L.N. 167 of 2002

ENVIRONMENT PROTECTION ACT, 2001
(ACT NO. XX OF 2001)

Capture and Killing Methods (Prohibition) Regulations, 2002

BY virtue of the powers conferred by article 9 of the Environment Protection Act, hereinafter referred to as "the Act", the Minister for Home Affairs and the Environment has made the following regulations:–

Citation and commencement.

1. (1) The title of these regulations is the Capture and Killing Methods (Prohibition) Regulations, 2002.

(2) These regulations shall come into force on such date as the Minister responsible for the environment may by notice in the Gazette appoint and different dates may be so appointed for different provisions and different purposes of these regulations.

Objectives.

2. These regulations prohibit the use of indiscriminate means and forms of capture capable of causing local disappearance of, or serious disturbance to, populations of mammals and fish listed in Schedule I to these regulations.

Interpretation.

3. For the purpose of these regulations and unless the context otherwise requires:-

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"competent authority" means the Malta Environment and Planning Authority as prescribed by the notice entitled Nomination of the Malta Environment and Planning Authority as the Central Authority, and such other body or person as the Minister responsible for the environment may by order in the Gazette prescribe and different bodies or persons may be designated as the competent authority for different provisions and different purposes of these regulations.

Competent authority.

4. The competent authority is the authority responsible for the administration and the implementation of these regulations.

Prohibited use of means.

5. The use of the means of capture and killing listed in Schedule II(a) to these regulations is prohibited.

Prohibited use of modes of transport.

6. Any form of capture and killing from modes of transport referred to in Schedule II(b) to these regulations is prohibited.

Offences.

7. Any person shall be guilty of an offence under these regulations if:

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

(b) he contravenes any restriction, prohibition or requirement imposed by or under these regulations; or

(c) he acts in contravention of any of the provisions of these regulations; or

(d) he conspires or attempts, or aids, or abets, any other person by whatever means, including advertising, counselling or procurement 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 of the provision of these regulations, or to contravene any restriction, prohibition or requirement imposed by or under the said regulations.

Penalties.

8. Any person who commits an offence against these regulations shall, on conviction, be liable:

(a) on a first conviction to a fine (*multa*) of not less than five hundred Maltese liri but not exceeding one thousand Maltese liri;

(b) on a second or subsequent convictions, to a fine (*multa*) of not less than one thousand Maltese liri, but not exceeding two thousand Maltese liri or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment:

Provided that whenever any person is found guilty of committing an offence under these regulations by means of a vehicle, the owner of the said vehicle, where applicable, is held liable in the same manner and degree:

Provided further that the court shall order any person who has been found guilty of committing an offence against these regulations to pay for the expenses incurred by the competent authority as a result of the said offence, the revocation of the permit issued by the competent authority and the confiscation of the *corpus delicti*, including the vehicle, if applicable.

Applicability of Cap. 9 of the Criminal Code.

9. (1) The provisions of articles 23 and 30 of the Criminal Code shall, *mutatis mutandis*, apply to proceedings in respect of offences against these regulations, so however that the disqualification from holding or obtaining a licence, permit or authority shall in no case be for less than one year.

(2) Notwithstanding the provisions of article 370 of the Criminal Code, proceedings for an offence against these regulations shall be held 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 as courts of criminal judicature.

(3) 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.

Language of Schedules.

10. Schedules I and II to these regulations are being published in the English language with the English text of these regulations.

SCHEDULE I

ANIMAL AND PLANT SPECIES OF COMMUNITY INTEREST WHOSE TAKING IN THE WILD AND EXPLOITATION MAY BE SUBJECT TO MANAGEMENT MEASURES

The species listed in this Annex are indicated:

- by the name of the species or subspecies, or
- by the body of species belonging to a higher taxon or to a designated part of that taxon.

The abbreviation 'spp.' after the name of a family or genus designates all the species belonging to that family or genus.

(a) **MAMMALS**

CARNIVORA
Canidae
Canis aureus
Canis lupus (Spanish populations north of the Duera and Greek populations north of the 39th parallel)

Mustelidae
Martes martes
Mustela putorius

Phocidae
All species (except *Monachus monachus*)

Viverridae
Genetta genetta
Herpestes ichneumon

DUPLICIDENTATA
Leporidae
Lepus timidus

ARTIODACTYLA
Bovidae
Capra ibex
Capra pyrenaica (except *Capra pyrenaica pyrenaica*)
Rupicapra rupicapra (except *Rupicapra rupicapra balcanica* and *Rupicapra rupicapra ornata*)

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FISH

PETROMYZONIFORMES
Petromyzonidae
Lampetra fluviatilis
Lethenteron zanandrai

ACIPENSERIFORMES
Acipenseridae
All species (except *Acipenser naccarii* and *Acipenser sturio*)

SALMONIFORMES
Salmonidae
Thymallus thymallus
Coregonus spp. (except *Coregonus oxyrhynchus* - anadromous populations in certain sectors of the North Sea)
Hucho hucho
Salmo salar (only in fresh water)

Cyprinidae
Barbus spp.

PERCIFORMES
Percidae
Gymnocephalus schraetzer
Zingel zingel

CLUPEIFORMES
Clupeidae
Alosa spp.

SILURIFORMES
Siluridae
Silurus aristotelis

SCHEDULE II

PROHIBITED METHODS AND MEANS OF CAPTURE AND KILLING AND MODES OF TRANSPORT

SCHEDULE II (a)
Non-Selective Means

FOR MAMMALS:

- Blind or mutilated animals used as live decoys
- Tape recorders
- Electrical and electronic devices capable of killing or stunning
- Artificial light sources
- Mirrors and other dazzling devices
- Devices for illuminating targets
- Sighting devices for night shooting comprising an electronic image magnifier or image converter
- Explosives
- Nets which are non-selective according to their principle or their conditions of use
- Traps which are non-selective according to their principle or their conditions of use
- Crossbows
- Poisons and poisoned or anaesthetic bait
- Gassing or smoking out
- Semi-automatic or automatic weapons with a magazine capable of holding more than two rounds of ammunition

FOR FISH

- Poison
- Explosives

SCHEDULE II (b)

Modes of transport

FOR MAMMALS AND FISH

- Aircraft
- Moving motor vehicles

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