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L.N. 337 of 2017

ENVIRONMENT PROTECTION ACT
(CAP. 549)

Control of Invasive Alien Species of European Union Concern Regulations, 2017

BY VIRTUE of the powers conferred by articles 54 and 55 of the Environment Protection Act, the Minister for the Environment, Sustainable Development and Climate Change, in consultation with the Environment and Resources Authority, has made the following regulations:-

Citation.

1. The title of these regulations is the Control of Invasive Alien Species of European Union Concern Regulations, 2017.

Scope.

2. These regulations provide the provisions required for the implementation of Regulation (EU) No. 1143/2014 on the prevention and management of the introduction and spread of invasive alien species in Malta.

Interpretation.

3. For the purpose of these regulations and unless the context otherwise requires the following definitions shall apply. In addition, unless already defined in these regulations, the terms defined in Regulation (EU) No. 1143/2014 shall also apply:-

"the competent authority" means the Environment and Resources Authority as established in Article 6 of the Act;

"Invasive Alien Species Regulation", hereinafter abbreviated as "IAS Regulation" means the Regulation (EU) No. 1143/2014 on the prevention and management of the introduction and spread of invasive alien species;

"List of invasive alien species of Union concern" or "Union list" means the list of invasive alien species of Union concern adopted by means of implementing acts through the provisions of the IAS Regulation;

S.L. 549.38
S.L. 549.44
S.L. 549.64

"related regulations" includes the Trade in Species of Fauna and Flora Regulations and the Flora, Fauna and Natural Habitats Protection Regulations and the Trees and Woodlands Protection Regulations;

"specimen" means any species, in any stage of its life cycle, whether alive or dead, whether whole or in part, whether in the original form or after having undergone any transformation. It

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includes any part or derivative thereof, as well as any other goods which appear, from an accompanying document, the packaging or a mark or label, or from any other circumstances, to be parts or derivatives.

Control of specimens in the Union list. S.L. 549.44.

4. Without prejudice to the Flora, Fauna and Natural Habitats Protection Regulations, the competent authority may take all necessary measures for the eradication, control, prevention and monitoring of species included in the Union list.

Derogations.

5. By way of derogation from the prohibitions set out in points (a), (b), (c), (d), (f) and (g) of Article 7(1) of the IAS Regulation the competent authority may issue a permit for any species included in the Union list to allow:

(i) *bona fide* scientific studies;

(ii) *ex situ* conservation; or

(iii) the scientific production and subsequent medicinal use, where the use of products derived from species included in the Union list is unavoidable to advance human health.

Provided further that in exceptional cases, for reasons of compelling public interest, including those of a social or economic nature, the competent authority may also issue permits which shall allow establishments to carry out activities other than those mentioned in the preceding paragraph. Such permits shall be issued in accordance with the provisions of Article 9 of the IAS Regulation.

Supplementary provisions.

6. (1) The competent authority may suspend or revoke any permit issued under these regulations, as provided in Article 8(5) of the IAS Regulation.

(2) Whenever the competent authority issues a permit, it may impose such conditions as it may deem fit and appropriate.

(3) Whenever the competent authority refuses such permission, it shall inform the applicant the reasons for such refusal.

(4) Without prejudice to any other obligations and conditions laid down by the competent authority, a permit holder is obliged to submit within a month from the expiry of the permit or at the end of the calendar year, whichever is the earliest:

(a) a detailed report of the activities undertaken;

(b) the aim and what field of work or activity was

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carried out;

(c) the methodology employed;

(d) the outcome and results achieved in connection with the permit; and

(e) the methods employed to transfer, dispose or cull the concerned specimens subsequent to the permitted activity.

(5) A copy of any published results and other publications relevant to this permit shall reach the competent authority within three months from the date of publication.

(6) The period of validity of such permit shall also be established at the discretion of the competent authority, provided that the validity of the permit does not exceed one calendar year.

(7) The competent authority shall not issue or renew any permit if the applicant in question has not fulfilled or honoured any of the conditions or obligations arising from any other permit issued by the competent authority under these regulations and, or the related regulations.

Official Controls.

7. (1) The controls referred to in Article 15(2) of the IAS Regulation, consisting of documentary, identity and where necessary, physical checks, shall take place when goods referred to in Article 15(1) of the IAS Regulation are brought into Malta.

(2) For those categories of goods referred to in sub-regulation (1) for which official controls are already carried out in accordance with Regulation (EC) No 882/2004 and Directives 91/496/EEC and 97/78/EC or at points of entry in accordance with Directive 2000/29/EC, the competent authorities responsible for carrying out the checks referred to under this Regulation 7 shall be those authorities designated in accordance with Article 4 of Regulation (EC) No 882/2004 or with point (g) of Article 2(1) of the Directive 2000/29/EC.

Offences and penalties.

8. (1) Any person:

(a) who fails to observe the provisions of these regulations or the IAS Regulation; or

(b) who infringes any restriction, prohibition or need imposed by these regulations or the IAS Regulation; or

(c) who fails to observe any condition of a permit or consent granted under the provisions of these regulations or the

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IAS Regulation; or

(d) who acts in contravention of any provision of these regulations or the IAS Regulation; or

(e) who makes a statement or presents information or documentation, which such person knows to be false for the purpose of obtaining the approval of a permit or derogation in line with the provisions of Regulation 5; or

(f) who conspires or attempts to conspire, aids or attempts to aid, abets or attempts to abet, counsel or attempts to counsel, procures or attempts to procure any other person to contravene the provisions of these regulations or the IAS Regulation, or to fail from complying with any one of these provisions, or to infringe any restriction, prohibition or need imposed by these regulation or the IAS Regulation or by virtue thereof,

shall be guilty of an offence against these regulations.

(2) Any person who commits, or attempts to commit an offence against these Regulations or the IAS Regulation shall on conviction be liable:

(a) in the case of the first offence, a fine (*multa*) of not less than five hundred euro (€500) for each specimen, but not exceeding two thousand five hundred euro (€2,500) per specimen;

(b) in the case of a second or subsequent offences, a fine (*multa*) of not less than one thousand five hundred euro (€1,500) per specimen, but not exceeding five thousand euro (€5,000) for each specimen, or imprisonment for a period not exceeding two years, or both such fine and imprisonment.

(3) The Court shall order the offender to remove the causes of the offence, remedy the damage caused and undo anything which was done without a permit within a time sufficient for the purpose, but in any case not exceeding three months from the date of judgement, to be fixed by the Court; and, if the offender fails to comply with any such order within the time so fixed, he shall be liable to a fine (*multa*) of not less than seventy euro (€70) and not more than one hundred and twenty-five euro (€125), as the Court may fix, for every day that the default continues after the expiration of the said time.

(4) Any person who has been found guilty of committing an offence against these regulations or the IAS Regulation shall also pay

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for the expenses incurred for the keeping and transport of the concerned specimen, for remedying the damage caused by the said infringement, and for any other expense incurred or mitigation measures required to remedy such doings, damage and infringement.

Cap. 9.

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

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