
**PROTECTION AND MANAGEMENT OF NATURE AND WILDLIFE
(AMENDMENT)(No.2) ORDINANCE 2008**

An Ordinance to amend the Protection and Management of Nature and Wildlife Ordinance 2007

J. H. GORDON
ADMINISTRATOR

17th December 2008.

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

1. Short Title

This Ordinance may be cited as the Protection and Management of Nature and Wildlife (Amendment)(No.2) Ordinance 2008.

2. Section 2 of the Protection and Management of Nature and Wildlife Ordinance 2007 amended

Section 2 (Interpretation) of the Protection and Management of Nature and Wildlife Ordinance 2007^(a) (“the principal Ordinance”) is amended by:

- (a) inserting in the appropriate alphabetical place the following definition:
““taxidermist’s licence” means a taxidermist’s licence issued by the Republic under the corresponding Republican Law”, and
- (b) repealing the definitions of “plan” and “project” and replacing them with the following definition:
““plan” has the meaning given to that term in the Environmental Impact Assessment Ordinance 2003”^(b), and
- (c) repealing the definition of “wild fauna” and replacing it with the following definition:
““wild fauna” means any animal which by nature lives in the wild other than a wild bird or game species.” .

3. Section 3 of the principal Ordinance amended

Section 3 of the principal Ordinance (Objectives of this Ordinance) is amended by inserting the word “principal” before the word “objectives”:

- (a) in subsection (1), and
- (b) in the heading of the section.

4. Section 10 of the principal Ordinance amended

Section 10 of the principal Ordinance (Appropriate Assessment) is amended by:

- (a) repealing the words “plan or” and “or plan” wherever they appear,
- (b) inserting the following new subsection (8A) after subsection (8):
“(8A) If the Chief Officer does not approve a project, it must not go ahead.”,
and
- (c) replacing the reference to “(5)” with a reference to “(7)” in subsection (6)(c).

5. Section 11 of the principal Ordinance repealed and replaced

Section 11 of the principal Ordinance (Protection of species of fauna listed in Part A of Schedule 3) is repealed and replaced by the following:

“11. Protection of moufflon and fauna of European interest or local importance

- (1) A person must not, in relation to an animal belonging to a relevant species:
 - (a) intentionally or recklessly capture or kill the animal;
 - (b) intentionally disturb in its natural range the animal so as to affect its ability to survive, breed, rear or nurture its young or migrate, or so as to affect the local distribution or abundance of that species;
 - (c) intentionally destroy an egg or take it from the wild;
 - (d) destroy, disturb, or damage the animal’s breeding site or resting place;
 - (e) possess, transport for sale, sell or exchange or offer for sale or exchange the animal or any part or derivative of the animal.
- (2) Subsection (1) applies at all stages of the biological cycle of an animal.
- (3) For the purposes of this section, “relevant species” means moufflon or a species of fauna of European interest which is listed in Part A of Schedule 3, or any species of local importance specified in a list published under section 7(8).”.

6. Sections 21 and 22 of the principal Ordinance repealed and replaced

Sections 21 (Taxidermy) and 22 (Holder of Taxidermy Licence under corresponding Republican Law) of the principal Ordinance are repealed and replaced by the following new section 21:

“21. Taxidermy

- (1) A person must not stuff a specimen of wild fauna 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 wild fauna unless he holds either a taxidermist’s licence in respect of the species in question or a licence to possess that specimen under subsection (7)(a).
- (3) A person may possess a stuffed specimen of wild fauna without a taxidermist’s licence or licence to possess 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 present each specimen of wild fauna that he intends to stuff to the Area Officer, together with the record book referred to in subsection (6), in order to be given approval to stuff that particular specimen.
- (6) The holder of a taxidermist's licence must keep a book ("record book") in which he must enter true and accurate particulars of each specimen that he stuffs.
- (7) When the holder of a taxidermist's licence disposes of a stuffed specimen of wild fauna, he must make three copies of the particulars referred to in subsection (6) 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.
- (8) 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.
- (9) A person commits an offence and is liable to imprisonment for 6 months or to a fine of €1,708 or to both, if, when asked to produce a licence to possess issued under subsection (7)(a) or under the corresponding Republican Law, he:
 - (a) fails to do so, or
 - (b) refuses to give his name and address when asked to do so by the Area officer or a Police Officer, or
 - (c) gives a false name and address to the Area Officer or a Police Officer.
- (10) The powers conferred and the duties imposed on the Area Officer by subsections (4)(b), (5), 7(c) and (9) are general delegated functions under the Delegation of Functions to the Republic Ordinance 2007(d).".

7. Section 24 of the principal Ordinance amended

Section 24 of the principal Ordinance (Appointment of Chief Inspector and Inspectors) is amended by repealing the words "by a notification published in the Gazette" in subsection (1), and the words "by notification published in the Gazette" in subsection (2).

8. Section 26 of the principal Ordinance amended

Section 26 of the principal Ordinance (Offences) is amended by repealing subsection (1)(f) and replacing with the following paragraph:

"(f) contravenes section 21(1), (2) or (6);".

9. Commencement

This Ordinance comes into force on the day it is published in the Gazette.

Note

(a) Ordinance 26/07.

(b) Ordinance 11/03

(c) A corrigendum was issued in 2007 to the effect that the reference to (5) in subsection (6) was an error and should be read as (7). This amendment will render the corrigendum unnecessary.

(d) Ordinance 17/07.

EXPLANATORY NOTE

(This note does not form part of the Ordinance)

Introduction

1. This note relates to the Protection and Management of Nature and Wildlife (Amendment) (No.2) Ordinance 2008. The note 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.

The Ordinance

3. The Ordinance amends the Protection and Management of Nature and Wildlife Ordinance 2007, by including moufflon in the definition of “wild fauna” at section 2 and in the definition of “relevant species” at section 11. These amendments bring moufflon within the scope of the Ordinance in general, rather than solely within the scope of sections 7, 8 and 9, as was previously the case. A practical effect of this is it is now unlawful under the 2007 Ordinance to possess, sell or transport for sale any moufflon, or offer them for sale or exchange them. (Before December 2008, dealing in moufflon was unlawful under the Protection and Management of Game and Wild Birds Ordinance 2004; That Ordinance was replaced by the Game and Wild Birds Ordinance 2008, which does not include moufflon within its scope).
4. The new section 11 also prohibits the reckless killing or capture of fauna protected by that section, whereas under the previous version, killing or capture was prohibited only if deliberate. The new section 11 widens the prohibition on possessing and dealing in a part or derivative of fauna protected by that section. Under the previous version, this was only prohibited when the part or derivative was “readily recognisable”.
5. Section 6 (together with a new definition of “taxidermist’s licence” at section 2 and an amendment to section 26 concerning offences) repeals the provisions in the 2007 Ordinance that concern taxidermy and replaces them with a new set of provisions. Under the previous provisions, a person engaged in taxidermy had to hold a taxidermist’s licence issued by either the Republic or the Area Office; from now on, the Area Office does not have power to issue licences. Secondly, a person who does not hold a taxidermist’s licence or a licence to possess under subsection (7)(a) may possess a stuffed specimen of wild fauna, provided it is on land owned or controlled by the Crown. Thirdly, 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 whichever official in the Republic performs equivalent functions in the Republic.
6. The Ordinance amends section 24 of the 2007 Ordinance by removing the requirement for the appointment of Inspectors and Chief Inspector to be by notification in the Gazette.
7. Finally, the Ordinance makes some small drafting changes.

(SBA/AG/2/EN/242)