

**1. Burgenland Nature Conservation and Countryside Protection Law – NG 1990,
Provincial Law Gazette No 27/1991, as amended in the law Provincial Law Gazette
No 89/2019:**

Article 5

Projects requiring approval in order to protect the wild environment and landscape

- (1) The projects specified in para. 2 shall require official approval on plots of land
1. that are categorised as unimproved in the valid zoning plan of the municipality or classified as such pursuant to Article 13 para. 3 Burgenland Land Use Act, Provincial Law Gazette No 18/1969, or
 2. that are zoned as development land for recreational and tourism facilities and located in the vicinity of Lake Neusiedl including the reed belt and buffer zone (“Seevorgelände”) as per **Annex 2**.
- (2) The following projects, if they are to be realised on land falling under para. 1, shall require official approval:
1. the construction, expansion, or substantial modification of
 - a) buildings and other above-ground structures;
 - b) fences and enclosures of any type;
 - c) facilities for the extraction of mineral raw materials such as stone, clay, sand, gravel, crushed rock, and peat and the filling of such new and previously existing sites including the final state of the extraction sites;
 - d) facilities for the storage of waste including their final state, unless lit. c applies;
 - e) ponds and artificial water bodies as well as excavation and filling in standing water bodies or temporarily dry water bodies of any kind;
 2. the damming or drainage of a water body, the filling of the bed of a water body or the installation of piping or paving in or for the bed of a water body, or the modification of a shore or bank including dead channels;
 3. the installation of overhead power lines with a nominal voltage greater than 30 kilovolts (kV);
 4. the construction of facilities or courses for motocross and autocross sports or similar sports;
 5. the construction of airfields for passenger and model aircraft and of golf and miniature golf courses;
 6. the filling or other modification of natural gullies and ravines except for shallow, broad filling or other insignificant changes.
- (3) The following shall be exempted from obligatory official approval pursuant to para. 1 and 2 and the obligation to give notice pursuant to Article 5a:
1. mobile polytunnels for plant production in agricultural operations, construction site facilities for the duration of construction, facilities for events for a duration of no longer than two weeks, facilities for the maintenance or monitoring of officially approved installations, raised and ground-level hunting stands as commonly required for legal hunting, artistically valuable sculptures, historical monuments, and chapels;
 2. one-time extensions to buildings for which nature conservation permission has been granted, up to 50% of the area of the existing structure but no more than 50 m². An extension shall also be considered to be a one-time extension if it is completed in multiple stages provided that it does not exceed the specified maximum extent. Notice of each extension including the extent shall be submitted to the nature conservation authorities before construction is begun; the authorities shall file this notice without further proceedings;
 3. Enclosures around gardens and orchards where no contiguous section is located more than 50 m from the residential building and around structures or buildings up to a gross area of 20 m² and other minor construction projects pursuant to the Burgenland Building Code 1997, Provincial Law Gazette No 10/1998, in gardens and orchards associated with a residential building and at a distance of no greater than 50 m from this building, except for land categorised as unimproved cellar zone, unimproved special zone, unimproved wine production zone, or as unimproved no-building zone in the zoning plan of the municipality;
 4. Enclosures for the protection of agricultural and silvicultural plantings or for the keeping of livestock in agricultural or silvicultural operations, provided that these conform to the character of the surrounding

landscape (Article 6 para. 1 lit. c) and that there is an objective or functional relationship between the enclosure and the use of the area for the duration of the installation of the enclosure;

5. Projects on areas for track and field and ball sports except for golf; playgrounds, cemeteries, and artificial outdoor pools, the latter with the exception of those in an objective, functional, or spatial relationship with surface water bodies;
6. The minor alteration, expansion, or renovation of a legally authorised facility (such as the installation and modification of windows, dormers, the construction and renovation of terraces as common in the area, the modification of antennas with a maximum change in mast height of 2 m);
7. The operation, maintenance, and repair of legally authorised facilities;
8. The installation, modification, or expansion of bioengineering measures for water body shore or bank stabilisation, provided that these do not exceed 150 m² and serve the protection of paths, roads, infrastructure, or buildings;
9. Measures to fulfil obligations pursuant to Article 47 para. 1 of the Water Act 1959, Federal Law Gazette No 215/1959, as amended in the federal law Federal Law Gazette I No 73/2018;
10. Water crossings pursuant to Article 1 of the Ordinance on Exemption from Official Approval for Water Crossings, Federal Law Gazette II No 327/2005, if executed with due care (Article 2 of the Ordinance on Exemption from Official Approval for Water Crossings);
11. Solar collectors and photovoltaic systems installed on the roof or wall surfaces of class 1 and 2 buildings and parallel to these surfaces or integrated into such surfaces, except for systems on land categorised as unimproved cellar zone, unimproved special zone, unimproved wine production zone, or unimproved no-building zone in the zoning plan of the municipality.

(4) The exemptions in para. 3 number 1, 3, 4, 5, and 7 to 11 shall also apply in landscape conservation areas. The requirement for official approval for the cases specified in Article 22e shall not be affected by the exemptions in para. 3.

Article 6

Prerequisites for official approval

(1) Official approval pursuant to Article 5 shall be granted if the project or measure including the intended purpose will not

- a) have a detrimental impact on the landscape,
- b) have a likely or actual detrimental impact on the ecology in the respective habitat,
- c) have a detrimental impact on the character of the respective landscape, or
- d) significantly affect an area for which special development goals have been defined by order of the Provincial Government pursuant to Article 6a.

(2) The ecology of a habitat is detrimentally impacted when a measure or project

- a) destroys a significant population of rare, endangered, or protected fauna or flora,
- b) has a significant detrimental impact on or destroys the habitat of rare, endangered, or protected fauna or flora, or
- c) is likely to cause some other substantial disturbance to the interrelationship between the indigenous fauna and flora or the indigenous fauna or flora and the environment in the biosphere or parts thereof. Such a substantial disturbance shall be considered to be likely with projects pursuant to Article 5 para. 2 number 1 lit. c and d if such extraction sites are filled and their end state achieved using materials other than excavated soil (Article 2 para. 17 of the Act on the Remediation of Contaminated Site, Federal Law Gazette No 299/1989, as amended in the law Federal Law Gazette I No 103/2013).

(3) The character of the respective landscape shall be considered to be detrimentally impacted in any case if a measure or project involves

- a) the building of a structure outside of the boundaries of a settlement and for which no necessity can be demonstrated pursuant to Article 20 para. 4 and 5 of the Burgenland Land Use Act, Provincial Law Gazette No 18/1969, (overdevelopment), or enclosures of any kind pursuant to Article 5 para. 2 number 1 lit. b for which there is no objective or functional necessity in relation to the zoning categorisation of the area,
- b) a reduction of the diversity in a landscape characterised by a wide range of differing elements,
- c) the substantial disturbance of the pristine character of a landscape,
- d) the substantial disturbance of natural surface features such as river terraces, river deposits, unregulated river or creek courses, hills, ravines, and the like or the significant disturbance of structures and sites that are typical of the landscape or of historical structures and sites,

- e) the significant disturbance of natural water bodies by installations, filling, and similar measures or the substantial breaking up of bank or shore vegetation
- f) the infringement of the extraordinary and universal value of an area recognised as a World Heritage Site under the UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage.

(3a) An area for which special development goals have been defined by order of the Provincial Government pursuant to Article 6a shall be considered to be significantly affected in any case if a measure or project contravenes the development goals defined in the official order.

(4) Official approval for installations in water bodies and their adjacent shore or bank areas shall be refused if the municipality's zoning does not ensure that the measure conforms with the local zoning goals.

This shall not apply to installations required for hydraulic engineering and transport purposes or installations for the generation of hydropower.

(5) Official approval pursuant to Article 5 can be granted despite the provisions in para. 1 to 4 if the public interest in the measures being applied for in the sense of the common good outweighs the public interest in protecting nature and the landscape against such detrimental impacts. Public interests shall especially include national defence, environmental protection, economic growth and tourism, agricultural reform and agriculture, the education system, regional land use planning, transport, public security, supplying the population with food and energy, health, science and research, heritage preservation, overall water management planning, and mining.

(6) In those cases where official approval is granted pursuant to para. 5 due to these requirements being met, conditions shall be imposed to mitigate the detrimental impacts of a project to the greatest degree possible.

Article 7

Protection of wetlands

(1) Pursuant to the Birds Directive and the Convention on Wetlands of International Importance especially as Waterfowl Habitat, Federal Law Gazette No 225/1983, as amended in the protocol Federal Law Gazette No 283/1993, the Provincial Government shall ensure sufficient wetland protection. It shall especially ensure the establishment of a management planning system for the wetlands that have been classified as internationally important.

(2) Notwithstanding the special provisions for Lake Neusiedl (Article 13), earth filling, drainage, excavation, and any other measures that could lastingly endanger a habitat for fauna and flora are prohibited in moors and swamps, on wetland meadows, in reed and cane beds, and in alluvial forests. This shall also apply to the immediate vicinity if the planned measures have the potential to put the protection of the wetlands at risk.

(3) The prohibition in para. 2 shall only apply to wetland meadows that have been declared as protected wetlands by official notice of the Provincial Government. The provisions of Articles 28, 29, and 34 lit. a apply accordingly to the declaration as protected wetlands.

(4) The provisions in para. 2 shall not apply to measures related to the necessary maintenance of existing, officially approved facilities, the necessary maintenance and care of shores and banks of water bodies, and measures to maintain and improve the protection function.

(5) Notice of the planned measure shall be submitted to the authorities in good time. If the measure does not fall under Article 50 para. 4, the authorities shall determine by official notice whether the measure is prohibited under para. 2 within 6 weeks.

Article 15a

Strict flora species protection

(1) The wild flora on the Red List (Article 15) and in Annexes II, IV, and V to the Habitats Directive and Annex I to the Berne Convention are protected. The Red List and the Annexes to the Directive and the Convention shall be posted for public inspection during office hours at the Office of the Burgenland Provincial Government and all district administrative authority offices.

(2) The Provincial Government can specify the following for protected flora species by official order

- a) exemptions from the scope;
- b) a period of time during which the flora species are placed under protection;
- c) the species whose above-ground parts may be removed, or
- d) measures that are to be taken to protect the habitat of the protected flora.

(3) Measures pursuant to para. 2 lit. d can be ordered by the Provincial Government by way of official order without prior investigation proceedings pursuant to Article 57 General Administrative Procedure Act 1991 (AVG) in individual cases if this is required for the protection of flora species pursuant to para. 1.

(4) Protected flora may not be removed from the soil, removed from its location, damaged, or destroyed and may not be purchased, held in possession, distributed, transported, or offered for sale in a fresh or dried state. The

willingness to sell or purchase such plants may also not be publicly announced. The protection applies to all below-ground and above-ground parts of the plant.

(5) Any person having members of the protected species (developmental forms or parts) in their possession shall prove the origin of these to the authorities upon demand.

Article 16

Strict fauna species protection

(1) The following are protected unless they are classified as game animals or fall under fishing law:

1. The wild fauna on the Red List (Article 15) and listed in Annex I to the Birds Directive, Annexes II, IV, and V to the Habitats Directive, Annexes II and III to the Convention on the Conservation of European Wildlife and Natural Habitats (Berne Convention), Federal Law Gazette No 372/1983, last amended in the law Federal Law Gazette III No 82/1999, and in Annexes I and II to the Convention on Migratory Species (Bonn Convention), Federal Law Gazette III No 149/2005 and
2. all other wild bird species without prejudice to number 1.

A consolidated list of all species pursuant to number 1 that are included in the Red Lists and the Annexes to the Directives and Conventions listed there including their names in German (if available) shall be posted for public inspection during office hours at the Office of the Burgenland Provincial Government and all district administrative authority offices.

(2) Protected fauna in any developmental form may not be pursued, disturbed, captured, transported, kept in any form, injured, killed, held in possession, removed from its habitat, or damaged in any other way. Intentional destruction of or damage to nests and eggs, the removal of nests, and the collection of eggs from the wild and the possession of these eggs or the shells of these eggs from the bird species specified in para. 1 are prohibited. Furthermore, any intentional destruction or removal of eggs from the wild and any damage to or destruction of the breeding and resting places of the fauna as per para. 1 that are listed in Annex IV to the Habitats Directive is prohibited. The offering for sale and the acquisition and distribution of protected fauna or parts of such animals is prohibited regardless of state, age, or developmental form. The willingness to sell or purchase such animals may also not be publicly announced.

(3) The Provincial Government can specify the following for protected fauna in consideration of the Directives listed in para. 1 number 1 by official order:

- a) exemptions from the scope,
- b) the measures and methods of capture that are prohibited in the interests of the protection of the fauna population,
- c) measures that are to be taken to protect the young of protected fauna,
- d) the species for which the removal, disturbance, or destruction of nests and their sites and of leks, breeding, resting, and wintering grounds are prohibited for their protection in addition to the provisions in para. 2, and
- e) the species for which protection is extended to the immediate vicinity (50 m).

(4) Measures pursuant to para. 3 lit. c, d, and e can be ordered by the Provincial Government by way of official order without prior investigation proceedings pursuant to Article 57 General Administrative Procedure Act 1991 (AVG) in individual cases if this is required for the protection of fauna species pursuant to para. 1.

(5) Any person having members of the protected species (including parts or developmental forms) in their possession shall prove the origin of these to the authorities upon demand. Cadavers of protected species and members of protected species in need of care are the property of the Provincial Government and shall be handed over to the authorities or a scientific institution named by the authorities without delay if found.

(6) The provisions of para. 5 shall not apply to cadavers of protected species if these were acquired before 1 March 1991. The person having such in their possession shall provide proof of this.

Article 16a

Species protection under the Habitats Directive and Birds Directive

(1) The Provincial Government shall preserve or restore sufficient diversity, sufficient habitat size, and a favourable conservation status for the species named in the Habitats Directive and the Birds Directive. This shall especially include the following measures:

- a) the establishment of protected areas (Section V, Articles 7, 27 para. 1 lit. b, 22a, and 22b) or the conclusion of agreements and the provision of funding (Article 75);
- b) the maintenance and protection-oriented design of the habitats within and outside of the strictly protected areas;
- c) the restoration of destroyed habitats;

- d) the creation of new habitats;
- e) the maintenance, restoration, and improvement of the ecological processes required for the natural development of habitats.

(2) The Provincial Government shall monitor and document the conservation status of the species named in the Directives (para. 1).

(3) The Provincial Government shall specify investigation, monitoring, and maintenance measures by official order as required to ensure that unintentional capture or killing has no detrimental effect on the protected species.

(4) The terms defined in Art 1 of the Habitats Directive shall apply to the provisions in Articles 16a and 16c.

Article 18

Special provisions for the protection of flora and fauna

(1) Articles 14 para. 1 and 2, 15a, 16, and 16a para. 1 and the official orders issued on the basis of these provisions shall not apply to measures necessary for the construction, operation, repair, or maintenance of an officially approved facility provided that protected flora and fauna are not intentionally disturbed by such measures and any detrimental effects are limited to the greatest possible extent.

(2) The Provincial Government shall define exemptions from those prohibitions that make the construction or operation of an officially approved facility economically unfeasible by official order pursuant to Article 14 para. 3.

(3) The Provincial Government shall be entitled to allow exemptions from the provisions of Articles 14 to 16a and the prohibitions enacted by official order on the basis of these provisions upon request in individual cases in accordance with the following provisions, provided that

- 1. there is no other satisfactory solution and
- 2. the conservation status of the population of the affected species remains favourable in its natural range despite the granted exemptions.

(4) The Provincial Government can allow exemptions from the flora and fauna prohibitions except for the bird species in para. 5 in accordance with the provisions in para. 3:

- 1. to protect the other plants and wild animals and to maintain the natural habitats,
- 2. to prevent serious damage, especially to crops and livestock, forests, fishing grounds, water bodies, and other forms of property,
- 3. in the interests of public health and safety or for other compelling reasons of overriding public interest (Article 6 para. 5) including those of a social or economic nature or of positive consequences for the environment,
- 4. for the purposes of research and education, repopulation and reintroduction, and the required breeding for these purposes, including the artificial reproduction of flora,
- 5. to allow the selective and limited removal or keeping of examples of certain flora and fauna in a limited number set by the authorities and under strict control.

(5) The Provincial Government can in accordance with para. 3 approve exemptions from the prohibitions pertaining to the species covered by the Birds Directive:

- 1. in the interests of health and public safety,
- 2. in the interests of aviation safety,
- 3. to prevent significant damage to crops, livestock, forests, fishing grounds, and water bodies,
- 4. to protect flora and fauna,
- 5. for research and education purposes, repopulation, reintroduction, and for breeding in connection with these measures,
- 6. to allow the capture, keeping, or any other sensible use of certain bird species in small numbers under strictly monitored conditions.

(6) The official approval shall be granted with prescribed requirements, conditions, or time limitations as necessary to limit the detrimental effects of the project to the greatest extent possible.

Article 22b

European protection areas

(1) Sites of Community importance suitable for preserving, developing, or restoring a favourable conservation status

- a) for the natural habitat types in Annex I or the flora and fauna in Annex II to the Habitats Directive that they contain or
- b) the indigenous bird species contained in Annex I to the Birds Directive

must be declared as European protection areas by official order of the Provincial Government, taking the criteria of Annex III to the Habitats Directive into account. European protection areas must be of Community interest and part of the European nature protection network Natura 2000.

(2) If areas surrounding protected areas as defined in para. 1 are of substantial importance for the appearance of the protected areas, for the maintenance of these areas, or for attaining the protection goals, they can be included in the protection area. This shall also apply to separate areas that serve as habitat for the protected flora and fauna as defined in para. 1.

(3) Existing nature conservation areas, landscape conservation areas, and protected parts of the landscape shall also be designated as European protection areas if they meet the requirements in para. 1.

Article 22c

Protection and maintenance of European protection areas

(1) Official orders pursuant to Article 22b shall contain the respective object of protection and the protection objective, as well as the orders and prohibitions needed to achieve the objective. Measures that may be detrimental to the natural habitats of the species as well as the disturbance of species for which the European protection area has been designated shall be prohibited in any case. The specification of orders and prohibitions can be waived if sufficient protection is ensured by official orders pursuant to other provisions of this law, by the law governing Lake Neusiedl – Seewinkel National Park, or by agreements (Article 4 para. 3).

(2) Detrimental effects to habitats occur when the space a habitat occupies in the respective area declines, or when the specific structure and functions required for long-term habitat preservation or the favourable conservation status of the species characteristic for the habitat deteriorates substantially or on a long-term basis compared with the initial state. The reduction of the extent of a habitat shall be assessed in relation to the total space occupied in the respective area in accordance with the conservation status and the function of the respective habitat.

Species are disturbed by measures that may impair long-term positive development in terms of distribution, endangerment, and the development of the population of these species in a significant or lasting manner on the basis of scientific evidence and experience.

The disturbance and deterioration of the natural habitats shall be assessed on the basis of the contribution of the area to the coherence of the European nature protection network Natura 2000 (Article 22b para. 1).

(3) A development and maintenance plan (management plan) shall be created for each European protection area or discrete part of such an area. This shall contain the necessary maintenance and improvement measures and a monitoring plan. The plan shall be based on scientific findings, especially relating to the habitats and species listed in the Annexes to the Birds Directive and Habitats Directive for whose protection and recovery the development and maintenance plan is being created.

(4) When creating the development and maintenance plan, the property owners, the affected municipalities, the office of the Burgenland environmental ombudsman, the department of the Burgenland Provincial Government responsible for agricultural, forestry, hunting, and fishing matters, the Lake Neusiedl Biological Station, the Burgenland Chamber of Agriculture, the Burgenland Provincial Hunting Association, and, if applicable, the responsible fisheries administrator (Article 4 of the Second Fisheries Ordinance Provincial Law Gazette No 9/1953 as amended in the law Provincial Law Gazette No 26/1973) shall be involved in the consultations in good time.

(5) The Provincial Government shall post the development and maintenance plan for public inspection in the affected municipalities for a period of four weeks. This posting shall be announced in the Burgenland Official Provincial Gazette with a reference to Article 48.

(6) The Provincial Government shall ensure that the material contents of the development and maintenance plan as specified to ensure the protection objective and preservation goals of the European protection area are implemented properly. The associated measures shall generally be implemented in agreement with the property owners and other parties entitled to access or use the property and with the persons entitled to hunt and fish on the respective properties. However, if a property owner is awarded compensation pursuant to Article 48 on the basis of an application, the Provincial Government shall be entitled to order such measures on the basis of an official notice issued pursuant to Article 48 para. 3 or 4. The property owner and other persons authorised to access or use the property shall accept these measures.

Article 22d

Official approvals and exemptions

(1) In individual cases and with the exception of the prohibitions enacted pursuant to Articles 22b and 22c if applicable, the authorities can approve plans and projects pursuant to Article 22e para. 1 if the change made to the European protection area does not significantly impact the material components of the area required for the protection objective or preservation goals.

(2) Contrary to the provision in para. 1 and in the event of the granting of exemptions from prohibitions enacted pursuant to Articles 22b and 22c, official approval may only be granted if

- a) no alternative solution can be found that does not impact the affected area as such pursuant to para. 1,
- b) compelling reasons of overriding public interest, including those of a social or economic nature, are claimed, and
- c) necessary compensatory measures ensure the protection of the global coherence of Natura 2000.

(3) If impacts are likely on a priority habitat type, a priority species, or a species listed in Annex I to the Birds Directive, official approval may only be granted regardless of the provision in para. 1 if

- a) no alternative solution can be found that does not impact the affected area as such pursuant to para. 1, and
- b) compelling reasons of overriding public interest relating to human health, public safety, or significant beneficial effects for the environment are claimed or
- c) compelling reasons of overriding public interest other than those specified in lit. b are claimed and an opinion has been obtained from the Commission of the European Community and
- d) necessary compensatory measures ensure the protection of the global coherence of Natura 2000.

(4) In the event of official approval pursuant to para. 2 or 3, the applicant shall implement the compensatory measures pursuant to para. 2 lit. c and para. 3 lit. d within the period specified in the official notice of approval. The Commission of the European Community shall be informed of the measures.

(5) The authorities shall be notified in good time of actions outside of a European protection area that may endanger the protection objective or preservation goals. The authorities shall either inform the party intending to take the action within a period of six months that the evaluation of the planned action revealed no significant impairment of the protection objective or preservation goals or shall make a decision pursuant to para. 6.

(6) The authorities are entitled to prohibit the action pursuant to para. 5 if the action outside of a European protection area significantly impairs the material components of the area required for the protection objective or preservation goals of the area, or to grant approval pursuant to para. 2 to 4.

(7) The restrictions of the regulations pursuant to Article 22b do not apply to measures directly related to or necessary for the protection, maintenance, and development of the European protection area as defined in the development and maintenance plan pursuant to Article 22c para. 3.

Article 22e

Nature impact assessment (NIA)

(1) For all plans and projects within and outside of a European protection area that are not directly related to or necessary for the management of a European protection area and that could have a detrimental impact on such an area individually or in combination with other plans or projects pursuant to Article 22c para. 2 (e.g. infrastructure or zoning plans), the natural persons and legal entities drawing up, commissioning, or otherwise seeking to implement such plans or projects shall, para. 5 notwithstanding, submit an application for approval from the authorities.

(2) The authorities shall conduct preliminary proceedings to determine whether the plan or project falls under the provisions of para. 1. The operator shall provide the authorities with all documents required for a proper assessment and for determining whether the plan or project falls under the provisions of para. 1. After a request is submitted by the applicant or the Burgenland environmental ombudsman, the authorities shall issue an official notice indicating whether the plan or project falls under the provisions of para. 1.

(3) When conducting proceedings pursuant to para. 1, the authorities can require the operator of a plan or project to submit a nature impact declaration. The proceedings shall be conducted in accordance with the guidelines (Annex), which are an integral part of this law.

(4) The authorities shall evaluate plans and projects falling under the provisions of para. 1 applying Article 22d para. 1 to 4 and shall issue a decision based on this provision. Decisions on proceedings pursuant to Article 3 lit. d second case (mandatory measures stemming from the treaty between the Republic of Austria and Republic of Hungary governing water management matters in the border area) shall be issued without unnecessary delay.

(5) If the object of the evaluation is zoning plans, the authorities shall conduct the evaluation and issue a decision pursuant to para. 3 to 5 through the proceedings defined in Article 18 para. 6 and 7 of the Burgenland Land Use Act, Provincial Law Gazette No 18/1969.

Article 23

Landscape conservation areas

(1) Areas featuring particular landscape diversity, uniqueness, and beauty, that are of particular importance for recreation or tourism, or that contain historically or archaeologically important landscape elements can be designated as landscape conservation areas by the Provincial Government by way of official order.

(2) An official order pursuant to para. 1 shall specify the borders of the conservation area and especially the object of protection, the protection objective (ecology, landscape appearance, landscape character, etc.), projects requiring approval, prohibitions, and exemptions.

(3) Ecology refers to the relationships and interactions between inanimate (light, air, climate, terrain, stone, soil, water) and animate (plants, animals, people) factors.

(4) The landscape appearance is the mentally processed total of all sensory perceptions of the actual features of the landscape from every possible viewing angle on land, on the water, and from the air.

(5) The landscape character is determined by significant structural and design elements of the landscape in terms of their relevance as determinants of the formation of discrete spaces, the landscape appearance, ecology, and sustainable space utilisation.

(6) Without prejudice to other provisions of this law, projects in landscape conservation areas that could potentially have a detrimental effect on the object of protection or the protection objective defined in the official order shall be specified as requiring approval. The notification procedure pursuant to Article 5a shall also apply to measures requiring approval under the landscape conservation area orders.

(7) The authorities shall grant approval for plans or projects in landscape conservation areas if

1. the approval requirements for official permits or project notices are met, and
2. no detrimental effect on the object of protection or protection objective defined in the official order will occur or is likely.

Article 6 para. 5 and 6 apply accordingly.

(8) Projects that have a detrimental effect on the protection objective, the object of protection, or ecology shall be defined as prohibited pursuant to para. 2.

(9) A development, restoration, and maintenance concept with the zoning of sections of differing priority or with different utilisations shall be prepared for each landscape conservation area if possible. Such zoning shall especially be conducted for landscape conservation areas or parts thereof that have been designated as a nature park (Article 25).

Article 52a

Participation of environmental organisations

(1) Environmental organisations that have been recognised pursuant to Article 19 para. 7 Environmental Impact Assessment Act 2000 – UVP-G 2000, Federal Law Gazette No 697/1993, as amended in the federal law Federal Law Gazette I No 80/2018, and authorised for the province of Burgenland shall have the status of an involved party pursuant to Article 8 General Administrative Procedure Act (AVG) in official approval proceedings pursuant to Article 22e para. 1 and determination proceedings pursuant to Article 22e para. 2 to allege possible infringements of the provisions of this law defined in implementation of the Habitats Directive and Birds Directive.

(2) The authorities shall announce the receipt of an application pursuant to Article 22e para. 1 and 2 in the electronic information system (public notice of proceedings). The public notice of proceedings shall indicate the type, location, scope, and use of the project and shall indicate the rights set forth in para. 3 and 4 and Article 52b para. 1 number 2 and para. 4. This shall also apply to application amendments.

(3) The expert opinions collected by the authorities during their investigation proceedings shall be published in the electronic information system.

(4) Environmental organisations can

1. inspect the relevant records after the public notice of proceedings
2. submit a written opinion on the project or expert opinion within four weeks after the public notice of proceedings or the publication of an expert nature conservation opinion. Well argued opinions shall be taken into account in the decision on the applications pursuant to para. 2.

Article 52b

Right of action for environmental organisations

(1) Environmental organisations recognised pursuant to Article 52a para. 1 have the right

1. to lodge a complaint against official notices pursuant to Article 5, Article 23 para. 7, and Article 18 para. 1 (exemptions from the fauna and flora protection prohibitions) if protected fauna and flora that are listed in Annex IV to the Habitats Directive or wild bird species listed in Annex 1 to the Birds Directive are affected and
2. to lodge a complaint against official notices pursuant to Article 22e para. 1 and 2

with the Provincial Administrative Court to allege a possible infringement of the provisions of this law defined in implementation of the Habitats Directive and Birds Directive.

(2) The authorities shall publish the official notices pursuant to para. 1 in the electronic information system. After expiry of a period of two weeks following the day the official notice was published, it shall be deemed delivered vis-à-vis the recognised environmental organisations.

(3) From the date of the publication of an official notice pursuant to para. 1 number 1 in the electronic information system, an environmental organisation recognised pursuant to Article 52a para. 1 shall be permitted to inspect the administrative act for a period of six weeks. The right to inspect the relevant records shall be indicated in the publication of the official notice.

(4) If reasons of complaint are presented for the first time in complaints against official notices pursuant to Article 22e para. 1 and 2, these shall be admissible only if the complaint indicates why it was not possible to raise them during the objection period in the determination or official approval proceedings and if the complainant demonstrates that the fact that he failed to raise the objections during the objection period is not or only to a minor degree his fault. In cases where this cannot be demonstrated for any of the reasons of complaint, the complaint shall be rejected as being inadmissible; where, however, this only applies to some of the reasons, the inadmissible issues of the complaint shall not be addressed.

Article 52c

Electronic information system

(1) The Provincial Government shall set up an electronic information system for the publication of the notifications, correspondence, and official notices specified in Articles 52a and 52b.

(2) Environmental organisations recognised pursuant to Article 52a para. 1 shall be provided with access to this information system.

(3) The documents specified in para. 1 shall not be removed from the electronic information system before the expiry of a period of six weeks after their publication in this system.

Article 81

Transitional provisions

(22) Environmental organisations recognised pursuant to Article 52a para. 1 shall have the right to file a complaint with the Provincial Administrative Court pursuant to Article 52b para. 1 against official notices issued between 23 November 2017 and the time that this law enters into force. Complaints against such official notices shall have no suspensive effect. Article 52b para. 2 and 3 apply accordingly.

2. Burgenland Hunting Act 2017 – Bgld. JagdG 2017, Provincial Law Gazette No 24/2017, as amended in the law Provincial Law Gazette No 27/2020

Article 3

Definitions

(1) Game or game animals for the purposes of this law refers to:

1. Furred game:

Red deer, roe deer, fallow deer, moufflon, wild boar, sika deer, chamois, and moose (cloven-hoofed game);

Brown hare, wild rabbit;

Brown bear, raccoon, lynx, raccoon dog, badger, wolf, fox, golden jackal, pine marten, beech marten, polecats, stoat, weasel, river otter, wildcat (game-species predators);

2. Game birds:

Bustard, wood grouse, black grouse, hazel grouse, grey partridge, pheasant, common quail, wild turkey, wild doves, sandpipers, wild geese, wild ducks, herons, rails, great cormorant, raptors, common raven, jay, carrion crow, and common magpie.

(2) The Provincial Government shall be entitled to more precisely define the individual species in para. 1 by official order.

(3) “Moving game” for the purposes of this law refers to game animals that have been flushed by hunting dogs and/or beaters for the purposes of take.

(4) Changes in the game population in fenced private hunting units are designated as additions and removals. “Removals” refer to the removal from the unit of living animals, game animals that have been harvested, and game animals that have died of causes other than harvesting. “Additions” refer to population increases stemming from measures other than birth within the unit.

(5) “Poaching dogs” are dogs that are in the process of chasing or killing game animals, or dogs that have at least temporarily escaped the control of their owners and are straying about the hunting unit outside of the reach of and outside of hearing distance from their owners.

(6) A “bait spot” is used to attract wild boar to locations other than feeding sites by placing small quantities of suitable feed in order to observe or harvest the game animals.

(7) A “period of distress” is when game animals do not have an adequate supply of natural feed and water due to the weather and soil conditions (e.g. deep, frozen snow cover, periods after long spells of snow and cold, floods, drought, or similar natural events).

(8) “Open pen-keeping” refers to the keeping of game birds in enclosures that above all offer the best possible protection for these game animals against game-species predators and non-game-species predators pursuant to Article 70 para. 1 and allow the game birds to fly into and out of the enclosure at any time. Game birds held in open pens may not be subjected to cruel treatment such as flushing, beak trimming, beak clips, or wing clipping.

Article 78

Open and closed season

(1) The Provincial Government shall define open seasons for the game animals specified in Article 3 during which they may be pursued, captured, and harvested in accordance with the biological characteristics of each species and in consideration of sustainable gamekeeping, preventing the endangerment of the population, and the needs of agriculture and forestry and nature conservation by way of official order; if necessary, these seasons shall be defined separately by age, class, and gender.

(2) The following have no closed season: wild rabbit, fox, polecat, beech marten, wild boar except for lactating sows, weasel, stoat, raccoon dog, and raccoon.

(3) Game animals for which no open season is defined pursuant to para. 1 shall not be intentionally disturbed, pursued, captured, or harvested at any time during the year.

(4) The Provincial Government shall, in cases where there is no other satisfactory solution and after the receipt of expert opinions in the field of hunting and nature conservation, approve exemptions allowing the pursuit, capture, and harvest of game birds and furred game for which no open season is defined if this

1. is in the interests of public health, public safety, or aviation safety;
2. is required to prevent significant damage to crops, livestock, forests, fishing grounds, and water bodies or to protect flora and fauna;
3. serves research and education purposes, game repopulation or reintroduction, or breeding in connection with these measures;
4. serves to allow the selective and limited (para. 5) harvest, capture, or keeping of certain game animals in a limited number under strict control.

The exemption shall be granted under the condition that the population of the specified game species maintains a favourable conservation status without detrimental impacts in its natural range despite this exemption.

(5) The official notice pursuant to para. 4 shall

1. limit the number of game animals to be captured, kept, or harvested to the absolutely required quantity in consideration of the existing population;
2. specify the method of capture or take; lethal traps (Article 93 para. 3) are prohibited in any case under exemptions pursuant to para. 4 number 4;
3. specify monitoring measures and, if necessary, restrictions on the times and places of capture, keeping, or harvesting of the game animals.

(6) The following is prohibited for game birds:

1. the intentional destruction or damaging of nests and eggs and the removal of nests;
2. intentional disturbance, especially during nesting and the raising of young;
3. the collection of eggs from the wild and the possession of these eggs or the shells of these eggs.

(7) The closed season provisions shall not apply to game animals kept in hunting preserves and fenced private hunting units.

(8) Should the Provincial Government intend to grant exemptions from the closed season provisions pursuant to para. 4, information about the planned exemptions shall be published in an electronic information system that is accessible to environmental organisations recognised pursuant to Article 19 para. 7 Environmental Impact Assessment Act 2000 – UVP-G 2000, Federal Law Gazette I No 697/1993, as amended in the federal law Federal

Law Gazette I No 80/2018 and to the Burgenland environmental ombudsman. Environmental organisations recognised pursuant to Article 19 para. 7 UVP-G 2000, Federal Law Gazette I No 697/1993, as amended in the federal law Federal Law Gazette I No 80/2018 and the Burgenland environmental ombudsman shall be entitled to submit opinions on the proceedings within four weeks after the announcement. The environmental organisations recognised pursuant to Article 19 para. 7 UVP-G 2000, Federal Law Gazette I No 697/1993, as amended in the federal law Federal Law Gazette I No 80/2018 and the Burgenland environmental ombudsman shall be permitted to access the information that is relevant for the proceedings once the announcement is published.

(9) Official notices pursuant to para. 4 shall be published in an electronic information system that is accessible to environmental organisations recognised pursuant to Article 19 para. 7 UVP-G 2000, Federal Law Gazette I No 697/1993, as amended in the federal law Federal Law Gazette I No 80/2018 and the Burgenland environmental ombudsman for a period of six weeks. After expiry of a period of two weeks following the day the official notice was published, it shall be deemed delivered vis-à-vis the recognised environmental organisations.

(10) The Burgenland environmental ombudsman and the environmental organisations recognised pursuant to Article 19 para. 7 UVP-G 2000, Federal Law Gazette I No 697/1993, as amended in the federal law Federal Law Gazette I No 80/2018 shall be entitled to avail themselves of remedies against official notices pursuant to para. 4 through the Provincial Administrative Court.

Article 171

Terms of office, official notices, proceedings

(1)–(9) [...]

(10) Environmental organisations recognised pursuant to Article 19 para. 7 UVP-G 2000, Federal Law Gazette I No 697/1993, as amended in the federal law Federal Law Gazette I No 80/2018, shall have the right to file a complaint with the Provincial Administrative Court against official notices issued between 23 November 2017 and the time that this law enters into force. Complaints against such official notices shall have no suspensive effect. Article 78 para. 8 and 9 apply accordingly.

**3. Fishing Act 1949,
Provincial Law Gazette No 1/1949, as amended in the law Provincial Law Gazette No
89/2019**

Article 71

(1) In the case of proceedings that could have significant effects on the environment, relevant information shall be published in an electronic information system that is accessible to environmental organisations recognised pursuant to Article 19 para. 7 Environmental Impact Assessment Act 2000 – UVP-G 2000, Federal Law Gazette I No 697/1993, as amended in the federal law Federal Law Gazette I No 80/2018 and to the Burgenland environmental ombudsman. Environmental organisations recognised pursuant to Article 19 para. 7 UVP-G 2000, Federal Law Gazette I No 697/1993, as amended in the federal law Federal Law Gazette I No 80/2018 and the Burgenland environmental ombudsman shall be entitled to submit opinions on the proceedings within four weeks after the announcement. The environmental organisations recognised pursuant to Article 19 para. 7 UVP-G 2000, Federal Law Gazette I No 697/1993, as amended in the federal law Federal Law Gazette I No 80/2018 and the Burgenland environmental ombudsman shall be permitted to access the information that is relevant for the proceedings once the announcement is published.

(2) Official notices stemming from proceedings pursuant to para. 1 shall be published in an electronic information system that is accessible to environmental organisations recognised pursuant to Article 19 para. 7 UVP-G 2000, Federal Law Gazette I No 697/1993, as amended in the federal law Federal Law Gazette I No 80/2018 and the Burgenland environmental ombudsman for a period of six weeks. After expiry of a period of two weeks following the day the official notice was published, it shall be deemed delivered vis-à-vis the recognised environmental organisations.

(3) The Burgenland environmental ombudsman and the environmental organisations recognised pursuant to Article 19 para. 7 UVP-G 2000, Federal Law Gazette I No 697/1993, as amended in the federal law Federal Law Gazette I No 80/2018 shall be entitled to avail themselves of remedies against official notices pursuant to para. 2 through the Provincial Administrative Court.

Article 75

(1)–(6) [...]

(7) Article 71 as amended in the law Provincial Law Gazette No 89/2019 shall come into effect on the first day of the month following the month of its announcement. Environmental organisations recognised pursuant to Article 19 para. 7 UVP-G 2000, Federal Law Gazette I No 697/1993, as amended in the federal law Federal Law Gazette I No 80/2018, shall have the right to file a complaint with the Provincial Administrative Court against official notices issued between 23 November 2017 and the time that this law enters into force. Complaints against such official notices shall have no suspensive effect. Article 71 para. 1 and 2 apply accordingly.