

SUBSIDIARY LEGISLATION 549.106**CONSERVATION OF WILD BIRDS (FALCONRY)
REGULATIONS**

5th July, 2016

LEGAL NOTICE 249 of 2016.

1. The title of these regulations is the Conservation of Wild Birds (Falconry) Regulations. Citation.

2. In these regulations, unless the context otherwise requires: Interpretation.

"the Act" means the Environment Protection Act or any other Act substituting the said Act; Cap. 549.

"captive-bred" means a bird which has been hatched and bred from legally acquired parental stock in a human controlled environment and has been marked by a seamless closed ring, or, in the case of a specimen that does not naturally occur in the wild state within the territory of the European Union, is accompanied by documentation proving to the satisfaction of the Wild Birds Regulation Unit the captive-bred origin of the specimen;

"closed ring" means a ring or band in a continuous circle, without any break or join, which has not been tampered with in any way, of a size which cannot be removed from a bird specimen hatched and bred from legally acquired parental stock in a human controlled environment when its leg is fully grown after having been applied in the first days of the specimen's life, and which has been approved by the Wild Birds Regulation Unit;

"falconer" means a person licensed by the Wild Birds Regulation Unit to practice the activity of falconry in accordance with these regulations;

"falconry" means the sport of hunting or taking quarry species with a falcon and shall include the keeping, flying, training and, or, the display of such trained falcon;

"falconry organisation" means an organisation representing the persons practising the activity of falconry and which has, in its statute, the main objective of promoting the activity of falconry and its traditions, and which is enrolled with the Commissioner of Voluntary Organisations under the Voluntary Organisations Act; Cap. 492.

"falcon" or "falconry species" means a captive-bred, close-ringed specimen that is used for the purpose of practising falconry, which forms part of the order Falconiformes, Strigiformes or Accipitriformes, including hybrids between such specimens;

"licence" means a licence issued in accordance with these regulations;

"quarry species" means the species listed in Schedule II of the Conservation of Wild Birds Regulations and in the Protection of Wild Rabbit Regulations; as well as captive-bred specimens of the S.L. 549.42
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above species which may be released by the falconer for the purpose of training his falcon;

"real-time-tracking" means a system that allows the tracking of the location of the falconry species in real time by virtue of electronic devices, such as, but not solely limited to, radio tracking, GPS tracking and GSM tracking;

"static display" means an activity that involves the display of falcons that are tethered or otherwise constrained from free flight;

S.L. 549.42 "Wild Birds Regulation Unit" means the Wild Birds Regulation Unit established in accordance with the Conservation of Wild Birds Regulations.

Falconry. **3. (1)** No person shall practice the activity of falconry or any activity relating to falconry, including the keeping of falconry species in captivity, the flying or display of falcons and, or, the taking of birds by means of falconry without a licence from the Wild Birds Regulation Unit:

S.L. 549.38 Provided that persons who keep captive-bred falconry species exclusively for the purpose of keeping these birds in captivity or for static display, but not for the purpose of flight, training, hunting or taking quarry species with a falcon shall not require a licence and shall be exempted from the scope of sub-regulation (1), so however that such persons must still comply with the provisions of these regulations, as well as with the provisions of the Trade in Species of Fauna and Flora Regulations, where applicable, and also with other applicable laws and regulations.

S.L. 549.38 (2) Falconry shall only be practised using captive-bred falcons, which are covered by all the necessary permits and authorisations in terms of the Trade in Species of Fauna and Flora Regulations and also any other applicable regulations.

S.L. 549.38 (3) The importation, transport, keeping or sale of falconry species shall be made in accordance with the provisions of these regulations, as well as the relevant provisions of other applicable laws and regulations including the Trade in Species of Fauna and Flora Regulations.

Licence to practice falconry. **4. (1)** The licence to keep and fly specimens from the falconry species for the purpose of training, display of flight or for the taking of quarry species may be granted by the Wild Birds Regulation Unit to any person who:

- (a) is at least sixteen years of age at the time of application;
- (b) has completed the relevant application form in the format prescribed by the Wild Bird Regulation Unit;
- (c) is a member of a recognised falconry organisation;
- (d) is covered with a third party liability insurance covering the activity of falconry;
- (e) has paid the applicable fees as prescribed in Schedule I;
- (f) successfully sat for an examination as established by

the Wild Birds Regulation Unit which shall include an examination in the knowledge of the applicable regulations, knowledge in the practical handling of the falconry species and knowledge in the identification of birds:

Provided that such examination, or parts of it, may also be done in conjunction with the recognised falconry organisations, who may prepare the syllabus to be approved and supervised by the Wild Birds Regulation Unit.

(2) The licence issued in accordance with sub-regulation (1) shall be valid for a period of five years, after which term it may be renewed for further terms and shall stipulate the conditions for the keeping and rearing of falconry species and conditions relating to the welfare of the falconry species, details of the licensed location where the falconry species are kept and conditions pertaining to the permissible methods of falconry and to the specific activities practiced, the licensee's reporting obligations as well as other conditions that the Wild Birds Regulation Unit may prescribe from time to time:

Provided that such licence shall only be valid during the period prescribed in this sub-regulation and during the period for which the licensee remains a valid member of a recognised falconry organisation and is covered by a valid third party insurance policy concerning the activity of falconry.

(3) In addition to the licence stipulated in sub-regulation (1), the Wild Birds Regulation Unit may also issue a special falconry activity licence, which may only be issued for a definite period and in conjunction with a special activity:

Provided that such licence may only be granted to persons who are already in possession of the licence mentioned in sub-regulation (1) above and exclusively for the purpose of holding any falconry activity that may derogate from the provisions of regulations 5 and 6.

5. (1) The flying of falcons exclusively for the purpose of training and display of flight, but not for the purpose of pursuit and taking of any quarry species may be practised at any time all year round. Open seasons.

(2) The open season for the practice of falconry for the purpose of the pursuit of quarry species shall be from the 1st June until the 31st January of the following year, both days included, between two hours before sunrise and two hours after sunset:

Provided that the quarry species listed in Schedule II(a) of the Conservation of Wild Birds Regulations may only be taken by means of falconry between the 1st of September and the 31st January of the following year, both days included, whilst the taking of wild rabbit by means of falconry can only take place between the 1st of June and 31st December of any year, both days included:

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Provided further that the above proviso shall also apply in the case of captive-bred specimens of the above quarry species

which may be released by the falconer for the purpose of training his falcon:

Provided further that the Wild Birds Regulation Unit may authorise the practice of falconry outside the open season in accordance with the provisions of regulation 4(3).

Areas where
falconry may be
practised.

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6. (1) Without prejudice to the provisions of these regulations, the areas where falconry may be practised shall comprise the entire land territory of the Maltese Islands, excluding bird sanctuaries listed in Schedule V and protected beaches listed in Schedule VII of the Conservation of Wild Birds Regulations:

Provided that the practice of falconry within the said excluded areas may also be authorised by the Wild Birds Regulation Unit, subject to a special licence.

(2) During the practice of falconry for the purpose of training, display of flight or for taking of quarry species, it shall be the falconer's responsibility to take requisite measures in accordance with applicable best practices to ensure that the falconry species does not trespass beyond the limits of the areas where falconry may be practised:

Provided that where the special falconry activity licence issued in accordance with regulation 4(3) refers to a designated area, the provisions of this sub-regulation shall not be applicable within the limits of the specially authorised area but shall remain applicable with respect to all other areas wherein falconry is prohibited:

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Provided further that where the falcon has accidentally strayed into a bird sanctuary designated under the Conservation of Wild Birds Regulations, the falconer may, with permission from the land title holder, where applicable, retrieve the strayed specimen.

Falconry for the
purpose of
training, display of
flight or for taking
of quarry species.

7. (1) No person shall during any activity of falconry:

- (a) fly any untethered falcon that is not wearing a transmitter of a real-time tracking device that is able to be tracked;
- (b) allow the falcon to stray outside the area where falconry may be practised;
- (c) allow the falcon to escape from the control of the licensee;
- (d) allow the falcon to pursue, take or injure any species other than quarry species;
- (e) allow the falcon to pursue, take or injure any species outside the open season for falconry:

Provided that in the event of accidental capture of a species which is not quarry species or any species outside the falconry season, the licensee shall allow the falcon to feed on the catch and shall immediately inform the Wild Birds Regulation Unit. The licensee shall not take possession of the specimen or any of its remains and the specimen shall be left on the site of the taking until an official from the Wild Birds Regulation Unit provides further

instructions to the licensee:

Provided further that no legal action according to regulation 11 shall be taken with respect to the person providing the required information to the Wild Birds Regulation Unit and who will have complied with the provisions of these regulations.

(2) Any person from whom a falconry bird escapes and who fails to retrieve it shall immediately inform the Wild Birds Regulation Unit of such incident:

Provided that no legal action according to regulation 11 shall be taken with respect to the person providing the required information to the Wild Birds Regulation Unit.

8. (1) Without prejudice to the provisions of the Animal Welfare Act, the licensee shall ensure the welfare of his falcons in compliance with applicable best codes of practice as well as the relevant laws and regulations, and in particular:

Duty towards welfare of the falconry and quarry species. Cap. 439.

- (a) when not practising falconry no person shall house any falcon within an enclosure that does not provide protection from the natural elements and does not ensure the physiological needs of the species;
- (b) no person shall transport on any motor vehicle any falcon unless it is either in a travel box or is tethered to a perch and wearing a hood:

Provided that provisions of this paragraph shall not be applicable where the transportation of the falconry species is being carried out on foot.

(2) No person shall kill or injure, or cause any harm, or attempt to kill or injure or cause any harm, to any falcon either voluntarily, whether directly or indirectly, or through negligence, or want of care.

(3) The falconer shall ensure that any quarry species caught by the falcon are killed humanely and in accordance with the best applicable practice in the field of falconry.

9. (1) Whilst practicing the activity of falconry, the licensee shall not hunt or attempt to hunt with a gun or any other weapon, or take or attempt to take any bird using any means, as specified by the Conservation of Wild Birds Regulations or any rabbit as specified by the Protection of Wild Rabbit Regulations.

Prohibitions.

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(2) No person shall fly any falcon or attempt to fly any falcon or exercise the activity of falconry at sea.

10. Whilst practising the activity of falconry, the licensee may make use of suitably trained dogs and, or, ferrets for the purpose of flushing and, or, retrieving quarry species.

Use of dogs or ferrets.

11. (1) Any person who -

- (a) fails to comply with any provision of these regulations or with any order lawfully given in terms of any provision of these regulations; or

Offences and penalties.

- (b) contravenes any restriction, prohibition or requirement imposed by or under these regulations; or
- (c) acts in contravention of any provision of these regulations; or
- (d) conspires or attempts to conspire, or aids or attempts to aid, abets or attempts to abet, counsels or attempts to counsel, procures or attempts to procure any other person to contravene the provisions of these regulations, or to fail to comply with any such provisions (including any order lawfully given in terms of any provision of these regulations) or to contravene any restriction, prohibition or requirement imposed by or under the said regulations,

shall be guilty of an offence against these regulations.

(2) Any person who commits an offence against regulations 3(1), 4(3), 7(1)(d) and 9 shall be liable:

- (a) on a first conviction to a fine (*multa*) of not less than two hundred fifty euro (€250) but not exceeding five thousand euro (€5,000), and the possible confiscation of the *corpus delicti*.

S.L. 549.42.
Cap. 10.

The Court shall also order the suspension of any licence or permit, issued under these regulations and under the Conservation of Wild Birds Regulations and under Part XV of the Code of Police Laws, for a period of not less than six months but not exceeding five years;

- (b) on a second or subsequent conviction, to a fine (*multa*) of not less than five hundred euro (€500) but not exceeding ten thousand euro (€10,000) or to imprisonment for a term of not less than six months but not exceeding two years, or to both such fine and imprisonment, and also the possible confiscation of the *corpus delicti*.

S.L. 509.42.
Cap. 10.

The Court shall also order the permanent revocation of any licence or permit, issued under these regulations, under the Conservation of Wild Birds Regulations and under Part XV of the Code of Police Laws:

Cap. 446.

Provided that the Court may, in its discretion, impose a Community Service Order on the offender in terms of the Probation Act.

(3) Any person who commits an offence against any other regulation not mentioned in sub-regulation (1) and its proviso respectively, shall be liable:

- (a) on a first conviction to a fine (*multa*) of not less than five hundred euro (€500) but not exceeding two thousand and five hundred euro (€2,500), and the possible confiscation of the *corpus delicti*;
- (b) a second or subsequent conviction, to a fine (*multa*) of not less than one thousand euro (€1,000) but not exceeding five thousand euro (€5,000) or to

imprisonment for a term not exceeding two years, or to both such fine and imprisonment, as well as the possible confiscation of the *corpus delicti*:

Provided that the Court may, at its discretion, impose a Community Service Order on the offender in terms of the Probation Act:

Cap. 446.

Provided further that the Court shall also order the suspension of the licence or permit issued under these regulations, under the Conservation of Wild Birds Regulations and Part XV of the Code of Police Laws for a period of not less than two years but not exceeding five years.

S.L. 504.71.
Cap. 10.

(4) Notwithstanding the provisions of article 370 of the Criminal Code, proceedings for an offence against these regulations shall be taken before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, and shall be in accordance with the provisions of the Criminal Code regulating the procedure before the said courts of criminal judicature.

Cap. 9.

(5) Notwithstanding the provisions of the Criminal Code, the Attorney General shall always have a right of appeal to the Court of Criminal Appeal from any judgement given by the Court of Magistrates (Malta) or the Court of Magistrates (Gozo) in respect of proceedings for any offence against these regulations.

Cap. 9.

12. (1) Notwithstanding anything contained in these regulations for the trial and punishments of offences and subject to the provisions of article 7(1)(a), (b) and (c), where the Wild Birds Regulation Unit and, or, the Executive Police believe that a person has committed an offence against these regulations, as found in Schedule II, the Executive Police may confiscate the *corpus delicti* in terms of the Schedule and shall inform the Wild Birds Regulation Unit which shall, within thirty days from such information, give notice in writing to such person describing the offence of which the person is accused, indicating the steps to be taken to remedy the offence and the administrative penalty which he is required to pay in respect of that offence:

Special
procedures.

Provided that this regulation shall be without prejudice to the powers granted to the Executive Police under the Criminal Code:

Cap. 9.

Provided further that any person served with the notice who feels aggrieved by a decision of the Wild Birds Regulation Unit under this sub-regulation, may appeal to the Administrative Review Tribunal established under the Administrative Justice Act for a revocation or modification of such administrative penalty, and the return of the *corpus delicti* confiscated in terms of this regulation.

Cap. 490.

(2) Where a notice under this regulation has been given, the person named in the notice may, within twenty-one days of the service of the notice, accept responsibility for the offence specified in the notice and within the same period, remedy the offence and pay, or undertake in writing to pay, the penalty indicated in the notice:

Provided that where the person to whom notice is given

under sub-regulation (1) does not accept or, having accepted such responsibility, fails to remedy the offence within the time aforesaid, ordinary criminal proceedings shall be taken against him in accordance with regulation 11.

(3) The provisions of sub-regulations (1) and (2) shall not apply in any case where the offence listed in Schedule II is accompanied by any offence which is not listed in the same Schedule including where the offence is committed in conjunction with any other offence under these regulations, with the exception of the administrative offences listed in Schedule II and in such circumstances the provisions of regulation 11 shall automatically apply.

Schedule I

Administrative fees

Service	Fee
New application or renewal of the licence to practice falconry in accordance with regulation 4(1) and (2)	€50 for a validity period of 5 years.
Application for a special falconry activity licence in accordance with regulation 4(3)	€30 for each special falconry activity licence.
Examination fee in accordance with regulation 4(1)(vi)	€30 per examination.
Re-sit fee for the referred to in regulation 4(1)(vi)	€10 per re-sit of the examination.

Schedule II

Administrative Penalties

Regulation	Offence	Penalty
7(1)(a)	Flying any untethered falcon that is not wearing a transmitter of a real-time tracking device that is able to be tracked	€100
7(1)(b)	Permitting the falcon to stray outside the area where falconry may be practised	€100
7(1)(c)	Permitting the falcon to escape from the control of the licensee	€100