to or in place of seeking a written opinion from the Scientific Committee, ask such other environmental expert as he may appoint to advise him to provide a written opinion on the matter under consideration.
- (2) Where the Chief Officer requests a written opinion in accordance with subsection (1) he must have regard to it in determining how to exercise the power or perform the duty in relation to which the opinion was sought.

PART 3

WILD BIRDS

6. Scope of Part 3

This Part applies to wild birds and to their eggs, nests and habitats.

7. General powers of the Chief Officer

- (1) In order to facilitate achievement of the objectives set out in section 3, the Chief Officer may –
 - (a) designate Special Protection Areas in accordance with section 8(1) or (2);
 - (b) prescribe by order published in the Gazette measures for the protection and conservation of habitats both inside a Special Protection Area and in its surrounding area;
 - (c) designate areas for the creation of biotopes by notice in the Gazette;
 - (d) prescribe, by order published in the Gazette, measures for the re-establishment of damaged biotopes.
- (2) A person who contravenes an order made under paragraph (b) or (d) commits an offence.

8. Special Protection Areas

- (1) The Chief Officer may designate by order published in the Gazette Special Protection Areas for the purpose of protecting any species of wild bird listed in Schedule 1;
- (2) The Chief Officer may by order published in the Gazette –
 - (a) designate Special Protection Areas for the purpose of facilitating the survival and reproduction of migratory species of wild bird whose passing over or through the Areas is frequent;

- (b) prescribe measures for the protection and conservation of habitats both inside a Special Protection Area designated in accordance with paragraph (a) and in its surrounding area.
- (3) The Chief Officer may prescribe by order published in the Gazette appropriate measures aimed at preventing pollution or deterioration of any habitat in the area adjacent to a Special Protection Area, or at preventing any disturbances which may be harmful to wild birds.
- (4) Any person who contravenes an order made under subsections (2)(b) or (3) commits an offence.

9. Management and Protection of a Special Protection Area

In relation to any Special Protection Area designated under section 8(1), the Chief Officer must prescribe measures for its management and protection, which may include any or all of the following -

- (a) the prohibition of a specified activity or operation;
- (b) requiring the undertaking of a specified activity or operation by such person as may be specified in the order;
- (c) the taking of any specified conservation measure by such person as may be specified in the order;
- (d) the establishment of a management plan for the area.

10. Appropriate assessment

- (1) Subsection (2) applies where a project (whether or not it requires a building permit under any Ordinance) which is not directly related to or necessary for the management of any area within a Special Protection Area, but which, in the opinion of the Chief Officer, may either on its own or in combination with another project affect such an area.
- (2) A project of the kind referred to in subsection (1) is subject to an appropriate assessment by a competent authority of its implications for the area in view of –
 - (a) the conservation objectives of the specific area within the Special Protection Area in which the project would be based;
 - (b) the conservation objectives of the relevant Special Protection Area as a whole; and
 - (c) public opinion of the project (where such opinion is required to be sought in accordance with regulations made under this section).
- (3) In considering whether to approve a project in accordance with this section, the Chief Officer must have regard to the manner in which it is proposed to be carried out and to any conditions or restrictions subject to which the approval should be given.
- (4) Subject to subsection (5), a project may be approved by the Chief Officer only where he is satisfied as a result of the appropriate assessment that the project will not have an adverse effect on the integrity or the character of the Special Protection Area.
- (5) In the absence of any satisfactory alternative, the Chief Officer may approve a project notwithstanding that the appropriate assessment concludes that it may have an adverse effect on the integrity or the character of the Special Protection Area, but only where he is satisfied that the project is necessary for imperative reasons of overriding public interest, which may include those of a social or economic nature.
- (6) If the Chief Officer approves a project in accordance with subsection (5), he must, by order published in the Gazette, prescribe any compensatory measures required for the purposes of eliminating or reducing the adverse effects the project may have on the Special Protection Area.
- (7) If the Chief Officer does not approve a project, it must not go ahead.
- (8) The Chief Officer may make regulations to be published in the Gazette for the purpose of prescribing the procedure to be followed by a competent authority in carrying out an appropriate assessment, including the method for seeking public opinion on the proposed project and the occasions on which this is required to be done.

- (9) For the purposes of this section, a competent authority means –
- (a) Her Majesty's Forces if the Special Protection Area affected by the project includes any land occupied by the Crown in any capacity or any land to which access is controlled or restricted by the Crown in any capacity;
 - (b) the Senior Environmental Adviser for the Sovereign Base Areas Administration in any other case.

11. Protection of wild birds

- (1) Save as provided by or under Part 4 or Part 9 of this Ordinance, a person must not —
- (a) intentionally or recklessly pursue, kill, wound or capture any wild bird;
 - (b) intentionally or recklessly destroy or cause damage to, the nest or any egg of a wild bird, or to remove the nest of a wild bird;
 - (c) deliberately disturb a wild bird in its natural range so as to affect its ability to survive, breed, rear or nurture its young, migrate, or so as to affect the local distribution or abundance of that species;
 - (d) take from the wild any egg of a wild bird and to keep any such egg even if it is empty;
 - (e) keep any wild bird the hunting and capture of which is prohibited.
- (2) Paragraphs (a), (c) and (e) of subsection (1) apply to all stages of the biological cycle of a wild bird.
- (3) A person who contravenes subsection (1) commits an offence.

12. Dealing in wild birds

- (1) Subject to subsections (2) and (3), a person must not sell, transport for sale, keep for sale or offer for sale any live or dead wild bird or any part or derivative of any wild bird.
- (2) A person may sell, transport for sale, keep for sale or offer for sale a wild bird of the species listed at paragraphs (1) to (7) of Schedule 3 provided –
- (a) he does so in accordance with such conditions as the Chief Officer may impose by order published in the Gazette; and
 - (b) the wild bird was captured or otherwise acquired or killed in a manner permitted by this Ordinance.
- (3) The Chief Officer may by order published in the Gazette permit the sale, transport for sale, keeping for sale or offering for sale of a wild bird of the species listed at paragraphs (8) to (26) of Schedule 2 where he is satisfied that such acts would not place or threaten to place at risk the population level, geographical dispersion or breeding of any such species.
- (4) An order made in accordance with subsection (3) may impose conditions on the sale, transport for sale, keeping for sale or offering for sale of any species of wild bird listed in that order.
- (5) Any act permitted by an order made under subsection (3) is lawful only where the wild bird is captured or otherwise acquired or killed in a manner permitted by this Ordinance.
- (6) A person who contravenes subsection (1) or (2) or any order made under subsections (2) or (3) commits an offence.

13. Prohibited means of pursuing, capturing or killing of wild birds

- (1) A person must not engage in the large-scale or non-selective pursuit, capture or killing of birds.
- (2) Without prejudice to the generality of subsection (1), a person must not use any of the following means for pursuing, killing, wounding or capturing wild birds—
- (a) mist-nets, limesticks, nooses of any description, iron-traps, leghold traps, hooks, live blind or mutilated wild birds as decoys, tape recorders or other sound recording or emitting devices, electrocuting devices, electronic devices capable of killing or stunning or any other trap or means of luring;
 - (b) searchlights, mirrors or any other means of dazzling, sighting devices for night shooting, any apparatus for illuminating targets, silencers or any bait with an explosive mechanism;

- (c) explosives;
 - (d) nets, traps, poisoned or anaesthetising bait;
 - (e) semi-automatic or automatic weapons with a magazine capable of holding more than 2 rounds of ammunition;
 - (f) plastic or other models of game or wild birds, appliances which produce or emit sounds that imitate the sounds of game or wild birds, whether used on their own or in conjunction with any other items such as cassette tapes or compact discs;
 - (g) the method commonly known as “pantima” or any other similar method or practice;
 - (h) chemical substances for luring game and wild birds;
 - (i) poisonous seeds or substances;
 - (j) any appliance which on its own or with the addition of any accessory is capable of locating game;
 - (k) feeding;
 - (l) falconry;.
 - (m) a car or any other motorised land vehicle.
- (3) Without prejudice to the generality of subsection (1) but subject to subsection (4), a person must not pursue wild birds by any of the following means—
- (a) an aircraft;
 - (b) a car or any other form of motorised land vehicle;
 - (c) a boat driven at a speed exceeding 5 kilometres per hour.
- (4) Notwithstanding paragraph (c) of subsection (3), the Chief Officer may by order published in the Gazette permit, for safety reasons, the pursuit of wild birds in the open sea by means of a motor boat at a maximum speed of 18 kilometres per hour.
- (5) A person who contravenes this section commits an offence.

14. Licence to permit activities otherwise prohibited under sections 11-13

- (1) The Chief Officer may license a person to carry out an activity which is otherwise prohibited by sections 11, 12 or 13 (or all such sections) but only for one or more of the following reasons—
- (a) public health;
 - (b) air safety;
 - (c) the prevention of serious damage to crops, livestock, forests, fisheries and water;
 - (d) the protection of fauna and flora;
 - (e) for research and teaching purposes;
 - (f) for the purposes of repopulation and re-introduction of any species and for any breeding operations necessary for such purposes;
 - (g) for the purpose of enabling the taking, keeping and exploitation in a sustainable manner of a small number of specified wild species.
- (2) If the Chief Officer grants a licence in accordance with subsection (1), he must specify in it the following information—
- (a) the species of wild birds which are the object of the licence;
 - (b) the number of the species of wild birds which are the object of the licence;
 - (c) the permitted means of capturing or killing such species;
 - (d) the conditions attaching to, and the period of, the permission;
 - (e) any other necessary restrictive conditions;
 - (f) the person to whom the licence applies;
 - (g) the specific area in which the licence applies; and

- (h) any checks which may be carried out by the Area officer or by a game warden.
- (3) A person who contravenes any condition of a licence granted to him under this section commits an offence.

15. Introduction of non-local species of wild birds into the Areas

- (1) The Chief Officer may specify by order published in the Gazette any measures necessary to ensure that any introduction of non-local species of wild birds into the Areas does not cause any harm to the local fauna and flora.
- (2) A person who contravenes an order made under subsection (1) commits an offence.
- (3) For the purposes of this section, “non-local species” means species that are not normally found on the Island of Cyprus.

16. Information to EC Commission

The Chief Officer may provide the Commission of the European Communities with such information as appears to him to be relevant to the work of the Commission in the matters with which this Ordinance is concerned.

PART 4

GAME

17. Regulations on hunting game

- (1) The Chief Officer may, by regulations published in the Gazette—
 - (a) prescribe the maximum number of game which on any one day may be hunted and possessed by a holder of a game licence;
 - (b) prohibit the shooting, killing, pursuing, capture, possession or sale of any game for such period as may be specified in the regulations;
 - (c) prescribe the hours during which the hunting of game may be carried out;
 - (d) prescribe whether a holder of a game licence may, during the game season, shoot, kill, capture, or pursue game whether accompanied or unaccompanied by a dog;
 - (e) specify for any species of game, the maximum number of game, the area and the period during which the shooting, killing capture or pursuit of such species of game is permitted and the area and the period during which hunting is permitted accompanied by a dog.
- (2) A person who contravenes any regulation made under paragraph (a) or (c) of subsection (1) commits an offence and is liable to imprisonment for 2 years or to a fine of €3,417 or to both.

18. Hunting may be prohibited even in a game season

- (1) The Chief Officer may by order published in the Gazette, prohibit the shooting, killing, pursuit, capture, sale or display for sale of any species of game or wild birds during any period specified in the order even if such period would, apart from such an order, not fall in a close season.
- (2) A person who contravenes an order made under subsection (1) commits an offence.

19. Requirement for game licence

A person must not shoot, kill, possess, capture or pursue in any manner any game, unless he is the holder of a game licence.

20. Carrying of game licence

- (1) The holder of a game licence must carry his game licence with him and must, if he is requested to do so by a game warden or police officer, produce his licence for inspection
 - (a) when he is hunting; or

- (b) when he is carrying a shot gun, cartridges or game in or on a vehicle during a period in which it is lawful to shoot game in the Republic under the corresponding Republican Law,
- (2) A person who contravenes subsection (1) commits an offence and is liable to imprisonment for 2 years or to a fine of €3,417 or to both.

21. Requirement for insurance cover

- (1) A holder of a game licence must enter into and maintain in force a policy of insurance in respect of third party risks to the person or property of any third party arising from the licence holder's hunting activities.
- (2) A person who contravenes subsection (1) commits an offence.

22. Hunting orange to be worn

- (1) A person who is hunting game, or who is accompanying a person who is hunting game, must wear a hat of the colour known as "hunting orange" or must wear clothing such that at least 30% of his body is covered in "hunting orange".
- (2) A person who contravenes subsection (1) commits an offence and is liable to imprisonment for 2 years or to a fine of €3,417 or to both.

23. Treatment of game which has been killed or captured

- (1) A person must not -
 - (a) display live game which has been captured to public view;
 - (b) torture such game in any manner; or
 - (c) display dead game to public view from any motorised means of transport.
- (2) A person who contravenes subsection (1) commits an offence and is liable to imprisonment for 2 years or to a fine of €3,417 or to both.

24. Disposal of spent cartridges

- (1) A person who is hunting, or who is accompanying a person who is hunting, must not dispose of spent cartridges or other waste in the countryside.
- (2) A person who contravenes subsection (1) commits an offence and is liable to imprisonment for 2 years or to a fine of €3,417 or to both.

25. Retention of plumage

- (1) The holder of a game licence must, on any day that he is hunting, keep in full plumage at least the head and one wing of each wild bird that he catches until such time as he reaches his final destination after the end of the hunt.
- (2) A person who contravenes subsection (1) commits an offence and is liable to imprisonment for 2 years or to a fine of €3,417 or to both.

26. Prohibited methods of hunting

- (1) Except where it is permitted by a licence under section 14, a person must not shoot, kill, capture, pursue, disturb or mislead any game by making use of—
 - (a) mist-nets, limesticks, hooks, knots, wire-knots, iron-traps, leghold traps, electronic devices which cause death or stunning, or any other similar trap or means of luring;
 - (b) searchlights, mirrors or any other means of dazzling;
 - (c) devices for illuminating targets, sighting devices for night shooting consisting of electronic magnifiers or image converters, silencers, baits with explosive mechanisms or electrocuting devices;
 - (d) plastic or other models of game or wild birds, appliances which produce or emit sounds imitative of game or wild birds, whether such appliances are used alone or in conjunction with any other item such as cassette tapes or compact discs;
 - (e) motorised means of transport on land and boats and aircraft of any description;

- (f) the method commonly known as “pantima” or any other similar method or practice;
 - (g) chemical substances for luring game and wild birds;
 - (h) poisonous seeds or substances;
 - (i) any appliance which either on its own or in conjunction with any accessory is capable of locating game;
 - (j) feeding;
 - (k) falconry.
- (2) A person must not engage in the large-scale or non-selective pursuit, capture or killing of game.
 - (3) A person who contravenes this section commits an offence.

27. Restrictions on import, manufacture and possession of items

- (1) Subject to subsection (2), a person must not import, manufacture or possess any of the items described in paragraphs (a), (c), (d), (g), (h), and (i) of section 26(1) unless he is the holder of a licence issued under this section by the Chief Officer:
- (2) Subsection (1) does not prohibit any person from importing, manufacturing or possessing hooks for the purposes of fishing.
- (3) A person who contravenes subsection (1) commits an offence.

PART 5

GAME SEASONS, CLOSE SEASONS AND GAME RESERVES

28. Prescribing of game season

- (1) Subject to subsection (2), the Chief Officer must prescribe by order published in the Gazette the period of the year which is to be the game season.
- (2) The period falling wholly or partly between 1st March and 15th August in any year (both dates included) may not be a game season.
- (3) Any period of the year which has not been prescribed under subsection (1) as a game season is a close season.

29. Restrictions on hunting during close season

- (1) Except where section 48 applies, a person must not shoot, kill, capture, disturb or pursue any game during a close season.
- (2) The Chief Officer may grant to a game warden or person authorised under section 49 a licence authorising that person to shoot, kill, capture or pursue a species of game or wild bird for the purposes of scientific research in any area including in a game reserve during any season.
- (3) A person who contravenes this section commits an offence.

30. Offence of possessing game during close season

- (1) Subject to subsection (2), any person who has in his possession any game (whether killed or live) or any part of any such game during a close season commits an offence.
- (2) The Chief Officer may by order published in the Gazette prescribe a period ending no later than 15 days after the date of the expiry of any game season during which the possession of killed game is permissible.

31. General game reserves

- (1) The Chief Officer may by order published in the Gazette designate any area as a general game reserve.
- (2) Without prejudice to subsection (1), the following are general game reserves—

- (a) any urban area, the residential area of any village and any area within a distance of 500 metres from the outer limits of such a residential area, and any area within a radius of 200 metres of any isolated house;
- (b) any military establishment and any area within a distance of 300 metres of such an establishment;
- (c) any private place fenced by walls or metal, net, or other fencing material to a height exceeding 150 centimetres and any area within a radius of 200 metres of such a place.

32. Temporary game reserves

The Chief Officer may by order published in the Gazette declare any area to be a temporary game reserve for such period as may be specified in the order.

33. Offences within general game reserves and temporary game reserves

A person commits an offence if he —

- (a) shoots, kills, captures or pursues any game in a general game reserve or in a temporary game reserve or who is found in a general game reserve or in a temporary game reserve in such circumstances as to indicate that he was present there with a view to pursue game unlawfully; or
- (b) not being either a police officer or a game warden or a person authorised under section 49, is in possession of a shotgun in a general game reserve or in a temporary game reserve without the written permission of the Chief Officer.

34. Sealing of shot guns

- (1) The Chief Officer may, with a view to preventing the use of shot guns during a close season, by order published in the Gazette, specify that on such date as may be specified in the order, all shot guns are to be presented to the Chief Officer for sealing up.
- (2) While an order made under subsection (1) is in force, a person must not have in his possession or under his control a shot gun which has not been sealed up in accordance with that order.
- (3) While an order made under subsection (1) is in force, a person who has in his possession or under his control a shot gun must, if requested to do so by a police officer or a game warden, produce the shot gun for inspection by that person.
- (4) A person commits an offence if, while an order made under subsection (1) is in force—
 - (a) fails to comply with, or acts in contravention of, the order;
 - (b) fails to comply with subsection (3); or
 - (c) otherwise than with the written authority of a police officer or of the Chief Officer, breaks, destroys or in any other way interferes with any sealing made pursuant to the order.

PART 6

MARKETING OF GAME

35. Prohibitions on disposing of game

- (1) Subject to subsection (2), a person who does not hold a licence as a dealer in game must not sell or otherwise for consideration dispose of any game.
- (2) A holder of a game licence may sell or otherwise for consideration dispose of game to a person who holds a licence as a dealer in game.
- (3) A person who contravenes this section commits an offence.

36. Obligations on a dealer in game

- (1) A holder of a licence as a dealer in game must display the licence in a conspicuous place at the place or premises specified in the licence for the supply of game.

- (2) A holder of a licence as a dealer in game must keep a book in which he must enter truthfully and accurately the particulars required under the corresponding Republican Law;
- (3) A holder of a licence as a dealer in game must, if requested to do so by a police officer or by any other person appointed by the Chief Officer for the purposes of this section, produce for inspection the book which he is required to keep under subsection (2).
- (4) A person who contravenes subsection (1) commits an offence and is liable to imprisonment for 2 years or to a fine of €3,417 or to both.
- (5) A person who contravenes subsection (2) or subsection (3) commits an offence.

37. Prohibition on offering game or wild birds at premises

- (1) Subject to section 12, A person must not prepare for eating, sell or serve at any premises any species of game or wild birds nor include any such species in any description (whether on a menu or otherwise) of the food available at such premises.
- (2) A person commits an offence if, at any premises, he —
 - (a) prepares for eating, sells or serves any species of game or wild birds;
 - (b) permits any species of game or wild birds to be prepared for eating, sold or served there; or
 - (c) uses or permits the use of any menu on which appears the name or any other description of any species of game or wild birds.
- (3) Subject to subsection (4), a game warden or police officer may enter without a warrant any premises in which he has reasonable cause to believe that any species of game or wild birds is being prepared for eating, sold or served in contravention of this Ordinance, and may confiscate such species of game or wild birds.
- (4) A game warden or police officer must not enter a dwelling house unless he has either the consent of the owner or occupier of the premises or a warrant of the Court issued for that purpose.
- (5) Where an offence is committed by any person under this section, then if that person is not the owner of the premises or the person for the time being having responsibility for the control or management of the premises, a like offence is treated as having been committed by such owner or person responsible for the control or management of the premises unless he satisfies the Court that he took all reasonable precautions to prevent the commission of the offence.
- (6) For the purposes of this section, “premises” includes any open-air place where any species of game or wild birds is sold, offered for sale, prepared for sale or offered for consumption.

PART 7

PROHIBITIONS

38. Restrictions on carrying a shot gun

- (1) A person must not carry a shot gun, unless it has been dismantled and stored in a container, —
 - (a) within or upon any vehicle;
 - (b) upon any animal;
 - (c) in the game season during the hours that hunting is prohibited.
- (2) A person must not, unless he is the holder of a licence under section 29(2) or a permit under section 48, carry a shot gun -
 - (a) in any general game reserve or temporary game reserve; or
 - (b) during any close season, except in accordance with section 7 of the Firearms Ordinance 1974,
- (3) Subject to subsection (4) and to the Firearms Ordinance 1974 a person must not carry a dismantled shot gun or a shot gun in a container, in or upon any vehicle or animal on any rural road, or on any un-metalled road at any time between 60 minutes before or 60 minutes after the ending of the period when hunting is allowed.

- (4) The Chief Officer may by permit exempt the holder of a game licence from any or all of the prohibitions contained in this section on payment of the relevant fee, and subject to such conditions as may be included in the permit.
- (5) A person who contravenes this section commits an offence.

39. Prohibition on use of cloth or rag as wadding and on using tracer bullets etc

- (1) A person who uses as wadding any cloth or waste rag or tracer bullets whilst hunting commits an offence.
- (2) Subject to subsection (1), the Chief Officer may, by order published in the Gazette, specify the form of cartridge, the form of shot that may be used in any cartridge, the area in which and the period when any description of cartridge may be used.
- (3) A person must not shoot a pellet made of lead at any place which is at a distance of less than 300 metres from a salt lake.
- (4) A person who contravenes an order made under subsection (2) or who contravenes subsection (3) commits an offence.

40. Restrictions on capturing or keeping live wild birds or game

- (1) Any person who captures, possesses or keeps in captivity any species of game or wild birds commits an offence.
- (2) Subsection (1) does not apply to—
 - (a) any person authorised by the Chief Officer to perform any of the acts described in subsection (1) for the purposes of repopulation or reintroduction of a species or of scientific research; or
 - (b) any local authority, natural history museum, zoo or botanical garden acting under and in accordance with any conditions attached to a licence granted under this section by the Chief Officer.

41. Restrictions on introducing game and wild birds into the environment

- (1) A person who introduces into the environment any species of game or wild birds without the permission of the Chief Officer commits an offence.
- (2) The Chief Officer must not grant permission under this section where he is of the opinion that to do could result in damage being caused to the local flora or fauna.

42. Taxidermy

- (1) A person must not stuff a specimen of game or wild birds unless he holds a taxidermist's licence in respect of the species in question.
- (2) Subject to subsection (3), a person must not possess a stuffed specimen of game or wild birds unless he holds either a taxidermist's licence in respect of the species in question or a licence to possess that specimen under subsection (8)(a).
- (3) A person may possess a stuffed specimen of game or wild birds without a taxidermist's licence on land or premises owned or occupied by the Crown or to which access is controlled by the Crown.
- (4) The holder of a taxidermist's licence must:
 - (a) display his licence in a prominent place in the place in which he carries out his taxidermy activities, and
 - (b) produce that licence forthwith for inspection if required to do so by the Area Officer or a Police Officer.
- (5) The holder of a taxidermist's licence must keep a book ("record book") in which he must enter for each specimen that he stuffs true and accurate particulars, in Form G of Schedule VI of the corresponding Republican Law.
- (6) The holder of a taxidermist's licence must present each specimen of game or wild birds that is presented to him for taxidermy to the Area Officer, together with the record book, in order to be given approval to stuff that particular specimen.

- (7) In respect of each specimen of game or wild birds for which he has been given approval under subsection (6), a holder of a taxidermist's licence must complete Form H of Schedule VI of the corresponding Republican Law, the top part of which he must keep with his records and the bottom part of which must accompany the specimen.
- (8) When the holder of a taxidermist's licence disposes of a stuffed specimen of game or wild birds, he must make three copies of the particulars referred to in subsection (5) and distribute them as follows –
 - (a) the first copy is given to the purchaser as a licence to possess that specimen;
 - (b) the second copy is kept by the holder of the taxidermist's licence; and
 - (c) the third is sent to the Area Officer.
- (9) A person who contravenes subsection (4)(a) commits an offence and is liable to imprisonment for 2 years or to a fine of €3,417 or to both.
- (10) If a person who is asked to produce a licence to possess issued under subsection (8)(a) or under the corresponding Republican law fails to do so, or refuses to give his name and address when asked to do so by the Area officer or a Police Officer, or gives a false name and address, he commits an offence and is liable to imprisonment for 6 months or to a fine of €1,708 or to both.
- (11) A person who contravenes subsection (1), (2), or (5) commits an offence.
- (12) The powers conferred and the duties imposed on the Area Officer by subsections (4)(b), (6), 8(c) and (10) are general delegated functions under the Delegation of Functions to the Republic Ordinance 2007(d).

43. Game not to be disturbed

A person commits an offence if he —

- (a) without authority enters, disturbs or causes damage to any place where there are partridges or where water or seeds are provided for game; or
- (b) damages anything provided by the Administration for the purposes of this Ordinance.

44. Endangered species

- (1) Subject to subsection (2), “endangered species” means endangered species under Schedule 9.
- (2) The Chief Officer may, by order published in the Gazette, designate any species of game or wild birds an endangered species in addition to those designated as endangered species under Schedule 9.
- (3) Endangered species are afforded the same level of protection as is afforded to the species referred to at section 7.
- (4) A person must not undertake any development or activity which so degrades any site used by an endangered species such that that it is likely to have an adverse effect on the population of the species.
- (5) The Chief Officer may, where it is in the public interest, permit an exemption from subsection (4) so as to permit minor development of any site subject to such conditions as he may specify.

45. Game or wild birds not to be fenced in

- (1) A person must not hold any game or wild birds fenced within any private property.
- (2) Where game or wild birds becomes trapped within any fenced private property, the owner of the property must notify the fact to the Area Officer who must arrange for them to be captured and released in a suitable site.
- (3) Where, after any game or wild bird has been captured and released as described in subsection (2), it is found again on the same property as the property from which it had been captured, the owner of the property commits an offence, unless he proves to the Court's satisfaction that he took every reasonable measure or precaution to prevent the commission of the offence.

PART 8

PROTECTION OF HUMAN LIFE, AGRICULTURE AND OTHER FLORA

46. Protection of human life, domestic animals, crops and other flora

- (1) For the protection of human life and crops, a person engaged in hunting must not shoot in the direction of any farmer or other person.
- (2) When a person is engaged in hunting he must not drive or park a motorised vehicle on any crops or on any other place where damage or other harm may be caused to any such crops or other flora.
- (3) A person engaged in hunting must not intentionally destroy or damage any crops or other flora, or domestic animals.
- (4) A person who contravenes this section commits an offence.

47. Permissible means of protecting cultivations

The owner of any farm, vineyard, garden or other cultivated land may frighten any species of game or wild birds which are causing damage or may cause damage to any cultivated plant, using scarecrows, mirrors, radios or, with the permission of the Area officer, a bird-scarer.

PART 9

CONTROL OF HOUSE SPARROWS AND CERTAIN OTHER SPECIES

48. Control of house sparrows and certain other species

- (1) The Area Officer may, subject to subsections (2) and (3), permit a police officer or game warden or person authorised under section 49 to shoot, kill, capture or pursue any or all the following species, and to carry a shot gun for the purpose, in any area including a game reserve, in any season:
 - (a) house sparrow (also known as passer domesticus)
 - (b) feral pigeon (also known as columba livia domesticus)
 - (c) jackdaw (also known as corvus monedula)
 - (d) carrion crow (also known as corvus corone).
- (2) The Area Officer must not grant a permit under subsection (1) unless he has been advised by the Scientific Committee or the Senior Environmental Adviser for the Sovereign Base Areas Administration, that –
 - (a) the damage being caused by the species referred to in the permit is serious, and
 - (b) no practical alternative solution is available.
- (3) A permit made under subsection (1) must be in writing.
- (4) A permit made under subsection (1) may specify conditions.
- (5) The Chief Officer may give directions as to any measures that he considers are necessary for the killing, capture and pursuit of the species listed in this section.

PART 10

GAME WARDENS AND OTHER OFFICIALS

49. Appointment of game wardens and authorising of persons to carry out functions of game warden

- (1) The Chief Officer may appoint any person to be a game warden or may authorise any person to perform all or any of the duties imposed upon, and to exercise all or any of powers given to, a game warden under this Ordinance.

- (2) A person's appointment or authority under subsection (1) may be terminated at any time by the Chief Officer.

50. Power of entry without warrant

- (1) A game warden or police officer may, without a warrant, enter any enclosed place in which he has reasonable grounds to believe that an offence is being committed contrary to this Ordinance.
- (2) For the purposes of this section, the owner or the person who is responsible for the control or management of any enclosed place in which an offence contrary to this Ordinance has been committed is deemed to be the person who committed the offence, unless he proves that he took every reasonable measure or precaution to prevent the commission of the offence.
- (3) For the purposes of this section, "enclosed place" means any place which is enclosed but which does not form part of a dwelling.

51. General duty of a game warden and authorisation to carry a shot gun

- (1) A game warden has the general duty to protect and conserve all wild birds and game and their biotopes and to enforce this Ordinance.
- (2) If the Chief Constable is satisfied that in order for a game warden effectively to carry out his duties under this Ordinance he needs to carry a shot gun, then the Chief Constable may authorise that game warden to carry a shot gun whilst carrying out his duties.

52. Powers of game wardens and police officers

- (1) A game warden or police officer may—
 - (a) report any person whom he finds in circumstances which reasonably create the suspicion that the person concerned has, whilst pursuing any game, caused damage to any crops or other property in the vicinity in which he was found;
 - (b) investigate whether an offence has been committed and question any person whom he finds in circumstances which reasonably raise the suspicion that the person concerned has contravened this Ordinance or of any regulations or orders made under it;
 - (c) seize for the purpose of investigation any article in the possession of any person whom he has found in any of the circumstances described in paragraphs (a) and (b) and which helps or may help to prove that an offence has been committed, contrary to this Ordinance or of any regulations or orders made under it, and may require the person concerned to accompany him to the nearest police station;
 - (d) require any person in possession of a shot gun to produce his game licence, his licence to possess a shot gun, his identity card or some other satisfactory form of identification, and any wild fauna that he has in his possession;
 - (e) stop and search any means of transport which he finds in circumstances that reasonably create the suspicion that any person in or on it is contravening this Ordinance or of any regulations or orders made under it;
 - (f) invite any person whom he finds in circumstances which reasonably raise the suspicion that the person concerned has contravened this Ordinance or of any regulations or orders made under it to accompany him to the nearest police station;
 - (g) enter freely and without notice any immovable property within a Special Protection Area or within a habitat outside a Special Protection Area in relation to which an order has been made under section 8(3), for the purposes of supervision, inspection, control and implementation of this Ordinance.
- (2) A game warden or police officer may not enter a dwelling house unless he has either the consent of the owner or occupier of the premises or a Court warrant issued for that purpose.
- (3) A game warden or police officer may, without a warrant, enter any premises where he has reason to believe that any game or wild birds is being prepared for eating or sold contrary to this Ordinance and may confiscate any game or wild birds being prepared for eating or sold on the premises.

- (4) A person commits an offence if he —
 - (a) when asked by a game warden or police officer or a person authorised to carry out the functions of a game warden under section 49 to give his name, fails to do so or gives a false name; or
 - (b) when directed by a game warden or police officer or a person authorised to carry out the functions of a game warden under section 49 to stop any vehicle that he is driving or riding fails to do so, or obstructs the carrying out of any inspection of any such vehicle; or
 - (c) in any other way obstructs a game warden or police officer or a person authorised to carry out the functions of a game warden under section 49 in the performance of his duties or the exercise of his powers under this Ordinance.
- (5) A game warden or police officer or a person authorised to carry out the functions of a game warden under section 49 is not liable in respect of any loss or damage caused to any vehicle or for any bodily harm suffered by the driver or any passenger of any vehicle, as a result of the failure of the driver of such vehicle to obey the instructions or directions of a game warden acting under this section.
- (6) The Senior Environmental Officer of the Sovereign Base Areas Administration must prepare a written report every 6 months on the exercise of any of the powers referred to in this section and on the results of any supervision, inspection and control undertaken and will forward a copy of the report to the Chief Officer.
- (7) The principal results of any supervision carried out in accordance with this section must be included in the six-yearly report provided for in section 17 of the Protection and Management of Nature and Wildlife Ordinance 2007.

PART 11

MISCELLANEOUS PROVISIONS

53. Legal Proceedings

- (1) A court of the Areas may take judicial notice of a law of the Republic and of any other Republican document of any description granted or otherwise made under a law of the Republic.
- (2) For the purposes of this section, the production of a copy of any part of a Republican enactment —
 - (a) contained in a printed collection of enactments purporting to be printed and published by an authority of the Republic, or
 - (b) contained in an issue of the Official Gazette of the Republic, or
 - (c) purporting to be printed by the Government Printer of the Republic, by whatever name called,
 is evidence for all purposes, and may be held by a Court to be conclusive evidence, of the due and lawful making of that enactment.
- (3) For the purposes of this section, a version of any part of a Republican enactment in the English language—
 - (a) purporting to be produced by an authority of the Republic,
 - (b) certified as being accurate by an officer of the Administration considered by the Court to have been at the time of such certification a competent and adequate translator into the English language from the language in which the Republican enactment was published in the Republic,
 - (c) given or produced in the course of oral evidence of a person whom the Court considers to be a competent translator for the purpose,
 - (d) stated orally in court or produced in writing by a Registrar or official court interpreter,
 may in any of those cases be held by the Court to be conclusive evidence for all purposes that such version is the accurate English version of the Republican enactment or part of the Republican enactment in question.

- (4) For the purposes of this section, the production of—
- (a) a relevant document, the accuracy of which is certified in writing by a senior officer of the Government Department of the Republic responsible for the relevant enactment under which the relevant document was made, or
 - (b) an English translation of a relevant document, the accuracy of which is certified in writing by a translator of recognised competence,
- may be held by the Court to be conclusive evidence for all purposes of the contents of such document.

54. Liability of officers of a body corporate

Where an offence contrary to this Ordinance is committed by a body corporate and it is proved that it was committed with the consent, connivance or approval, or that its commission has been facilitated by the negligence of any director, secretary or any other individual having similar responsibilities in relation to the body corporate, such director, secretary or other individual also commits a like offence.

55. Penalty for an offence for which no specific penalty is provided

Any person who is convicted of an offence under this Ordinance in respect of which no specific penalty is provided is liable to imprisonment of 3 years or to a fine of €17, 086 or to both such penalties.

56. Subsequent offences

Where a person is convicted on a second or subsequent occasion for a similar offence under this Ordinance or the repealed Ordinances then—

- (a) if a specific penalty is provided for in respect of that offence, that penalty is doubled; and
- (b) the offender will be ordered not to hunt in the Areas for a period of at least 10 years, unless the Court considers that there are reasonable grounds not to disqualify him at all or to disqualify him for a shorter period.

57. Additional powers of Court

- (1) If a person is convicted of any offence under this Ordinance the Court may, in addition to any other penalty, do one or more of the following:
 - (a) disqualify him from holding a gun licence under the Firearms Ordinance 1974 for 10 years, or
 - (b) order him not to hunt within the Areas for a specified time, or
 - (c) order him not to carry out any taxidermy within the Areas for a specified time.
- (2) If a person is convicted of any offence under this Ordinance the Court must forfeit any shot gun, means of transport, or other article with which or in respect of which the offence was committed, unless the Court considers that in all the circumstances of the case it is appropriate not to do so.

58. Rewards

The Chief Officer may, out of any fine imposed on a person on his conviction for an offence under this Ordinance pay a reward not exceeding one half of such fine or amount to any individual who, in the opinion of the Chief Officer, gave information or other assistance which contributed to the conviction of the person convicted.

59. Regulations

- (1) The Administrator may make regulations in respect of any matter for which this Ordinance provides and more generally for the better implementation of this Ordinance.
- (2) A person who contravenes any regulations made under this section commits an offence and is liable to imprisonment for 2 years or to a fine of €4,000 or to both.

60. Licence to carry out research

The Chief Officer may grant a licence to any person, subject to such conditions as the Chief Officer may impose, permitting the licence holder to carry out research or to take such action or measures regarding the carrying out of research as may be described in the licence.

61. Delegation

The Chief Officer may, by order published in the Gazette, designate any function which is placed by this Ordinance on an officer of the Areas, as a delegated function for the purposes of the Delegation of Functions to the Republic Ordinance 2007.

62. Repeals and Transitional Provisions

- (1) The following Ordinances are repealed—
 - (a) the Protection and Management of Game and Wild Birds Ordinance 2004(e);
 - (b) the Protection and Management of Game and Wild Birds (Amendment) Ordinance 2005(f);
 - (c) the Protection and Management of Game and Wild Birds (Amendment) Ordinance 2006(g);
 - (d) the Protection and Management of Game and Wild Birds (Amendment) Ordinance 2007(h).
- (2) Subject to subparagraphs (a),(b),(c), (d), (e), and (f), all public instruments made under the Ordinances referred to in subsection (1) are revoked.
 - (a) The Protection and Management of Game and Wild Birds (Pigeon-Culling No.3) Notification 2008(i) remains in force until it expires on 14 August 2009, or until the permissions granted under it are revoked in writing by the Area Officer, if earlier.
 - (b) The Protection and Management of Game and Wild Birds (Possession of Killed Game During Close Seasons) Notification 2008(j) remains in force until it expires on 16 March 2009.
 - (c) The Protection and Management of Game and Wild Birds (Temporary Game Reserves) Order 2008(k) remains in force until it expires on 1 March 2009.
 - (d) The Protection and Management of Game and Wild Birds (Hunting) Regulations 2008(l) remain in force until they expire on 1 March 2009.
 - (e) Any public instrument that establishes one or more game reserves (m) remains in force, and a “game reserve” is to be regarded as a “general game reserve” for the purposes of this Ordinance.
 - (f) The Protection and Management of Game and Wild Birds (Order under subsection (2) of section 50) 2004(n) remains in force.

63. Application to the Crown

- (1) Subject to subsections (2) and (3), this Ordinance binds the Crown and any employee of the Crown.
- (2) Any subsection that creates an offence does not bind the Crown but does bind an employee of the Crown.
- (3) Section 38 does not apply to the Crown.
- (4) For the purposes of this section,

“employee of the Crown” means any person in the service of the Crown, whether or not he would be treated as an employee of the Crown apart from this subsection;

“the Crown” means Her Majesty in right of Her Administration in the Areas and in right of Her Government in the United Kingdom.

64. Commencement

- (1) Subject to subsection (2), this Ordinance comes into force on the date of its publication in the Gazette.
- (2) Section 10 applies only in respect of any project drawn up or commenced after the day this Ordinance comes into force.

SCHEDULE 2

GAME

(Section 2)

Species
<i>Lepus europaeus</i> Hare
<i>Alectoris chukar</i> Chukar
<i>Francolinus francolinus</i> Francolin
<i>Anas penelope</i> Wigeon
<i>Anas strepera</i> Gadwall
<i>Anas crecca</i> Teal
<i>Anas platyrhynchos</i> Mallard
<i>Anas acuta</i> Pintail
<i>Anas querquedula</i> Garganey
<i>Anas clypeata</i> Shoveler
<i>Aythya ferina</i> Pochard
<i>Aythya fuligula</i> Tufted duck
<i>Anser anser</i> Greylag goose
<i>Anser albifrons</i> Great white-fronted goose
<i>Phasianus colchicus</i> Pheasant
<i>Coturnix coturnix</i> Quail
<i>Fulica atra</i> Coot
<i>Lymnocyptes minimus</i> Jack snipe
<i>Gallinago gallinago</i> Snipe
<i>Scolopax rusticola</i> Woodcock
<i>Columba livia</i> Rock dove
<i>Columba palumbus</i> Woodpigeon
<i>Columba oenas</i> Stock dove

<u><i>Streptopelia turtur</i></u> Turtle dove
<u><i>Streptopelia decaocto</i></u> Collared dove
<u><i>Alauda arvensis</i></u> Skylark
<u><i>Turdus merula</i></u> Blackbird
<u><i>Turdus pilaris</i></u> Fieldfare
<u><i>Turdus philomelos</i></u> Song thrush
<u><i>Turdus iliacus</i></u> Redwing
<u><i>Turdus viscivorus</i></u> Mistle thrush
<u><i>Sturnus vulgaris</i></u> Starling
<u><i>Pica pica</i></u> Magpie
<u><i>Corvus monedula</i></u> Jackdaw
<u><i>Corvus corone</i></u> Carrion crow

Notes

- (a) Ordinance 26/07.
- (b) Ordinance 11/03.
- (c) Ordinance 10/74.
- (d) Ordinance 17/07.
- (e) Ordinance 15/04.
- (f) Ordinance 22/05.
- (g) Ordinance 1/06.
- (h) Ordinance 15/07.
- (i) P.I. 24/08.
- (j) P.I. 29/08.
- (k) P.I. 27/08.
- (l) P.I. 28/08.
- (m) A map showing the game reserves in the Areas and listing the P.I.s in force that establish game reserves can be inspected during reasonable hours at the Area Offices.
- (n) P.I. 134/04.

EXPLANATORY NOTE

(This note does not form part of the Ordinance)

Introduction

1. This explanatory note relates to the Game and Wild Birds Ordinance 2008. It has been prepared by the Office of the Attorney General and Legal Adviser in order to assist the reader of the Ordinance. It does not form part of the Ordinance.
2. The note should be read in conjunction with the Ordinance. It is not, and is not meant to be, a comprehensive description of the Ordinance. So when a section or part of a section does not seem to require any explanation or comment, none is given.

Particular points

3. This Ordinance consolidates amendments made to the Protection and Management of Game and Wild Birds Ordinance 2004 and makes other changes. The Ordinance is intended broadly to replicate the effects of the Protection of Game and Wild Birds Law in the Republic, (Law 152(I)/03), as amended. However, the Ordinance does not replicate the provisions in that Law concerning moufflon, as moufflon are outside the scope of this Ordinance.

The Schedules

4. The Ordinance has four Schedules, Schedules 1, 2, 3, and 9. The reason that there are no Schedules numbered 4,5,6 or 7 is that three of the Schedules, Schedules 1, 3 and 9, are defined by reference to Schedules I, III and IX respectively of the Republican Law 153(1)2003, and are identical to these Schedules. Schedule 2 is the only Schedule that is not defined by reference to the Republican Law, and appears in full at the end of the Ordinance.

Part 2

5. This lists the principal objectives of the Ordinance and imposes the general responsibility for the protection and management of game and wild birds in the Areas on the Chief Officer.
6. The Chief Officer, in exercising any of his powers or performing any of the duties imposed or conferred on him by the Ordinance, may request advice from such environmental experts as he may appoint to advise him, including the Scientific Committee of the Republic.

Part 3

7. This Part provides for the protection of wild birds, their eggs, nests and habitats. Under section 8 the Chief Officer may designate by order Special Protection Areas for the purpose of protecting wild birds. An order can also be made to protect the habitats of such birds. Once an area has been designated as a 'Special Protection Area' ("SPA") the Chief Officer must by order prescribe measures for the management and protection of that area – such as prohibiting a particular activity from taking place within it. This order-making duty is new.
8. Section 10 imposes a new restriction on any project that could affect an SPA, either on its own or in combination with another project, whether or not the project requires a building permit. Any such project will not allowed to go ahead without the competent authority carrying out an assessment of the implications for the SPA, ("an appropriate assessment") and the Chief Officer giving his approval. The general rule is that the Chief Officer can only approve a project where the assessment demonstrates that there will be no adverse effects on the integrity of the site. However, where there are no satisfactory alternatives, he may do so for imperative reasons of overriding public interest, which may include those of a social or economic nature. The competent authority is Her Majesty's Forces where the SPA affected by the project includes any land occupied by the Crown in any capacity or any land to which access is controlled or restricted by the Crown in any capacity. In any other case it is the Senior Environmental Adviser for the Sovereign Base Areas Administration. Regulations may be made under this section to prescribe the procedure for carrying out the assessment.
9. Sections 11 – 13 prohibit certain activities in respect of wild birds. For example, except where the Ordinance elsewhere provides (in relation to game or to jackdaws, feral pigeons, house sparrows or carrion crows) it is prohibited for any person to deliberately pursue, kill, wound or capture a wild bird. Such action is an offence carrying 3 years imprisonment or €17,086 or both. In section 13 (3) and (4) respectively, 5 kilometres per hour is equivalent to 2.7 knots and 18

kilometres is equivalent to 9.7 knots. Under section 14, the Chief Officer has a limited power to permit by licence an activity that would otherwise be prohibited under sections 11-13 but only for a reason given in section 15. This power replaces a power in the previous Ordinance (15/2004) to disapply these provisions by order.

Part 4

10. This Part provides for regulations to be made that allow the hunting of game, subject to the prohibitions and requirements in this Part and Part 5. The Part 4 restrictions include the requirement for a person who is hunting to be the holder of a Republican game licence. Unlike the previous Ordinance, there is no provision for the Area Office to issue a game licence. The restrictions also include the requirement to wear 'hunting orange' and the prohibition on disposing of spent cartridges in the countryside.

Part 5

11. This Part makes it an offence to hunt and possess game during the close season. The Chief Officer may designate areas as general game reserves and temporary game reserves, in which hunting is prohibited. A general game reserve remains a game reserve until there is an order to the contrary. Temporary game reserves have a specified end-date. Section 31 lists the areas which are automatically general game reserves, such as any residential area. The Chief Officer may order the sealing up of shot guns during a close season.

Part 6

12. Part 6 controls the marketing of game and generally prohibits the sale of game by anyone other than the holder of a licence as a dealer in game. It is also an offence to prepare for eating, sell or serve at premises such as a restaurant any game or wild birds.

Part 7

13. Part 7 imposes restrictions in relation to the carrying of a shot gun and other matters related to the use of a gun, such as the type of cartridge which may be used. A series of offences relating to game are created, such as the offence of keeping any game in captivity or introducing any game into the environment without the permission of the Chief Officer. Section 42 makes it an offence for a person to carry out taxidermy on game or wild birds without a taxidermist's licence. It is also an offence to possess a stuffed specimen of game or wild birds, unless the person in possession has either a taxidermist's licence or a licence to possess. This does not apply, however, on land owned or controlled by the Crown, which is a change from previous legislation. Another change is that the Ordinance does not make provision for the Area Office to issue a taxidermy licence; rather, the requirement is for the holding of a taxidermy licence issued by the Republic. A third change from the previous legislation is that the powers and duties of the Area Officer are generally delegated functions under the Delegation of Functions to the Republic Ordinance 2007. This allows these powers or duties to be exercised by an officer of the Republic on whom the corresponding functions are placed by or under the law or custom of the Republic.

Part 8

14. Part 8 makes provision to protect farmers, agricultural crops, other flora and farm animals from any harm which may be caused by hunting activities. For example, it is an offence for a person to drive or park a motor vehicle on any crops while engaged in hunting. The prohibition on damaging other flora is new, and replicates legislation in the Republic. The prohibition on damaging farm animals is also new. Section 47 lists the methods which may be used by a farmer to frighten any species of wild birds or game that are or may cause damage to any cultivated plants.

Part 9

15. Part 9 allows the Area Officer to permit specified individuals to cull jackdaws, house sparrows, feral pigeons (sometimes known as stray pigeons) and carrion crows, where the Senior Environmental Adviser of the SBAA or the Scientific Committee of the Republic has advised that they cause serious damage and there is no other practical solution. Unlike previous legislation, the permission is not given by the Chief Officer or made by public instrument to be published in the Gazette. It must, however, be in writing.

Part 10

16. Section 49 gives the Chief Officer power to appoint game wardens and to also to authorise individuals to exercise either all the powers and duties of game wardens or some of the powers and duties of game wardens. The powers and duties of game wardens are set out in sections 50 to 52.

Part 11

17. Section 53 makes provision to ensure that in any legal proceedings, the court can consider and rely on a translation of the Republican enactment or part of it (e.g Schedule 1 of the Republican Law) in the same way that it considers and relies on the text of an SBA Ordinance. This part also prescribes the penalties for offences not otherwise specified in the Ordinance and provides for certain penalties to be doubled in the event of subsequent conviction. It also gives additional powers to the Court – such as the disqualification of the convicted person from holding a licence to possess a gun under the Firearms Ordinance 1974, and banning a person from hunting in the areas. Section 58 provides for the payment of a discretionary reward to any person who, in the opinion of the Chief Officer, gave information or otherwise assisted in the conviction of a person for an offence under the Ordinance. This Ordinance, unlike the previous legislation does not make provision for compoundable offences. However most of those offences are now fixed penalty offences under the Fixed Penalty Ordinance 1998.

18. Section 61 allows the Chief Officer to designate by order any function which is placed on an officer of the Areas (including himself) as a delegated function for the purposes of the Delegation of Functions to the Republic Ordinance 2007. This will allow delegation without the need for the Ordinance to be amended.

19. The Ordinance binds the Crown and employees of the Crown, with the exception of those provisions that create offences. In relation to those provisions, employees of the Crown are bound, but the Crown itself is not. The Crown is also not bound by section 38, which imposes restrictions on the carrying of shot guns.