

Subsidiary Legislation made under s.26.

## **Importation of Birds, Poultry and Hatching Eggs Rules 2004**

**LN.2004/095**

*Commencement* **1.10.2004**

Amending  
enactments

Relevant current  
provisions

Commencement  
date

LN. 2006/033 r. 2

30.3.2006

**Implementing:**

Regulation (EC) No 998/2003

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*In exercise of the powers conferred on him by section 26 of the Animals and Birds Act, and all other enabling powers, and in order to further implement Regulation (EC) No 998/2003 of the European Parliament and the Council of 26 May 2003 on the animal health requirements applicable to the non-commercial movement of pet animals and amending Council Directive 92/65/EEC as amended by Commission Regulation (EC) No 592/2004 of 30 March 2004 amending Regulation (EC) No 998/2003 of the European Parliament and of the Council as regards the lists of countries and territories, the Minister for the Environment has made the following rules—*

**Title and Commencement.**

1. These Rules may be cited as the Importation of Birds, Poultry and Hatching Eggs Rules 2004 and come into operation on 1 October 2004.

**Interpretation.**

2. In these Rules, unless the context otherwise requires—

“birds” means any member of the Class “Aves”, but does not include pet birds;

“importation into Gibraltar” means the bringing into Gibraltar from outside Gibraltar whether for a temporary or permanent period;

“pet bird” means a bird which falls within the definition of pet animal in Article 3 of Regulation (EC) No 998/2003 of the European Parliament and of the Council of 26 May 2003 on the animal health requirements applicable to the non-commercial movement of pet animals and amending Council Directive 92/65/EEC as amended from time to time;

“poultry” means domestic fowls, geese, ducks, guinea fowls, pigeons and turkeys;

“eggs” means eggs of birds imported for incubation.

**Prohibition of importation of birds, poultry and eggs.**

- 3.(1) The importation into Gibraltar of any bird, poultry or egg, is prohibited except under the authority of a licence in writing issued by the Environmental Agency and in accordance with the conditions of that licence.

(2) A licence may be issued subject to such conditions as the Environmental Agency considers necessary for the purpose of preventing the introduction or spreading of disease into or within Gibraltar.

(3) The Environmental Agency may vary, revoke or suspend a licence by a notice in writing served on the person to whom the licence was issued.

**Detention of birds, poultry and eggs in quarantine.**

4.(1) Birds, poultry and eggs imported into Gibraltar shall, except where the licence otherwise provides, be detained in quarantine, at the owner's expense, for such period and at such premises as shall, and subject to such conditions as may, be specified in the licence.

(2) Notwithstanding sub-rule (1), the Environmental Agency may, for the purpose of preventing the introduction or spreading of disease into or within Gibraltar, by notice in writing served on the owner or the person in charge of birds, poultry or eggs imported into Gibraltar, require such birds, poultry or eggs to be detained in quarantine at the owner's expense, for such period, or (where the birds, poultry or eggs are being detained in quarantine at the time when the notice is served) for such further period, as shall be specified in the notice, and subject to such conditions as may be so specified, and where the birds, poultry or eggs in respect of which the notice is served were excepted from the requirement contained in subrule (1) the notice shall specify the premises at which the birds, poultry or eggs are to be detained.

(3) The person for the time being in charge of the birds, poultry or eggs required to be detained under this rule shall ensure that, until such time as they arrive at the premises at which they are to be detained, they are kept separate from birds, poultry or eggs which do not form part of the same consignment.

(4) No person shall remove or attempt to remove, or cause or permit the removal or attempted removal of any birds, poultry or eggs which are being detained under this rule from the premises at which they are being detained, except with the written authority of the Environmental Agency and in accordance with any conditions contained in that authority.

(5) The prohibition in sub-rule (4) extends to the removal or attempted removal of carcasses of birds or poultry or parts of eggs.

**Powers of the Environmental Agency in relation to disease.**

5.(1) Where the Environmental Agency suspects that birds, poultry or eggs—

- (a) which have been imported into Gibraltar; or
- (b) which may have been in contact with birds, poultry or eggs imported into Gibraltar,

are or may be affected with disease, it may require the owner or the person in charge of them to submit to such diagnostic or other tests as it considers necessary—

- (i) such birds, poultry or eggs or sample thereof; or
- (ii) any litter, droppings, other excreta or any other material or thing which may have been in contact with such birds, poultry or eggs.

(2) Without prejudice to subrule (4), the Environmental Agency may serve on the owner or the person in charge of the birds, poultry or eggs to which subrule (1) applies a notice in writing requiring him, at the expense of the owner or person in charge and within such time as is specified in the notice—

(a) in the case of birds, poultry or eggs which have been imported into Gibraltar—

- (i) to export them from Gibraltar; or
- (ii) to slaughter such birds or poultry or destroy such eggs; or

(b) in any other case—

- (i) to place such birds, poultry or eggs in quarantine in accordance with the requirements of the notice including requirements as to the period of quarantine, the place of quarantine and any other conditions; or
- (ii) to slaughter such birds or poultry or destroy such eggs.

(3) The Environmental Agency may, without prejudice to any proceedings for an offence, where the owner or the person in charge of the birds or eggs fails to comply—

- (a) with a requirement under sub-rule (1), seize the birds, poultry or eggs to which the requirement relates and carry out or cause to be carried out any tests specified in the requirement; or
- (b) with the requirements of a notice served under sub-rule (2), seize the birds, poultry or eggs to which the requirement or the notice relates and carry out or cause to be carried out the requirements of the notice.

(4) The Environmental Agency may at any time seize or cause to be seized, and may thereafter slaughter or cause to be slaughtered or, as the case may be, destroy or cause to be destroyed, any birds, poultry or eggs to which sub-rule (1) applies.

**Contravention.**

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6.(1) Without prejudice to sub-rule (2)(b), in any circumstance where paragraph (a) applies the Environmental Agency may take the action specified in paragraph (b), as follows–

(a) where–

- (i) birds, poultry or eggs are imported into Gibraltar in contravention of these rules or of a licence issued under these rules; or
- (ii) in respect of any bird, poultry or egg which has been imported into Gibraltar, there has been a contravention of, or failure to comply with any provision of these rules or of a licence or of a notice or of an authority issued, served or given under these rules;

(b) the Environmental Agency may by notice in writing served on the owner or the person in charge of the birds, poultry or eggs require him, at his expense and within such time as is specified in the notice–

- (i) to slaughter the birds or poultry or destroy the eggs;
- (ii) to export the birds, poultry or eggs from Gibraltar; or
- (iii) to place the birds, poultry or eggs in quarantine for such period and at such premises as he shall, and subject to such conditions as he may, specify in the notice.

(2) The Environmental Agency may–

- (a) where the owner or the person in charge of the birds, poultry or eggs fails to comply with the requirements of a notice issued under sub-rule (1)(b), seize or cause to be seized the birds, poultry or eggs to which the notice relates and carry out or cause to be carried out the requirements of the notice;
- (b) at any time, seize or cause to be seized, and may thereafter slaughter or cause to be slaughtered or, as the case may be, destroy or cause to be destroyed–
  - (i) any birds, poultry or eggs to which sub-rule (1) applies;
  - (ii) any birds, poultry or eggs which may have been in contact with any birds, poultry or eggs to which sub-rule (1) applies.

**Cleansing and disinfection of premises, vehicles etc.**

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7.(1) Where the Environmental Agency suspects that birds, poultry or eggs which have been imported into Gibraltar are, or may be, infected with disease it may by notice in writing served on the owner or the person in charge of the premises, place, vessel, aircraft, vehicle, pen or container on or in which the birds, poultry or eggs are or have been present require the person on whom the notice is served to cleanse and disinfect such premises, place, vessel, aircraft, vehicle, pen or container, or to destroy or otherwise dispose of such container, at his own expense in such manner and within such time as it may specify in the notice.

(2) Where the requirements of a notice served under sub-rule (1) have not been complied with, the Environmental Agency may, without prejudice to any proceedings for an offence arising out of such failure to comply, carry out or cause to be carried out the requirements of the notice and for this purpose the Environmental Agency may seize or cause to be seized a container.

**Miscellaneous.**

8.(1) No compensation shall be paid to any person in respect of any birds or poultry slaughtered or eggs or containers destroyed or disposed of under any provision of these rules.

(2) Any reasonable expenses arising out of or in connection with the exercise of any power conferred on the Environmental Agency by these rules shall, without prejudice to any proceedings for any offence, be recoverable on demand as a civil debt from the owner or the person in charge of the birds, poultry or eggs in respect of which the power was exercised or, where such expenses arose out of or in connection with the exercise of powers under rule 7, from the person on whom the notice referred to in that rule was served.

(3) Nothing in rules 5 and 6 shall be construed as precluding the owner of any birds, poultry or eggs to which any of these rules apply from slaughtering such birds or poultry or destroying such eggs.

(4) The Environmental Agency may vary, revoke or suspend a notice served under these rules by a notice in writing served on the person on whom the notice was served.

(5) For the purpose of exercising the power to seize birds, poultry or eggs under rule 5(3) and 5(4) or rule 6 or for the purpose of exercising the powers under rule 7(2) an employee of the Environmental Agency may enter any land, premises, vessel, aircraft, vehicle, pen or container taking with him such persons as he considers appropriate. An employee of the Environmental Agency entering under this sub-rule shall, if required by the owner or the person in charge of the land, premises, vehicle, pen or container, state his reasons for entering.

(6) The owner or the person in charge of birds, poultry or eggs to which rules 5 or 6 apply shall give all reasonable assistance to the Environmental Agency so as to enable the powers conferred by those rules to be properly exercised.

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#### **Production of licence etc.**

9. The owner or the person in charge of birds, poultry or eggs to which these rules apply shall on demand by the Environmental Agency or a police or customs officer produce the licence or notice which has been issued or given to or served on him under these rules and shall allow a copy thereof or an extract to be taken and shall, if required, give his name and address.

#### **Summary offences.**

10. Any person who lands or attempts to import any birds, poultry or eggs in contravention of rule 4(1) or who contravenes any other provision of these rules or a licence or a notice served under these rules or who causes or permits any such importation or attempted importation or any such contravention or non-compliance commits an offence and is liable on summary conviction to a fine up to level 4 on the standard scale or to imprisonment for up to six months or both.

#### **Savings.**

11. Nothing in these rules shall affect the—

(1) powers of the Collector of Customs to seize or detain as liable to forfeiture under the Imports and Exports Act any birds, poultry or eggs which are imported into Gibraltar in contravention of these rules or of a licence, or to institute legal proceedings under the Imports and Exports Act in respect of such contravention; or

(2) provisions relating to the restrictions of importation of the live or dead animals specified in the Endangered Species Act 1990 or the Control of Trade in Endangered Species Act 1998.

#### **Revocation.**

12. The Importation of Birds, Poultry and Hatching Eggs Rules 1984 are revoked save that proceedings in respect of any offence committed under those Rules may continue to be prosecuted as if it were still in force.