

European Communities (Birds and Natural Habitats) Regulations

2011 to 2021

Unofficial Consolidation DRAFT

Updated to **xxxxx** 2022

This document is an unofficial consolidation of these Regulations. It was prepared by the Department of Housing, Local Government and Heritage for ease of reference only and is not a legal document.

The “Birds and Habitats Regulations” (S.I. 477 of 2011, as originally signed - available [here](#)), were amended by S.I. No. 290/2013 – the European Union (Birds and Natural Habitats) (Sea-fisheries) Regulations 2013 (available [here](#)), S.I. No. 499/2013 – the European Communities (Birds and Natural Habitats) (Amendment) Regulations 2013 (available [here](#)), S.I. No. 355/2015 - European Communities (Birds and Natural Habitats) (Amendment) Regulations 2015 (available [here](#)), Chapter 4 of Part 2 of the Planning and Development, Heritage and Broadcasting (Amendment) Act 2021 (available [here](#)) and S.I. No. 293/2021 - European Union (Birds and Natural Habitats) (Amendment) Regulations 2021 (available [here](#)).

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For all important matters, users are advised to check particular provisions on www.irishstatutebook.ie.

These Regulations may be cited together as the European Communities (Birds and Natural Habitats) Regulations 2011 to 2021 and “shall be construed together as one”.

~~pursuant to a requirement under paragraph (2), a public authority shall not take into account that plan in support of that proposal pending the outcome of a review under this Regulation.~~

(4) (a) In determining whether to give consent to a proposal that would in the normal course fall to be determined under a plan that is subject to review pursuant to a request under paragraph (1) or pursuant to a requirement under paragraph (2)(a), a public authority shall not take into account that plan in support of that proposal pending the outcome of a review under this Regulation.

(b) Where the Minister is making a decision on whether to undertake or adopt a proposal that would in the normal course fall to be determined under a plan that is subject to review pursuant to a request under paragraph (1) or pursuant to a requirement under paragraph (2)(b), the Minister shall not take into account that plan in support of that proposal pending the outcome of a review under this Regulation.

Commented [N83]: Substituted by Regulation 12(b) of S.I. No. 293/2021 - European Union (Birds and Natural Habitats) (Amendment) Regulations 2021

Assessments relating to the same subject matter

47. Where a public authority conducts—

(a) an Appropriate Assessment pursuant to the Habitats Directive, and

(b) an Environmental Impact Assessment pursuant to the EIA Directive or an Environmental Assessment pursuant to the SEA Directive,

relating to the same subject matter, the assessments referred to in subparagraphs (a) and (b) shall clearly be distinguished in terms of their respective scope and conclusions, although the processes in subparagraphs (a) and (b) may be carried out concurrently and draw on common data and information.

Minister's advice and specific guidance

~~48. The Minister may provide advice and guidance to any public authority in relation to any question as to whether that public authority is obliged to carry out screening for Appropriate Assessment or Appropriate Assessment in relation to a particular plan or project.~~

(1) The Minister may provide advice and guidance to any public authority in relation to any question as to whether that public authority is obliged to carry out screening for Appropriate Assessment or Appropriate Assessment in relation to a particular plan or project.

(2) The Ecological Assessment Unit may provide advice and guidance to the Minister in relation to any question as to whether that Minister is obliged to carry out screening for Appropriate Assessment or Appropriate Assessment in relation to a particular plan or project.

Commented [N84]: Substituted by Regulation 13 of S.I. No. 293/2021 - European Union (Birds and Natural Habitats) (Amendment) Regulations 2021

PART 6

PROTECTION OF FLORA AND FAUNA

Prohibition on introduction and dispersal of certain species

49. (1) Save in accordance with a licence granted under paragraph (7), any person who breeds, reproduces or releases or allows or causes to disperse or escape from confinement, any animal which—

(a) is not—

(i) ordinarily resident in or is not a regular visitor to the State in a wild state, or

(ii) of a kind that is domesticated or that is in the normal course the subject of human husbandry,

(b) is included in Part 2A of the Third Schedule in any place specified in relation to such animal in the third column of Part 2A of the Third Schedule, or

(c) is included in Part 2B of the Third Schedule in any place specified in relation to such animal in the third column of Part 2B of the Third Schedule,

shall be guilty of an offence.

(2) Save in accordance with a licence granted under paragraph (7), any person who plants, disperses, allows or causes to disperse, spreads or otherwise causes to grow in any place specified in relation to such plant in the third column of Part 1 of the Third Schedule, any plant which is included in Part 1 of the Third Schedule, shall be guilty of an offence.

(3) Subject to paragraph (4), it shall be a defence to a charge of committing an offence under paragraph (1) or (2) to prove that the accused took all reasonable steps and exercised all due diligence to avoid committing the offence.

(4) Where the defence provided by paragraph (3) involves an allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on the defence unless, within a period ending 28 days before the hearing, he or she has served on the prosecutor a notice giving such information identifying or assisting in the identification of the other person as was then in his or her possession.

(5)(a) In this Regulation, an animal or plant listed in the Third Schedule shall mean such an animal or plant or a hybrid of any such animal or plant or any breed, strain, sport, variety, cultivar or other infraspecific taxon of such plant or animal in relation to the entire State or, where limited for such an animal or plant, the particular areas set forth in the Third Schedule for each such animal or plant.

(b) For the avoidance of doubt, an animal or plant of a species to which the Third Schedule refers shall include specimens of such species under any scientific synonym, vernacular name or trade name by which it may be referred to.

(6) In this Regulation, “confinement” means a place in which an animal is secure from escaping and from which its eggs, larvae, young, any life stage or resting stage, or any part from which an adult of the animal could develop are secure from being dispersed or escaping.

(7)(a) One or more persons may make an application for a licence, under this paragraph, for the purposes of complying with the requirements of paragraph (1) or (2).

(b) The Minister may seek from the applicant any information that he or she considers necessary for consideration of the application.

(c) The Minister may grant or refuse to grant, or revoke, such a licence, and shall give reasons for his or her decision and for any conditions imposed under subparagraph (f).

(d) In making a decision under subparagraph (c), the Minister shall take account of the requirements of the Habitats Directive and the Birds Directive and in particular the requirements of Article 22(b) of the Habitats Directive, and he or she shall take account of such advice or information as he or she considers appropriate in relation to any animal or plant to which the licence application relates.

(e) The Minister shall grant a licence under this paragraph only if he or she is satisfied that the grant of the licence will not pose a threat to the objectives of the Birds Directive or the Habitats Directive.

(f) A licence granted under this paragraph shall be subject to such conditions, restrictions, limitations or requirements as the Minister considers appropriate.

(g) Any conditions, restrictions, limitations or requirements to which a licence under this paragraph is subject shall be specified in the terms of the licence.

(h) Paragraphs (1) and (2) do not apply to anything done under and in accordance with the terms of a licence granted by the Minister under subparagraph (c).

(8) For the purposes of this Regulation, “the State” includes the territorial waters of the State and the exclusive economic zone of the State.

(9) For the avoidance of doubt, the Minister may develop threat response plans under Regulation 39 for the purposes of this Regulation and, generally, for the purposes of addressing the exclusion, eradication or control of species referred to in the Third Schedule and any other species that the Minister considers poses a threat to the habitats or species protected under these Regulations.

(10) Where the Minister considers that a species poses a threat to the objectives of the Birds and Habitats Directives, including the protection of European Sites, of habitats, and of species of flora and fauna, including birds, he or she may authorise the destruction by appropriate means including, where appropriate, by shooting, of any of the animals referred to in paragraph (1)(a), or listed in Part 2 of the Second Schedule.

(11) Where an animal that is of a species referred to in Part 2B of the Third Schedule, or that is a hybrid of such a species, is one of a herd that is being farmed for slaughter for commercial meat production, it shall not be an offence under this Regulation to transport the animal from one place of enclosure to another for farming purposes or to transport the animal for sale or for slaughter for commercial meat production.

(12) For the purposes of paragraph (11), “slaughter” does not include the killing of an animal during or following hunting.

(13) Where the Minister considers—

(a) that a species of flora or type of vegetation poses a threat to any of the objectives of the Birds and Habitats Directives, or

(b) that a population of a species of flora hosts or is likely to host a pathogen, disease, pest or parasite that poses or is likely to pose a threat to that species or to other species of flora and hence to securing compliance with the requirements of the Birds and Habitats Directives, and that the destruction of that population is a practical, appropriate and proportionate measure to reduce that threat,

the Minister may, notwithstanding anything contained in Section 40 of the Wildlife Act 1976, grant a licence for the destruction, by such means as the Minister may specify, of vegetation comprising or containing that species at any time including, where he or she considers it warranted, during the period from 1 March to 31 August.

(14)(a) An application for a licence under this paragraph shall be determined in accordance with Regulation 42 and, where appropriate, Regulation 43.

(b) A licence granted under this paragraph may give general authorisation for the destruction of vegetation comprising or containing the species of flora that the Minister considers poses a threat to the objectives of the Birds Directive or the Habitats Directive or of both—

(i) in any place where it may be found,

(ii) in any specified region, district or place, and

(iii) in any specified situation or circumstances.

(c) A licence granted under this paragraph shall be subject to any conditions, limitations or restrictions that the Minister may specify in the licence.

(d) A person who fails to comply with any of the conditions, limitations or restrictions that the Minister may specify under subparagraph (c) shall be guilty of an offence.

Prohibition on dealing in and keeping certain species

50. (1) Save in accordance with a licence granted under paragraph (7), and subject to Regulation 74, a person shall be guilty of an offence if he or she has in his or her possession for sale, or for the

Commented [N85]: Inserted by Regulation 12 of the European Communities (Birds and Natural Habitats) (Amendment) Regulations 2015 (S.I. 355/2015)

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purposes of breeding, reproduction or propagation, or offers or exposes for sale, transportation, distribution, introduction or release—

(a) an animal or plant listed in Part 1 or Part 2 of the Third Schedule,

(b) anything from which an animal or plant referred to in subparagraph (a) can be reproduced or propagated, or

(c) a vector material listed in Part 3 of the Third Schedule,

in any place in the State specified in the third column of the Third Schedule in relation to such an animal, plant or vector material.

(2) Save in accordance with a licence granted under paragraph (7), a person shall be guilty of an offence if he or she imports or transports—

(a) an animal or plant listed in Part 1 or Part 2 of the Third Schedule,

(b) anything from which an animal or plant referred to in Part 2 of the Third Schedule can be reproduced or propagated, or

(c) a vector material listed in Part 3 of the Third Schedule,

into or in or to any place in the State specified in relation to such an animal or plant or vector material in relation to that animal or plant or vector material in the third column of the Third Schedule.

(3) Save in accordance with a licence granted under paragraph (7), a person shall be guilty of an offence if he or she publishes or causes to be published by any means, including on the internet, any advertisement, catalogue, circular or price list likely to be understood as conveying that such person imports into the State, buys, sells, distributes or provides for the introduction or release, or intends to buy or sell or distribute or introduce or release, in any place in the State as specified in the third column of the Third Schedule,—

(a) an animal or plant listed in Part 1 or Part 2 of the Third Schedule,

(b) anything from which such an animal or plant can be reproduced or propagated, or

(c) a vector material listed in Part 3 of the Third Schedule.

(4) Subject to paragraph (5), it shall be a defence to a charge of committing an offence under paragraph (1), (2) or (3) to prove that the accused took all reasonable steps and exercised all due diligence to avoid committing the offence.

(5) Where the defence provided by paragraph (4) involves an allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on the defence unless, within a period ending 28 days before the hearing, he or she has served on the prosecutor a notice giving such information identifying or assisting in the identification of the other person as was then in his or her possession.

(6)(a) This Regulation applies to an animal or plant listed in the Third Schedule.

(b) For the avoidance of doubt, an animal or plant listed or referred to in the Third Schedule shall apply to that animal or plant under any synonym or vernacular or trade name by which that animal or plant may be referred to.

(7)(a) One or more persons may make an application for a licence, under this paragraph, for the purposes of complying with the requirements of paragraph (1), (2) or (3).

(b) The Minister may seek from the applicant any information that he or she considers necessary for consideration of the application.

(c) The Minister may grant or refuse to grant, or revoke, such a licence, and shall give reasons for his or her decision and for any conditions imposed under subparagraph (e).

(d) In making a decision under subparagraph (c), the Minister shall take account of the requirements of the Habitats Directive and the Birds Directive and in particular the requirements of Article 22(b) of the Habitats Directive, and he or she shall take account of such advice or information as he or she considers appropriate in relation to any species to which the licence application relates.

(e) A licence granted under subparagraph (c) shall be subject to such conditions, restrictions, limitations or requirements as the Minister considers appropriate.

(f) Any conditions, restrictions, limitations or requirements to which a licence under this subparagraph is subject shall be specified in the licence.

(g) Paragraph (1), (2) or (3) do not apply to anything done under and in accordance with the terms of a licence granted by the Minister under subparagraph (c).

(8) For the purposes of this Regulation, "the State" includes the territorial waters of the State and the exclusive economic zone of the State.

(9) For the avoidance of doubt, the Minister may develop threat response plans under Regulation 39 for the purposes of this Regulation and, generally, for the purposes of addressing the exclusion, eradication or control of species referred to in the Third Schedule and any other species that the Minister considers poses a threat to the habitats or species protected under these Regulations.

(10) Where an animal that is of a species referred to in Part 2B of the Third Schedule, or that is a hybrid of such a species, is one of a herd that is being farmed for slaughter for commercial meat production, it shall not be an offence for a person to have such an animal in his or her possession for sale or transportation in the course of the business of farming such animals, including providing for their slaughter or, for the purposes of farming, to import or transport such an animal, and paragraph (3) shall not apply to the publication of any advertisement, catalogue, circular or price list regarding the purchase or sale of such an animal for slaughter for commercial meat production or to be farmed for that purpose.

(11) For the purposes of paragraph (10), “slaughter” does not include the killing of an animal during or following hunting.

Protection of fauna referred to in the First Schedule

51. (1) The Minister shall take the requisite measures to establish a system of strict protection for the fauna consisting of the species referred to in Part 1 of the First Schedule.

(2) Notwithstanding any consent, statutory or otherwise, given to a person by a public authority or held by a person, except in accordance with a licence granted by the Minister under ~~Regulation 54~~ Regulation 54 or 54A, a person who in respect of the species referred to in Part 1 of the First Schedule—

- (a) deliberately captures or kills any specimen of these species in the wild,
- (b) deliberately disturbs these species particularly during the period of breeding, rearing, hibernation and migration,
- (c) deliberately takes or destroys eggs of those species from the wild,
- (d) damages or destroys a breeding site or resting place of such an animal, or
- (e) keeps, transports, sells, exchanges, offers for sale or offers for exchange any specimen of these species taken in the wild, other than those taken legally as referred to in Article 12(2) of the Habitats Directive,

shall be guilty of an offence.

(3) The prohibitions referred to in paragraph (2) shall apply to all stages of life of the biological cycle of fauna to which this Regulation applies.

(4) The Minister shall establish a system to monitor the incidental capture and killing of fauna consisting of the animal species referred to in Part 1 of the First Schedule and, having regard to the information gathered, he or she shall conduct further research or take such conservation measures

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as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned.

Protection of flora referred to in the First Schedule

52. (1) The Minister shall take the requisite measures to establish a system of strict protection for the flora consisting of the plant species referred to in Part 1 of the First Schedule.

(2) Notwithstanding any consent, statutory or otherwise, given to a person by a public authority or held by a person, except in accordance with a licence granted by the Minister under ~~Regulation 54~~ Regulation 54 or 54A, a person who in respect of the plant species referred to in Part 1 of the First Schedule—

(a) deliberately picks, collects, cuts, uproots or destroys any specimen of these species in the wild, or

(b) keeps, transports, sells, exchanges, offers for sale or offers for exchange any specimen of these species taken in the wild, other than those taken legally as referred to in Article 13(1)(b) of the Habitats Directive,

shall be guilty of an offence.

(3) The prohibitions referred to in paragraph (2) shall apply to all stages of the biological cycle of the flora to which this Regulation applies.

Measures to control the taking of fauna and flora referred to in Part 2 of the First Schedule

53. (1) Having regard to the surveillance provided for in Regulations 5 and 9—

(a) the Minister, in the case of any flora or fauna referred to in Part 2 of the First Schedule, and

(b) the Minister or Ministers of Government with responsibilities in respect of the fish species referred to in Part 2 of the First Schedule,

may each, by Direction, take measures to ensure that the taking of specimens of species of fauna, including those fish species to the extent so specified, if any, and flora referred to in that Part as well as their exploitation is compatible with their being maintained at a favourable conservation status.

(2) Without prejudice to the generality of paragraph (1), the measures to which that paragraph relate may include—

(a) Directions regarding the temporary or local prohibition of the taking of specimens and exploitation of certain populations,

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- (b) the regulation by Direction of the periods or methods of taking of specimens, or both,
- (c) the application, when specimens are taken, of any other statutory provision relating to either or both hunting and fishing which take account of the conservation of such populations,
- (d) the establishment of a system of licences for taking specimens or quotas,
- (e) Directions regarding the purchase, sale, offering for sale, keeping for sale or transport for sale of specimens,
- (f) Directions regarding breeding in captivity of animal species as well as artificial propagation of plant species, under strictly controlled conditions, with a view to reducing the taking of specimens,
- (g) such other Directions as the Minister, or the Minister or Ministers of Government with responsibilities, in respect of the species referred to in Part 2 of the First Schedule, consider appropriate, and
- (h) assessment of the effect of the measures adopted.

(3) In respect of the capture or killing of individuals of species of fauna referred to in Part 2 of the First Schedule and in cases where, in accordance with a licence granted under ~~Regulation 54~~ Regulation 54 or 54A, derogations are applied to the taking, capture or killing of individuals of species referred to in Part 1 of the First Schedule, a person shall not use any indiscriminate means capable of causing local disappearance of, or serious disturbance to, populations of such species and, in particular—

- (a) any of the following means of capture and killing in respect of mammals—
 - (i) blind or mutilated animals used as live decoys,
 - (ii) tape recorders,
 - (iii) electrical and electronic devices capable of killing or stunning,
 - (iv) artificial light sources,
 - (v) mirrors and other dazzling devices,
 - (vi) devices for illuminating targets,
 - (vii) sighting devices for night shooting comprising an electronic image magnifier or image converter,

Commented [N89]: Substituted by Regulation 16(a) of S.I. No. 293/2021 - European Union (Birds and Natural Habitats) (Amendment) Regulations 2021

(viii) explosives,

(ix) nets which are non-selective according to their principle or their conditions of use,

(x) traps which are non-selective according to their principle or their conditions of use,

(xi) crossbows,

(xii) poisons and poisoned or anaesthetic bait,

(xiii) gassing or smoking out,

(xiv) semi-automatic or automatic weapons with a magazine capable of holding more than two rounds of ammunition,

(b) any of the following means of capture and killing in respect of fish—

(i) poison,

(ii) explosives,

(c) any means of capture and killing from the following modes of transport—

(i) aircraft,

(ii) moving motor vehicles.

(4)(a) In respect of the hunting, capture or killing of birds, a person shall not use any means, arrangements or methods for the large scale or non-selective capture or killing of birds, or that are capable of causing the local disappearance of any species of bird, including—

(i) snares, limes or hooks,

(ii) live birds which are blind or mutilated used as decoys,

(iii) tape recorders,

(iv) electrocuting devices,

(v) artificial light sources,

(vi) mirrors,

- (vii) devices for illuminating targets,
 - (viii) sighting devices for night shooting comprising an electronic image magnifier or image converter,
 - (ix) explosives,
 - (x) nets which are non-selective according to their principle or their conditions of use,
 - (xi) traps which are non-selective according to their principle or their conditions of use,
 - (xii) poisoned or anaesthetic bait,
 - (xiii) semi-automatic or automatic weapons with a magazine capable of holding more than two rounds of ammunition,
- (b) A person shall not use any means of capture or killing from the following modes of transport—
- (i) aircraft,
 - (ii) motor vehicles,
 - (iii) Boats driven at a speed exceeding 5km per hour.
- (c) Notwithstanding subparagraph (b)(iii), the Minister may, as a condition of a licence issued under Regulation 54 granted under Regulation 55 or 55A, authorise the use, for safety reasons, on the open sea, of motor boats at a maximum speed of 18km per hour, and he or she the Minister shall inform the European Commission of such authorisation.

(5) A person who contravenes paragraph (3) or (4) shall be guilty of an offence.

(6) The Minister, and the responsible Minister of Government in respect of the fish species stipulated in Part 2 of the First Schedule, shall publish or cause to be published in Iris Oifigiúil a copy of every Direction under this Regulation.

(7) Except in accordance with a licence granted by the Minister under Regulation 54, Regulation 54, 54A, 55 or 55A, a person who contravenes a Direction under paragraph (1), or who contravenes paragraph (3) or (4), shall be guilty of an offence.

Derogations — flora, fauna and habitats

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54.(1) Any person may apply to the Minister, or the Minister or Ministers of Government with responsibilities for fish species referred to in Part 2 of the First Schedule, for a derogation licence from complying with the requirements of the provisions of Regulations 51, 52 and 53.

(2) Where there is no satisfactory alternative and the derogation is not detrimental to the maintenance of the populations of the species to which the Habitats Directive relates at a favourable conservation status in their natural range, the Minister, or the Minister or Ministers of Government with responsibilities for fish species referred to in the Fourth Schedule, may grant such a derogation licence to one or more persons, where it is—

(a) in the interests of protecting wild fauna and flora and conserving natural habitats,

(b) to prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property,

(c) in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment,

(d) for the purpose of research and education, of repopulating and re-introducing these species and for the breeding operations necessary for these purposes, including the artificial propagation of plants, or

(e) to allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking or keeping of certain specimens of the species to the extent specified therein, which are referred to in the First Schedule.

(3) A derogation licence granted under paragraph (2) shall be subject to such conditions, restrictions, limitations or requirements as the Minister considers appropriate.

(4) Any conditions, restrictions, limitations or requirements to which a derogation licence under paragraph (2) is subject shall be specified therein.

(5) Without prejudice to any conditions, restrictions, limitations or requirements specified therein, a derogation licence granted under this Regulation is subject to the provisions of subsections (2) to (5) of [section 14](#) of the [Protection of Animals \(Amendment\) Act 1965](#) .

(6) The Minister shall forward to the European Commission every two years a report, in accordance with a format established by the European Commission, on the derogation licences to which paragraph (2) relates.

(7) The report referred to in paragraph (6) shall specify—

- (a) the species which are subject to the derogation licences and the reason for the derogation, including the nature of the risk with, if appropriate, a reference to alternatives rejected and scientific data used,
- (b) the means, devices or methods authorised for the capture or killing of animal species and the reasons for their use,
- (c) the circumstances of when and where such derogation licences are granted,
- (d) the authority empowered to declare and check that the required conditions apply, and to decide what means, devices or methods may be used, within what limits and by what agencies, and which persons are to carry out the task, and
- (e) the supervisory measures used and the results obtained.

Derogations to the Minister — flora, fauna and habitats

54A. (1) Where the Minister is proposing to undertake or adopt an activity, plan or project which requires a derogation licence from complying with the requirements of the provisions of Regulations 51 to 53, he or she may request an opinion from the Ecological Assessment Unit on whether to issue such a licence.

(2) Where there is no satisfactory alternative and the derogation is not detrimental to the maintenance of the populations of the species to which the Habitats Directive relates at a favourable conservation status in their natural range, the Ecological Assessment Unit may provide an opinion to the Minister that he or she may grant such a derogation licence, where it is—

- (a) in the interests of protecting wild fauna and flora and conserving natural habitats,
- (b) to prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property,
- (c) in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social and economic nature and beneficial consequences of primary importance for the environment,
- (d) for the purpose of research and education, of repopulating and re-introducing these species and for the breeding operations necessary for these purposes, including the artificial propagation of plants, or
- (e) to allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking or keeping of certain specimens of the species to the extent specified therein, which are referred to in the First Schedule.

(3) A derogation licence granted under paragraph (2) shall be subject to such conditions, restrictions, limitations or requirements as the Ecological Assessment Unit considers appropriate.

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(4) Any conditions, restrictions, limitations or requirements to which a derogation licence under paragraph (2) is subject shall be specified therein.

(5) Without prejudice to any conditions, restrictions, limitations or requirements specified therein, a derogation licence granted under this Regulation is subject to the provisions of subsections (1) to (3) of section 18 of the Animal Welfare Act 2013(No. 14 of 2013).

(6) The Minister shall forward to the European Commission every two years a report, in accordance with a format established by the European Commission, on the derogation licences to which paragraph (2) relates.

(7) The report referred to in paragraph (6) shall specify the following:

(a) the species which are subject to the derogation licences and the reason for the derogation, including the nature of the risk with, if appropriate, a reference to alternatives rejected and scientific data used;

(b) the means, devices or methods authorised for the capture or killing of animal species and the reasons for their use;

(c) the circumstances of when and where such derogation licences are granted;

(d) the authority empowered to declare and check that the required conditions apply, and to decide what means, devices or methods may be used, within what limits and by what agencies, and which persons are to carry out the task;

(e) the supervisory measures used and the results obtained.

(8) A member of the Ecological Assessment Unit that is involved in the application for an opinion pursuant to paragraph (1) shall not have any part in forming the opinion of the Ecological Assessment Unit under this Regulation

Derogations — birds

55.(1) Any person may apply to the Minister for a derogation licence from complying with the requirements of the provisions of Regulation 53.

(2) Where there is no other satisfactory solution, the Minister may, following consultation with any other Minister or Ministers of the Government having relevant responsibilities or functions where appropriate, in respect of any species of naturally occurring bird in the wild state referred to in Article 1 of the Birds Directive, grant a derogation licence to one or more persons, where it is—

(a) in the interests of public health and safety,

(b) in the interests of air safety,

(c) to prevent serious damage to crops, livestock, forests, fisheries or water,

(d) for the protection of flora or fauna,

(e) for the purposes of research or teaching, of re-population, of re-introduction or for the breeding necessary for these purposes, or

(f) to permit, under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use of certain birds in small numbers.

(3) A derogation licence granted under paragraph (2) shall be subject to such conditions, restrictions, limitations or requirements as the Minister considers appropriate.

(4) Any conditions, restrictions, limitations or requirements to which a derogation licence under paragraph (2) is subject shall be specified therein.

(5) Without prejudice to any conditions, restrictions, limitations or requirements specified therein, a derogation licence granted under this Regulation is subject to the provisions of subsections (2) to (5) of [section 14](#) of the [Protection of Animals \(Amendment\) Act 1965](#) .

(6) The derogation licence granted under paragraph (2) must specify—

(a) the species which are subject to the derogation licence,

(b) the means, arrangements or methods authorized for capture or killing,

(c) the conditions of risk and the circumstances of time and place under which such derogation licence is granted,

(d) the authority empowered to declare that the required conditions obtain and to decide what means, arrangements or methods may be used, within what limits and by whom, and

(e) the controls which will be carried out.

(7) The Minister shall forward to the European Commission each year a report on the derogations to which paragraph (2) relates.

Derogations to Minister — birds

55A. (1) Where the Minister is proposing to undertake or adopt an activity, plan or project which requires a derogation licence from complying with the requirements of the provisions of Regulation 53, he or she may request an opinion from the Ecological Assessment Unit on whether to issue such a licence.

(2) Where there is no other satisfactory solution, the Ecological Assessment Unit may, following consultation with any Minister or Ministers of the Government having relevant responsibilities or functions where appropriate, in respect of any species of naturally occurring bird in the wild state

Commented [N94]: Inserted by Regulation 18 of S.I. No. 293/2021 - European Union (Birds and Natural Habitats) (Amendment) Regulations 2021

referred to in Article 1 of the Birds Directive, provide an opinion to the Minister that he or she may grant a derogation licence, where it is—

- (a) in the interests of public health and safety,
- (b) in the interests of air safety,
- (c) to prevent serious damage to crops, livestock, forests, fisheries or water,
- (d) for the protection of flora or fauna,
- (e) for the purposes of research or teaching, of re-population, of re-introduction or for the breeding necessary for these purposes, or
- (f) to permit, under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use of certain birds in small numbers.

(3) A derogation licence granted under paragraph (2) shall be subject to such conditions, restrictions, limitations or requirements as the Ecological Assessment Unit considers appropriate.

(4) Any conditions, restrictions, limitations or requirements to which a derogation licence under paragraph (2) is subject shall be specified therein.

(5) Without prejudice to any conditions, restrictions, limitations or requirements specified therein, a derogation licence granted under this Regulation is subject to the provisions of subsections (1) to (3) of section 18 of the Animal Welfare Act 2013 (No. 14 of 2013).

(6) The derogation licence granted under paragraph (2) shall specify the following:

- (a) the species which are subject to the derogation licence;
- (b) the means, arrangements or methods authorized for capture or killing;
- (c) the conditions of risk and the circumstances of time and place under which such derogation licence is granted;
- (d) the authority empowered to declare that the required conditions obtain and to decide what means, arrangements or methods may be used, within what limits and by whom;
- (e) the controls which will be carried out.

(7) The Minister shall forward to the European Commission each year a report on the derogations to which paragraph (2) relates.

(8) A member of the Ecological Assessment Unit that is involved in the preparation of an application for an opinion pursuant to paragraph (1) shall not have any part in forming the opinion of the Ecological Assessment Unit.

PART 7