

**THIRD SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 4,047 of 19th December, 2013

B. 28/13

BILL

FOR

AN ACT to amend the Animals and Birds Act.

ENACTED by the Legislature of Gibraltar.

Title and commencement.

1. This Act may be cited as the Animals and Birds (Barbary Macaques) (Amendment) Act 2013 and comes into operation on the day of publication.

Amendments to the Animals and Birds Act.

2. The Animals and Birds Act is amended as follows—

(a) in section 2,

(i) substitute—

““authorised officer” means any police officer, customs officer, officer of the Environmental Agency or other inspector employed by the Government for the purposes of this Act”

with—

““authorised officer” means any person listed in the Schedule to this Act;”;

(ii) after “fowl”, insert—

““Gibraltar Nature Reserve” means the area designated in the Nature Conservation (Designation of Gibraltar Nature Reserve) Order 2013;”;

(iii) after “Licensing Officer”, insert–

““Minister” means the minister with responsibility for the environment;

“Nature Conservancy Council” has the meaning given to it under section 2(1) of the Nature Protection Act 1991;”;

(b) insert the following after section 6–

“Enticing or feeding Barbary Macaques.

6A.(1) It is an offence for a person–

- (a) to entice a Barbary Macaque to leave any part of the Gibraltar Nature Reserve by offering or leaving food or water;
- (b) not being a person authorised by the Minister, to feed a Barbary Macaque within the Gibraltar Nature Reserve, or to encourage another person to do so; or
- (c) not being a person authorised by the Minister with responsibility for the environment, to feed a Barbary Macaque outside the Gibraltar Nature Reserve, or to encourage another person to do so.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine at level 4 on the standard scale.

Possibility of fixed penalty notices for enticing or feeding Barbary Macaques.

6B.(1) Where on any occasion an authorised officer finds a person whom he has reason to believe on that occasion is committing

or has committed an offence under section 6A(1) he may give that person the prescribed notice offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.

- (2) Where a person has been given a notice under this section in respect of an offence—
- (a) no proceedings shall be instituted for that offence before the expiration of fourteen days following the date of the service of that notice; and
 - (b) he shall not be proceeded further against for that offence if he pays the fixed penalty before the expiration of that period.

- (3) In subsections (1) and (2)—

“proceedings” means any criminal proceedings in respect of the act or omission constituting the offence specified in the notice under sub-section (1), and

“convicted” shall be construed in like manner.

- (4) A notice under this section shall give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence and shall state—
- (a) a reference to the section of the Act, or, as the case may be, the regulation creating the offence;
 - (b) the period during which, by virtue of sub-section (2), proceedings are not to be taken for the offence;
 - (c) the amount of the fixed penalty; and
 - (d) the address of the Clerk of the Magistrates’ Court to whom the fixed penalty shall be paid;

and, without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting to that

person at that address a letter containing the amount of the penalty (in cash or otherwise).

- (5) The form of notices under this section shall be such as the Government may by regulation prescribe.
 - (6) The fixed penalty payable in pursuance of a notice under this section is £500 for an offence under section 6A(1)(a) or 6A(1)(b) and £250 for an offence under section 6A(1)(c), and, with respect to the sums received by the Clerk of the Magistrates' Court, those sums shall be paid to any authority specified for this purpose by notice in the Gazette.
 - (7) In any proceedings, a certificate which—
 - (a) purports to be signed by or on behalf of the Clerk of the Magistrates' Court; and
 - (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate, shall be conclusive evidence of the facts stated.”;
- (c) insert the following after section 26—
- “Amendments to Schedule.**
27. The Minister may amend the Schedule to this Act by notice in the Gazette.”;
- (d) insert the following Schedule after the final section of the Act—

“SCHEDULE

AUTHORISED OFFICERS

The following are authorised officers under section 2–

- (a) a member of the Royal Gibraltar Police as defined in section 2 of the Police Act 2006;
- (b) a customs officer appointed under the Imports and Exports Act 1986;
- (c) the Chief Environmental Health Officer or such person as he shall appoint from the Environment Agency Limited;
- (d) a Wildlife Warden appointed under section 21(1) of the Nature Protection Act, 1991.”

EXPLANATORY MEMORANDUM

This bill provides for fixed penalty offences in the alternative to summary conviction offences in respect of enticing or feeding Barbary Macaques. The bill also provides for a higher fixed penalty for feeding the Barbary Macaques inside the Gibraltar Nature Reserve than for doing so outside it. The bill also expands the categories of individuals able to act as authorised officers in order to enforce the Act.

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