
**GAME AND WILD BIRDS (AMENDMENT NO. 2)
ORDINANCE 2018**

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**GAME AND WILD BIRDS (AMENDMENT NO. 2)
ORDINANCE 2018**

An Ordinance to amend the Game and Wild Birds Ordinance 2008

J. Illingworth
ADMINISTRATOR

12 November 2018

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

PART 1

Preliminary provision

Short title and commencement

1. This Ordinance may be cited as the Game and Wild Birds (Amendment No. 2) Ordinance 2018 and comes into force on 14 November 2018.

PART 2

Game and Wild Birds Ordinance 2008: amendments

Amendments to the Game and Wild Birds Ordinance 2008

2. The Game and Wild Birds Ordinance 2008(a) is amended in accordance with this Part.

Amendments to section 2

3.—(1) Section 2 (interpretation) is amended in accordance with this section.

(2) After the definition of “corresponding Republican Law” insert—

““degradation or destruction of a biotope” means any activity (including reclaiming land through the use of machinery, levelling land, carrying out excavations, depositing materials (whether from within the biotope or elsewhere), disrupting sediment in rivers, moving or transporting rocks or other materials from rivers, removing rocks or other materials from the biotope and creating roads) which may cause—

- (a) the destruction, degradation or shrinking of a biotope or ecosystem necessary for the survival of any species; or
- (b) the alteration of natural formations or landscapes, or any individual elements of natural formations or landscapes;”.

(3) After the definition of “game licence” insert—

““game licence to hunt with a dog” means a game licence issued in the Republic under the corresponding Republican Law that allows the holder to be accompanied by a dog when hunting;”.

(4) After the definition of “general game reserve” insert—

““hunting dog” means any dog that is used for hunting purposes;”.

(5) After the definition of “project” insert—

““racing dog” means the following breeds of dog, or dogs of similar breeds which are used in dog races—

- (a) greyhound,
- (b) Afghan hound,
- (c) saluki,
- (d) basenji,
- (e) borzoi,
- (f) whippet,
- (g) Italian greyhound;”.

(6) After the definition of “Scientific Committee” insert—

““searchlight” means a device fixed to a vehicle or carried by a person which emits light largely focussed in one direction with an output greater than 500 lumens;”.

Amendment to section 7

4. In subsection (1)(b) of section 7 (general powers of the Chief Officer) for “surrounding area;” substitute—

“surrounding area, including—

- (i) the control or restriction of public access;

(a) Ordinance 21/2008 as amended by Ordinances 3/2009, 17/2009, 29/2009, 34/2010, 8/2013, 18/2014, 1/2015, 3/2016, 10/2016, 6/2017 and 7/2018.

- (ii) the control or restriction of the use of vehicles;
- (iii) the control or restriction of activities which might constitute the degradation or destruction of a biotope;
- (iv) the control or restriction of recreational activities including motorcycle races, windsurfing races, boat races or jet ski races;
- (v) the control or restriction of the use of insecticides, pesticides or other chemical substances; or
- (vi) measures relating to practices or activities relating to agriculture and livestock farming.”.

New section 8A inserted

5. After section 8 (special protection areas) insert—

“Degradation or destruction of a biotope or disturbance of wild fauna

8A.—(1) This section applies to—

- (a) state forests as defined in section 2 of the Forests Ordinance 2014;
- (b) Special Protection Areas; and
- (c) any area within one kilometre of a Special Protection Area.

(2) Any person (P) who carries out any regulated works or activities that constitute the degradation or destruction of a biotope or disturb wild fauna without having first obtained all permits, licences, authorisations, approvals etc. required by or under any Ordinance for the works or activities commits an offence.

(3) The Chief Officer, or anyone authorised by the Chief Officer to do so, may require P to produce a permit, licence, authorisation, approval etc. referred to in subsection (2) and must inform the authority competent to issue it if P does not do so.

(4) If P fails to produce a permit, licence, authorisation, approval etc. when required to do so under subsection (3) the Court may order that any works or activities are stopped and that anything that may assist with the continuation of the works or activities is removed from the area.

(5) Subsections (6) and (7) apply between P being charged with an offence under subsection (2) and the conclusion of criminal proceedings relating to that offence.

(6) The Court may make any orders it considers necessary (including on an ex parte basis) to prevent—

- (a) further works or activities being carried out; or
- (b) further damage to the biotope or disturbance of wild fauna.

(7) An order under subsection (6) may, in particular, allow the Chief Officer, or anyone authorised by the Chief Officer, to immobilise or seize any tools, accessories, machinery or facilities used to assist with the execution of the works or activities without compensation until the criminal case is concluded.

(8) Where any item is immobilised or seized in accordance with an order made under subsection (7) the Chief Officer, or anyone authorised by the Chief Officer, is not liable for any damage caused to the item unless it is caused through that person’s negligence.

(9) Where a person is convicted of an offence under this section the Court may, in addition to any other penalty, impose a fine equal to the cost of reinstating the affected area to its former state.

(10) In this section “regulated works or activities” means any works or activities in respect of which a permit, licence, authorisation, approval etc. is required by or under any Ordinance.”.

Amendment to section 13

6. At the beginning of subsection (2)(f) of section 13 (prohibited means of pursuing, capturing or killing of wild birds) insert “subject to any regulations made under section 17(1)(l)”.

Amendments to section 17

7.—(1) Subsection (1) of section 17(a) (regulations on hunting game) is amended in accordance with this section.

(2) In paragraph (f)—

- (a) for “holder of a game licence” substitute “a person”; and
- (b) after “train” insert “, exercise or allow to roam”.

(3) After paragraph (f) insert—

“(fa) prescribe the number of hunting dogs that a person may be accompanied by when hunting, up to a maximum of 4 dogs per person;”.

(4) In paragraph (g) for the words from “the holder of a game licence” to the end of the paragraph substitute “hunting dogs may be trained, exercised or allowed to roam”.

(5) For paragraph (h) substitute—

“(h) prescribe the areas, times and periods in which racing dogs may be trained, exercised or allowed to roam;”.

(6) For paragraph (i) substitute—

“(i) during the period between sunset and sunrise, permit in any area, irrespective of whether hunting is permitted or prohibited, any dog to be trained, exercised or allowed to roam.”

(7) Omit paragraph (j).

(8) In paragraph (k)—

- (a) omit “subject to subsection (2),”; and
- (b) after “number of dogs” insert “up to a maximum of 4”.

(9) After paragraph (k) insert—

“(l) prescribe the species of game that may be shot, hunted, captured or pursued with the use of plastic or other models of game and non-electronic devices which make sounds that imitate the sounds of game.”.

(10) For subsection (2) substitute:

“(2) A shepherd or other animal breeder may not be accompanied by a racing dog when attending to sheep or other animals grazing.”

New sections 17B and 17C inserted

8. After section 17A (transportation of dogs)(b) insert—

“Offences relating to dogs

17B.—(1) A person may not hunt accompanied by a hunting dog in any area unless the Chief Officer has—

- (a) made regulations under sections 17(1)(e) and 17(1)(fa), or
- (b) granted a permit under section 48B,

in accordance with which that person must act.

(a) Section 17(1)(f) to (k) were inserted by Ordinance 8/2013.

(b) Section 17A was inserted by Ordinance 8/2013.

(2) A person may not train or exercise a hunting dog, or allow a hunting dog to roam, in any area unless—

- (a) that person is accompanying the dog and controlling it by way of a leash; or
- (b) the Chief Officer has—
 - (i) made regulations under sections 17(1)(f) and 17(1)(g),
 - (ii) granted a permit under section 48B, or
 - (iii) granted a licence under subsection (1) of section 15 (licence to use designated areas for training gun dogs) of the Dogs Ordinance 2006(a),in accordance with which that person must act.

(3) A person may not train or exercise a racing dog, or allow a racing dog to roam, in any area unless—

- (a) that person is accompanying the dog and controlling it by way of a leash; or
- (b) the Chief Officer has made regulations under section 17(1)(h), in accordance with which that person must act.

(4) A person may not train or exercise any dog, or allow any dog to roam, in any area during the period between sunset and sunrise unless—

- (a) that person is accompanying the dog and controlling it by way of a leash;
- (b) the Chief Officer has—
 - (i) made regulations under section 17(1)(i), or
 - (ii) granted a permit under section 48B,in accordance with which that person must act.

(5) A person who contravenes any of subsections (1) to (4) commits an offence and on conviction is liable to a term of imprisonment for a period not exceeding 2 years or to a fine not exceeding €3,417 (or to both).

Hunting dogs with special skills

17C.—(1) This section applies if—

- (a) hunting a species of game (G) is allowed in an area;
- (b) hunting accompanied by a dog in that area is not allowed (apart from under this section); and
- (c) a hunting dog (D) has special skills in relation to G.

(2) The holder of a game licence to hunt with a dog (H) may use D to hunt G if H also holds a certificate that D has special skills in relation to G issued by—

- (a) an organisation recognised by the Game Fund in accordance with section 70A of corresponding Republican Law; or
- (b) the Head of the Game Fund under section 70A of corresponding Republican Law.”

Amendments to section 19

9.—(1) Section 19 (requirement for a game licence)(b) is amended in accordance with this section.

(2) In subsection (1) after “game licence” insert “that allows that person to do so”.

(3) After subsection (1) insert—

(a) Ordinance 9/2006.

(b) Section 19 was substituted by Ordinance 8/2013.

“(1A) A person must not be accompanied by a dog when carrying out the activities referred to in subsection (1) unless the person is the holder of—

- (i) a game licence to hunt with a dog that relates to that dog, and
- (ii) a game licence.

(1B) A person must not train or exercise a hunting dog unless the person holds—

- (i) a game licence to hunt with a dog that relates to that dog, and
- (ii) a game licence.”.

(4) In subsection (3) for “subsection (1) or (2)” substitute “this section”.

New section 19A inserted

10. After section 19 insert—

“Use of airgun when hunting prohibited

19A.—(1) Except where permitted by an instrument made under section 48B, a person must not use or carry an airgun when carrying out the activities referred to in section 19(1) even if the person is the holder of a game licence that would allow that person to do so in the Republic.

(2) A person who contravenes subsection (1) commits an offence.”.

Amendments to section 26

11.—(1) Subsection (1) of section 26 (prohibited methods of hunting) is amended in accordance with this section.

(2) After “section 14” insert “, section 48 or section 48B”.

(3) At the beginning of paragraph (d) insert “subject to any regulations made under section 17(1)(l),”.

(4) After paragraph (d) insert—

“(da) live wild birds that have been blinded or mutilated;”.

Amendments to section 38

12.—(1) Section 38 (restrictions on carrying a shotgun) is amended in accordance with this section.

(2) In subsection (1)(a) for “A person” substitute “Unless authorised by a permit issued under Part 9, a person”.

(3) In subsection (2) for “section 48” substitute “Part 9”.

(4) In subsection (3) after “subsection (4)” insert “, to Part 9”.

Substitution of section 43

13. For section 43 (game not to be disturbed) substitute—

“Protection of game and infrastructure

43.—(1) It is an offence for a person to—

- (a) remove or cause damage to any sign erected or placed by the Administration or the Game Fund for the purposes of enforcing this Ordinance;

(a) Subsection (1) was substituted by Ordinance 3/2009.

- (b) erect or place any signs relating to hunting without the approval of the Chief Officer; or
 - (c) without authority enter, disturb or cause damage to—
 - (i) a farm,
 - (ii) partridge release pen,
 - (iii) water station for game,
 - (iv) seed feeder for game, or
 - (v) any infrastructure provided by the Administration or the Game Fund for the purposes of this Ordinance.
- (2) The Chief Officer, or anyone authorised by the Chief Officer, may—
- (a) remove and seize any sign relating to hunting that has been erected or placed without the approval of the Chief Officer;
 - (b) catch or, in an emergency, kill any stray animal that presents a risk to human health and safety or that may cause damage to wild fauna or its biotopes;
 - (c) catch or kill any prescribed species, within the meaning of section 40C(1).
- (3) In this section “stray animal” has the meaning assigned to it by the Protection and Welfare of Animals Ordinance 2001(a).”.

Amendment to section 55

14. In section 55 (penalty for an offence for which no specific penalty is provided) for “€17,086” substitute “€20,000”.

Amendment to section 55A

15. In section 55A(b) (fixed penalty notice) for “section 3” substitute “Part 2” and omit the words from “in respect of” to the end of the section.

New section 55B inserted

16. After section 55A insert—

“Attempts to commit offences and assisting others to commit offences

55B.—(1) Any person who—

- (a) attempts to commit an offence under this Ordinance, or
 - (b) assists another person to commit an offence under this Ordinance,
- is guilty of an offence and on conviction is liable to the same penalty as if they had actually committed the offence.

(2) In this section attempting to commit an offence has the same meaning as in section 366 of the Criminal Code(c).”.

(a) Ordinance 20/2001, which has been amended in ways that are not relevant to this Ordinance.
 (b) Section 55A was inserted by Ordinance 8/2013.
 (c) Cap. 154, Statute Laws of Cyprus revised edition 1959, as applied and adapted to the Areas by the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (S.I. 1960/1369, United Kingdom). Schedule 2 to the Interpretation Ordinance 2012 (Ordinance 8/2012) provides for the interpretation of such legislation.

PART 3

Dogs Ordinance 2006: omissions etc.

Omissions

17. The following provisions of the Dogs Ordinance 2006^(a) are omitted—

- (a) Section 12 (licence to use a gun dog)^(b);
- (b) section 13 (hunter may not hunt with more than 2 gun dogs);
- (c) section 14 (training of gun dogs in designated areas);
- (d) section 15(5) (offence of training a gun dog otherwise than in accordance with a licence);
and
- (e) section 17 (offence of allowing a gun dog to roam in a game reserve).

Consequential provision

18. In subsection (1) of section 15 (licence to use designated areas for training dogs) of the Dogs Ordinance 2006 for “gun dogs” substitute “dogs used for hunting (“gun dogs”)”.

(a) Ordinance 9/2006.

(b) Section 12 was amended by Ordinance 23/2007.

EXPLANATORY NOTE

(This note is not part of the Ordinance)

1. This explanatory note relates to the Game and Wild Birds (Amendment No. 2) Ordinance 2018 (the “Ordinance”). 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 Ordinance makes a number of amendments to the Game and Wild Birds Ordinance 2008 (the “2008 Ordinance”) and the Dogs Ordinance 2006 (the “2006 Ordinance”). These reflect amendments made to the corresponding Republican Law by Laws 99(I)/2017 and 156(I)/2017.
3. Part 2 of the Ordinance amends the 2008 Ordinance. Section 4 amends section 7 of the 2008 Ordinance. It gives the Chief Officer wider powers to make orders to protect and conserve special protection areas.
4. Section 5 of the Ordinance inserts new section 8A into the 2008 Ordinance. Under section 8A it is an offence to carry out any works or activities that negatively impact a biotope or wild fauna in a specified area without having first obtained all necessary permits etc. The specified areas are state forests, special protection areas and areas within 1km of a special protection area.
5. The court can issue orders to prevent further works or activities being carried out until any criminal case is resolved, and require the offender to cover the costs of making good any damage to the environment.
6. Section 7 of the Ordinance amends the Chief Officer’s powers to make regulations in section 17 of the 2008 Ordinance. The Chief Officer can now allow people to be accompanied by up to 4 dogs when hunting or when looking after livestock. The Chief Officer can also allow the use of non-electronic imitating devices when hunting.
7. Section 8 of the Ordinance inserts new sections 17B and 17C into the 2008 Ordinance. Under section 17(1)(g) to (j) of the 2008 Ordinance a number of activities relating to dogs were lawful unless they were prohibited by the Chief Officer. Section 7 of the Ordinance and new section 17B reverse this position. The activities referred to are now unlawful unless they are permitted by the Chief Officer.
8. Section 17C provides for hunting dogs with special skills to be able to be used even when dogs cannot generally be used for hunting. The dog’s special skills must have been certified by the Game Fund of the Republic, or a body recognised by them.
9. Section 9 of the Ordinance inserts new subsections (1A) and (1B) into section 19 of the 2008 Ordinance. Under new subsection (1A) it is an offence to be accompanied by a dog when hunting without both a game licence and a game licence to hunt with a dog. New subsection (1B) makes it an offence to train hunting dogs without both a game licence and a game licence to hunt with a dog.
10. Section 10 inserts new section 19A. New section 19A makes it an offence to carry or use an airgun when hunting, even if the person is the holder of a game licence that allows them to do so in the Republic. Section 11 of the Ordinance amends section 26 of the 2008 Ordinance by prohibiting the use of certain live wild birds when hunting.
11. Section 12 of the Ordinance amends section 38 of the 2008 Ordinance, which places restrictions on the carrying of shot guns. The amendments make those restrictions subject to Part 9 so that they do not apply to activities permitted under that Part.
12. Section 13 of the Ordinance substitutes section 43 of the 2008 Ordinance. The new section gives greater protection to infrastructure provided for the purposes of the 2008 Ordinance. It also provides for the control of stray animals that present a threat to people or the environment and the control of species prescribed under section 40C.

13. Section 14 of the Ordinance raises the maximum fine for offences for which no specific penalty is prescribed in the 2008 Ordinance to €20,000. Section 15 of the Ordinance amends section 55A of the 2008 Ordinance as a consequence of related changes made to the Fixed Penalty Ordinance 2010.
14. Section 16 makes it an offence to attempt to commit an offence or assist another to commit an offence in the 2008 Ordinance. The penalty is the same as if the offence had actually been committed.
15. Part 3 of the Ordinance amends the Dogs Ordinance 2006. Section 17 omits various provisions relating to dogs used for hunting (referred to as “gun dogs” in that Ordinance), the substance of which is now covered by the 2008 Ordinance. Section 18 makes a consequential provision to retain the definition of the term “gun dog”.

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