European Communities (Birds and Natural Habitats) Regulations

2011 to 2026

Unofficial Consolidation

Updated to 5 August 2026

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".

European Communities (Birds and Natural Habitats) Regulations 2011 to 2021

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S.I. No. 477 of 2011

EUROPEAN COMMUNITIES (BIRDS AND NATURAL HABITATS) REGULATIONS 2011 (intended to be up to date from July 2021, but not yet proof read)

Notice of the making of this Statutory Instrument was published in "Iris Oifigiúil" of 27th September, 2011.

WHEREAS, I, Jimmy Deenihan, Minister for Arts, Heritage and the Gaeltacht, in exercise of the powers conferred on me by section 3 of the Act of 1972 and for the purpose of giving effect to Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 (which codifies Council Directive 79/409/EEC of 2 April 1979 (as amended)) and Council Directive 92/43/EEC of 21 May 1992 (as amended by Council Directive 97/62/EC of 27 October 1997, Regulation (EC) No. 1882/2003 of the European Parliament and of the Council of 29 September 2003, Council Directive 2006/105/EC of 20 November 2006 and as amended by Act of Accession of Austria, Sweden and Finland (adapted by Council Decision 95/1/EC, Euratom, ECSC), Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded and as amended by the Corrigendum to that Directive) hereby make the following Regulations:

Commented [N8]: These regulations became law on 21 Sept 2011 (as evidenced by the date of the Minister's signature at the end of the instrument), and commenced on the same date by Regulation 1(3).
See page 1310 at Irish Oifigiuil 27 September 2011.

Commented [N9]: The Act of 1972 is the European Communities Act 1972 (available here).

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PART 1

PRELIMINARY AND GENERAL

Citation

1. (1) These Regulations may be cited as the European Communities (Birds and Natural Habitats) Regulations 2011.

(2) The Wildlife Act 1976 , the Wildlife (Amendment) Act 2000 , the Wildlife (Amendment) Act 2010 and these Regulations shall be construed together as one.

(3) These Regulations shall come into operation on 21 September 2011.

Interpretation

2. (1) In these Regulations, save where the context otherwise requires:

"Act of 1972" means the European Communities Act 1972 , as inserted by section 2 of the European Communities Act 2007 and section 4 of the European Union Act 2009 ;

"Act of 2000" means the Wildlife (Amendment) Act 2000 ;

"activity" includes any operation or activity likely to impact on the physical environment or on wild flora or fauna or on the habitats of wild flora and fauna, other than—

(a) development requiring permission under Part 111 of the Planning and Development Act 2000 as amended,

(b) activities requiring the consent of the Minister for Agriculture, Fisheries and Food, under the European Communities (Environmental Impact Assessment) (Agriculture) Regulations 2011,

(c) activities to which the exercise of statutory power in favour of that activity, pursuant to Regulations made under the Act of 1972 or under any of the enactments set out in the Second Schedule of these Regulations, applies, or

Commented [N12]: There are over 3000 of these. See Chronological List.

Commented [N13]: There are over 100 of these.

(d) activities for which, under the Act of 1972, the function of giving or refusing consent for an activity, or deciding on its own behalf to carry out any activity, is assigned to a public authority and the activity is carried out with and in compliance with a consent given under the applicable regulations;

"activity requiring consent" includes any activity that has, before the commencement date of these Regulations, been notified pursuant to Regulation 4(3)(b) of the European Communities (Natural Habitats) Regulations 1997, any activity listed in Regulations made under the Act of 1972 for the purpose of designating a site as a special protection area or as a special area of conservation, and any activity in relation to which the Minister has given a Direction pursuant to Regulation 28 of these Regulations, as being an activity that requires the approval of the Minister or is covered by the consent of a public authority;

"animal" includes any vertebrate or invertebrate animal and any species, hybrid, subspecies, breed, race, strain, sport, variety, or other infraspecific taxon of such an animal, and all stages of the biological cycle and resting stages thereof;

"Appropriate Assessment" means Appropriate Assessment as referred to in Article 6(3) of the Habitats Directive;

"authorised officer" means a person standing appointed as an authorised officer under Regulation 4;

"~~the Birds Directive" means Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 (which codifies Council Directive 79/409/EEC of 2 April 1979 (as amended));~~ 'the Birds Directive' means Directive 2009/147/EC of the European Parliament and of the Council of 30

November 2009 (which codifies Council Directive 79/409/EEC of 2 April 1979 (as amended)), and Council Directive 2013/17/EU of 13 May 2013 on the accession of the Republic of Croatia;

Commented [N14]: Substituted by Regulation 3(1) of the European Communities (Birds and Natural Habitats) (Amendment) Regulations 2015 (S.I. 355 of 2015).

"the Board" means An Bord Pleanála;

"candidate site of Community importance" means—

(a) a site—

(i) in relation to which the Minister has given notice pursuant to Regulations under the Act of 1972 that he or she considers the site may be eligible for identification as a site of Community importance pursuant to Article 4 of the Habitats Directive, which notice may be amended in accordance with such Regulations under the Act of 1972,

(ii) that is included in a list transmitted to the European Commission in accordance with Article 4(1) of the Habitats Directive, or

(iii) that is added in accordance with Article 5 of the Habitats Directive, to the list transmitted to the European Commission pursuant to Article 4(1) of the Habitats Directive,

but only until the adoption in respect of the site of a decision by the European Commission in accordance with the procedure laid down in Article 21 of the Habitats Directive for the purposes of the third paragraph of Article 4(2) of that Directive, or

(b) a site—

(i) which is subject to a consultation procedure in accordance with Article 5(1) of the Habitats Directive, or

(ii) in relation to which a Council decision is pending in accordance with Article 5(3) of the Habitats Directive;

"candidate special area of conservation" means a site that is a candidate site of Community importance or a site of Community importance;

"candidate special protection area" means a site selected by the Minister under Regulation 15(1) and includes a site notified for the purposes of Regulation 15(5) and 15(6) but only until notification is given pursuant to Regulation 16(7) and 16(8);

"compensatory measures" means all measures referred to in Article 6(4) of the Habitats Directive that are necessary to ensure that the overall coherence of Natura 2000 is protected in a case in which, in accordance with the said Article 6(4), a plan or project is to proceed for imperative reasons of overriding public interest and may include the provision of compensatory habitats;

"consent" includes any licence, permission, permit, derogation, dispensation, approval or other such authorisation granted by or on behalf of a public authority, relating to any activity, plan or project that may affect a European Site, and includes the process of adoption by a public authority of its own land use plans or projects;

"conservation" means the implementation of appropriate measures to maintain and optimise natural habitats and the populations of species of wild fauna and flora at a favourable conservation status or to restore natural habitats or the populations of species to a favourable conservation status;

"conservation objectives", in relation to a European Site, means the maintenance and restoration of the habitat and species in respect of which the site has been identified as a European Site at favourable conservation status or their restoration to such favourable status, and shall include such particular objectives as the Minister may from time to time establish for those purposes under Regulation 26;

"conservation status of a natural habitat" means the sum of the influences acting on a natural habitat and its typical species that may affect its long-term natural distribution, structure and functions as well as the long-term survival of its typical species;

"conservation status of a species" means the sum of the influences acting on the species concerned that may affect the long-term distribution and abundance of its populations;

"the Council" means the Council of the European Union;

"delegate officer" means a member of An Garda Síochána not below the rank of Superintendent authorised in writing to perform functions under these Regulations otherwise performed by the Commissioner of An Garda Síochána;

"the Department" means the Department of Arts, Heritage and the Gaeltacht;

"Ecological Assessment Unit" means the unit, which is known by that name, in the Department of State for which the Minister has charge;

Commented [N15]: Inserted by Regulation 3(a) of S.I. No. 293/2021 - European Union (Birds and Natural Habitats) (Amendment) Regulations 2021

"the EIA Directive" means Council Directive No. 85/337/EEC of 27 June 1985 (as amended by Council Directive No. 97/11/EC of 3 March 1997 and Directive No. 2003/35/EC of the European Parliament and of the Council of 26 May 2003 and any Directive amending or replacing those Directives);

"Environmental Impact Assessment" means an assessment carried out in accordance with the provisions of any enactment or Regulations made in connection with the EIA Directive;

"European Site" means—

(a) a candidate site of Community importance,

(b) a site of Community importance,

(c) a candidate special area of conservation,

(d) a special area of conservation,

(e) a candidate special protection area, or

(f) a special protection area;

"exclusive economic zone" has the meaning given to it by or under Section 87 of the Sea-Fisheries and Maritime Jurisdiction Act 2006 ;

"fauna" includes vertebrate and invertebrate animals;

"favourable conservation status of a natural habitat" means the conservation status of a natural habitat when—

(a) its natural range and areas it covers within that range are stable or increasing, and

(b) the specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future, and

(c) the conservation status of its typical species is favourable;

"favourable conservation status of a species" means the conservation status of a species when—

(a) population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and

(b) the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and

(c) there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis;

"flora" includes seed plants, ferns and fern-allies, lycophytes, bryophytes, charophytes, green algae, brown algae, red algae, fungi, slime-moulds, lichens, actinomycetes and cyanobacteria;

"foreshore" has the meaning assigned to it by the Foreshore Acts 1933 to 2011;

"functions" include powers and duties;

"habitat of a species" means an environment defined by specific abiotic and biotic factors, in which the species lives or upon which it depends at any stage of its biological cycle;

"~~the Habitats Directive" means Council Directive 92/43/EEC of 21 May 1992 (as amended by Council Directive 97/62/EC of 27 October 1997, Regulation (EC) No. 1882/2003 of the European Parliament and of the Council of 29 September 2003, Council Directive 2006/105/EC of 20 November 2006 and as amended by Act of Accession of Austria, Sweden and Finland (adapted by Council Decision 95/1/EC, Euratom, ECSC), Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded and as amended by the Corrigendum to that Directive);~~ . 'The Habitats Directive' means Council Directive 92/43/EEC of 21 May 1992 (as amended by Council Directive 97/62/EC of 27 October 1997, Regulation (EC) No. 1882/2003 of the European Parliament and of the Council of 29 September 2003, Council Directive 2006/105/EC of 20 November 2006 and as amended by Act of Accession of Austria, Sweden and Finland (adapted by Council Decision 95/1/EC, Euratom, ECSC), Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, and the adjustments to the Treaties on which the European Union is founded and as amended by the Corrigendum to that Directive) and Council Directive 2013/17/EU of 13 May 2013 on the accession of the Republic of Croatia;

Commented [N16]: Substituted by Regulation 3(2) of the European Communities (Birds and Natural Habitats) (Amendment) Regulations 2015 (S.I. 355 of 2015).

"hunt" means stalk, pursue, chase, drive, flush, capture, course, attract, follow, search for, lie in wait for, take, trap or shoot by any means whether with or without a dog or dogs and, except in sections 28 and 29 of the Principal Act, includes killing in the course of hunting and cognate words shall be construed accordingly and for the avoidance of doubt does not include the non-intrusive observation, monitoring and recording of wildlife, or actions carried out by an authorised officer or a member of An Garda Síochána in the performance of his or her duties and functions under these Regulations and "hunting" shall be construed accordingly;

Commented [N17]: See also the definition of "hunt" in the Wildlife Act 1976 and note that the two must be construed as one.

"inland waters" means any waters comprised in the internal or inland waters of the State;

"land", where the context admits, includes—

(a) any land,

(b) land covered by water including inland waters,

(c) estuarine waters, including fjords and sea-lakes,

(d) the foreshore,

(e) the territorial seas of the State, and the seabed and subsoil beneath those seas,

(f) the exclusive economic zone of the State, including the waters above its seabed and the seabed and ocean floor and subsoil beneath those waters,

(g) the seabed and ocean floor and subsoil situated in any area designated under section 2 of the Continental Shelf Act 1968 ,

(h) caves and cliffs, and

(i) any premises that is not a private dwelling

and in relation to the acquisition of land also includes any easement, profit à prendre or other right in, to or over land or water including any easement, profit à prendre or other right granted to or held by the Minister;

"list of candidate sites of Community importance" has the meaning assigned by Regulation 10(3);

"local authority" means a county council, a city council or a town council within the meaning of the Local Government Act 2001 and includes a sanitary authority, a water services authority, a planning authority and a road authority;

"management agreement" means an agreement entered into by the Minister or another Minister of Government with a public authority or authorities or any other person or persons for the purposes of the Habitats Directive or the Birds Directive and may include, but is not limited to, an agreement entered into under section 18 of the Principal Act or an agri-environmental scheme;

"Member State" means a Member State of the European Union;

"the Minister" means the Minister for Arts, Heritage and the Gaeltacht;

"mitigation" means a measure or a combination of measures that, in relation to Article 6(3) of the Habitats Directive, has the effect of ensuring that a plan or project, individually or in combination with other plans or projects, will not have a significant effect on, or adversely affect the integrity of, a European Site;

"~~NATURA 2000~~" "Natura 2000" means the European network of special areas of conservation under the Habitats Directive and special protection areas under the Birds Directive, provided for by Article 3(1) of the Habitats Directive and, for the purposes of these Regulations, includes European Sites;

Commented [N18]: Substituted by Regulation 3(b) of S.I. No. 293/2021 – the European Union (Birds and Natural Habitats) (Amendment) Regulations 2021

"Natura Impact Statement" means a report comprising the scientific examination of a plan or project and the relevant European Site or European Sites, to identify and characterise any possible implications of the plan or project individually or in combination with other plans or projects in view of the conservation objectives of the site or sites, and any further information including, but not

limited to, any plans, maps or drawings, scientific information or data required to enable the carrying out of an Appropriate Assessment;

“natural habitats” means terrestrial, aquatic or marine areas distinguished by geographic, geological, abiotic and biotic features, whether entirely natural or semi-natural, including habitats that have developed as a consequence of human activity;

“natural heritage area” means an area which has been designated as such by way of a Natural Heritage Order under Section 18 of the Wildlife (Amendment) Act 2000 , or that, pending a decision by the Minister under section 17 or 18 of that Act, is subject of a notice under section 16 of that Act;

“object” includes any item, machine, vehicle, device, tool, material, matter, substance, aggregate, spoil, waste, container, compound or mixture, whether natural or man-made, or any part or portion thereof;

“off-road vehicle” means—

(a) a mechanically propelled vehicle within the meaning of section 3 of the Road Traffic Act 1961 ,

(b) a mechanically propelled vehicle that—

(i) has been designed and constructed for off-road use,

(ii) is intended or adapted for propulsion by a mechanical means, or by an electrical means or by a partly mechanical and a partly electrical means, and

(iii) is capable of achieving vehicle propulsion, including a bicycle, tricycle, or quadricycle or continuous-track vehicle propelled by an engine or motor or with an attachment for propelling it by mechanical power, whether or not the attachment is being used, or

(c) a vehicle, cart, caravan, trap, sled or trailer of any type drawn by a horse or horses or other animal or animals, or

(d) a trailer of any type, sidecar, caravan, trailer tent or mobile home,

and, without limiting the generality of the foregoing paragraphs (a) and (b), includes, when designed or adapted or used for off-road use—

(i) a motorised quad bike,

(ii) a motorised trike,

(iii) a scrambler, pit-bike, dirt-bike, trail-bike, motorcycle or related two wheel vehicle,

(iv) an all-terrain vehicle,

(v) a four-wheel drive vehicle,

(vi) a low-pressure tyre vehicle,

(vii) an off-road go-cart or a buggy,

(viii) a hovercraft, or

(ix) a snowmobile or powered sled,

where such vehicle, as referred to in paragraphs (a), (b), (c) or (d), is being used off the public road, but does not include—

(I) a tramcar or other vehicle running on permanent rails,

(II) a vehicle including a cycle with an attachment for propelling it by mechanical power not exceeding 400 kilogrammes in weight unladen adapted and used for invalids,

(III) a lawn tractor, lawn truck or lawn mower,

(IV) a motorised golf car,

(V) a vehicle or machinery or equipment being lawfully used in the course of agriculture or any other occupational land use activity by the owner or occupier of the land or his or her servants or agents or co-workers,

(VI) a state owned vehicle, being used for official purposes, or a vehicle being operated by An Garda Síochána, the Emergency Services or the Defence Forces,

(VII) a vehicle being lawfully used for the purposes of maintaining electricity, gas, water or telecommunications utility services, or

(VIII) a vehicle being used by an authorised officer in the performance of his or her duties or functions;

"owner" in respect of an off-road vehicle means—

(a) in relation to a mechanically-propelled vehicle within the meaning of section 3 of the Road Traffic Act 1961 , the registered owner of the vehicle,

(b) in relation to a vehicle that—

(i) is a mechanically-propelled vehicle within the meaning of section 3 of the Road Traffic Act 1961 , or

(ii) is not a mechanically-propelled vehicle within the meaning of section 3 of the Road Traffic Act 1961

and which is the subject of a hire-purchase agreement or a lease, the person in possession of the off-road vehicle under the agreement or lease, or

(c) in relation to a vehicle that is neither a mechanically-propelled vehicle within the meaning of section 3 of the Road Traffic Act 1961 nor the subject of a hire-purchase agreement or a lease, the legal owner of the vehicle or, if the legal owner of the vehicle cannot be ascertained after reasonable enquiry, the person by whom the off-road vehicle is kept;

"particulars of the candidate special protection areas" has the meaning assigned by Regulation 15(2);

"particulars of the special protection areas" has the meaning assigned by Regulation 16(5);

"person" has the meaning assigned to it by the Interpretation Act 2005 and for the avoidance of doubt includes any public authority;

"plan", subject to the exclusion, except where the contrary intention appears, of any plan that is a ~~land use plan within the meaning of the Planning Acts 2000 to 2011~~ land use plan within the meaning of the Planning and Development Act 2000 (No. 30 of 2000) or a plan within the meaning of section 198 of the Planning and Development Act 2024 (No. 34 of 2024), includes—

Commented [RF19]: Substituted by Regulation 2 of the European Union (Birds and Natural Habitats) (Amendment) Regulations 2025 (S.I. 451 of 2025)

(a) any plan, programme or scheme, statutory or non-statutory, that establishes public policy in relation to land use and infrastructural development in one or more specified locations or regions, including any development of land or on land, the extraction or exploitation of mineral resources or of renewable energy resources and the carrying out of land use activities, that is to be considered for adoption or authorisation or approval or for the grant of a licence, consent, permission, permit, derogation or other authorisation by a public authority, or

(b) a proposal to amend or extend a plan or scheme referred to in subparagraph (a);

"planning authority" has the meaning assigned by the Planning and Development Acts 2000 to 2011;

"plant", except in the expression "plant and equipment", includes any seed plant, fern or fern-ally, lycophyte, bryophyte, charophyte, green alga, brown alga, red alga, fungus, slime-mould, lichen, actinomycete or cyanobacterium and any hybrid, subspecies, race, breed, strain, sport, variety,

cultivar or other infraspecific taxon of such a plant or any living part thereof and all stages of the biological cycle, seeds, spores, resting stages, cuttings and propagules thereof;

“plant and equipment” includes any workshop, works, factory or installation, the devices, equipment and machinery used for the purposes of such a facility, and any mobile or portable machinery and equipment;

“premises” means any lands and includes any building or structure thereon;

“Principal Act” means the Wildlife Act 1976 ;

“priority natural habitat types” means those natural habitat types in danger of disappearance, which are present on the territory referred to in Article 2 of the Habitats Directive and for the conservation of which the Community has particular responsibility in view of the proportion of their natural range which falls within the territory referred to in the said Article 2 and which are indicated in each case by an asterisk in Annex I to the Habitats Directive;

“priority species” means those species referred to in Article 1(g)(i) of the Habitats Directive for the conservation of which the Community has particular responsibility in view of the proportion of their natural range which falls within the territory referred to in Article 2 of the Habitats Directive and which are indicated in each case by an asterisk in Annex II to the Habitats Directive;

~~“project”, subject to the exclusion, except where the contrary intention appears, of any project that is a development requiring development consent within the meaning of the Planning and Development Acts 2000 to 2011, includes—~~

~~(a) land use or infrastructural developments, including any development of land or on land,~~

~~(b) the extraction or exploitation of mineral resources, prospecting for mineral resources, turf cutting, or the exploitation of renewable energy resources, and~~

~~(c) any other land use activities,~~

~~that are to be considered for adoption, execution, authorisation or approval, including the revision, review, renewal or extension of the expiry date of previous approvals, by a public authority and, notwithstanding the generality of the preceding, includes any project referred to at subparagraphs (a), (b) or (c) to which the exercise of statutory power in favour of that project or any approval sought for that project under any of the enactments set out in the Second Schedule of these Regulations applies;~~

‘project’, subject to the exclusion, except where the contrary intention appears, of any project requiring development consent within the meaning of the Planning and Development Act 2000 or a development which is subject to Part XAB of that Act, includes—

(a) land use or infrastructural developments, including any development of land or on land,

(b) the extraction or exploitation of mineral resources, prospecting for mineral resources, turf cutting, or the exploitation of renewable energy resources, or

(c) any other land use activities,

that are to be considered for adoption, execution, authorisation or approval, including the revision, review, renewal or extension of the expiry date of previous approvals, by a public authority and, notwithstanding the generality of the preceding, includes any project referred to at paragraph (a), (b) or (c) to which the exercise of statutory power in favour of that project or any approval sought for that project under any of the enactments set out in the Second Schedule of these Regulations applies;

Commented [RF20]: Substituted by Regulation 3 of the European Communities (Birds and Natural Habitats) (Amendment) Regulations 2026 (S.I. 320 of 2026)

"public authority" means—

(a) a Minister of Government,

(b) a local authority,

(c) An Bord Pleanála,

(d) Environmental Protection Agency,

(e) the Commissioners of Public Works in Ireland,

(f) a harbour authority or a harbour company within the meaning of the Harbours Acts 1946 to 2009,

(g) Fáilte Ireland,

(h) Health Service Executive,

(i) a regional authority,

(j) Inland Fisheries Ireland,

(k) Geological Survey of Ireland,

(l) Teagasc,

(m) National Roads Authority,

(n) ~~Radiological Protection Institute of Ireland~~,

Commented [N21]: References to the RPAI are to be read as references to the Environmental Protection Agency by virtue of section 6(3) of the Radiological Protection (Miscellaneous Provisions) Act 2014

Commented [N22]: Deleted by section 34(4) of the Radiological Protection (Miscellaneous Provisions) Act 2014

(o) Electricity Supply Board,

(p) Commission for Energy Regulation,

(q) Port and Harbour Authorities including Port companies established under the Harbours Act 1996
,

(r) Dublin Docklands Development Authority,

Commented [N23]: To be read as Dublin City Council, by virtue of section 7(2) of the Dublin Docklands Development Authority (Dissolution) Act 2015

(s) Waterways Ireland,

(t) Bord Na Móna,

(u) Coillte,

(v) Health and Safety Authority,

(w) Bord Gáis,

(x) Marine Institute,

(y) Bord Iascaigh Mhara,

(z) Eirgrid,

(aa) a Board or other Body (but not including a company under the Companies Acts) established by or under statute,

(bb) a company under the Companies Acts, in which all the shares are held—

(i) by or on behalf of or jointly with a Minister of Government,

(ii) by directors appointed by a Minister of Government, or

(iii) by a board, company or other body referred to in paragraph (f) or subparagraph (bb)(i) or (bb)(ii),

(cc) a planning authority;

“public notice” means any notice issued by way of national newspapers or other such publications, broadcast media or internet or otherwise displayed openly in the public domain;

“recreational watercraft” means any boat or craft of any type intended for sports and leisure purposes and includes a hovercraft and any vessel which uses an internal combustion engine having

a water jet pump as its primary source of propulsion, but does not include any watercraft being used for rescue or emergency purposes or for law enforcement purposes or by an authorised officer in the performance of his or her duties or functions or a watercraft being lawfully used in the course of agriculture or the management of fisheries or any other lawful occupational land use activity by the owner or occupier of the land or his or her servants or agents or co-workers;

'renewable energy' has the meaning given to it in paragraph (1) of Article 2 of the Renewable Energy Directive;

'Renewable Energy Directive' means Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 20181 on the promotion of the use of energy from renewable sources, as amended by Directive (EU) 2023/2413 of the European Parliament and of the Council of 18 October 20232 amending Directive (EU) 2018/2001, Regulation (EU) 2018/1999 and Directive 98/70/EC as regards the promotion of energy from renewable sources, and repealing Council Directive (EU) 2015/652;

'renewables acceleration area' has the meaning given to it in paragraph (9a) of Article 2 of the Renewable Energy Directive;

Commented [RF24]: Inserted by Regulation 3 of the European Communities (Birds and Natural Habitats) (Amendment) Regulations 2026 (S.I. 320 of 2026)

"road authority" has the meaning assigned by the Roads Act 1993 (apart from Part V of that Act);

"sanitary authority" has the meaning assigned by the Local Government (Water Pollution) Act 1977 ;

"the SEA Directive" means Directive 2001/42/EC of the European Parliament and Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment;

"site of Community importance" means a site which has been adopted by the European Commission as a site of Community importance pursuant to the third subparagraph of Article 4(2) of the Habitats Directive in accordance with the procedure laid down in Article 21 of that Directive, or has been selected as a site of Community importance pursuant to a decision of the Council made in accordance with Article 5(3) of the Habitats Directive;

"special area of conservation" means a site of Community importance designated by a Member State pursuant to Article 4(4) of the Habitats Directive through a statutory, administrative or contractual act, or any combination thereof, where the necessary conservation measures are applied for the maintenance or restoration, at a favourable conservation status, of either or both the natural habitats and the populations of the species for which the site is designated;

"special protection area" means an area classified pursuant to Article 4(1) or 4(2) of the Birds Directive as a special protection area;

"statutory declaration" means a statutory declaration within the meaning of the Statutory Declarations Act 1938 ;

"territorial seas" has the meaning given to it by section 82 of the Sea-Fisheries and Maritime Jurisdiction Act 2006 ;

"vehicle" means any conveyance in or by which any person or thing, or both, is transported which is designed for use on land, or in water or in the air, or in more than one of those ways, and includes—

(a) part of a vehicle,

(b) an article designed as a vehicle but not capable of functioning as a vehicle,

(c) a skip or other container designed for use or used for carriage on a vehicle, or

(d) a trailer or caravan designed for use or used with a vehicle;

"water services authority" has the meaning assigned by the Water Services Act 2007 ;

Commented [N25]: To be read as Irish Water, by virtue of section 7 of the Water Services (No. 2) Act 2013

"works" includes any intervention impacting on the physical environment.

(2) A word or expression that is used in these Regulations and is also used in the Birds Directive or in the Habitats Directive shall, unless the contrary intention is expressed, have in these Regulations the meaning that it has in the Birds Directive or in the Habitats Directive.

(3) In these Regulations—

(a) a reference to a Part, Regulation or Schedule is to a Part or Regulation of, or Schedule to, these Regulations, unless it is indicated that reference to some other enactment is intended, and

(b) a reference to a paragraph or subparagraph is to the paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

(4) In these Regulations, save where the context otherwise requires, a reference to any enactment shall be construed as a reference to that enactment as amended or adapted by any subsequent enactment including these Regulations.

Service of notices

3. (1) Any notice, other than a public notice, or other document or thing, required to be served or given by, or under, these Regulations shall, subject to paragraphs (2) and (3), be addressed to the person concerned and served or given in any of the following ways—

(a) by addressing it to the person by name and delivering it to him or her,

(b) by leaving it at the address at which the person ordinarily resides or carries on business,

(c) by sending it in a letter by prepaid post addressed to him or her at the address at which he or she ordinarily resides or carries on business,

(d) if an address for the service of notices has been furnished by the person, by leaving it at, or sending it by prepaid post addressed to him or her to that address, or

(e) by serving it on a person who is carrying out, supervising or directing works to which the notice relates.

(2) Where the name of any of the persons concerned has not been ascertained after reasonable inquiry, or where it is not certain that the names of all such persons have been ascertained after such enquiry, or where it has not proved possible to deliver a notice to any such person, a notice under these Regulations may, where probable addresses are known, be addressed to—

(a) the owner,

(b) the occupier,

(c) the person in charge,

(d) the manager,

(e) the works manager or contractor,

(f) the owner or holder of turbary rights, mineral exploration rights, fishery rights, sporting rights or such other rights, as appropriate,

or to all or any of such addressees at any address where the Minister believes such a person may ordinarily reside or carry out his business or that he or she may be using as an office or place of business for the time being.

(3) ~~Upon serving or giving a notice in accordance with paragraph (1) or (2) of these Regulations~~, Upon serving or giving a notice in accordance with paragraph (1) or (2) of this Regulation, appropriate public notice may be given, and where such public notice has been given, that public notice shall constitute due notice to any person concerned who has not received or claims not to have received a notice pursuant to paragraph (1) or (2), and to all other persons, and the date of the first publication of such public notice shall be the date of such notice.

Commented [N26]: Substituted by Regulation 4 of the European Communities (Birds and Natural Habitats) (Amendment) Regulations 2015 (S.I. 355/2015).

(4) Following the giving of public notice pursuant to paragraph (3), it shall not be a defence in prosecutions arising under these Regulations for a person to claim that he or she did not receive due notice pursuant to paragraph (1) or (2), or was not informed of such notice.

(5) For the purpose of this Regulation a company registered under the Companies Acts shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

(6) The validity of a notice served on a person under these Regulations is not affected by the failure to serve it on every person to whom the notice under these Regulations is to be directed.

(7) The provisions of Section 3 of the Principal Act shall not apply in a case to which these Regulations apply.

PART 2

AUTHORISED OFFICERS

Appointment of Authorised Officers

4. (1) The Minister or, with the Minister's consent, any other Minister of Government, may appoint in writing one or more persons, as he or she considers appropriate, to be an authorised officer or authorised officers for the purposes of ensuring compliance with these Regulations, or any part thereof, and the Minister may, should he or she consider it warranted for the purposes of this Regulation, give general consent to any other Minister of Government to appoint, in writing, persons to be authorised officers, and said Minister of Government shall notify the Minister of each appointment made under the general consent.

(2)(a) A certificate of appointment as an authorised officer shall be issued to every person appointed under paragraph (1).

(b) Whenever a person is exercising any function conferred on him or her as an authorised officer such person shall, if requested by a person affected, produce evidence of his or her appointment as an authorised officer to the person so requesting.

(3) The appointment of a person as an authorised officer may at any time be terminated by the Minister or such other Minister, as described in paragraph (1), whichever of them appointed the person, whether or not the appointment was for a fixed period.

(4) An appointment as an authorised officer shall cease—

(a) where the Minister or such other Minister, as described in paragraph (1), terminates it pursuant to paragraph (3), or

(b) where it is for a fixed period, on the expiry of that period, or

Commented [N27]: The Irish Statute Book says here that "Reg. 4 application extended" and it lists 26 site specific SIs as follows:

S.I. No. 527 of 2019, reg. 9
S.I. No. 526 of 2019, reg. 9
S.I. No. 525 of 2019, reg. 9
S.I. No. 524 of 2019, reg. 9
S.I. No. 523 of 2019, reg. 9
S.I. No. 522 of 2019, reg. 9
S.I. No. 515 of 2019, reg. 9
S.I. No. 514 of 2019, reg. 9
S.I. No. 477 of 2019, reg. 9
S.I. No. 476 of 2019, reg. 9
S.I. No. 475 of 2019, reg. 9
S.I. No. 474 of 2019, reg. 9
S.I. No. 473 of 2019, reg. 9
S.I. No. 620 of 2017, reg. 9
S.I. No. 619 of 2017, reg. 9
S.I. No. 618 of 2017, reg. 9
S.I. No. 617 of 2017, reg. 9
S.I. No. 616 of 2017, reg. 9
S.I. No. 615 of 2017, reg. 9
S.I. No. 613 of 2017, reg. 9
S.I. No. 612 of 2017, reg. 9
S.I. No. 651 of 2016, reg. 9
S.I. No. 650 of 2016, reg. 9
S.I. No. 649 of 2016, reg. 9
S.I. No. 648 of 2016, reg. 9
S.I. No. 647 of 2016, reg. 9

(c) where the person appointed is an officer of the Minister or such other Minister, as described in paragraph (1), or of a public authority, upon he or she ceasing to be such an officer.

(5) Nothing in paragraph (4) shall be construed so as to prevent the Minister, or such other Minister, in accordance with paragraph (1), from re-appointing, with the Minister's consent, as an authorised officer a person to whom that paragraph relates.

(6) An appointment of an authorised officer pursuant to Regulation 7 of the European Communities (Natural Habitats) Regulations 1997 that was in force immediately prior to the commencement of these Regulations is deemed to be an appointment under this Regulation, and paragraphs (2)(b), (3), (4) and (5) shall apply to such an appointment.

(7) Failure by a Minister of Government to notify the Minister of an appointment pursuant to paragraph (1) shall not invalidate that appointment or anything done, for the purposes of these Regulations, by that authorised officer following his or her appointment.

(8)A certificate of appointment as described in paragraph (2)(a) shall, for the purposes of these Regulations, constitute any consent required to be given by the Minister or any other Minister of Government under these Regulations or the Principal Act, to enable the authorised officer lawfully to carry out his or her functions under these Regulations.

Functions of Authorised Officers

5. (1) An authorised officer may, as specified in his or her certificate of appointment, for any purpose connected with these Regulations—

(a) undertake surveillance of the natural habitats referred to in Article 2 of the Habitats Directive or of the species referred to in Article 1 of the Birds Directive or in Article 2 of the Habitats Directive or of the habitats of those species, or of the conservation status of the habitats and species referred to in this subparagraph,

(b) undertake surveillance for the purpose of the preparation of a list of candidate sites of Community importance by virtue of Regulation 10(1) or of any proposed modification of any such list by virtue of Regulation 10(4) or of any proposed addition to any such list by virtue of Regulation 19,

(c) undertake surveillance for the purpose of the preparation of the particulars of the candidate special protection areas or special protection areas by virtue of Regulation 15 or of any proposed modification of any such particulars,

(d) undertake surveillance for the purpose of establishing whether or not these Regulations are being, and have been, complied with,

(e) undertake surveillance generally for the purposes of giving effect to the Habitats Directive and the Birds Directive,

(f) enter and inspect any land or premises for the purposes of performing any of his or her functions under these Regulations or of obtaining any information which he or she may require for such purposes,

(g) enter on to any land to gain access to or entry to any other land or to any premises for the purposes of performing any of his or her functions under these Regulations or of obtaining any information which he or she may require for such purposes,

(h) at all reasonable times, or at any time if he or she has reasonable grounds for believing that there is or may be a risk to the conservation status of the natural habitats or species referred to in Article 2 of the Habitats Directive or Article 1 of the Birds Directive, or that an offence under these Regulations has been, is being or is about to be committed at any lands or premises, or that evidence of any such offence is to be found at any lands or premises, enter any such lands or premises and bring onto those lands or premises such other persons, including a member of An Garda Síochána, or equipment or materials, as he or she may consider necessary,

(i) at any time if he or she has reasonable grounds for suspecting there may be a risk to the conservation status of the natural habitats or species referred to in Article 2 of the Habitats Directive or Article 1 of the Birds Directive or the integrity of a European Site, or that an offence under these Regulations has been, is being or is about to be committed, involving the use of any vehicle,

(i) halt and or board that vehicle or the vehicle by which that vehicle is transported, and

(ii) require the driver of the vehicle or the vehicle by which that vehicle is transported to take the vehicle or vehicles to a place specified by the authorised officer, and such vehicle or vehicles may be detained at that place by the authorised officer for such period as he or she may consider necessary,

or

(j) at any time if he or she has reasonable grounds for suspecting that a person's activities may be a risk to the conservation status of the natural habitats or species referred to in Article 2 of the Habitats Directive or Article 1 of the Birds Directive, or that an offence under these Regulations has been, is being or is about to be committed by a person—

(i) inform the person of any offence the authorised officer considers might arise from the aforesaid activities,

(ii) inform the person of any of the requirements of these Regulations, the Birds Directive or the Habitats Directive, or

(iii) request information from the person in relation to the aforesaid activities.

(2) An authorised officer shall not enter into a private dwelling under this Regulation unless one of the following conditions applies—

(a) the entry is effected with the consent of the occupier, or

(b) the entry is authorised by a warrant issued under Regulation 6.

(3) For the purposes of these Regulations, an authorised officer may, subject to paragraph (2), enter any premises or enter on to any lands.

(4) Whenever an authorised officer enters on to any lands or any premises or boards any vehicle pursuant to these Regulations, he or she may do all things reasonably necessary for the purpose for which the entry is made and including, but not limited to, any of the following—

(a) carry out an inspection,

(b) carry out surveillance and examinations of the relevant natural habitats or species,

(c) take photographs, record information on data loggers, make tape, electrical, digital, video or other recordings,

(d) carry out tests and make copies of documents, including records kept in electronic form, found therein and take samples,

(e) monitor any emission or effluent, including trade effluent or emissions or other matter, which is emitted, contained in or discharged from the lands or premises,

(f) monitor noise and light emission and vibration,

(g) monitor air quality,

(h) carry out surveys, take samples, take levels, make excavations and carry out examinations of depth and nature of soil, subsoil or waters,

(i) examine any plant and equipment or other object on the lands or premises,

(j) examine any plant, animal or habitat on the lands or premises,

(k) monitor, examine or inspect preventive or remedial works being carried out on the lands or premises,

(l) require that the lands, premises or vehicle or any part of the lands or premises or anything in or on the lands or premises or vehicle shall be left undisturbed for a specified period,

(m) request information from an occupier of the lands or premises, of any occupant of the vehicle or any person employed on the lands or premises or any other person on the lands or premises,

(n) request the production of, or inspect, documents or records, including documents or records held in electronic form, or take copies of or extracts from any documents or records,

(o) remove and retain documents and records, including documents and records held in electronic form, for such period as may be reasonable for further examination, which the authorised officer, having regard to all the circumstances, considers necessary for the purposes of exercising any of his or her functions under these Regulations,

(p) remove and retain any object or plant or animal for such period as may be reasonable for further examination or for use in proceedings, or both, which the authorised officer, having regard to all the circumstances, considers necessary for the purposes of exercising any of his or her functions under these Regulations,

(q) as appropriate, take, remove or destroy specimens or populations of plants or animals or vectors listed in the Third Schedule, and

(r) do anything that any of these Regulations provide that an authorised officer shall do or may do, and do anything incidental to doing such a thing or things.

(5) Any certificate or other evidence given, or to be given, in respect of any test, examination or analysis of any sample under this Regulation shall, in relation to that sample, be evidence, without further proof, of the result of the test, examination or analysis unless the contrary is shown.

(6) A person shall not—

(a) subject to paragraph (2), refuse to allow an authorised officer to enter any lands or premises or board any vehicle or to bring any person or equipment with him or her in the exercise of his or her functions,

(b) obstruct or impede an authorised officer in the exercise of any of his or her functions,

(c) give to an authorised officer information which is to his or her knowledge false or misleading in a material respect, or

(d) without reasonable excuse, fail or refuse to comply with any requirement or instruction of an authorised officer.

(7)(a) A person who fails to comply with subparagraph (6)(a) or (6)(d) shall be guilty of an offence.

(b) A person who fails to comply with subparagraph (6)(b) or (6)(c) shall be guilty of an offence.

(8)(a) An authorised officer may, in the exercise of any function conferred on him or her by these Regulations involving the removal of any vehicle or any other object or animal or plant or the bringing of any such thing to any place, or where he or she anticipates any obstruction in the exercise of any other function conferred on him or her by these Regulations, request An Garda Síochána to assist him or her in the exercise of such a function.

(b) The Minister may request the assistance of An Garda Síochána in relation to any matter arising from these Regulations as he or she considers appropriate.

(9) Where an authorised officer or member of An Garda Síochána has reasonable cause to suspect that a person has committed an offence under these Regulations he or she may require that person to provide him or her with his or her name and the address at which he or she ordinarily resides.

(10) Where a person refuses or fails to give his or her name and address to an authorised officer or a member of An Garda Síochána when required under paragraph (9), or gives to the member or authorised officer a name or address that is false or misleading, that person shall be guilty of an offence.

(11) A member of An Garda Síochána may arrest without a warrant a person who fails or refuses to give his or her name and address when demanded under paragraph (9) or gives a name or address which the member has reasonable grounds for believing is false or misleading.

(12) Where a member of An Garda Síochána has reasonable cause to suspect that a person has committed an offence under these Regulations the member may without warrant arrest the person.

(13) Nothing in this Regulation shall be taken to compel the production by any person of a record which he or she would be exempt from producing in proceedings in a court on the ground of legal professional privilege.

(14) In the performance of his or her duties under these Regulations, an authorised officer shall have due regard to all reasonable health and safety considerations.

(15) An authorised officer shall not be personally liable in any civil or criminal proceedings for anything done in the purported exercise of his or her functions under these Regulations if the court is satisfied that the act was reasonable and was done in good faith.

(16) In this Regulation—

“record” includes, in addition to a record in writing—

(a) a disc, tape, sound-track or other device, including an electronic device, in which information, sounds or signals are embodied so as to be capable, with or without the aid of some other instrument, of being reproduced in legible or audible form,

(b) a film, tape or other device, including an electronic device, in which visual images are embodied so as to be capable, with or without the aid of some other instrument, of being reproduced in visual or audio-visual form, and

(c) a photograph,

and any reference to a copy of a record includes—

(i) in the case of a record to which subparagraph (a) applies, a transcript of the sounds or signals embodied in it,

(ii) in the case of a record to which subparagraph (b) applies, a reproduction of the images embodied in it, and

(iii) in the case of a record to which subparagraphs (a) and (b) apply, such a transcript together with such a reproduction.

(17)

(a) A member of An Garda Síochána may exercise any of the powers and functions assigned by these Regulations to authorised officers.

(b) Nothing in these Regulations shall operate to prejudice any power which may be exercised by a member of An Garda Síochána apart from these Regulations.

Commented [N28]: Inserted by Regulation 5 of the European Communities (Birds and Natural Habitats) (Amendment) Regulations 2015 (S.I. 355/2015).

Search warrant

6. (1) Where an authorised officer in the exercise of his or her functions under Regulation 5 is prevented from entering any lands or premises or vehicle, or wishes to enter a private dwelling, or if the authorised officer has reason to believe that evidence related to a suspected offence under these Regulations may be present in any lands or premises and that the evidence may be removed therefrom or destroyed, or if the authorised officer has reason to believe that there is a significant immediate risk to—

(a) the conservation status of the natural habitats or species referred to in Article 2 of the Habitats Directive,

(b) the conservation status of the natural habitats or species referred to in Article 1 of the Birds Directive, or

(c) the integrity of a European Site,

the authorised officer or the Minister by whom he or she was appointed may apply to the District Court for a warrant under this Regulation authorising the entry by the authorised officer onto or into the lands or premises.

(2) Where an application pursuant to paragraph (1) is made, the authorised officer or the Minister by whom he or she was appointed shall, in applying for the warrant, give notice of such application to An Garda Síochána where he or she believes that the assistance of a member of An Garda Síochána may be required in the execution of said warrant.

(3) If, on application being made to the District Court under this Regulation, the District Court is satisfied on the sworn information of the authorised officer that he or she has been prevented from entering lands or premises, the court may issue a warrant authorising that person, accompanied, if the court deems it appropriate, by another authorised officer or a member of An Garda Síochána as may be specified in the warrant, at any time or times within one month from the date of the issue of the warrant, on production of the warrant, if so requested, to enter the lands or premises concerned and exercise the functions referred to in Regulation 5.

Functions relating to off-road vehicles and recreational watercraft

7. (1) Where an authorised officer appointed under Regulation 4 or a member of An Garda Síochána has reason to believe that a person is committing or has committed an offence under Regulation 29 relating to the operation or use of any off-road vehicle or recreational watercraft, the authorised officer or the member of An Garda Síochána—

(a) may require of the person his or her name and address,

(b) may instruct the person to leave the land or water concerned,

(c) may instruct the person to remove from the land or water any off-road vehicle or recreational watercraft that belongs to the person or that is under his or her control, and

(d) shall inform the person of the nature of the offence in respect of which it is suspected that person has been involved and the statutory consequences of failing to comply with a requirement or instruction under this paragraph.

(2) Where a person—

(a) refuses or fails to give his or her name and address to an authorised officer or a member of An Garda Síochána when required under paragraph (1),

(b) gives to the authorised officer or the member of An Garda Síochána a name or address that is false or misleading, or

(c) fails to comply with an instruction under paragraph (1),

he or she shall be guilty of an offence.

(3) A member of An Garda Síochána may arrest without warrant a person—

(a) who fails or refuses to give his or her name and address when required under paragraph (1) or gives a name or address which the member has reasonable grounds for believing is false or misleading,

(b) who fails to comply with an instruction given under paragraph (1), or

(c) whom the member has reason to believe has been committing an offence under Regulation 29 relating to the operation or use of any off-road vehicle or recreational watercraft, or under paragraph (4)(b) or (4)(e).

(4)(a) Where a person fails to comply with an instruction under paragraph (1), an authorised officer or a member of An Garda Síochána may remove or cause to be removed any off-road vehicle or recreational watercraft which the authorised officer or the member of An Garda Síochána has reason to believe was brought onto or placed on the land or brought onto or placed in or on water in contravention of Regulation 29 and may store or cause to be stored such off-road vehicle or recreational watercraft so removed.

(b) Any person who obstructs, impedes or assists a person to obstruct or impede an authorised officer or a member of An Garda Síochána in the performance of his or her duty under this Regulation shall be guilty of an offence.

(c) Where an off-road vehicle or recreational watercraft has been removed under this Regulation any person claiming to own, occupy, control or otherwise retain it, or any person the Minister or the Garda Commissioner or delegate officer has reason to believe may own it, the Minister or the Garda Commissioner or delegate officer shall serve or cause to be served upon each such person whose name and address can be ascertained by reasonable enquiry, a notice informing the person where the off-road vehicle or recreational watercraft may be claimed and recovered, requiring the person to claim and recover it within one month of the date of service of the notice and informing him or her of the statutory consequences of his or her failure to do so.

(d) An off-road vehicle or recreational watercraft removed and stored under this Regulation shall be given to a person claiming possession of the off-road vehicle or recreational watercraft if, but only if, he or she makes a declaration in writing that he or she is the owner of the off-road vehicle or recreational watercraft or is authorised by its owner to claim it or is, for a specified reason, otherwise entitled to possession of it and gives an undertaking that the off-road vehicle or

recreational watercraft will not subsequently be used in contravention of these Regulations and, at the discretion of the Minister or the Garda Commissioner or delegate officer, the person pays the amount of any expenditure reasonably incurred in removing and storing the off-road vehicle or recreational watercraft.

(e) Any person who makes a declaration under subparagraph (d) knowing or believing that declaration to be false shall be guilty of an offence.

(f) The Minister or the Garda Commissioner or delegate officer may dispose of, or cause to be disposed of, an off-road vehicle or recreational watercraft removed and stored under this Regulation if—

(i) the owner of the off-road vehicle or recreational watercraft fails to claim it and remove it from the place where it is stored within one month of the date on which a notice under subparagraph (c) was served on him or her, or

(ii) the name and address of the owner of the off-road vehicle or recreational watercraft cannot be ascertained by reasonable enquiry.

(g) Where the Minister or the Garda Commissioner or delegate officer becomes entitled to dispose of, or cause to be disposed of, an off-road vehicle or recreational watercraft under subparagraph (f) and the off-road vehicle or recreational watercraft is, in his or her opinion, capable of being sold, the Minister or the Garda Commissioner or delegate officer shall be entitled to sell or cause to be sold the off-road vehicle or recreational watercraft for the best price reasonably obtainable and upon doing so shall pay or cause to be paid to the person who was the owner of the off-road vehicle or recreational watercraft at the time of its removal, where the name and address of the owner can be ascertained by reasonable enquiry, a sum equal to the proceeds of such sale after deducting therefrom any expenditure reasonably incurred in its removal, storage and sale.

(h) Where the identity of the owner has not been ascertained after reasonable enquiry and the off-road vehicle or recreational watercraft is sold pursuant to subparagraph (g) the Minister or the Garda Commissioner or delegate officer, having deducted the sum of any expenditure reasonably incurred in the removal of the off-road vehicle or recreational watercraft, its storage and sale, may retain the deducted sum and the remainder shall be forfeited to the State.

(i) No liability shall attach to the State, the Minister or to An Garda Síochána, or to an authorised officer or a member of An Garda Síochána, in relation to any damage caused to a vehicle or watercraft in the course of its removal, storage or disposal under this Regulation.

(5) For the purposes of paragraph (4), where a member of An Garda Síochána has removed or caused to be removed any off-road vehicle or recreational watercraft, a member of An Garda Síochána may make arrangement for the transfer of that vehicle or watercraft to an authorised officer for storage and, following such transfer, the Minister shall, in consultation where appropriate with the Garda Commissioner or delegate officer or other member of An Garda Síochána, carry out,

as appropriate, the functions in relation to the off-road vehicle or recreational watercraft set out in that paragraph.

(6) The provisions of this Regulation are without prejudice to the exercise of the powers conferred by Regulation 35 in damage to European Sites.

PART 3

CONSERVATION OF NATURAL HABITATS AND HABITATS OF SPECIES

Priorities for designation

8. The Minister shall establish priorities for the designation of sites, pursuant to Regulations 14 and 18, in the light of—

(a) the importance of the sites for the maintenance or restoration at a favourable conservation status of—

(i) a natural habitat type or types in Annex I to the Habitats Directive,

(ii) a species in Annex II to the Habitats Directive,

(b) the conservation status of natural habitat types and or priority species,

(c) the coherence of Natura 2000, and

(d) the threats of degradation or destruction to which those sites are exposed.

Surveillance and monitoring

9. (1) Subject to paragraph (2), the Minister shall undertake or cause to be undertaken surveillance and monitoring of the conservation status of the natural habitats and species referred to in Article 2 of the Habitats Directive with particular regard to priority natural habitat types and priority species.

(2) Any Minister of Government having responsibilities in respect of the fish species specified in any of the annexes of the Habitats Directive, and to the extent, if any, specified therein, shall undertake or cause to be undertaken surveillance and monitoring of the conservation status of the said fish species and their natural habitats referred to in Article 2 of the Habitats Directive with particular regard to priority natural habitat types and priority species.

(3) The Minister shall undertake, or cause to be undertaken, surveillance and monitoring of European Sites.

(4) The Minister shall take account of the surveillance and monitoring referred to in paragraphs (1), (2) and (3) in any modification of the list transmitted to the European Commission under Regulation 13(5).

(5) The Minister shall undertake or cause to be undertaken surveillance and monitoring of the conservation status of the habitats and species referred to in Article 1 of the Birds Directive.

(6) The Minister shall identify threats to—

(a) the conservation status of the natural habitats and species referred to in Article 2 of the Habitats Directive,

(b) bird species referred to in Article 1 of the Birds Directive, and

(c) the integrity of the European Site or Sites,

for the purpose of developing such measures as he or she considers necessary including, where appropriate, threat response plans under Regulation 39.

(7) Except in cases in which the Minister determines that the publication of such a report would pose a risk to a European Site or to species or habitats, any reports that are prepared by or on behalf of the Minister that reach conclusions regarding the conservation status of species, habitats or European Sites based on surveillance undertaken as referred to in paragraphs (1) and (2), shall be made publicly available as soon as possible on the Department's website.

(8) Subject to Regulation 53(3), the Minister may by licence authorise a person to disturb, take, trap, sample, tag or take samples from birds or animals or to take samples or specimens of plants or to carry out investigations on European Sites where he or she considers it to be necessary or appropriate for the purpose of meeting his or her responsibilities or those of another Minister of Government or public authority under Article 10 of the Birds Directive or Articles 11 and 18 of the Habitats Directive and he or she is fully satisfied—

(a) that there is no satisfactory alternative and such authorisation is not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range,

(b) that it is in the interest of protecting wild fauna and flora and conserving natural habitats or for the purposes of research and education, of re-populating and re-introducing these species and for the breeding operations necessary for these purposes, including the artificial propagation of plants, and

(c) that he or she is satisfied that it will not affect the integrity of a European Site.

(9) A licence given by the Minister under paragraph (8) shall be subject to such conditions, restrictions and limitations as the Minister shall consider appropriate and specifies in the licence.

(10) A person may lawfully do anything authorised by a licence under this Regulation notwithstanding any provision of the Wildlife Acts 1976 to 2010 and for the avoidance of doubt shall not require a licence under those Acts to do anything so authorised.

(11) A licence under this Regulation shall be called a "research and monitoring licence".

(12) The Minister may at any time amend or revoke a licence given under this Regulation or amend or add to its conditions, restrictions and limitations.

(13) A person who contravenes any of the conditions, restrictions or limitations specified in a licence given under this Regulation, if applicable, as amended or added to under paragraph (12), shall be guilty of an offence.

Identification of sites for consideration as sites of Community importance

10. (1) The Minister shall, for the purpose of identifying sites for consideration as sites of Community importance and based on the criteria set out in Annex III, Stage I, to the Habitats Directive and relevant scientific information, prepare a list of sites indicating in respect of each such site either or both—

(a) the natural habitat type or types in Annex I to the Habitats Directive which the site hosts, and

(b) the species in Annex II to the Habitats Directive that are native to the State which the site hosts.

(2)(a) For animal species ranging over wide areas, these sites shall correspond to the places within the natural range of such species which present the physical or biological factors essential to their life and reproduction.

(b) For aquatic species which range over wide areas the Minister shall propose such sites only where there is a clearly identifiable area representing the physical and biological factors essential to their life and reproduction.

(3) A list of sites referred to in paragraph (1) which, for the avoidance of doubt, includes the indication referred to in subparagraphs (1)(a) and (1)(b), is in these Regulations referred to as a "list of candidate sites of Community importance".

(4) Where appropriate, the Minister may modify the list of candidate sites of Community importance having regard to the surveillance carried out pursuant to Regulation 9 or if he or she receives a request that a site be included in the list.

(5) A list of candidate sites of Community importance which is modified under paragraph (4) is in these Regulations referred to as a “modified list of candidate sites of Community importance”.

(6) The Minister may invite any person or body, or the public in general, to submit to him or her, within a specified period, being not less than four weeks from the date of the invitation, written representations regarding any specified issue or issues relating to the identification of sites for consideration as sites of Community importance.

(7) The Minister shall transmit the list of candidate sites of Community importance and any modified list of candidate sites of Community importance to the European Commission.

Information on candidate sites of Community importance

11. (1) The Minister shall compile information on each candidate site of Community importance including—

(a) an ordnance map of appropriate scale, upon which the boundaries of the site are marked, so as to identify the land comprising the site and the boundaries thereof,

(b) its name, location and extent,

(c) the data resulting from application of the criteria specified in Annex III, Stage I, to the Habitats Directive, and

(d) the scientific and legal criteria and rationale for the identification of the site as a candidate site of Community importance.

(2) The information compiled pursuant to paragraph (1)(c) and (1)(d) shall constitute “the special conservation interests” for the site.

(3) The information compiled under paragraph (1) shall be made available in a readily accessible format, for inspection by members of the public by appointment during office hours of the Department and in electronic form on the Department’s website, as soon as is practicable.

Notification regarding candidate sites of Community importance

12. (1) The Minister shall cause a copy of—

(a) the particulars of candidate sites of Community importance, or any modifications thereof, and

(b) particulars of any site subject to a consultation procedure in accordance with Article 5(1) of the Habitats Directive,

together with a copy of the information compiled pursuant to Regulation 11 to be sent to—

~~(i) the Minister for the Environment, Community and Local Government,~~

~~(ii) the Minister for Agriculture, Fisheries and Food,~~

~~(iii) the Minister for Communications, Energy and Natural Resources,~~

~~(iv) the Minister for Transport, Tourism and Sport,~~

(iva) such other Minister or Ministers of the Government as he or she considers should be notified,

(v) the Commissioners of Public Works in Ireland,

(vi) Environmental Protection Agency,

(vii) every planning authority within whose functional area the land specified in the particulars referred to in paragraph (1) or any part of that land is situated or which adjoins that land,

(viii) An Bord Pleanála,

(ix) National Roads Authority,

(x) Inland Fisheries Ireland,

(xi) any public authority with responsibility for the provision of national or regional infrastructure for energy, water, rail or telecommunications, and

(xii) any other person or organisation that the Minister considers should be notified,

and the Minister may, where appropriate, consult with all or any of them.

(2) The Minister shall notify every owner and occupier of any land included in a candidate site of Community importance, or in any modification thereof, of the inclusion of the land in the candidate site of Community importance and the said notification issued by the Minister under this paragraph shall include, in respect of each site—

(a) a copy of the information compiled pursuant to Regulation 11 relating to that site,

(b) any notice of the Ministerial Direction relating to activities requiring consent under Regulation 28(1) or specified activities under Regulation 29(1) relating to that site, and

(c) details of the procedures by which a person may object.

Commented [N29]: Deleted by Section 14(1)(a)(i) of the Planning and Development, Heritage and Broadcasting (Amendment) Act 2021

Commented [N30]: Deleted by Section 14(1)(a)(i) of the Planning and Development, Heritage and Broadcasting (Amendment) Act 2021

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Commented [N32]: Deleted by Section 14(1)(a)(i) of the Planning and Development, Heritage and Broadcasting (Amendment) Act 2021

Commented [N33]: Inserted by Section 14(1)(a)(ii) of the Planning and Development, Heritage and Broadcasting (Amendment) Act 2021

(3) The Minister shall give public notice—

(a) of the inclusion of land in a candidate site of Community importance, or any modification thereof, and

(b) that any person, including any holder of a valid prospecting licence or exploration licence duly issued under any enactment, or any turbary, fishing, sporting or other rights which relates to such land, whose interest in or over any land which may potentially be affected by the inclusion of the land in a candidate site of Community importance, or any modification thereof, may contact the Department to request further information in respect of the relevant site,

and the aforesaid notice shall be published in at least one newspaper with circulation covering the area in which the land referred to in the notice is located and may be—

(i) broadcast on a radio channel generally available in the area in which the land referred to in the notice is located, or

(ii) published on the internet.

(4) The Minister may, in addition, at his or her discretion, publish the notice referred to in paragraph (3) by means of—

(a) its being displayed with maps showing the site concerned—

(i) in one or more Garda Síochána stations, local authority offices, public libraries, local offices of the Department of Social Protection, local offices of the Department of Agriculture, Fisheries and Food and offices of Teagasc or other suitable places which are located within or contiguous to the site concerned, or

(ii) where, in any case there is no such station or office or other suitable place so located, in one or more of each such station or office or other suitable place within the vicinity or closest to such site,

(b) its being erected at or near the location of the land referred to in the notice,

(c) its being published in one or more other national, regional or local newspapers, or

(d) its being notified or publicised in such other manner as the Minister may decide.

(5) The Minister shall provide every person who—

(a) requests further information in respect of the relevant site under paragraph (3) and

(b) claims an interest in or over any land which may be affected,

with a copy of the notification referred to in paragraph (2).

Objections relating to candidate sites of Community importance

13. (1) A person on whom a notice is served under Regulation 12(2) or any other person having or being entitled to an interest in or over the land comprising the site or part thereof or any other person having or being entitled to an interest in or over land outside the site whose interest may potentially be affected by the designation of the land comprising the site or part thereof may, within a period of three months from the date the notice was served on him or her under Regulation 12(2) or given under Regulation 12(3) or published under Regulation 12(4), whichever is the earliest, object in the manner specified in the notice, on grounds of the criteria set out in Annex III, Stage I, of the Habitats Directive and relevant scientific information to the inclusion of a site or part thereof in the list of candidate sites of Community importance.

(2) An objection within the meaning of paragraph (1) shall be accompanied by a declaration made by the person objecting which shall state that the person—

(a) has or is entitled to an interest in or over the land comprising the site, or part thereof, or

(b) has or is entitled to an interest in or over land outside the site whose interest may potentially be affected by the designation of the land comprising the site, or part thereof,

or both, and which shall state the nature of the interest.

(3) A person or body prescribed in Regulations 12(1) or 12(2) may, not later than three months from the date the notice was served on that person or body, or if a notice was not so served, not later than three months after notice was given under Regulation 12(3) or published under Regulation 12(4), whichever is the earlier, request a review or modification of the particulars of the site of Community importance on grounds of the criteria set out in Annex III, Stage I, of the Habitats Directive and relevant scientific information.

(4) The Minister shall, after consultation with such other persons as he or she considers ought to be consulted—

(a) consider any objections received under paragraph (1) or a request for a review or modification of the particulars of the site of Community importance under paragraph (3), and

(b) shall inform any person making an objection within the meaning of paragraph (1) and those mentioned in Regulation 12(1) in respect of the site concerned of the decision on such objections or requests, which decision shall take account of the criteria set out in Annex III, Stage I, of the Habitats Directive and relevant scientific information.

(5) The Minister may—

(a) having considered the objections pursuant to paragraph (1) and requests pursuant to paragraph (3),

(b) having regard to the criteria referred to in Regulation 10, and

(c) having regard to submissions made under Regulation 21,

modify the list of candidate sites of Community importance and shall transmit it to the European Commission in accordance with Article 4(1) of the Habitats Directive.

(6) These Regulations shall apply to the list of candidate sites of Community importance transmitted to the European Commission in accordance with Article 4(1) of the Habitats Directive prior to the commencement of these Regulations as if they had been sent under this Regulation.

(7) These Regulations shall not affect the validity of the list of candidate sites of Community importance transmitted or prepared for transmission to the European Commission in accordance with Article 4(1) of the Habitats Directive prior to the commencement of these Regulations.

Designation, amendment and de-designation of special areas of conservation

14. (1) Following—

(a) adoption of a site by the European Commission in accordance with the procedure laid down in Article 4(2) of the Habitats Directive,

(b) adoption of a site following the procedure under Article 5(1) of the Habitats Directive, or

(c) adoption of a site pursuant to a decision by the Council under Article 5(3) of the Habitats Directive to accept a proposal of the European Commission made under Article 5(2) of the Habitats Directive,

the Minister shall designate the site as a special area of conservation.

(2) The Minister, having obtained the agreement of the Commission, may amend or revoke a designation made under this Regulation—

(a) having notified—

~~(i) the Minister for the Environment, Community and Local Government,~~

~~(ii) the Minister for Agriculture, Fisheries and Food,~~

~~(iii) the Minister for Communications, Energy and Natural Resources,~~

Commented [N34]: Deleted by section 14(1)(b)(i)(I) of the Planning and Development, Heritage and Broadcasting (Amendment) Act 2021

Commented [N35]: Deleted by section 14(1)(b)(i)(I) of the Planning and Development, Heritage and Broadcasting (Amendment) Act 2021

Commented [N36]: Deleted by section 14(1)(b)(i)(I) of the Planning and Development, Heritage and Broadcasting (Amendment) Act 2021

~~(iv) the Minister for Transport, Tourism and Sport,~~

(iva) such other Minister or Ministers of the Government as he or she considers should be notified,

(v) the Commissioners of Public Works in Ireland,

(vi) Environmental Protection Agency,

(vii) every planning authority within whose functional area the land specified in a site referred to in paragraph (1) or any part of that land is situated or which adjoins that land,

(viii) An Bord Pleanála,

(ix) National Roads Authority,

(x) Inland Fisheries Ireland,

(xi) any public authority with responsibility for the provision of national or regional infrastructure for energy, water, rail or telecommunications, and

(xii) any other person or organisation that the Minister considers should be notified,

and the Minister may, where appropriate, consult with all or any of them,

(b) having notified every owner and occupier of any land and any holder of a valid prospecting licence or exploration licence duly issued under any enactment which relates to any land that, following the amendment or revocation in whole or in part of a designation made under this Regulation, would be newly either included in or excluded from a designated special area of conservation, and the said notification issued by the Minister under this paragraph shall include, in respect of each site—

(i) a statement of the grounds for the amendment or revocation and specifically the grounds for the proposed inclusion or exclusion of the affected land from the sites,

(ii) any Notice of the Ministerial Direction relating to activities requiring consent under Regulations 28(1) or 29(1) that will apply to the lands to be newly included in that site, and

(iii) details of the procedures by which a person may object in respect of the amendment or revocation, and

(c) having consulted with the public if it is proposed to revoke the designation of a European Site.

Commented [N37]: Deleted by section 14(1)(b)(i)(I) of the Planning and Development, Heritage and Broadcasting (Amendment) Act 2021

Commented [N38]: Inserted by section 14(1)(b)(i)(II) of the Planning and Development, Heritage and Broadcasting (Amendment) Act 2021

(3) After the Minister has designated a site as a special area of conservation or amended or revoked the designation of a site as a special area of conservation, he or she shall cause notice of the designation, amendment or revocation to be sent to—

~~(a) the Minister for the Environment, Community and Local Government,~~

~~(b) the Minister for Agriculture, Fisheries and Food,~~

~~(c) the Minister for Communications, Energy and Natural Resources,~~

~~(d) the Minister for Transport, Tourism and Sport,~~

(da) such other Minister or Ministers of the Government as he or she considers should be sent such notice,

(e) the Commissioners of Public Works in Ireland,

(f) Environmental Protection Agency,

(g) Inland Fisheries Ireland,

(h) National Roads Authority,

(i) Iarnrod Éireann,

(j) Commission for Energy Regulation,

(k) every planning authority within whose functional area the site or any part of the site is situated or which adjoins the site,

(l) An Bord Pleanála,

(m) any public authority with responsibility for the provision of national or regional infrastructure for energy, water, rail or telecommunications, and

(n) every owner and occupier of any land that is within the site designated pursuant to paragraph (1) or that is newly included in or excluded from a designated site on foot of an amendment made pursuant to paragraph (2) or that was within a special area of conservation the designation of which has been revoked pursuant to paragraph (2) and any holder of a valid prospecting licence or exploration licence duly issued under any enactment which relates to such land.

Commented [N39]: Deleted by Section 14(1)(b)(ii)(I) of the Planning and Development, Heritage and Broadcasting (Amendment) Act 2021

Commented [N40]: Deleted by Section 14(1)(b)(ii)(I) of the Planning and Development, Heritage and Broadcasting (Amendment) Act 2021

Commented [N41]: Deleted by Section 14(1)(b)(ii)(I) of the Planning and Development, Heritage and Broadcasting (Amendment) Act 2021

Commented [N42]: Deleted by Section 14(1)(b)(ii)(I) of the Planning and Development, Heritage and Broadcasting (Amendment) Act 2021

Commented [N43]: Inserted by Section 14(1)(b)(ii)(II) of the Planning and Development, Heritage and Broadcasting (Amendment) Act 2021

(4) After the Minister has designated the site as a special area of conservation or has amended or revoked a designation, he or she shall give public notice of the designation, amendment of designation or revocation of designation and the aforesaid notice shall be by—

(a) publication in Iris Oifigiúil,

(b) publication in a national newspaper,

and may be published on the internet.

(5) The Minister may in addition at his or her discretion publish the notice referred to in paragraph (4) by means of—

(a) its being broadcast on a radio or television channel generally available in the area in which the land referred to in the notice is located,

(b) its being displayed with maps showing the site concerned—

(i) in one or more Garda Síochána stations, local authority offices, public libraries, local offices of the Department of Social Protection, local offices of the Department of Agriculture, Fisheries and Food, offices of Teagasc and such other suitable places which are located within or contiguous to the site concerned, or

(ii) where in any case there is no such station or office or other suitable place so located, in one or more of each such station or office or other suitable place within the vicinity or closest to such site,

(c) its being erected at or near the location of the land referred to in the notice,

(d) its being published in one or more national, regional or local newspapers, or

(e) in such other manner as the Minister may decide.

(6) Any designation made under this Regulation, and any amendment or revocation thereof, may be registered under the Registration of Deeds and Title Acts 1964 and 2006, in the appropriate register maintained under those Acts as a burden on the land.

(7) These Regulations shall apply to special areas of conservation designated pursuant to the Habitats Directive prior to the commencement of these Regulations as if they were designated under this Regulation.

(8) These Regulations shall not affect the validity of special areas of conservation which stood designated pursuant to the Habitats Directive prior to the commencement of these Regulations.

Identification and notification regarding particulars of candidate special protection areas

15. (1) The Minister shall select as candidate special protection areas sites that appear to him or her to require consideration for classification as special protection areas, and he or she shall compile information in respect of each selected site, including—

(a) a description of the site,

(b) an ordnance map of appropriate scale, upon which the boundaries of the site are marked, so as to identify the land comprising the site and the boundaries thereof, and

(c) the species referred to in Article 4 of the Birds Directive taken into account for the purpose of identifying the site as a special protection area.

(2) The information referred to in paragraph (1) is, in these Regulations, referred to as the "particulars of the candidate special protection area".

(3) The information compiled pursuant to paragraph (1)(c) shall constitute the "special conservation interests" for the site.

(4) Where the Minister has selected a site as a candidate special protection area under paragraph (1), he or she shall cause a copy of the particulars of the candidate special protection area to be sent to—

~~(a) the Minister for the Environment, Community and Local Government,~~

~~(b) the Minister for Agriculture, Fisheries and Food,~~

~~(c) the Minister for Communications, Energy and Natural Resources,~~

~~(d) the Minister for Transport, Tourism and Sport,~~

(da) such other Minister or Ministers of the Government as he or she considers should be sent a copy of the particulars,

(e) the Commissioners of Public Works in Ireland,

(f) Environmental Protection Agency,

(g) every planning authority within whose functional area the land specified in the particulars referred to in this paragraph or any part of that land is situated or which adjoins that land,

(h) An Bord Pleanála,

Commented [N44]: Deleted by Section 14(1)(c)(i) of the Planning and Development, Heritage and Broadcasting (Amendment) Act 2021

Commented [N45]: Deleted by Section 14(1)(c)(i) of the Planning and Development, Heritage and Broadcasting (Amendment) Act 2021

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Commented [N48]: Inserted by Section 14(1)(c)(ii) of the Planning and Development, Heritage and Broadcasting (Amendment) Act 2021

(i) National Roads Authority,

(j) Inland Fisheries Ireland,

(k) any public authority with responsibility for the provision of national or regional infrastructure for energy, water, rail or telecommunications, and

(l) any other person or organisation that the Minister considers should be notified,

and the Minister may, where appropriate, consult with all or any of them.

(5) The Minister shall notify every owner and occupier of any land included in the candidate special protection area of the inclusion of the land in that site and the said notification issued by the Minister under this paragraph shall include, in respect of each site—

(a) a copy of the particulars of the candidate special protection area,

(b) a notice of any Ministerial Direction relating to activities requiring consent under Regulation 28(1) or specified activities under Regulation 29(1) relating to that site,

and will indicate that Regulation 16 will apply if, pursuant to Regulation 16(2), the Minister identifies the site as eligible for classification as a special protection area and, in that eventuality, notification will be given pursuant to Regulation 16(7), and that, following each such notification, an objection may be made under Regulation 17(1).

(6) The Minister shall give public notice—

(a) of the inclusion of land in a candidate special protection area,

(b) of the fact that any Ministerial Direction relating to activities requiring consent under Regulation 28(1) or specified activities under Regulation 29(1) relating to that site has been made,

~~(b) that~~ (c) that any person, including any holder of a valid prospecting licence or exploration licence duly issued under any enactment, or any turbary, fishing, sporting or other rights which relates to such land, whose interest in or over any land which may potentially be affected by the inclusion of the land in that site may contact the Department to request further information in respect of the relevant site,

Commented [N49]: Substituted by Regulation 6 of the European Communities (Birds and Natural Habitats) (Amendment) Regulations 2015 (S.I. 355/2015).

and the aforesaid notice shall be published in at least one newspaper with circulation covering the area in which the land referred to in the notice is located and may be—

(i) broadcast on a radio channel generally available in the area in which the land referred to in the notice is located, or

(ii) published on the internet.

(7) The Minister may, in addition, at his or her discretion, publish the notice referred to in paragraph (6) by means of—

(a) its being displayed with maps showing the site concerned—

(i) in one or more Garda Síochána stations, local authority offices, public libraries, local offices of the Department of Social Protection, local offices of the Department of Agriculture, Fisheries and Food and offices of Teagasc or other suitable places which are located within or contiguous to the site concerned, or

(ii) where, in any case there is no such station or office or other suitable place so located, in one or more of each such station or office or other suitable place within the vicinity or closest to such site,

(b) its being erected at or near the location of the land referred to in the notice,

(c) its being published in one or more other national, regional or local newspapers, or

(d) its being notified or publicised in such other manner as the Minister may decide.

(8) The Minister shall provide every person who—

(a) requests further information in respect of the relevant site under paragraph (6) and

(b) claims an interest in or over any land which may be affected,

with a copy of the notification referred to in paragraph (5).

(9) For the avoidance of doubt, a submission may be made in respect of the selection of the relevant site pursuant to Regulation 21.

Classification: Notification regarding particulars of special protection areas

16. (1) The Minister shall, having considered the scientifically based ornithological criteria pursuant to the Birds Directive, and in particular Article 4(1) and 4(2) thereof, identify sites as eligible for classification as special protection areas.

(2) Without prejudice to the generality of paragraph (1), where the Minister has selected a site as a candidate special protection area under Regulation 15, he or she shall, having considered the scientifically based ornithological criteria pursuant to the Birds Directive, and in particular Article 4(1) and 4(2) thereof—

(a) identify the site as eligible for classification as a special protection area under paragraph (1), subject to any scientifically-based boundary modifications, or

(b) identify the site as not eligible for classification as a special protection area,

not earlier than three months, and not later than 18 months, from—

(i) the date the Minister has sent the particulars of the candidate special protection area to the persons and bodies referred to in Regulation 15(4), or

(ii) the date persons were served with a notice under Regulation 15(5) relating to that site, or

(iii) the date the Minister has given public notice under Regulation 15(6).

(3) The Minister shall compile information on each site that he or she has identified as eligible for classification as a special protection area, including—

(a) an ordnance map of appropriate scale, upon which the boundaries of the site are marked so as to identify the land comprising the site and the boundaries thereof,

(b) the name or names of the lands concerned and their location and extent,

(c) the identification of the species in Annex I to the Birds Directive, or the species of regularly occurring migratory species not in Annex I to the Birds Directive, or both, taken into account for the purpose of identifying the site and for which the site is to be classified as a special protection area,

(d) additional species, if any, referred to in Article 4 of the Birds Directive, the protection of which is a conservation objective of the site, and

(e) the scientific and legal criteria and reasons for the identification of the site as eligible for classification as a special protection area.

(4) The information compiled pursuant to subparagraphs (3)(c), (3)(d) and (3)(e) shall constitute the "special conservation interests" for the site.

(5) The information compiled under paragraph (3) is in these Regulations referred to as the "particulars of the special protection area".

(6) The Minister shall cause a copy of the particulars of the special protection area or any modifications thereof to be sent to—

~~(a) the Minister for the Environment, Community and Local Government,~~

Commented [N50]: Deleted by Section 14(1)(d)(i) of the Planning and Development, Heritage and Broadcasting (Amendment) Act 2021

~~(b) the Minister for Agriculture, Fisheries and Food,~~

~~(c) the Minister for Communications, Energy and Natural Resources,~~

~~(d) the Minister for Transport, Tourism and Sport,~~

(da) such other Minister or Ministers of the Government as he or she considers should be sent a copy of the particulars or any modifications thereof,

(e) the Commissioners of Public Works in Ireland,

(f) Environmental Protection Agency,

(g) every planning authority within whose functional area the land specified in the particulars referred to in paragraph (5) or any part of that land is situated or which adjoins that land,

(h) An Bord Pleanála,

(i) National Roads Authority,

(j) Inland Fisheries Ireland,

(k) any public authority with responsibility for the provision of national or regional infrastructure for energy, water, rail or telecommunications, and

(l) any other person or organisation that the Minister considers should be notified,

and the Minister may, where appropriate, consult with all or any of them.

(7) The Minister shall notify every owner and occupier of any land specified in the special protection area, or in any modification thereof, and any holder of a valid prospecting licence or exploration licence duly issued under any enactment which relates to such land, of the inclusion of the land in the special protection area and the said notification issued by the Minister under this paragraph shall include, in respect of each site—

(a) particulars of the special protection area, or any modification thereof,

(b) a notice of any Ministerial Direction relating to activities requiring consent under Regulation 28(1) or specified activities under Regulation 29(1) relating to that site, and

(c) details of the procedures by which a person may object.

(8) The Minister shall give public notice—

Commented [N51]: Deleted by Section 14(1)(d)(i) of the Planning and Development, Heritage and Broadcasting (Amendment) Act 2021

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(a) of the inclusion of land in the special protection area, or the inclusion of additional land in or the removal of land from the special protection area, and

(b) that any person whose interest in or over any land, including any holder of a valid prospecting licence or exploration licence duly issued under any enactment, or any turbary, fishing, sporting or other rights which relates to such land, which may potentially be affected by the inclusion of the land in the special protection area may contact the Department to request further information in respect of the relevant site,

and the aforesaid notice shall be published in at least one newspaper with circulation covering the area in which the land referred to in the notice is located and may be—

(i) broadcast on a radio channel generally available in the area in which the land referred to in the notice is located, or

(ii) published on the internet.

(9) The Minister may, in addition, at his or her discretion, publish the notice referred to in paragraph (8) by means of—

(a) its being displayed with maps showing the site concerned—

(i) in one or more Garda Síochána stations, local authority offices, public libraries, local offices of the Department of Social Protection, local offices of the Department of Agriculture, Fisheries and Food and offices of Teagasc or other suitable places which are located within or contiguous to the site concerned, or

(ii) where, in any case there is no such station or office or other suitable place so located, in one or more of each such station or office or other suitable place within the vicinity or closest to such site,

(b) its being erected at or near the location of the land referred to in the notice,

(c) its being published in one or more other national, regional or local newspapers, or

(d) its being notified or publicised in such other manner as the Minister may decide.

(10) The Minister shall provide every person who—

(a) requests further information in respect of the relevant site under paragraph (8) and

(b) has or is entitled to an interest in or over any land which may potentially be affected,

with a copy of the notification referred to in paragraph (7).

(11) The service of the notice pursuant to paragraphs (7) and (8) operates to classify the relevant site as a special protection area.

(12)(a) Where the Minister, pursuant to paragraph 2(b), has identified a candidate site as not being eligible for classification as a special protection area, he or she shall notify the bodies or persons referred to in paragraphs (6) and (7) that he or she has so identified the site and the reasons for such identification,

(b) The Minister shall give public notice of the identification and the reasons referred to in subparagraph (a), and the aforesaid notice shall be published in at least one newspaper with circulation covering the area in which the land referred to in the notice is located and may be—

(i) broadcast on a radio channel generally available in the area in which the land referred to in the notice is located, or

(ii) published on the internet.

(13) These Regulations shall apply to special protection areas classified pursuant to the Birds Directive prior to the commencement of these Regulations as if they were classified under this Regulation.

(14) These Regulations shall not affect the validity of special protection areas which stood classified pursuant to the Birds Directive prior to the commencement of these Regulations.

Objections relating to special protection areas

17. (1) A person on whom a notice is served under Regulation 16(7) or any other person having or being entitled to an interest in or over the land comprising the site or part thereof or any other person having or being entitled to an interest in or over land outside the site whose interest may potentially be affected by the classification of the land comprising the site or part thereof may, within a period of three months from the date the notice was served on him or her under Regulation 16(7) or given under Regulation 16(8) or published under Regulation 16(9), whichever is the earliest, object in the manner specified in the notice, on grounds based on scientifically based ornithological criteria pursuant to the Birds Directive, in particular Article 4(1) and 4(2) thereof, to the inclusion of the site or part thereof in the special protection area.

(2) An objection within the meaning of paragraph (1) shall be accompanied by a declaration made by the person objecting which shall state that the person—

(a) has or is entitled to an interest in or over the land comprising the site, or part thereof, or

(b) has or is entitled to an interest in or over land outside the site whose interest may potentially be affected by the classification of the land comprising the site, or part thereof, or both,

and which shall state the nature of the interest.

(3) The persons and bodies prescribed in Regulations 16(6) and 16(7) may, not later than three months from the date the particulars were sent to them, request a review or modification of the particulars on grounds based on scientifically based ornithological criteria pursuant to the Birds Directive, in particular Article 4(1) and 4(2) thereof.

(4) The Minister shall—

(a) having consulted with such other persons as he or she considers ought to be consulted,

(b) having considered any objections made pursuant to paragraph (1),

(c) having considered any requests made pursuant to paragraph (3),

(d) in view of the criteria referred to in Regulation 16(1), and

(e) having regard to submissions made under Regulation 21,

decide for stated reasons to amend or not to amend the particulars of the special protection area.

(5) The Minister shall—

(a) inform any person making an objection under paragraph (1) or a request under paragraph (3) of the decision on such objection or request, stating the reasons for his or her decision,

(b) inform any person whose land he or she has reason to believe will be newly included in or excluded from a special protection area on foot of his or her decision, and

(c) give public notice of a decision to amend the particulars of the special protection area.

Designation, amendment and de-designation of special protection areas

18. (1) In relation to a site classified as a special protection area, the Minister may make a decision to designate or not to designate such a site, or part thereof, as a special protection area after—

(a)the expiry of the period of three months from the date on which the Minister has sent the relevant material referred to in Regulation 16(3) to the persons and bodies prescribed in Regulation 16(6),

(b) the expiry of the period of three months from the date on which a person or persons are served notice under Regulation 16(7) relating to that site,

(c) the expiry of the period of three months from the date on which the Minister has given public notice under Regulation 16(8), or

(d) the Minister making a decision pursuant to Regulation 17(4) relating to that site, if applicable,

whichever is the earliest.

(2) Subject to paragraph (3), the Minister may designate a site after—

(a) three months from the date notice was served or given under Regulation 16(7), or

(b) three months from the date on which public notice was given under Regulation 16(8),

whichever is the earlier, having, where applicable, taken the steps referred to in Regulation 17(4).

(3) Where the Minister, having consulted with the Commission, proposes to revoke or amend the designation of a site classified under Regulation 16 or where the area that the Minister proposes to designate differs in any of its boundaries from the corresponding area as classified under Regulation 16, the Minister shall not designate the site until after—

(a) he or she has notified—

~~(i) the Minister for the Environment, Community and Local Government,~~

~~(ii) the Minister for Agriculture, Fisheries and Food,~~

~~(iii) the Minister for Communications, Energy and Natural Resources,~~

~~(iv) the Minister for Transport, Tourism and Sport,~~

(iva) such other Minister or Ministers of the Government as he or she considers should be notified,

(v) the Commissioners of Public Works in Ireland,

(vi) Environmental Protection Agency,

(vii) Inland Fisheries Ireland,

(viii) National Roads Authority,

(ix) Iarnrod Éireann,

(x) Commission for Energy Regulation,

Commented [N55]: Deleted by Section 14(1)(e)(i)(I) of the Planning and Development, Heritage and Broadcasting (Amendment) Act 2021

Commented [N56]: Deleted by Section 14(1)(e)(i)(I) of the Planning and Development, Heritage and Broadcasting (Amendment) Act 2021

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Commented [N59]: Inserted by Section 14(1)(e)(i)(II) of the Planning and Development, Heritage and Broadcasting (Amendment) Act 2021

(xi) every planning authority within whose functional area the site or any part of the site is situated or which adjoins the site,

(xii) An Bord Pleanála,

(xiii) any public authority with responsibility for the provision of national or regional infrastructure for energy, water, rail or telecommunications,

(xiv) every owner and occupier of any land that, on foot of the proposed designation, would be newly included in or excluded from the area classified under Regulation 16 and any holder of a valid prospecting licence or exploration licence duly issued under any enactment which relates to such land, and

(b) he or she has taken the steps and followed the procedure set out in Regulation 17.

(4) Where the Minister proposes to de-designate a site, he or she shall not do so until—

(a) he or she has sought the opinion of the public under Regulation 21(1)(b) and has considered any such submissions made pursuant to that Regulation, and

(b) he or she has consulted with the European Commission.

(5) Notification under paragraph (3) shall include—

(a) a statement of the grounds for the amendment or revocation and specifically the grounds for the proposed inclusion or exclusion of the affected lands in or from the site,

(b) any notice of Ministerial Directions relating to activities requiring consent under Regulation 28(1) or specified activities under Regulation 29(1) that will apply to lands to be newly included in the site, and

(c) details, pursuant to Regulation 17, of the procedures by which a person may object in respect of the proposed amendment or revocation.

~~(6) After the Minister has designated a site, or part thereof, as a special protection area, or has amended or revoked any designation, or has made a decision not to designate a site, or part thereof, he or she shall cause a copy of the designation, amendment of designation, revocation of designation or decision not to designate a site, or part thereof, to be sent to—~~

~~(a) the Minister for the Environment, Community and Local Government,~~

~~(b) the Minister for Agriculture, Fisheries and Food,~~

Commented [N60]: Deleted by Regulation 7 of the European Communities (Birds and Natural Habitats) (Amendment) Regulations 2015 (S.I. 355/2015).

~~(c) the Minister for Communications, Energy and Natural Resources,~~

~~(d) the Minister for Transport, Tourism and Sport,~~

~~(e) the Commissioners of Public Works in Ireland,~~

~~(f) Environmental Protection Agency,~~

~~(g) Inland Fisheries Ireland,~~

~~(h) National Roads Authority,~~

~~(i) Iarnrod Éireann,~~

~~(j) Commission for Energy Regulation,~~

~~(k) every planning authority within whose functional area the site or any part of the site is situated or which adjoins the site,~~

~~(l) An Bord Pleanála,~~

~~(m) any public authority with responsibility for the provision of national or regional infrastructure for energy, water, rail or telecommunications,~~

~~(n) every owner and occupier of any land within the site and any holder of a valid prospecting licence or exploration licence duly issued under any enactment which relates to such land,~~

~~(o) every person required to be notified under Regulation 15 in respect of the relevant site, and~~

~~(p) every person who made an objection pursuant to Regulation 17, including a person who made an objection following a notification under paragraph (3).~~

(6) After the Minister has designated a site, or part thereof, as a special protection area, or has amended or revoked any designation, or has made a decision not to designate a site, or part thereof, he or she shall cause notice of the designation, amendment of designation, revocation of designation or decision not to designate a site, or part thereof, to be sent to—

~~(a) the Minister for the Environment, Community and Local Government,~~

~~(b) the Minister for Agriculture, Food and the Marine,~~

~~(c) the Minister for Communications, Energy and Natural Resources,~~

~~(d) the Minister for Transport, Tourism and Sport,~~

Commented [N61]: (6) and (a) to (p) (but not (da)) substituted by Regulation 7 of the European Communities (Birds and Natural Habitats) (Amendment) Regulations 2015 (S.I. 355/2015).

Commented [N62]: Deleted by Section 14(1)(e)(ii)(I) of the Planning and Development, Heritage and Broadcasting (Amendment) Act 2021

(da) such other Minister or Ministers of the Government as he or she considers should be sent such notice,

Commented [N63]: Inserted by Section 14(1)(e)(ii)(II) of the Planning and Development, Heritage and Broadcasting (Amendment) Act 2021

(e) the Commissioners of Public Works in Ireland,

(f) Environmental Protection Agency,

(g) Inland Fisheries Ireland,

(h) National Roads Authority,

(i) Iarnrod Éireann,

(j) Commission for Energy Regulation,

(k) every planning authority within whose functional area the site or any part of the site is situated or which adjoins the site,

(l) An Bord Pleanála,

(m) any public authority with responsibility for the provision of national or regional infrastructure for energy, water, rail or telecommunications,

(n) every owner and occupier of any land within the site and any holder of a valid prospecting licence or exploration licence duly issued under any enactment which relates to such land,

(o) every person required to be notified under Regulation 15 in respect of the relevant site, and

(p) every person who made an objection pursuant to Regulation 17, including a person who made an objection following a notification under paragraph (3).

(7) After the Minister has designated the site as a special protection area, or has amended or revoked any designation, or has made a decision not to designate a site, or part thereof, he or she shall give public notice of the designation, amendment of designation, revocation of designation or decision not to designate a site, or part thereof, and the aforesaid notice shall be by—

(a) publication in Iris Oifigiúil,

(b) publication in a national newspaper,

and may be published on the internet.

(8) The Minister may in addition at his or her discretion publish the notice referred to in paragraph (3) by means of—

(a) its being broadcast on a radio or television channel generally available in the area in which the land referred to in the notice is located,

(b) its being displayed with maps showing the site concerned—

(i) in one or more Garda Síochána stations, local authority offices, public libraries, local offices of the Department of Social Protection, local offices of the Department of Agriculture, Fisheries and Food and offices of Teagasc or other suitable places which are located within or contiguous to the site concerned, or

(ii) where in any case there is no such station or office or other suitable place so located, in one or more of each such station or office or other suitable place within the vicinity or closest to such site,

(c) its being erected at or near the location of the land referred to in the notice,

(d) its being published in one or more national, regional or local newspapers, or

(e) in such other manner as the Minister may decide.

(9) Any designation made under this Regulation, and any amendment or revocation thereof, may be registered under the Registration of Deeds and Title Acts 1964 and 2006, in the appropriate register maintained under those Acts as a burden on the land.

(10)(a) The amendment of a designation operates to amend a classification in like terms.

(b) The revocation of a designation operates to revoke a classification in like terms.

(c) A decision not to designate a site, or part thereof, operates to declassify a site, or part thereof, in like terms.

Consultation initiated by the European Commission to add sites

19. (1) If consultation is initiated by the European Commission in accordance with Article 5(1) of the Habitats Directive with respect to a site hosting a priority natural habitat type or priority species, and the Minister agrees that the site should be added to the list transmitted in accordance with Regulation 13(5), the site shall be treated as added to the list as from the date of that agreement or decision, and the Minister shall, having compiled the information required pursuant to Regulation 11, initiate the designation process pursuant to Regulation 12.

(2) Where a decision is made by the Council that a site should be included in the list pursuant to Article 5(3) of the Habitats Directive, the Minister shall immediately designate the site, and notify those bodies and persons referred to in Regulations 14(2) and 14(3) of said decision, and inform them that there is no right of appeal or to request a review in such circumstances.

Notifications from the European Commission of non-adoption of candidate sites of Community importance

20. (1) After the Minister has received notification from the European Commission that a site is not being adopted as a European Site, he or she shall give public notice that the site has not been adopted and the aforesaid notice shall be published in at least one newspaper with circulation covering the area in which the land referred to in the notice is located, and may be—

(a) broadcast on a radio channel generally available in the area in which the land referred to in the notice is located, or

(b) published on the internet.

(2) Where the Minister has received notification under paragraph (1), he or she shall, in addition to the public notice issued under paragraph (1), notify every person required to be notified under Regulation 12 in respect of the relevant site and the site shall no longer constitute a European Site.

Submissions by the public in relation to the selection, designation, classification, de-designation and protection of European Sites

21. (1)(a) Any person with a sufficient interest may make submissions to the Minister in respect of the selection, designation, classification or de-designation of European Sites or the protection of habitats or species under the Habitats Directive and the Birds Directive and the Minister shall have regard to such submissions insofar as they relate to his or her obligations pursuant to the Habitats Directive and the Birds Directive.

(b) The Minister may, where he considers it appropriate, invite opinions from the public by giving public notice and shall specify a date by which such opinions must be submitted to him or her.

(2) "Sufficient interest" has the meaning applied to it for the purposes of the Planning and Development Acts 2000 to 2011.

Multiple status

22. For the avoidance of doubt, land within a candidate site of Community importance or a site of Community importance or a special area of conservation may at the same time be within a candidate special protection area or a special protection area and vice versa, and land within any such site may at the same time be in another site of the same kind.

Erection of notices

23. (1) The Minister may cause to be erected and maintained at suitable places within, or on the boundary of, or near any European Site or other specified land referred to in Regulation 28(1) or 29(1) or any other suitable place as he or she deems appropriate for the purposes of the Habitats Directive, the Birds Directive or these Regulations, a notice giving information and guidance on any or all of the following—

(a) the status of the site as a European Site or other specified land referred to in Regulation 28(1) or 29(1),

(b) the boundaries of the site,

(c) habitats and species found on the site,

(d) any one or more of the activities requiring consent pursuant to Regulation 28,

(e) any one or more specified activities prohibited, restricted or regulated pursuant to Regulation 29 and

(f) such other matters as he or she deems appropriate,

and for that purpose an authorised officer, or any other person duly authorised by the Minister in that behalf, may enter on land within the site and on any other land.

(2) Where appropriate, such notices may be in the format of Community notices pursuant to Article 17(3) of the Habitats Directive.

(3) Any person who without lawful authority removes, damages, destroys, alters, defaces, disfigures, marks or otherwise interferes with any notice referred to in paragraph (1), Regulation 12(4)(b), 14(5)(c), 15(7)(b), 16(9)(b), 18(8)(c) or 28(6)(b) shall be guilty of an offence.

(4) Without prejudice to the generality of paragraph (3)—

(a) an authorised officer acting in the performance of his or her duties and functions, and

(b) any person who has been authorised by the Minister to move, remove or alter a notice,

shall be deemed to have lawful authority for the purposes of this Regulation.

Management plans and agreements

24. (1) The Minister shall establish the necessary conservation measures involving, if need be, appropriate management plans specifically designed for the European Sites or integrated into other development plans and appropriate statutory, administrative, or contractual measures which correspond with the ecological requirements of those species and habitats in respect of which the site is included as a European Site or that are subject to the conservation objectives of the site.

(2) Without prejudice to the generality of paragraph (1), conservation measures referred to in that paragraph may, as appropriate, include threat response plans under Regulation 39, administrative agreements under Regulation 40, and management agreements under this Regulation.

(3) The Minister may enter into a management agreement with any owner, lessee or occupier of—

(a) land forming part of a European Site,

(b) land adjacent to or functionally connected with a European Site, or

(c) land having features of the landscape which are of major importance for wild flora and fauna including birds, which include those features which by virtue of—

(i) their linear and continuous structure, such as rivers or canals with their banks or the traditional systems of marking field boundaries, or

(ii) their function as stepping stones, such as ponds or small woods,

are essential for the migration, dispersal and genetic exchange of wild species, for the purposes of the Habitats Directive or the Birds Directive, or with any public authority that manages or controls such land or that exercises functions in relation to such land, or that manages, controls or exercises functions in relation to habitats and species, for the management, conservation, restoration or protection of that land or of any part of it or of the habitats or species therein, for the purposes of the Habitats Directive or the Birds Directive or these Regulations.

(4) The Minister may enter into a management agreement or administrative agreement with any owner, lessee or occupier of land or with any public authority that manages or controls such land or that exercises functions in relation to such land, or jointly with any such person or persons or any public authority or authorities—

(a) to establish a system of strict protection for animal species listed in Annex IV(a) to the Habitats Directive in their natural range pursuant to Article 12 of the Habitats Directive,

(b) to establish a system of strict protection for plant species listed in Annex IV(b) to the Habitats Directive pursuant to Article 13 of the Habitats Directive,

(c) to ensure that the taking in the wild of specimens of wild fauna and flora listed in Annex V to the Habitats Directive as well as their exploitation is compatible with their being maintained at a favourable conservation status pursuant to Article 14 of the Habitats Directive,

(d) to prevent the dispersal, establishment or spread of an animal or plant to which Regulation 49 or 50 applies, and

(e) to provide for the conservation of the bird species or their habitats referred to in Article 1 of the Birds Directive.

(5) Any management agreement previously entered into in relation to land, which land conforms with paragraph (1) on or after the coming into force of these Regulations, shall have effect as if entered into under this Regulation.

(6) Any management agreement previously entered into for the purposes set forth in paragraph (4) shall have effect as if entered into under this Regulation.

(7) Public authorities that manage or control land or that exercise functions in relation to land shall, in relation to such land, at the Minister's request—

(a) engage in consultations regarding the development and implementation of a management agreement in relation to such land,

(b) provide such information as is relevant to the development and implementation of a management agreement,

(c) exercise their functions relating to the development and implementation of the management agreement, and

(d) co-ordinate their functions referred to in subparagraph (c) with other public authorities.

(8) In this Regulation, "land functionally connected with a European Site" means land connected with that site by air, soil, hydrology, geology, ecology or water, including surface water, groundwater and marine water, such that the manner in which such land is managed may have a significant effect on a European Site.

(9) For the avoidance of doubt—

(a) A management agreement within the meaning of this Regulation is not limited to being a bilateral agreement.

(b) A management agreement within the meaning of this Regulation may, where necessary, be amended or terminated, on provision of reasonable notice, in the light of the status and conservation objectives of the site.

(c) A farm plan may constitute or form part of a management agreement for the purposes of these Regulations.

Change of owner or occupier

25. (1) Where the owner or occupier of a European Site, or any part thereof, disposes of any interest, including turbary, fishing, sporting or any other rights, in any land comprising the site, or any part thereof to any person, he or she shall notify in writing such person on or prior to disposal

that the site is a European Site and of any activities requiring consent or other restrictions applying to the site.

(2) Where the owner or occupier of lands within a European Site, or any part thereof, becomes aware that such lands, or any part thereof, in which he or she has an interest, are occupied by an additional or different occupier, he or she shall notify forthwith in writing such occupier that those lands are within a European Site and of any related restrictions applying to the site.

(3) For the purposes of paragraph (1), an owner disposes of an interest in land if he or she disposes of it by way of sale, exchange or lease or by way of the creation of any easement, right or privilege, or in any other way except by way of mortgage.

PART 4

ACTIVITIES, PLANS OR PROJECTS AFFECTING EUROPEAN SITES

Conservation objectives and measures to be undertaken by the Minister

26. (1) The Minister shall exercise his or her functions relating to nature conservation so as to secure compliance with the requirements of the Habitats Directive and the Birds Directive.

(2) The Minister shall establish such particular conservation objectives as he or she, from time to time, considers necessary to achieve the maintenance of the habitat types or species in respect of which a site has been identified as a European Site at favourable conservation status or their restoration to such favourable status.

(3) The Minister may, where he or she considers it would contribute to the achievement of the objective of Article 3(1) of the Habitats Directive, namely to enable the natural habitat types listed in Annex I to that Directive and the habitats of the species listed in Annex II to that Directive to be maintained at or, where appropriate, restored to a favourable conservation status in their natural range, establish the conservation or restoration of such a habitat type or the habitat of such a species as a conservation objective of a site.

(4) The Minister shall, having established conservation objectives under paragraph (2) or (3) or identified under subparagraph (7)(b) one or more additional bird species for inclusion in the conservation objectives of the site, notify the bodies and persons referred to in Regulations 16(6) and 16(7) providing those bodies and persons, within a reasonable period, with a statement of the updated conservation objectives of the site concerned, and shall publish them on the Department's website.

(5) The Minister shall establish the conservation measures which he or she considers necessary, in respect of special areas of conservation designated under Regulation 14 including, if need be, management plans either specifically designed for the sites or integrated into appropriate plans.

(6) The Minister shall establish the administrative or contractual measures which correspond to the ecological requirements of the natural habitat types in Annex I to the Habitats Directive and the species in Annex II to that Directive present on the sites including, but not limited to, management agreements under Regulation 24, threat response plans under Regulation 39 and administrative agreements under Regulation 40.

(7) The Minister may, for the purposes of the Birds Directive—

(a) establish conservation measures which he or she from time to time considers necessary, in respect of special protection areas designated under Regulation 18 including, if need be, management plans either specifically designed for the sites or integrated into appropriate plans,

(b) identify additional species referred to in Article 4(1) and 4(2) of the Birds Directive for inclusion in the conservation objectives of the site, and

(c) establish in relation to special protection areas the administrative or contractual measures which he or she considers correspond to the ecological requirements of the species in Annex I to the Birds Directive and of the regularly occurring migratory species not in Annex I to the Birds Directive present on the sites.

(8) In relation to the exercise of his or her functions under this Regulation, the Minister may consult with such persons as he or she considers appropriate.

Duties of public authorities relating to nature conservation

27. (1) Without prejudice to the Minister's responsibilities under the Birds Directive, the Habitats Directive and these Regulations for the effective implementation of those Directives, or to the application of Regulation 42 to the plans and projects of public authorities where, by enactment, such responsibilities have been assigned to another Minister of Government or to another public authority, or where such responsibilities arise in the exercise of any of their statutory powers and functions, those responsibilities shall, to the extent that they have been so assigned or so arise, be carried out by the Minister of Government or other public authority concerned, and the Minister shall not undertake such responsibilities.

(2) Any public authority having or exercising functions, including consent functions, which may have implications for or effects on nature conservation shall exercise those functions in compliance with and, as appropriate, so as to secure compliance with, the requirements of the Habitats Directive and the Birds Directive and these Regulations.

(3) Public authorities, in the exercise of their functions, including consent functions, insofar as the requirements of the Habitats Directive are relevant to those functions, shall take the appropriate steps to avoid, in European Sites, the deterioration of natural habitats and the habitats of species as

well as disturbance of the species for which the areas have been designated in so far as such disturbance could be significant in relation to the objectives of the Habitats Directive.

(4) Public authorities, in the exercise of their functions, insofar as the requirements of the Birds Directive and the Habitats Directive are relevant to those functions, shall—

(a) take the appropriate steps to avoid, in candidate special protection areas, pollution and deterioration of habitats and any disturbances affecting the birds insofar as these would be significant in relation to the objectives of Article 4 of the Birds Directive,

(b) outside those areas, strive to avoid pollution or deterioration of habitats, and

(c) take appropriate enforcement action.

(5) Without prejudice to paragraphs (2), (3) and (4), every public authority in the exercise of any of its functions or responsibilities, shall—

(a) comply with the requirements of the Habitats Directive, the Birds Directive and these Regulations insofar as they may arise for consideration in the exercise of those functions,

(b) take the appropriate steps to avoid damage to European Sites through activities that may cause deterioration of natural habitats or to the conservation status of the species for which the sites have been designated, including such activities that take place outside the boundaries of the sites,

(c) take the appropriate steps to avoid disturbance of the species for which European Sites have been established, in so far as such disturbance could be significant in relation to the objectives of the Birds Directive or the Habitats Directive,

(d) outside special protection areas, strive to avoid pollution or deterioration of habitats within the meaning of the second sentence of Article 4(4) of the Birds Directive, and

(e) take account of all relevant—

(i) management agreements under Regulation 24,

(ii) threat response plans under Regulation 39,

(iii) administrative agreements under Regulation 40,

(iv) Ministerial advice and specific guidance under Regulation 48,

(v) guidelines or codes of practice issued by the Minister under Regulation 71,

(vi) requests made by the Minister under paragraph (9), and

(vii) activities requiring consent.

(6) Without prejudice to paragraphs (2), (3), (4) and (5), every public authority shall, as required, exercise its functions and take appropriate action, including enforcement action, within the remit of its statutory powers and responsibilities as well as in its activities, plans and projects, to secure the objectives of Article 6(2) of the Habitats Directive.

(7) Without prejudice to the generality of paragraphs (2), (3), (4), (5) and (6), primary responsibility for all of the species of finfish listed in Annexes II and V of the Habitats Directive and listed in the Fourth Schedule to these Regulations, and for their conservation, shall be exercised, as appropriate to the habitat, marine or freshwater, being occupied by individuals or populations of such species, by the Minister or Ministers of Government to whom, for the time being, responsibility for marine fisheries and freshwater fisheries are assigned, and those Ministers, or, where appropriate, public authorities under their aegis, shall exercise their powers and functions so as to comply with and meet the requirements of the Directives and of these Regulations.

(8) In relation to responsibilities under the Birds Directive, the Habitats Directive or these Regulations that are assigned by enactment to another Minister of Government or public authority, authorised officers may consult with, co-operate with, advise, assist and seek the assistance of persons authorised by such other Minister or such public authority to carry out responsibilities referred to in paragraph (1) assigned to that Minister or public authority or arising in the exercise of any of their statutory powers and functions, and the Minister may enter into administrative agreements under Regulation 40 to facilitate such collaboration.

(9) The Minister may—

(a) request a public authority to provide him or her with information regarding its compliance with this Regulation, either generally or in relation to any specific case, and the public authority shall provide the Minister with that information,

(b) request a public authority to take such steps as the Minister considers are necessary to ensure compliance with or enforcement of the Birds and Habitats Directives and these Regulations, and

(c) consult with such other Minister or Ministers of Government or public authorities referred to in paragraph (1) regarding the responsibilities referred to in that paragraph, and those Ministers or public authorities shall provide the Minister with such assistance and information, including information as referred to in subparagraph (a), as he or she requires to meet his or her obligations under the Birds and Habitats Directives and under these Regulations.

Ministerial Directions in respect of activities requiring consent

28. (1) Where the Minister has reason to believe that any activity, either individually or in combination with other activities, plans or projects, is of a type that may—

(a) have a significant effect on a European Site,

(b) have an adverse effect on the integrity of a European Site, or

(c) cause the deterioration of natural habitats or the habitats of species or the disturbance of the species for which the European Site may be or has been designated pursuant to the Habitats Directive or has been classified pursuant to the Birds Directive, in so far as such disturbance could be significant in relation to the objectives of the Habitats Directive,

the Minister shall, where he or she considers appropriate, direct that, subject to paragraph (2), the activity shall not be carried out, caused or permitted to be carried out or continued to be carried out by any person in the European Site or part thereof or at any other specified land except with, and in accordance with, consent given by the Minister under Regulation 30.

(2) A Direction under paragraph (1) shall not apply—

(a) where the proposed activity in relation to which the Direction applies is one that requires consent or consents under one or more of the enactments set out in the Second Schedule of these Regulations or under the Planning and Development Acts 2000 to 2011 and the activity is carried out with and in compliance with such consent or consents,

(b) where the proposed activity is part of a project that has received consent under one or more of the enactments set out in the Second Schedule of these Regulations or under the Planning and Development Acts 2000 to 2011 and the project or activity is carried out with and in compliance with a consent or consents given under the applicable statutes, or

(c) where the proposed activity is part of a project that has received consent under one or more Regulations made under the Act of 1972 or under one or more Regulations made under any of the enactments set out in the Second Schedule of these Regulations and the project or activity is carried out with and in compliance with such consent.

(3) The Minister shall cause a copy of any Direction given pursuant to paragraph (1) to be sent to—

~~(a) the Minister for the Environment, Community and Local Government,~~

~~(b) the Minister for Agriculture, Fisheries and Food,~~

~~(c) the Minister for Communications, Energy and Natural Resources,~~

~~(d) the Minister for Transport, Tourism and Sport,~~

Commented [N64]: Deleted by Section 14(1)(f)(i) of the Planning and Development, Heritage and Broadcasting (Amendment) Act 2021

Commented [N65]: Deleted by Section 14(1)(f)(i) of the Planning and Development, Heritage and Broadcasting (Amendment) Act 2021

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Commented [N67]: Deleted by Section 14(1)(f)(i) of the Planning and Development, Heritage and Broadcasting (Amendment) Act 2021

(e) ~~such other Minister or Ministers of Government as he or she considers appropriate~~, such other Minister or Ministers of the Government as he or she considers should be sent a copy of the Direction,

Commented [N68]: Substituted by Section 14(1)(f)(ii) of the Planning and Development, Heritage and Broadcasting (Amendment) Act 2021

(f) the Commissioners of Public Works in Ireland,

(g) Environmental Protection Agency,

(h) An Bord Pleanála,

(i) National Roads Authority,

(j) Inland Fisheries Ireland, and

(k) every planning authority within whose functional area the site or any part of the site is situated or which adjoins the site,

and the Minister may, where appropriate, consult with all or any of them.

(4) The Minister shall notify every owner and occupier of any land within the site or any specified land, being land which is the subject of the Direction pursuant to paragraph (1) of such Direction and the said notification issued by the Minister under this paragraph shall, in respect of each Direction, indicate the procedures by which a person may object.

(5) The Minister shall give public notice—

(a) that a Direction, or Directions, have been made, and

(b) that any person whose interest in or over any land, including any holder of a valid prospecting licence or exploration licence duly issued under any enactment, or any turbary, fishing, sporting or other rights which relates to such land the subject of the Direction pursuant to paragraph (1) which may potentially be affected may contact the Department to request further information in respect of the relevant Direction,

and the aforesaid notice shall be—

(i) published in at least one newspaper with circulation covering the area in which the land referred to in the notice is located,

(ii) broadcast on a radio channel generally available in the area in which the land referred to in the notice is located, and

(iii) published on the internet.

(6) The Minister may in addition at his or her discretion—

(a) display the relevant notice with maps showing the site concerned—

(i) in one or more Garda Síochána stations, local authority offices, public libraries, local offices of the Department of Social Protection, local offices of the Department of Agriculture, Fisheries and Food and offices of Teagasc or other suitable places which are located within or contiguous to the site concerned, or

(ii) where in any case there is no such station or office or other suitable place so located, in one or more of each such station or office or other suitable place within the vicinity or closest to such site,

(b) erect the relevant notice at or near the location of the land referred to in the notice,

(c) publish the relevant notice in one or more other national, regional or local newspapers, or

(d) publicise the relevant notice in such other manner as the Minister may decide.

(7) The Minister shall provide any person who—

(a) requests further information in respect of the relevant notice under paragraph (5), and

(b) claims an interest in or over any land which may potentially be affected by the relevant Direction given under paragraph (1),

with a copy of the notification referred to in paragraph (4) and the said notification issued by the Minister under this paragraph shall, in respect of each Direction, indicate the procedures by which a person may object.

(8) The Minister may modify or revoke a Direction given pursuant to paragraph (1) by giving a further Direction pursuant to paragraph (1).

(9) A person who contravenes a Direction given pursuant to paragraph (1) shall be guilty of an offence.

(10) Subject to paragraph (~~12~~) (11), it shall be a defence to a charge of committing an offence under paragraph (9) to prove that the accused took all reasonable steps and exercised all due diligence to avoid committing the offence.

Commented [N69]: Substituted by Regulation 8 of the European Communities (Birds and Natural Habitats) (Amendment) Regulations 2015 (S.I. 355/2015).

(11) Where the defence provided by paragraph (10) 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.

(12) Where a person fails or refuses to comply with a Direction given pursuant to paragraph (1), the Minister may apply to a court of competent jurisdiction for an order requiring the person to comply with the Direction.

(13) For the purposes of paragraph (12) "a court of competent jurisdiction" means either the Circuit Court for the circuit in which the relevant lands or part of the relevant lands concerned are situated or the High Court.

(14) An application to the Circuit Court or the High Court for an order under paragraph (12) shall be by motion and the court when considering the matter may make such interim or interlocutory order as it considers appropriate having regard to the requirements of the Habitats Directive and the Birds Directive including the overall requirement of safeguarding the integrity of sites and ensuring that the overall coherence of Natura 2000 is protected.

(15) These Regulations shall not affect the validity of a notice issued prior to the commencement of these Regulations under Regulation 4(2) of the European Communities (Natural Habitats) Regulations 1997.

(16) These Regulations shall apply to an activity restricted by Regulation 14 of the European Communities (Natural Habitats) Regulations 1997 as if the activity was restricted under paragraph (1).

(17) For the avoidance of doubt, activities carried out as part of or in connection with a plan or project that is an exempted development under the Planning and Development Acts 2000 to 2011 shall be subject to this Regulation.

Ministerial Directions to control specified activities in specified places

29. (1) Where the Minister has reason to believe that any activity, either individually or in combination with other activities, plans or projects, is of a type that may—

(a) have a significant effect on a European Site,

(b) have an adverse effect on the integrity of a European Site,

(c) cause the deterioration of natural habitats or the habitats of species or the disturbance of the species for which the European Site may be or has been designated pursuant to the Habitats Directive or has been classified pursuant to the Birds Directive, insofar as such disturbance could be significant in relation to the objectives of the Habitats Directive,

(d) cause pollution or deterioration of habitats within the meaning of the second sentence of Article 4(4) of the Birds Directive, or

(e) have an adverse effect on the conservation status of—

(i) animal species listed in Annex IV(a) to the Habitats Directive in their natural range pursuant to Article 12 of the Habitats Directive,

(ii) plant species listed in Annex IV(b) to the Habitats Directive pursuant to Article 13 of the Habitats Directive,

(iii) species of wild fauna and flora listed in Annex V to the Habitats Directive pursuant to Article 14 of the Habitats Directive,

(iv) naturally occurring birds in the wild state,

the Minister shall, by notice, subject to paragraph (2), where he or she considers appropriate, direct that the activity shall not be carried out, caused or permitted to be carried out or continue to be carried out by any person in the European Site or part thereof or at any other specified land or may restrict or regulate the activity in the European Site or part thereof or at any other specified land, and each such notice shall be accompanied by a statement of the Minister's reasons for making the decision.

(2) For the avoidance of doubt, the activities to which Directions apply may include the operation or use of any off-road or other vehicle or recreational watercraft, or the carrying out of any other activity, including activities involving trampling or walking or riding animals on damaged, sensitive or rehabilitating habitats but without prejudice to Regulation 28, shall not, unless expressly provided in the Direction, apply to the lawful use of any vehicle or machinery or watercraft in the course of agriculture or any other lawful occupational land use activity by the owner or occupier of the land or his or her servants or agents or co-workers, or by an authorised officer in the performance of his or her functions, lawful use of a state owned or operated vehicle by An Garda Síochána, the Emergency Services or the Defence Forces, or the lawful use of a vehicle for the purposes of maintaining electricity, gas, water or telecommunications utility services.

(3) A person who contravenes a Direction given pursuant to paragraph (1) shall be guilty of an offence.

(4) Notwithstanding a Direction given under paragraph (1), the carrying out of an activity pursuant to and in accordance with a consent given under Regulation 30 shall not be a contravention of the Direction.

(5) Subject to paragraph (6), it shall be a defence to a charge of committing an offence under paragraph (3) to prove that the accused took all reasonable steps and exercised all due diligence to avoid committing the offence.

(6) Where the defence provided by paragraph (5) 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.

(7) Where a person fails or refuses to comply with a Direction given pursuant to paragraph (1), the Minister may apply to a court of competent jurisdiction for an order requiring the person to comply with the Direction.

(8) For the purposes of paragraph (7) "a court of competent jurisdiction" means either the Circuit Court for the circuit in which the relevant lands or part of the relevant lands concerned are situated or the High Court.

(9) An application to the Circuit Court or the High Court for an order under paragraph (7) shall be by motion and the court when considering the matter may make such interim or interlocutory order as it considers appropriate having regard to the requirements of the Habitats Directive and the Birds Directive including the overall requirement of safeguarding the integrity of sites and ensuring that the overall coherence of Natura 2000 is protected.

(10) These Regulations shall not affect the validity of a notice issued prior to the commencement of these Regulations under Regulation 4(2) of the European Communities (Natural Habitats) Regulations 1997 or under the European Communities (Birds and Natural Habitats Regulations) (Control of Recreational Activities) Regulations 2010.

(11) The Minister may provide notification of the making by him or her of a Direction under this Regulation to such persons or organisations and in such manner as he or she considers appropriate for the purposes of the Direction.

Derogation consents in relation to activities, plans or projects referred to in Regulations 28 and 29

30. (1) Subject to Regulation 29, the owner, occupier, or user of land to which a Direction under Regulation 28(1) applies or to which Regulations establishing the site on a statutory basis under the Act of 1972 as a special protection area or a special area of conservation apply, may, by application in writing to the Minister, seek the Ministers consent to carry out an activity to which the Direction or the Regulations applies, specifying its nature and the land on which it is proposed to carry it out.

(2) On receiving such an application, the Minister may request such additional information, if any, from the applicant as the Minister considers necessary to make a scientifically–based assessment of

the impact of the activity as proposed, which may, if the Minister so determines, include a Natura Impact Statement.

(3) Subject to paragraph (5), having determined that Regulation 31(1) or 32(1) does not apply, and having considered the information submitted with the application, any additional information provided in response to a request under paragraph (2) and any other information that he or she considers relevant to his or her consideration, and having caused a screening for Appropriate Assessment to be carried out, of which a record shall be kept, and, if necessary, an Appropriate Assessment pursuant to Regulation 42, and determined whether he or she is satisfied that the carrying out of the activity as proposed by the applicant will not, either individually or in combination with other activities, plans and projects, have a significant effect on, or adversely affect the integrity of, a European Site or cause any of the other effects referred to in Regulation 28(1) or 29(1), he or she may, if so satisfied, give consent in writing to the carrying out of the proposed activity, or, if not so satisfied, in writing refuse such consent, but without prejudice, if applicable, to his or her power to give consent under Regulation 43.

(4) Before giving consent under paragraph (3), the Minister may, if appropriate, invite opinions of the public under Regulation 21.

(5) Where it appears to the Minister that an application for consent under paragraph (1) relates to an activity, plan or project for which a licence is required under Regulation 51, 52 or 53, then the Minister shall so inform the applicant in writing and such a licence shall be obtained by the applicant before an application under paragraph (1) shall be considered by the Minister.

(6) In giving consent under paragraph (3) the Minister may impose such conditions, limitations and restrictions as he or she considers necessary to ensure that the activity, individually or in combination with other activities, plans and projects shall not cause any of the effects referred to in Regulation 28(1) or 29(1).

(7) The Minister may vary any conditions, limitations and restrictions imposed under paragraph (6), or revoke any consent given under paragraph (3) if in his or her opinion, the conditions attached to such consent have been breached, or the continuation of such consent would be liable to destroy, or significantly alter, damage or interfere with the species and habitats for which the site may be or has been designated and the Minster shall communicate in writing his or her decision to the person concerned being the owner, occupier or user of the land concerned.

(8) The Minister shall give reason for—

(a) a decision to give consent under paragraph (3),

(b) a decision to refuse to give consent under paragraph (3), and

(c) a decision to attach conditions, vary conditions or revoke consent under paragraph (6) or (7).

(9) A person who fails to comply with a condition referred to in paragraph (6) shall be guilty of an offence.

Activities, proposed by Minister, to which Regulation 30(1) applies

Commented [N70]: Inserted by Regulation 4 of S.I. No. 293/2021 - European Union (Birds and Natural Habitats) (Amendment) Regulations 2021

30A. (1) Where the Minister is proposing an activity to which Regulation 30(1) applies, the Minister may by application in writing to the Ecological Assessment Unit, request its opinion on the carrying out of the activity, specifying its nature and the land on which it is proposed to carry it out.

(2) On receiving an application under paragraph (1), the Ecological Assessment Unit may request such additional information, if any, from the Minister that the unit considers necessary to make an assessment of the impact of the activity as proposed, which may, if that unit so determines, include a Natura Impact Statement.

(3) Subject to paragraph (6), the Ecological Assessment Unit shall –

(a) having formed the opinion that Regulation 31(1) or 32(1) does not apply to the activity concerned,

(b) having considered the information submitted with the application under paragraph (1), and any additional information provided in response to a request under paragraph (2) and any other information that the Ecological Assessment Unit considers relevant to its consideration,

(c) having caused a screening for Appropriate Assessment to be carried out, of which a record shall be kept, and, if necessary, an Appropriate Assessment pursuant to Regulation 42A, and

(d) formed the opinion as to whether the carrying out of the activity as proposed by the Minister will not, either individually or in combination with other activities, plans and projects, have a significant effect on, or adversely affect the integrity of a European site or cause any of the other effects referred to in Regulation 28(1) or 29(1),

provide an opinion in writing to the Minister that the carrying out of the proposed activity may proceed, or, advise the Minister that the carrying out of the activity should not proceed, but without prejudice, if applicable, to the Minister's power to give consent under Regulation 43A.

(4) The Minister shall have regard to the opinion of the Ecological Assessment Unit when making a decision on whether to proceed with the proposed activity.

(5) Before giving an opinion under paragraph (3), the Ecological Assessment Unit may, if appropriate, invite opinions of the public under Regulation 21.

(6) Where it appears to the Ecological Assessment Unit that an application for an opinion under paragraph (1) relates to an activity, plan or project for which a licence is required under Regulation 51, 52 or 53, the Ecological Assessment Unit shall so inform the Minister in writing and such a licence shall be obtained by the Minister before an application under paragraph (1) shall be considered by the Ecological Assessment Unit.

(7) In providing its opinion under paragraph (3) the Ecological Assessment Unit may recommend such conditions, limitations and restrictions as it considers necessary to ensure that the activity, individually or in combination with other activities, plans and projects shall not cause any of the effects referred to in Regulation 28(1) or 29(1).

(8) The Ecological Assessment Unit may vary any conditions, limitations and restrictions recommended under paragraph (7), or withdraw any opinion given under paragraph (3), if in its opinion, the conditions attached to such opinion have been breached, or the continuation of the activity would be liable to destroy, or significantly alter, damage or interfere with the species and habitats for which the site may be or has been designated and the Ecological Assessment Unit shall communicate in writing its decision to the Minister.

(9) The Ecological Assessment Unit shall give reasons for—

(a) its opinion, under paragraph (3), that the proposed activity may proceed,

(b) its opinion, under paragraph (3), that the proposed activity should not proceed, and

(c) its decision to -

(i) recommend conditions, limitations and restrictions,

(ii) vary conditions, limitations and restrictions, or

(iii) withdraw an opinion,

under paragraph (7) or (8), as the case may be.

(10) 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 under this Regulation.

(11) A person who fails to comply with a condition, limitation or restriction imposed following a recommendation under paragraph (7) shall be guilty of an offence.

Commented [N71]: Inserted by Regulation 4 of S.I. No. 293/2021 - European Union (Birds and Natural Habitats) (Amendment) Regulations 2021

Ministerial consents and referrals to An Bord Pleanála

31. (1) Where the Minister is considering an application for consent under these Regulations and he or she forms the opinion that the application relates to a development within the meaning of the Planning and Development Acts 2000 to 2011, and that the development may not be an exempted development because—

(a) it would require an Appropriate Assessment under the Habitats Directive,

(b) it would require environmental impact assessment under the EIA Directive by reason of its likely effect on a European Site or on a Natural Heritage Area,

(c) it would be likely, individually or in combination with other plans or projects, to have a significant effect on a European Site or on a Natural Heritage Area, or

(d) of any other relevant provision in the Planning and Development Acts 2000 to 2011 in relation to exempted development,

he or she shall, if the applicant wishes to pursue the application, refer the matter to the Board under Section 5(8) of the Planning and Development Act 2000 for a determination as to whether the application relates to development which is not exempted development.

(2) In seeking a determination from the Board under paragraph (1), the Minister shall include a copy of the application for consent and any other relevant information submitted with the application and shall inform the Board of the reasons why he or she considers that the development may not be exempted development.

(3) Where the Minister has sought a determination from the Board under paragraph (1), he or she shall, as soon as may be, inform the applicant of that fact and shall give the applicant a copy of the request to the Board.

(4) The Board may seek additional information from the applicant and if this is not provided within the period specified by the Board, or any further period that may be agreed by the Board, the Board shall not make a determination in relation to the referral and both the request for a determination and the application for consent will be deemed to be withdrawn.

(5) Where the Minister is informed by the Board that the applicant has not provided the further information requested within the time period specified and that the referral by the Minister is deemed withdrawn, the Minister shall inform the applicant of this and that the application for consent is also therefore deemed withdrawn.

(6) The Board shall make a decision as soon as possible on a request by the Minister under paragraph (1) and shall inform the Minister of its decision and the reasons for the decision.

(7) Where the Minister is informed by the Board that it has determined that the application for consent does not relate to development or, if it does relate to development that such development is exempted development, the Minister shall inform the applicant of that determination, and shall make a decision on the application for consent as soon as possible and shall inform the applicant of that decision and of his or her reasons for that decision.

(8) Where the Minister is informed by the Board that it has determined that the application for consent relates to development which is not exempted development, the Minister shall not make a decision on the application for consent and shall inform the applicant of the determination of the Board and that it would not be lawful to proceed with the development in question without planning permission.

(9) A person proposing to carry out a development to which paragraph (1) applies shall not carry out any works on the development unless the Minister has informed the applicant of his decision to grant consent under paragraph (7) or, where appropriate, the planning permission has been obtained.

(10) A person who contravenes paragraph (9) shall be guilty of an offence.

Ministerial consents and referrals to the Minister for Agriculture, Fisheries and Food

32. (1) Where the Minister is considering an application for consent under these Regulations and he or she forms the opinion that it relates to an activity that may require the consent of the Minister for Agriculture, Fisheries and Food under the European Communities (Environmental Impact Assessment) (~~Amendment~~) (Agriculture) Regulations 2011 because—

Commented [N72]: Substituted by Regulation 9 of the European Communities (Birds and Natural Habitats) (Amendment) Regulations 2015 (S.I. 355/2015).

(a) it would be likely, individually or in combination with other plans or projects, to have a significant effect on a European Site or on a Natural Heritage Area,

(b) it would be likely to have a significant effect on the environment, or

(c) it would be likely to have a significant effect on a nature area as defined in those Regulations,

he or she shall, if the applicant wishes to pursue the application, refer the matter for determination by the Minister for Agriculture, Fisheries and Food.

(2) The Minister shall notify the applicant of the referral to the Minister for Agriculture, Fisheries and Food.

(3)(a) The Minister shall notify the applicant that the Minister for Agriculture, Fisheries and Food may require further information.

(b) Where such information is not provided within a time period to be specified by the Minister for Agriculture, Fisheries and Food the referral by the Minister and the application for consent will be deemed to be withdrawn.

(4) If the Minister is informed by the Minister for Agriculture, Fisheries and Food that the applicant has not provided the further information requested within the time period specified and that the referral by the Minister is deemed withdrawn, the Minister shall inform the applicant of this and that the application for consent is also therefore deemed withdrawn.

(5) If the Minister is informed by the Minister for Agriculture, Fisheries and Food of his or her determination that the application for consent does not relate to an activity that requires his or her consent—

(a) the Minister shall inform the applicant of the determination of the Minister for Agriculture, Fisheries and Food, and

(b) the Minister shall make a decision on the application for consent and inform the applicant of that decision.

(6) If the Minister is informed by the Minister for Agriculture, Fisheries and Food of his or her determination that the application for consent does relate to an activity that requires his or her consent, the Minister shall not make a decision on the application for consent but shall inform the applicant of the determination of the Minister for Agriculture, Fisheries and Food and that it would not be lawful to proceed without such consent.

(7) A person proposing to undertake an activity to which paragraph (1) applies shall not carry out such an activity unless the Minister has informed the applicant of his or her decision to grant consent under paragraph (5) or, where appropriate, the Minister for Agriculture, Fisheries and Food has given his or her consent to the activity.

(8) A person who contravenes paragraph (7) shall be guilty of an offence.

Objections relating to Ministerial Directions

33. (1) Any person having or being entitled to an interest in or over the land comprising the site or specified land, or part thereof, or any other person having or being entitled to an interest in or over land outside the site or outside specified land whose interest may be affected by the Direction given pursuant to Regulation 28(1) or 29(1) may within a period of three months from the date the notice was served on him or her or given to him or her or published, whichever is the earlier, object, in the manner specified in the notice, to such a Direction.

(2) An objection within the meaning of paragraph (1) shall be accompanied by a declaration made by the person objecting which shall state that the person—

(a) has or is entitled to an interest in or over the land comprising the site or specified land, or part thereof, or

(b) has or is entitled to an interest in or over land outside the site or specified land whose interest may potentially be affected by the Direction given pursuant to Regulation 28(1) or 29(1),

or both, and which shall state the nature of the interest.

(3) A public authority may, not later than three months from the date of the notice, request a review or modification of the Direction given pursuant to Regulation 28(1) or 29(1).

(4) Where an objection pursuant to paragraph (1) or a request for a review or modification of a Direction under paragraph (3) has been received, the Minister shall—

(a) having consulted with such other persons, if any, as he or she considers ought to be consulted, and

(b) having considered any such objection received or any such requests for review or modification of the Direction,

decide to amend or not to amend the Direction, within a period of six months from the date on which the notice was issued under Regulation 28(1) or 29(1).

(5) Subject to Part 5, the Minister shall decide to amend the Direction given pursuant to Regulation 28(1) or 29(1) only if he or she is satisfied that such amendment, either individually or in combination with other activities, plans or projects, will not have a significant effect on, or adversely affect the integrity of a European Site or will not lead to the deterioration of natural habitats or the habitats of species for which the site is designated.

(6) The Minister shall notify in writing his or her decision under paragraph (5) to any person making an objection within the meaning of paragraph (1) in respect of the site or specified land concerned, or to any other person that the Minister considers may be affected by the decision, and shall give reason for the decision made pursuant to paragraph (5).

Review of Ministerial Directions

34. (1) Subject to paragraph (2), where a Direction pursuant to Regulation 28(1) or 29(1) has been served on a person by the Minister, the Minister shall review the appropriateness of the Direction if requested to do so by that person.

(2) The Minister shall be required to carry out a review pursuant to a request of the kind referred to in paragraph (1) only where, in the case of the first request to review it, that request is made no earlier than the first anniversary of the giving of the Direction and in relation to any subsequent request, the period of three years has elapsed since the completion of a previous review in respect of that Direction.

(3) Where, having carried out a review of a Direction pursuant to paragraph (1) above, the Minister is satisfied that the Direction is no longer appropriate, he or she shall modify or revoke it.

(4) The Minister shall give notice in writing to the applicant of any decision made under this Regulation, together with the reason for that decision.

General provisions for the prevention of damage to European Sites

35. (1) A person who, without lawful authority—

(a) carries out, on land within or outside a European Site, any plan or project or activity that may have a significant effect on, or adversely affect the integrity of, a European Site, or

(b) enters or occupies any European Site, or brings onto or places or uses or releases in any European Site any animal or object, including but not limited to—

(i) any off-road vehicle, recreational watercraft, plant and equipment, tractor or engine,

(ii) machinery for the extraction or mining of natural resources including, but not limited to trees, vegetation, minerals, rock, soil, gravel, sand, turf or peat,

where such action or the use or presence on the European Site of such an animal or object is likely to have a significant effect on, or adversely affect the integrity of, a European Site, shall be guilty of an offence.

(2)(a) Subject to subparagraph (b), it shall be a defence to a charge of committing an offence under this Regulation to prove that the accused took all reasonable steps and exercised all due diligence to avoid committing the offence.

(b) Where the defence provided by this paragraph involves an allegation that the commission of the offence was due to the act or default of another person, including the allegation that the other person committed an offence under Regulation 65, 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.

(3)(a) Where an authorised officer appointed under Regulation 4 or a member of An Garda Síochána finds on a European Site any animal or object referred to in paragraph (1)(b), or where a person has failed to comply with an instruction under paragraph (4)(a)(ii) or (iii) the authorised officer or member of An Garda Síochána may remove or cause to be removed, by whatever means he or she considers appropriate, from the land any such animal or object and bring or cause it to be brought to such place as he or she may determine for storage or impoundment as appropriate and, having done so, may, as he or she considers necessary or appropriate, transfer or cause it to be transferred from any place to any other place.

(b) An animal or object may be detained in accordance with paragraph (a) by the authorised officer or member of the Garda Síochána—

(i) for such period as he or she may consider necessary where he or she has reasonable cause to believe that the animal or object is likely to be used in committing an offence under these Regulations,

(ii) for the purposes of—

(I) further examination including forensic examination,

(II) for use as evidence in proceedings, or

(III) for establishing the ownership of the animal or object, or

(iii) for any combination of the reasons referred to in (i) and (ii) of this subparagraph.

(4)(a) Without prejudice to paragraph (3), where an authorised officer appointed under Regulation 4 or a member of An Garda Síochána has reason to believe that a person is committing or has committed an offence under paragraph (1), the member or authorised officer—

(i) may demand of the person his or her name and address,

(ii) may instruct the person to desist from carrying out any plan or project or activity on the land,

(iii) may instruct the person to remove from the land any object or animal that belongs to the person or that is under his or her control,

(iv) may, subject to subparagraph (b), instruct the person to leave the land concerned, and

(v) shall inform the person of the nature of the offence in respect of which it is suspected that person has been involved and the statutory consequences of failing to comply with a demand or instruction under this subparagraph.

(b) An instruction under subparagraph (a)(iv) shall not apply to a person who makes it known to the person giving the instruction that he or she is the lawful owner or occupier of the land concerned or a member of his or her immediate family and entitled to be present, or his or her servant, agent or co-worker.

(c) A person who falsely claims, for the purpose of subparagraph (b), to be the lawful owner or occupier of the land concerned or a member of his or her immediate family and entitled to be present, or his or her servant, agent or co-worker, shall be guilty of an offence.

(d) Where a person—

(i) refuses or fails to give his or her name and address to an authorised officer or a member of An Garda Síochána when demanded under subparagraph (a)(i), or gives to an authorised officer or a member of An Garda Síochána a name or address that is false or misleading,

(ii) refuses or fails to comply with an instruction given under subparagraph (a)(ii) or (a)(iii),

(iii) not being the legal owner or legal occupier of the land concerned or a member of his or her immediate family and entitled to be present, or his or her servant or agent or co-worker, refuses or fails to comply with an instruction under subparagraph (a)(iv),

he or she shall be guilty of an offence.

(5) A member of the Garda Síochána may arrest without a warrant a person—

(a) whom the member finds committing an offence under paragraph (1).

(b) who fails or refuses to give his or her name and address when demanded under subparagraph (4)(a)(i) or gives a name or address which the member has reasonable grounds for believing is false or misleading,

(c) who fails to comply with an instruction given under subparagraph (4)(a)(ii) or (4)(a)(iii),

(d) who, not being the legal owner or legal occupier of the land or a member of his or her immediate family and entitled to be present, or his or her servant or agent or co-worker, refuses or fails to comply with an instruction under subparagraph (4)(a)(iv), or

(e) who the member has reasonable grounds for believing has falsely claimed, pursuant to subparagraph (4)(b), to be the lawful owner or occupier of the land concerned or a member of his or her immediate family and entitled to be present, or his or her servant, agent or co-worker.

(6)(a) Where an object or animal has been removed under paragraph (3) of this Regulation, the Minister, the Garda Commissioner or delegate officer shall serve or cause to be served upon the owner or user of the animal or object or the person under whose control the animal or object was at the time of its removal, whose name and address can be ascertained by reasonable enquiry, a notice informing the person of how, pursuant to this paragraph, the owner or person otherwise entitled to its possession may apply to take possession of it and inviting such a person to make such application, in the case of an object, within one month of the date of service of the notice, and in the case of an animal, within ten days of the date of service of the notice, and informing him or her of the statutory consequences of his or her failure to do so.

(b) An application referred to in subparagraph (a) shall be made by registered post addressed to the Minister or to the Garda Commissioner, as the case may be, and such an application shall be accompanied by—

(i) a statutory declaration that the applicant is the lawful owner of the animal or object or is otherwise lawfully entitled to its possession,

(ii) a signed and witnessed statement by the applicant that the animal or object will not be used for purposes contrary to paragraph (1) of this Regulation, and

(iii) where the person claiming possession of the animal or object is not its lawful owner, material establishing the person's lawful entitlement to its possession.

(c) The Minister, the Garda Commissioner or the delegate officer, as the case may be, shall respond to an application under subparagraph (a) within 14 days of his or her receiving it and he or she may, having consulted with and taken reasonable steps to determine a time or times suitable to the applicant, appoint a time or times upon which the applicant may, having complied with subparagraph (k), take possession of the animal or object.

(d) Should the Minister or the Garda Commissioner or the delegate officer, as the case may be, determine that, while a valid application has been made and the ownership or other claim to the animal or object has been established, the animal or object should continue to be detained for any of the reasons referred to in paragraph (3), he or she shall inform the applicant accordingly, setting out the reasons for the continuing detention and indicating that he or she will contact the applicant again to inform him or her of when the animal or object has become available for the claimant to take possession of it in accordance with subparagraph (c).

(e) Should the Minister or the Garda Commissioner or the delegate officer have reason to believe that a person who has made an application under subparagraph (a) is not, or has not established that he or she is, entitled to claim possession of the animal or object claimed, or that the ownership of the animal or object is in dispute or has not been established to his or her satisfaction, he or she may respond to the applicant—

(i) requiring the applicant to provide additional information in support of his or her application, or

(ii) refusing the application for stated reasons which shall set out why the Minister, the Garda Commissioner or the delegate officer has failed to be satisfied that the applicant is entitled to claim possession of the animal or object.

(f) A person whose application has been refused under subparagraph (e)(ii) may reapply.

(g) Any person who falsely claims ownership or entitlement to claim possession of an animal or object under this Regulation shall be guilty of an offence.

(h) A person receiving possession of an animal or object under this paragraph shall—

(i) before he or she is given possession of the animal or object, pay to the Minister or the Garda Commissioner or the delegate officer, as the case may be, the amount of any expenditure reasonably incurred in removing, transporting, impounding and keeping or storing the animal or object, which payment shall be receipted, and the money so received shall be applied for the purpose of meeting that expenditure.

(ii) before he or she removes the animal or object, sign a receipt in respect of the animal or object.

(i) The Minister, the Garda Commissioner or delegate officer may dispose of, or cause to be disposed of, an object or animal removed and stored or impounded under this Regulation, if—

(i) the owner of the animal or object or other person claiming that he or she can establish that he or she is, for a specified reason, otherwise entitled to its possession, fails to make application pursuant to subparagraph (a) within, in the case of an object, one month and in the case of an animal, ten days of the date on which a notice under subparagraph (a) was served on him or her, or

(ii) the name and address of the owner of the animal or object has not been ascertained following reasonable enquiry within, in the case of an object, one month and in the case of an animal, ten days of the date on which the Minister or the Garda Commissioner or the delegate officer took or received custody of the animal or object

(iii) the owner or person entitled to possession of the animal or object fails to take possession of it pursuant to subparagraph (c) at a time or times appointed by the Minister or the Garda Commissioner or the delegate officer in accordance with that subparagraph, the Minister, the Garda Commissioner or the delegate officer, as the case may be, having taken reasonable steps to facilitate its transfer, at the place where it is held, to such owner or person

(iv) the owner or person entitled to possession of the animal or object refuses or fails to comply with subparagraph (k), or

(v) the applicant fails to provide information requested under subparagraph (e)(i) within 14 days of the request.

(j) Where the Minister, the Garda Commissioner or delegate officer becomes entitled to dispose of or cause to be disposed of an animal or object under subparagraph (i) and the animal or object is, in his or her opinion, capable of being sold, the Minister, the Garda Commissioner or delegate officer shall, if he or she considers it appropriate, be entitled to sell or cause to be sold the object for the best price reasonably obtainable and upon doing so shall pay or cause to be paid to the person who was the owner of the object or animal at the time of its removal, where the identity and address of that person is subsequently established, a sum equal to the proceeds of such sale after deducting therefrom any expenditure reasonably incurred in its removal, storage or impoundment, and sale.

(k) Where an animal or an object is sold pursuant to subparagraph (j), and the identity of the owner has not been ascertained within six months of the date on which the Minister, the Garda Commissioner or the delegate officer took or received custody of it, the Minister, the Garda Commissioner or the delegate officer as the case may be, having deducted the sum of any expenditure reasonably incurred in the removal of the animal or object, its impoundment, keeping, storage and sale, may retain the deducted sum and the remainder shall be forfeited to the State.

(7)(a) Without prejudice to subparagraph (b), on the advice of a qualified veterinary practitioner, the Minister, the Garda Commissioner or delegate officer may cause an animal removed or

impounded under this Regulation to be humanely destroyed by that practitioner, where the practitioner advises such destruction on grounds that the animal—

(i) poses a threat to human or animal safety or health,

(ii) is vicious or dangerous, or

(iii) is suffering and should be euthanised.

(b) The Minister, the Garda Commissioner or delegate officer may at any time cause an animal removed or impounded under this Regulation that is of a species or kind listed in Part 2 of the Third Schedule—

(i) if it is a vertebrate, to be humanely destroyed,

(ii) if it is an invertebrate, to be destroyed in accordance with good practice for the destruction of that species as an invasive species.

(c) No liability shall attach to, nor any compensation be payable by, the Minister, the Garda Commissioner, delegate officer or the State to any person in respect of an animal destroyed pursuant to this paragraph.

(8) No liability shall attach to the Minister, or an authorised officer, or to the Garda Commissioner, or a delegate officer, or a member of An Garda Síochána, or to the State in respect of any damage done to an object or injury incurred or illness contracted by an animal in the course of or as a consequence of actions carried out by such persons pursuant to this Regulation.

(9) Where the Minister forms the opinion that there is a substantial and imminent risk to a European Site or its protected habitats or species and that action is required so that the risk may be reduced, mitigated or prevented, he or she may authorise a person or persons to access and enter on any land, together with such other persons under his or her direction, vehicles, equipment and materials as may be appropriate for that purpose, whether within or outside that European Site, and take such actions as the Minister considers necessary.

(10) A person who obstructs, impedes or otherwise interferes with such action referred to in paragraph (9) shall be guilty of an offence.

(11)(a) Subject to subparagraph (b), the Minister or any person referred to in paragraph (9) shall not enter on any land without giving at least 24 hours prior notice of their intention to do so to any owner or occupier of the land whose identity and whereabouts can be ascertained by the Minister by reasonable enquiry.

(b) The requirements of subparagraph (a) shall not apply in any case where the Minister is of opinion that, by reason of the particular circumstances of the case, it is necessary to enter immediately on the land concerned and take such actions as are referred to in paragraph (9).

(12) Where an action referred to in paragraph (9) has been necessitated as a consequence of any unlawful action, the Minister may recover as a simple contract debt in any court of competent jurisdiction from the person or persons who carried out such unlawful action any expenses reasonably incurred by the Minister in that behalf.

(13) Where a person, not being a person referred to in paragraph (12), suffers loss or damage in consequence of the exercise by the Minister of a power conferred on him or her by this Regulation, the Minister shall pay to the person compensation in respect of the loss or damage.

(14) The amount of any compensation payable pursuant to paragraph (13) shall, in the absence of an agreement on same, be determined under the provisions of Regulation 41(3).

(15) For the purposes of paragraph (3), where a member of An Garda Síochána has removed or caused to be removed any animal or object, a member of An Garda Síochána may make arrangements for the transfer of that animal or object to an authorised officer for storage or impoundment and, following such transfer, the Minister shall, in consultation, where appropriate, with the Garda Commissioner or delegate officer or other member of An Garda Síochána, carry out, as appropriate, the functions in relation to the animal or object set out in paragraphs (5) and (6).

(16) Any person who obstructs or impedes or assists a person to obstruct or impede an authorised officer or a member of An Garda Síochána in the performance of his or her duties under this Regulation shall be guilty of an offence.

(17) A statutory declaration of ownership or a warrant made pursuant to this Regulation may be presented as evidence in court.

Restoration of land in a European Site following damage

36. (1) ~~Where an activity, plan or project that has been carried out within or outside a European Site~~ Where an activity, plan or project (which includes, for the purpose of this Regulation, the exclusions mentioned in paragraphs (a) to (d) in the definition of 'activity' or the exclusions referred to in the definitions of 'plan' and 'project') that has been carried out within or outside a European Site, has caused damage to that site or to species or habitat types for which the site was selected as a European Site, and—

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(a) it is in contravention of the requirements of these Regulations, or of the Planning and Development Acts 2000 to 2011,

(b) it required any statutory consent for the carrying out of such an activity, plan or project but was undertaken without such consent,

(c) it is in contravention of any of the terms or conditions of a consent referred to in subparagraph (a) or (b), or

(d) it is otherwise unlawful,

the Minister may, by Direction issued in writing, require the owner, occupier or user of the land or the person who carried out the activity, plan or project, or such of those persons as he or she considers appropriate, to restore the land in accordance with the Direction.

(2) Where an activity, plan or project referred to in paragraph (1) has been carried out, and has resulted in the production of mineral or other resources, including but not limited to soil, gravel, timber or the product of turf-cutting or peat extraction, any person who removes, or places in or on a vehicle for removal, any such resources, save in accordance with paragraph (5), shall be guilty of an offence.

(3)(a) Every Direction referred to in paragraph (1) shall specify the restoration works to be undertaken and the period within which the works specified are to be completed.

(b) Any person who fails to comply with a Direction under paragraph (1) shall be guilty of an offence.

(4) If, within the period specified in a Direction or within such extended period as the Minister may allow having regard to the nature of the restoration works to be carried out, any steps required by the Direction to be taken have not been taken, the Minister may take such action as he or she considers necessary, including authorising a person or persons to access and enter on the land to take those steps, together with such other persons under his or her direction, vehicles, equipment and materials as may be appropriate for that purpose, and the Minister may recover any expenses reasonably incurred by him or her in that behalf as a simple contract debt, in any court of competent jurisdiction, from the person or persons to whom the Direction was made.

(5)(a) Where the Minister forms the view that the restoration of a site would be best achieved following the removal from the site of any resource to which paragraph (2) applies,

(i) he or she may remove or cause to be removed any such resource, including authorising a person or persons to access and enter on the land for that purpose, together with such other persons under his or her direction, vehicles, equipment and materials as may be appropriate for that purpose,

(ii) the Minister may cause the resource to be stored or retained in a place specified by him or by her, and

(iii) the Minister may dispose of or cause to be disposed of any such resource and, if that resource is, in his or her opinion, capable of being sold, the Minister shall be entitled to sell or cause to be sold that resource for the best price reasonably obtainable.

(b) If a resource is sold pursuant to subparagraph (a)(iii), the proceeds of the sale shall, following deduction by the Minister of the sum of any expenditure reasonably incurred in the removal and sale of the resource, be forfeited to the State.

(6) Having regard to the need to restore the site and, in the light of progress towards restoration and any problems or obstacles that may emerge in relation to restoration, the Minister may, by Direction under paragraph (1), amend or revoke a previous Direction given under that paragraph, including the specification of any additional restoration works required to achieve restoration.

(7) Any person who, by act or omission, impedes or obstructs a person authorised under paragraph (4) or (5) from accessing or entering on land together with such other persons under his or her direction, vehicles, equipment and materials as may be appropriate for the purposes of removing a resource or carrying out any required works under this Regulation, shall be guilty of an offence.

(8) If the Minister has reason to believe—

(a) that an activity, plan or project that has been carried out within or outside a European Site pursuant to a consent has caused damage to that site or to species or habitat types for which the site was selected as a European Site, and

(b) that such consent was obtained by a person or persons knowingly supplying false information or knowingly failing to divulge information or data that could be relevant to the determination by a public authority of whether, pursuant to Article 6(3) of the Habitats Directive, it could agree to the plan or project, having ascertained that the plan or project, individually or in combination with other plans or projects, would not have a significant effect on, or adversely affect the integrity of, a European Site,

the Minister may make application to a court of competent jurisdiction for a restoration warrant, and the court, having investigated the matter, may give the Minister a restoration warrant, and, if it does so, it may also give an order quashing the consent referred to in subparagraph (b).

(9) A restoration warrant given by a court on foot of an application by the Minister under paragraph (8), shall specify that the Minister may, by Direction issued in writing, and accompanied by the order of the court, require the owner, occupier or user of the land or the person who carried out the activity, plan or project, or such of those persons as the court considers appropriate, to restore the land in accordance with the Direction, and paragraphs (3), (4), (5), (6) and (7) shall apply in relation to that Direction.

(10) Before deciding to issue a Direction under paragraph (1) or to seek a restoration warrant under paragraph (8), the Minister shall consult with the Environmental Protection Agency regarding liabilities that may arise under the Environmental Liability Directive.

Appeals to Appeals Officer

37. (1) A person on whom a notice is served under Regulation 28(4) or any other person having or being entitled to an interest in or over the land comprising the site or specified land to which such notice refers, or part thereof, or any other person having or being entitled to an interest in or over land outside the site or specified land, which interest may be affected by a decision on any objections received under Regulation 33(1) or a review under Regulation 34(4)—

(a) may appeal against a Direction given pursuant to Regulation 28(1) or 29(1) by giving notice in writing to the Minister not later than 28 days after notice of the Direction or the decision was given, and

(b) may appeal against a decision on any objections received under Regulation 33(1) by giving notice in writing to the Minister not later than 28 days after notice of the decision was given.

(2) An appeal under paragraph (1) shall state the reasons for the appeal, and shall be accompanied by a declaration made by the person appealing which shall state that the person—

(a) has or is entitled to an interest in or over the land comprising the site or specified land, or part thereof, or

(b) has or is entitled to an interest in or over land outside the site or specified land, which interest may be affected by the Direction given pursuant to Regulation 28(1) or 29(1) or the decision on any objections received under Regulation 33(1),

or both, and which shall state the nature of the interest.

(3) A person on whom a notice is served under Regulation 28 or any other person having or being entitled to an interest in or over the land comprising the site or specified land to which such notice refers, or part thereof, or any other person having or being entitled to an interest in or over land outside the site or specified land, which interest may be affected by—

(a) a decision to refuse to give consent under Regulation 30, or

(b) a decision to attach conditions, vary conditions or revoke consent under Regulation 30,

may, not later than 28 days after the day on which that decision is given, serve notice of appeal on the Minister against that decision.

(4) An appeal within the meaning of paragraph (3) shall be accompanied by a declaration made by the person appealing which shall state that the person—

(a) has or is entitled to an interest in or over the land comprising the site or specified land, or part thereof, or

(b) has or is entitled to an interest in or over land outside the site or specified land, which interest may be affected by the Direction given pursuant to Regulation 28(1) or the decision on any objections received under Regulation 33(1),

or both, and which shall state the nature of the interest.

(5) The Minister shall appoint in writing, on such terms and conditions, subject to the prior approval of the Minister for Finance, as are specified in the appointment, a person or persons with appropriate knowledge and experience and such other qualifications as the Minister considers appropriate to enable such person or persons to properly consider appeals under paragraph (1).

(6) The Minister shall provide a person appointed pursuant to paragraph (5) to consider an appeal under paragraph (1) with such assistance and information as may reasonably be required in order to assist the person to determine the appeal.

(7) A person appointed pursuant to paragraph (5) to consider an appeal under paragraph (1) shall—

(a) be independent in the performance of his or her functions under these Regulations as a person so appointed,

(b) subject to subparagraph (a), comply with guidelines prepared and issued by the Minister in respect of the procedure to be followed with respect to the consideration of any appeal under paragraph (1),

(c) consider any written or oral submissions made by or on behalf of the appellant and by or on behalf of the Minister,

(d) make a decision in writing determining the appeal as soon as is practicable in all the circumstances of the case, and

(e) send a copy of the decision to the appellant and the Minister together with the person's reasons for the decision.

(8)(a) Any decision of an appeals officer under subparagraph (7)(d) relating to an appeal to which paragraph (1) or paragraph (3) relates shall have regard to the criteria set out in Regulations 28(1) and 29(1).

(b) Any decision of an appeals officer under subparagraph (7)(d) shall be in accordance with the Habitats Directive and the Birds Directive.

(9) A person affected by a decision under subparagraph (7)(d) or the Minister may appeal to the High Court—

(a) on a point of law from the decision, and

(b) not later than 28 days after the appellant under this paragraph received a copy of the decision and the reasons for the decision pursuant to subparagraph (7)(e).

(10) A decision of the High Court following an appeal under paragraph (9) shall, where appropriate, specify the period within which effect shall be given to the decision.

(11) The Minister shall—

(a) if applicable, give effect to a decision under subparagraph (7)(d) as soon as is practicable after the period referred to in subparagraph (9)(b) has elapsed without any appeal under paragraph (9) having been made in respect of the decision, and

(b) if applicable, give effect to a decision of the High Court on an appeal under paragraph (10)—

(i) within the period, if any, specified in the decision,

(ii) if subparagraph (b)(i) is not applicable, as soon as is practicable.

(12) A person appointed pursuant to paragraph (5)—

(a) shall be paid such remuneration and allowances as the Minister, with the consent of the Minister for Finance, determines,

(b) may be provided with such assistance and administrative support as the Minister, with the consent of the Minister for Finance, determines as reasonably necessary to enable the person to perform the functions under these Regulations as a person so appointed, and

(c) may resign from the appointment by submitting his or her resignation in writing given to the Minister.

(13) The Minister may revoke the appointment of a person appointed pursuant to paragraph (5) for stated reasons.

(14) Pending the outcome of an appeal under subparagraph (1)(b) and, if applicable, an appeal to the High Court under paragraph (9), a Direction given pursuant to Regulation 28(1) or 29(1), or a

decision on any objections received under Regulation 33(1) shall, unless withdrawn by the Minister, continue in force.

Injunctions

38. (1) Where the Minister has reason to believe that any activity, either individually or in combination with other activities, plans or projects, is of a type that may—

(a) have a significant effect on a European Site,

(b) have an adverse effect on the integrity of a European Site,

(c) cause the deterioration of natural habitats or the habitats of species or the disturbance of the species for which the European Site may be or has been designated pursuant to the Habitats Directive, or has been classified or may be classified, pursuant to the Birds Directive, insofar as such disturbance could be significant in relation to the objectives of the Birds Directive or the Habitats Directive,

(d) cause pollution or deterioration of habitats or any disturbance affecting birds within the meaning of Article 4 of the Birds Directive, or

(e) have an adverse effect on the conservation status of—

(i) animal species listed in Annex IV(a) to the Habitats Directive in their natural range pursuant to Article 12 of the Habitats Directive,

(ii) plant species listed in Annex IV(b) to the Habitats Directive pursuant to Article 13 of the Habitats Directive, or

(iii) species of wild fauna and flora listed in Annex V to the Habitats Directive pursuant to Article 14 of the Habitats Directive, or

(iv) birds referred to in Article 1 of the Birds Directive,

the Minister may make an application under this Regulation to a court of competent jurisdiction for an order to require the taking of action or the refraining from taking action as the court considers necessary, for the purposes of ensuring compliance with the Habitats Directive or the Birds Directive, to cease, avoid, reverse, reduce or eliminate the adverse effect, pollution, deterioration or disturbance.

(2) For the purposes of this Regulation “a court of competent jurisdiction” means either the Circuit Court for the circuit in which the relevant lands or part of the relevant lands concerned are situated or the High Court.

(3) An application to the Circuit Court or the High Court for an order under this Regulation shall be by motion and the court when considering the matter may make such interim or interlocutory order, if any, as it considers necessary in the light of the requirements of the Habitats Directive and the Birds Directive including the overall requirement of safeguarding the integrity of sites and ensuring that the overall coherence of Natura 2000 is protected.

Threat response plans

39. (1) Where the Minister has reason to believe that any threat, pressure or hazard, or combination of threats, pressures or hazards, is of a type that may—

(a) have a significant effect on a European Site,

(b) have an adverse effect on the integrity of a European Site,

(c) cause the deterioration of natural habitats or the habitats of species or the disturbance of the species for which the European Site may be or has been designated pursuant to the Habitats Directive or has been classified, or may be classified, pursuant to the Birds Directive, insofar as such disturbance could be significant in relation to the objectives of the Birds Directive or the Habitats Directive,

(d) cause pollution or deterioration of habitats or any disturbance affecting birds within the meaning of Article 4 of the Birds Directive,

(e) have an adverse effect on the conservation status of—

(i) animal species listed in Annex IV(a) to the Habitats Directive in their natural range pursuant to Article 12 of the Habitats Directive,

(ii) plant species listed in Annex IV(b) to the Habitats Directive pursuant to Article 13 of the Habitats Directive,

(iii) specimens of wild fauna and flora listed in Annex V to the Habitats Directive pursuant to Article 14 of the Habitats Directive, or

(iv) the species of birds referred to in Article 1 of the Birds Directive, their eggs, nests and habitats, or

(f) involve the introduction, establishment, dispersal or continuing presence of a plant or animal including, but not limited to, a plant or animal referred to in the Third Schedule,

or that a threat, pressure or hazard, or a combination of threats, pressures or hazards, referred to in this paragraph may develop in the absence of co-ordinated targeted preventive measures to prevent it, the Minister shall, where he or she considers it necessary or appropriate for the purposes

of meeting the objectives of the Habitats Directive or the Birds Directive, develop and implement an appropriate threat response plan to cease, avoid, reverse, reduce, eliminate or prevent the threat, pressure, hazard, combination of threats, pressures or hazards, adverse effect, pollution, deterioration or disturbance.

(2) The Minister shall, where he or she considers it necessary for the purposes of meeting the objectives of the Birds Directive—

(a) pursuant to Article 2 of the Birds Directive, develop and implement a threat response plan or plans incorporating the requisite measures to maintain the population of one or more species of naturally occurring birds in the wild state at a level which corresponds in particular to ecological, scientific and cultural requirements, while taking account of economic and recreational requirements, or to adapt the population of these species to that level,

(b) pursuant to Article 3 of the Birds Directive, develop and implement a threat response plan or plans incorporating the requisite measures to preserve, maintain or re-establish a sufficient diversity and area of habitats for one or more species of naturally occurring birds in the wild state including the creation of protected areas, as appropriate, the upkeep and management in accordance with the ecological needs of habitats inside and outside the protected zones, the re-establishment of destroyed biotopes and the creation of biotopes, and

(c) in developing a threat response plan under subparagraphs (a) or (b), consult with any public authority that he or she considers likely to have a role in the development or implementation of such a plan.

(3) Public authorities shall, at the Minister's request—

(a) engage in consultations regarding the development and implementation of a threat response plan,

(b) provide such information as is relevant to the development and implementation of the threat response plan,

(c) exercise their functions relating to the development and implementation of the threat response plan insofar as the requirements of the Habitats Directive and Birds Directive apply to those functions, and

(d) co-ordinate their functions referred to in subparagraph (c) with other public authorities.

(4) The Minister may invite such persons or organisations as he considers appropriate to contribute to the development and or implementation of a threat response plan.

(5) Where appropriate, a threat response plan may be supported by sectoral incentive measures.

(6) A draft threat response plan shall be made available for public comment under Regulation 21 and, upon adoption, a threat response plan shall be made available to the public.

(7) For the purposes of this Regulation, a threat response plan shall—

(a) identify the actions required of public authorities for its implementation,

(b) specify timelines for the achievement of its objectives,

(c) specify a date for the publication of a review of the plan, and

(d) be published by the Minister on the Department's website in a readily accessible format.

(8) Notwithstanding Section 40 of the Principal Act, the Minister may, as part of a threat response plan, authorise the destruction of vegetation on uncultivated land at any time and Section 40(1) of that Act shall not apply in relation to any destruction of vegetation on uncultivated land so authorised.

(9) The Minister may establish a group of persons for the monitoring, co-ordination, implementation and review of a threat response plan.

Administrative agreements

40. (1) Without prejudice to the Minister's general powers, he or she may enter into an administrative agreement with any other public authority or public authorities or with any other person or persons for the purpose of the effective implementation of the Birds Directive or the Habitats Directive or both.

(2) Before concluding an administrative agreement with a public authority under paragraph (1) or, if a public authority is to be a party to such an agreement, the Minister shall, where another Minister of Government has statutory responsibility for that public authority, consult with that Minister.

(3) An administrative agreement concluded under this Regulation shall be made available to the public on the website of the Minister's Department, and if the agreement has been concluded with a public authority or a public authority is a party to the agreement, on the website of that public authority also.

(4) For the avoidance of doubt, an administrative agreement may form an element of a threat response plan.

(5) An administrative agreement shall make provision for a periodic review of the said agreement and for the amendment, extension, renewal and termination of the said agreement.

Commented [N74]: Inserted by Regulation 10 of the European Communities (Birds and Natural Habitats) (Amendment) Regulations 2015 (S.I. 355/2015).

Compensation

41. (1)(a) Where the Minister refuses consent to an activity under Regulation 30, he or she shall, save for the reasons set out in paragraphs (5) and (6), pay to the owner or occupier or user as the case may be by way of compensation an amount equal to the loss suffered by the owner, occupier or user by the depreciation of an interest in the land to which he or she is entitled.

(b) Where a public authority modifies, varies the conditions of, or revokes a consent by virtue of Regulation 44(3), the public authority shall, subject to paragraphs (5) and (6), pay to the holder of such consent, by way of compensation, an amount determined in the manner described in paragraph (2)(a).

(2)(a) Subject to subparagraph (b), the amount of compensation payable under paragraph (1) shall be determined by reference to the difference between the antecedent and subsequent value of the land or of an interest in the land consequent on the refusal, modification, variation, or revocation of consent, Direction or Order which amount shall be offset by the value of any amounts which the owner, occupier or user is receiving under any environmental grant scheme operated by the State including the Rural Environment Protection Scheme, the Agri-Environmental Options Scheme, the National Parks and Wildlife Service Farm Plan Scheme or any other publicly-funded agri-environmental scheme.

(b) Any amounts which the proposed activity would have attracted by way of grant aid or other payment from any Minister of Government or the European Union or any public authority, or jointly from any of these, if consent had been given under Regulation 30, shall not be taken into account in assessing the difference between the antecedent and subsequent value of the land.

(3) Any claims for payment of compensation under this Regulation shall, in default of agreement, be determined by arbitration under the Acquisition of Land (Assessment of Compensation) Act 1919, and sections 69 to 83 of the Lands Clauses Consolidation Act 1845, in all respects as if the claims arose in relation to compulsory acquisition of land.

(4) A claim for compensation under this Regulation shall be made not later than six months from—

(a) the date of issue of the decision by the Minister under Regulation 30(3), or

(b) the date of the conclusion of negotiation or proceedings under paragraph (5), whichever is the later.

(5) Compensation under this Regulation shall not be payable for any loss arising from a refusal of consent for an activity for as long as—

(a) the Minister is in negotiation with the owner or occupier, as the case may be, for the purchase by agreement of the land,

(b) the Minister is in negotiation with the owner or occupier, as the case may be, to enter into a management agreement,

(c) proceedings for the compulsory purchase of the lands are in train, or

(d) any appeal or appeal proceedings are in train in relation to—

(i) a refusal of consent to an activity under Regulation 30, or

(ii) a Direction under Regulation 28 or 29.

(6) Save where the refusal of consent or the modification or revocation of a decision or consent or the Direction or the order results in the discontinuance of a use to which the land has been lawfully put or in the curtailment of such use of land by the person concerned in the period of five years immediately preceding such refusal, modification, or revocation or in the curtailment of such use of land, compensation will not be payable where the proposed activity would adversely affect—

(a) one or more specific natural habitat types listed in Annex I to the Habitats Directive,

(b) one or more species or the habitats of those species listed in Annex II to the Habitats Directive,

(c) one or more species of bird or their habitat or other habitat specified in Article 4 of the Birds Directive, or

(d) the integrity of a European Site.

(7) Compensation will not be payable in relation to an activity—

(a) for which consent is sought under Regulation 30, and the activity is unlawfully carried out by the owner, occupier, or user at any time prior to the refusal of consent to an activity under Regulation 30,

(b) to which a Direction to a person is made under Regulation 28 or 29, and the activity is unlawfully carried out by the owner, occupier, or user at any time prior to the making of a Direction to a person under Regulation 28 or 29,

(c) to which an order against a person is granted under Regulation 38, and the activity is unlawfully carried out by the owner, occupier or user at any time prior to the granting of an order against a person under Regulation 38, or

(d) for which a consent pursuant to Regulation 30 is given subject to conditions, limitations, restrictions or requirements and the activity is carried out by the owner, occupier or user in breach of any such conditions, limitations, restrictions or requirements.

(8) Notwithstanding paragraphs (1), (2) and (3), compensation will not be payable in respect of any prohibition or restriction of sea-fishing in accordance with the ~~European Communities (Natural Habitats and Birds) (Sea-fisheries) Regulations 2009~~ European Union (Birds and Natural Habitats) (Sea-fisheries) Regulations 2013.

Commented [N75]: Substituted by regulation 32(1) of the European Union (Birds and Natural Habitats) (Sea-fisheries) Regulations 2013 (S.I. 290/2013).

(9) Where—

(a)the Minister refuses consent to an activity under Regulation 30,

(b) the Minister makes a Direction to a person under Regulation 28 or 29, or

(c) the Minister is granted an order against a person under Regulation 38,

the Minister may make an order declaring that it would not be just and reasonable in the particular circumstances that payment of compensation should be prevented by the provisions of paragraph (6).

(10) The Minister may, with the consent of the Minister for Finance, establish a scheme or schemes of compensation, for the purposes of these Regulations, for particular categories of activity.

(11) A person may be compensated financially or by such other arrangements including, but not limited to, relocation, substitution or such other accommodation as may be agreed between the Minister and that person.

(12) Any financial compensation payable under this Regulation may be made by the Minister either by way of a single payment or by way of a payment of an annual sum to a person having, or claiming to be entitled to, an interest in or over the land on which the compensation is payable.

PART 5

Commented [N76]: "The MARA shall, for the purposes of this Part [5], be the competent authority for the purposes of Part 5 of the European Communities (Birds and Natural Habitats) Regulations 2011 and appropriate assessments to which that Part applies": as per section 112 of the Maritime Area Planning Act 2021

APPROPRIATE ASSESSMENT

Screening for Appropriate Assessment and Appropriate Assessment of implications for European Sites

42. (1) ~~A screening~~ Subject to Regulation 42A, a screening for Appropriate Assessment of a plan or project for which an application for consent is received, or which a public authority wishes to undertake or adopt, and which is not directly connected with or necessary to the management of the site as a European Site, shall be carried out by the public authority to assess, in view of best scientific knowledge and in view of the conservation objectives of the site, if that plan or project, individually or in combination with other plans or projects is likely to have a significant effect on the European site.

Commented [N77]: Substituted by Regulation 6(a) of S.I. No. 293/2021 - European Union (Birds and Natural Habitats) (Amendment) Regulations 2021

(2) A public authority shall carry out a screening for Appropriate Assessment under paragraph (1) before consent for a plan or project is given, or a decision to undertake or adopt a plan or project is taken.

(3) At any time following an application for consent for a plan or project, a public authority may give a notice in writing to the applicant, directing him or her to—

(a) furnish a Natura Impact Statement and the applicant shall furnish the statement within the period specified in the notice, and

(b) furnish any additional information that the public authority considers necessary for the purposes of this Regulation.

(4) Unless the public authority otherwise directs, where an applicant for consent for a plan or project who, having been directed in accordance with paragraph (3), fails to furnish a Natura Impact Statement within the period specified in the notice under that paragraph, or any additional period that may be agreed by the public authority, the application shall be deemed to be withdrawn.

(5)(a) A Natura Impact Statement shall, in addition to addressing the issues referred to in the interpretation contained in Regulation 2(1), include such information or data as the public authority considers necessary, and specifies in a notice given under paragraph (3), to enable it to ascertain if the plan or project will affect the integrity of the site.

(b) Where appropriate, a Natura Impact Statement shall include, in addition—

(i) the alternative solutions that have been considered and the reasons why they have not been adopted,

(ii) the imperative reasons of overriding public interest that are being relied upon to indicate that the plan or project should proceed notwithstanding that it may adversely affect the integrity of a European site,

(iii) the compensatory measures that are being proposed.

(6) The public authority shall determine that an Appropriate Assessment of a plan or project is required where the plan or project is not directly connected with or necessary to the management of the site as a European Site and if it cannot be excluded, on the basis of objective scientific information following screening under this Regulation, that the plan or project, individually or in combination with other plans or projects, will have a significant effect on a European site.

(7) The public authority shall determine that an Appropriate Assessment of a plan or project is not required where the plan or project is not directly connected with or necessary to the management of the site as a European Site and if it can be excluded on the basis of objective scientific

information following screening under this Regulation, that the plan or project, individually or in combination with other plans or projects, will have a significant effect on a European site.

(8)(a) Where, in relation to a plan or project for which an application for consent has been received, a public authority makes a determination that an Appropriate Assessment is required, the public authority shall give notice of the determination, including reasons for the determination of the public authority, to the following—

(i) the applicant,

(ii) if appropriate, any person who made submissions or observations in relation to the application to the public authority, or

(iii) if appropriate, any party to an appeal or referral.

(b) Where a public authority has determined that an Appropriate Assessment is required in respect of a proposed development it may direct in the notice issued under subparagraph (a) that a Natura Impact Statement is required.

(9) Where a public authority is required to conduct an Appropriate Assessment pursuant to paragraph (6) in relation to a plan or project that it proposes to undertake or adopt, it shall—

(a) prepare a Natura Impact Statement,

(b) compile any other evidence including, but not limited to, scientific evidence that is required for the purposes of the Appropriate Assessment, and

(c) submit a Natura Impact Statement together with evidence compiled under subparagraph (b) to the Minister not later than six weeks before it proposes to adopt or undertake the plan or project to which the Natura Impact Statement and evidence relates.

(10) A public authority that has, pursuant to paragraph (9), prepared a Natura Impact Statement, shall not, without the agreement of the Minister, conclude an Appropriate Assessment of the plan or project to which that statement relates earlier than six weeks after the date on which it submitted the Natura Impact Statement to the Minister, and shall take account of any submissions made to it by the Minister.

(11) An Appropriate Assessment carried out under this Regulation shall include a determination by the public authority under this Regulation pursuant to Article 6(3) of the Habitats Directive as to whether or not a plan or project would adversely affect the integrity of a European site and the assessment shall be carried out by the public authority before a decision is taken to approve, undertake or adopt a plan or project, as the case may be.

(12) In carrying out an Appropriate Assessment under paragraph (11) the public authority shall take into account each of the following matters—

(a) the Natura Impact Statement,

(b) any other plans or projects that may, in combination with the plan or project under consideration, adversely affect the integrity of a European Site,

(c) any supplemental information furnished in relation to any such report or statement,

(d) if appropriate, any additional information sought by the authority and furnished by the applicant in relation to a Natura Impact Statement,

(e) any information or advice obtained by the public authority,

(f) if appropriate, any written submissions or observations made to the public authority in relation to the application for consent for proposed plan or project,

(g) any other relevant information.

(13) ~~A public authority may, for the purposes of conducting an Appropriate Assessment, if it considers it appropriate, invite the opinion of the general public and, if it does so, it shall take such steps for that purpose as it considers necessary~~. (a) Where a public authority has determined, pursuant to paragraph (6), that an Appropriate Assessment is required in respect of a proposed plan or project, and before making a determination on the matter pursuant to paragraph (11), the public authority shall carry out a public consultation and publish a notice of the proposed plan or project in a manner to be determined by the public authority.

(b) A notice under subparagraph (a) shall state the following:

(i) the location, including the townland and county, to which the application relates;

(ii) the nature and extent of the proposed plan or project;

(iii) the possible decisions and, where there is a draft decision, the draft decision;

(iv) that a person may make a submission or observation to the public authority within 30 days from the date of the notice, or whatever longer timeframe appears on the notice;

(v) where and when the application and documents may be viewed;

(vi) any other details of public participation;

(vii) any other information the public authority considers relevant.

(c) The public authority shall make available for inspection to the public free of charge, or for purchase at a fee not exceeding the reasonable cost of such making available, and on its website,

the application, map of the proposed plan or project, its determination made under paragraph (6), the Natura Impact Statement, if directed under paragraph (3) or required under paragraph (9), and any other information of documentation relevant to the application in the public authority's possession.

(d) The public may make submissions or observations in writing concerning the proposed plan or project to the public authority within 30 days from the date of publication of the notice or whatever longer timeframe is set out in the notice and, where additional information is published, at least 30 days from the date of publication of that information.

(e) The public authority shall have regard to any submissions or observations received during the public consultation under subparagraph (d).

Commented [N78]: Substituted by Regulation 6(b) of S.I. No. 293/2021 - European Union (Birds and Natural Habitats) (Amendment) Regulations 2021

(14) Where a public authority is required to make a decision in relation to giving any consent for a plan or project within a time limited by any enactment, that time period shall not, in a case in which a requirement is made by the public authority under paragraph (4), include the period beginning on the day the requirement is made and ending eight weeks after the day of receipt by the public authority concerned of the requested further information or evidence.

(15) For the avoidance of doubt, notwithstanding subsection (10) of section 85 of the Environmental Protection Agency Act 1992 , the appropriate period referred to in that subsection shall not, in a case in which a request is made by the Environmental Protection Agency under paragraph (3), include the period beginning on the day such requirement is made and ending eight weeks after the day of receipt by the Environmental Protection Agency of the requested further information or evidence.

(16) Notwithstanding any other provision of these Regulations, a public authority shall give consent for a plan or project, or undertake or adopt a plan or project, only after having determined that the plan or project shall not adversely affect the integrity of a European site.

(17) Subject to any other provision of these Regulations—

(a) Consent for a plan or project may be given where a public authority has made modifications to a plan or project or attached conditions to the consent where the authority is satisfied to do so having determined that the a plan or project would not adversely affect the integrity of the European site if it is carried out in accordance with the consent and the said modifications or conditions attaching thereto.

(b) A public authority shall not adopt or undertake, or grant any consent for, a plan or project containing any conditions, restrictions or requirements purporting to—

(i) permit the deferral of the collection of information required for a screening for Appropriate Assessment or for an Appropriate Assessment or the completion of a screening for Appropriate Assessment or an Appropriate Assessment until after the consent has been given,

(ii) accept an incomplete Natura Impact Statement, or

(iii) permit or facilitate the avoidance of compliance with the conditions set out in Article 6(4) of the Habitats Directive.

(18)(a) A public authority shall make available for inspection any determination that it makes in relation to a plan or project and provide reasons for that determination, as soon as may be after the making of the determination or giving the notice, as appropriate, by members of the public during office hours of the offices of the authority and shall also make the determination or notice available in electronic form including by placing the documents on the authority's website.

(b) Information that is identified by a person applying for consent for a plan or project as being of a commercially sensitive nature shall, provided and for so long as it could be withheld under European Directive 2003/4/EC on public access to environmental information be exempted by the public authority from the requirements of subparagraph (a).

(c) Information that if made publicly available could pose a risk to the conservation of protected species or habitats may be exempted from the requirements of subparagraph (a).

(19) Without prejudice to the duties of public authorities under this Regulation, the Minister may, giving his or her reasons for so doing, request any public authority responsible for adopting or undertaking a plan or project, or granting or issuing a decision or consent referred to in paragraph (1) under this Regulation, to conduct an Appropriate Assessment under this Regulation of any plan or project and the relevant public authority shall comply with that request.

(20) For the avoidance of doubt, notwithstanding the fact that the making, adoption and consent procedures relating to plans and projects which fall under the Planning and Development Acts 2000 to 2011 do not come within the scope of these Regulations, a public authority shall, pursuant to Article 6(3) of the Habitats Directive, take cognisance of such plans and projects in assessing any effects that might arise when such plans or projects are considered in combination with any activities, plans or projects for which the public authority is undertaking screening for Appropriate Assessment or Appropriate Assessment.

(21)(a) Where a public authority, referred to in this paragraph as "the first authority", has carried out a screening for Appropriate Assessment or an Appropriate Assessment in relation to a plan or project, any other public authority, referred to in this Regulation as "the second authority", that is required to carry out a screening for Appropriate Assessment or an Appropriate Assessment of the same plan or project shall take account of the screening for Appropriate Assessment or Appropriate Assessment of the first authority in relation to that plan or project, and of any information, including a Natura Impact Statement that was prepared for consideration by the first authority or another second authority in relation to the plan or project.

(b) In taking account of a screening for Appropriate Assessment or Appropriate Assessment in relation to a plan or project and of a Natura Impact Statement, the second authority shall consider

the extent to which the scope of that screening for Appropriate Assessment or Appropriate Assessment or Natura Impact Statement covers the issues that would be required to be addressed by the second authority in a screening for Appropriate Assessment or Appropriate Assessment of the plan or project in view of the scope of the consent to be given by it, and shall identify any issues that have not, in that regard, been adequately addressed.

(c) Subject to subparagraph (b) and without prejudice to its right to request all such information as it considers necessary to carry out a screening for Appropriate Assessment or Appropriate Assessment, the second authority may limit its requirement for information, including a Natura Impact Statement, to those issues that it determines have not been adequately addressed for the purposes of the second authority in the process of screening for Appropriate Assessment and Appropriate Assessment by the first authority or by another second authority.

(d) Where a plan or project requires two or more consents, each of which would require screening for Appropriate Assessment or Appropriate Assessment, the public authorities may carry out, following joint consultation, a joint screening for Appropriate Assessment or a joint Appropriate Assessment.

(e) Where two or more public authorities propose to carry out a joint screening for Appropriate Assessment or a joint Appropriate Assessment pursuant to subparagraph (d), the public authorities concerned shall so inform the proponent of the plan or project and provide him or her with a single contact address for correspondence, and they may agree that one public authority shall, in consultation with the others, lead the process and or co-ordinate correspondence with the proponent.

(f) For the avoidance of doubt, this paragraph applies to consents under the Planning and Development Acts 2000 to 2011 and to screening for Appropriate Assessments and Appropriate Assessments carried out thereunder.

(22) Notwithstanding any provision of any statute listed in the Second Schedule that provides for the consent for a plan or project to which this Regulation applies to be obtained by default on the failure of the public authority to provide a response within a specified timescale or otherwise, that provision shall not have effect in respect of any plan or project to which this Regulation applies.

(23) For the avoidance of doubt, a plan or project referred to in this Regulation includes a plan or project that is within, partially within or outside a European Site.

(24) For the avoidance of doubt, in relation to a plan or project that is likely to affect more than one European Site or an area that is within more than one European Site, the screening for Appropriate Assessment and Appropriate Assessment shall address the impact of the plan or project, individually or in combination with other plans and projects, on each of the sites likely to be affected.

(25) Notwithstanding the provisions of paragraphs (1), (3), (6) and (21), the Commission for Energy Regulation shall not be required to carry out screening for appropriate assessment or an appropriate assessment in relation to an application for a Safety Permit under Section 13P of the

Electricity Regulation Act 1999 (as inserted by section 3 of the Petroleum (Exploration and Extraction) Safety Act 2010) (No. 4 of 2010) in respect of a designated petroleum activity where it confirms that the consent of another public authority records that a screening for appropriate assessment, or an appropriate assessment, where relevant, has been carried out, or another public authority confirms that a screening for appropriate assessment or an appropriate assessment will be carried out by that public authority in respect of the underlying project to which the said designated petroleum activity relates.

Commented [N79]: Inserted by Regulation 3 of the European Communities (Birds and Natural Habitats) (Amendment) Regulations 2013 (S.I. 499/2013).

(26) Notwithstanding the provisions of paragraphs (1), (3), (6), (21) and (25) in relation to an application for a safety permit, the Commission for Energy Regulation shall not be required to carry out an appropriate assessment in respect of the construction of the infrastructure, in existence at the commencement of the Petroleum (Exploration and Extraction) Safety Act 2010 , of an established designated petroleum activity if, following the carrying out of a screening, it is concluded that there are no significant effects or that there are not likely to be significant effects on a European site arising from the construction of the infrastructure of the designated petroleum activity.

Commented [N80]: Inserted by Regulation 11 of the European Communities (Birds and Natural Habitats) (Amendment) Regulations 2015 (S.I. 355/2015).

Screening for Appropriate Assessment and Appropriate Assessment of implications for European Sites where Minister is Public Authority

42A. (1) Where the Minister proposes to undertake or adopt a plan or project which is not directly connected with or necessary to the management of the site as a European Site, the Minister shall request that a screening for Appropriate Assessment be carried out by the Ecological Assessment Unit to assess, in view of best scientific knowledge and in view of the conservation objectives of the site, if that plan or project, individually or in combination with other plans or projects is likely to have a significant effect on the European site.

Commented [N81]: Inserted by Regulation 7 of S.I. 293 of 2021

(2) The Ecological Assessment Unit shall carry out a screening for Appropriate Assessment under paragraph (1) before the Minister makes a decision to undertake or adopt a plan or project is taken.

(3) The Minister shall provide sufficient details of the proposed plan or project in writing to the Ecological Assessment Unit in order for the Ecological Assessment Unit to carry out screening for Appropriate Assessment under paragraph (1).

(4) At any time following a request for screening for Appropriate Assessment under paragraph (1), the Ecological Assessment Unit may give a notice in writing to the Minister, directing the Minister to—

(a) furnish a Natura Impact Statement and the Minister shall furnish the statement within the period specified in the notice, and

(b) furnish any additional information that the Ecological Assessment Unit considers necessary for the purposes of this Regulation.

(5) Unless the Ecological Assessment Unit otherwise directs, where the Minister, having been directed in accordance with paragraph (4), fails to furnish a Natura Impact Statement within the period specified in the notice under that paragraph, or any additional period that may be agreed by

the Ecological Assessment Unit, the request to carry out a screening for Appropriate Assessment under this Regulation shall be deemed to be withdrawn.

(6) (a) A Natura Impact Statement under this Regulation shall, in addition to addressing the issues referred to in the interpretation contained in Regulation 2(1), include such information or data as the Ecological Assessment Unit considers necessary, and specifies in a notice given under paragraph (4), to enable the Ecological Assessment Unit to ascertain if the plan or project will affect the integrity of the site.

(b) Where appropriate, a Natura Impact Statement under this Regulation shall include, in addition the following:

(i) the alternative solutions that have been considered and the reasons why they have not been adopted;

(ii) the imperative reasons of overriding public interest that are being relied upon to indicate that the plan or project should proceed notwithstanding that it may adversely affect the integrity of a European Site;

(iii) the compensatory measures that are being proposed.

(7) The Ecological Assessment Unit shall determine that an Appropriate Assessment of a plan or project is required where the plan or project is not directly connected with or necessary to the management of the site as a European Site and if it cannot be excluded, on the basis of objective scientific information following screening under this Regulation, that the plan or project, individually or in combination with other plans or projects, will have a significant effect on a European Site.

(8) The Ecological Assessment Unit shall determine that an Appropriate Assessment of a plan or project is not required where the plan or project is not directly connected with or necessary to the management of the site as a European Site and if it can be excluded on the basis of objective scientific information following screening under this Regulation, that the plan or project, individually or in combination with other plans or projects, will have a significant effect on a European Site.

(9) (a) Where, in relation to a plan or project for which the Minister proposes to undertake or adopt, the Ecological Assessment Unit makes a determination that an Appropriate Assessment is required, the Ecological Assessment Unit shall give notice of the determination, including reasons for its determination, to the following:

(i) the Minister;

(ii) if appropriate, any person who made submissions or observations in relation to the application to the public authority.

(b) Where the Ecological Assessment Unit has determined under this Regulation that an Appropriate Assessment is required in respect of a proposed development it may direct in the notice issued under subparagraph (a) that a Natura Impact Statement is required.

(10) Where the Ecological Assessment Unit is required to conduct an Appropriate Assessment pursuant to paragraph (7) in relation to a plan or project that the Minister proposes to undertake or adopt, the Minister shall—

(a) prepare a Natura Impact Statement,

(b) compile any other evidence including, but not limited to, scientific evidence that is required for the purposes of the Appropriate Assessment, and

(c) submit a Natura Impact Statement together with evidence compiled under subparagraph (b) to the Ecological Assessment Unit not later than 6 weeks before the Minister proposes to undertake or adopt the plan or project to which the Natura Impact Statement and evidence relates.

(11) An Appropriate Assessment carried out under this Regulation shall include a determination by the Ecological Assessment Unit under this Regulation pursuant to Article 6(3) of the Habitats Directive as to whether or not the proposed plan or project would adversely affect the integrity of a European site and the assessment shall be carried out by the Ecological Assessment Unit before the Minister makes a decision to undertake or adopt the proposed plan or project as the case may be.

(12) In carrying out an Appropriate Assessment under paragraph (11), the Ecological Assessment Unit shall take into account all of the following matters:

(a) a Natura Impact Statement pursuant to paragraph (4) or (10);

(b) any other plans or projects that may, in combination with the plan or project under consideration, adversely affect the integrity of a European Site;

(c) any supplemental information furnished in relation to any such report or statement;

(d) if appropriate, any additional information sought by the Ecological Assessment Unit and furnished by the applicant in relation to a Natura Impact Statement;

(e) any information or advice obtained by the Ecological Assessment Unit;

(f) if appropriate, any written submissions or observations made to the Ecological Assessment Unit in relation to the application for consent for proposed plan or project;

(g) any other relevant information.

(13) (a) Where the Ecological Assessment Unit has determined, pursuant to paragraph (7), that an Appropriate Assessment is required in respect of a proposed plan or project, and before making a determination on the matter pursuant to paragraph (11), the Ecological Assessment Unit shall carry out a public consultation and publish a notice of the proposed plan or project in a manner to be determined by the Ecological Assessment Unit.

(b) A notice under subparagraph (a) shall state the following:

(i) the location, including townland and county, to which the application relates;

(ii) the nature and extent of the proposed plan or project;

(iii) the possible decisions and, where there is a draft decision, the draft decision;

(iv) that a person may make a submission or observation to the public authority within 30 days from the date of the notice or whatever longer timeframe appears on the notice;

(v) where and when the application and documents may be viewed;

(vi) any other details of public participation;

(vii) any other information the public authority considers relevant.

(c) The Ecological Assessment Unit may make available for inspection to the public free of charge, or for purchase at a fee not exceeding the reasonable cost of such making available, and on the website of the Minister, the application, map of the proposed plan or project, its determination under paragraph (7), the Natura Impact Statement, if directed under paragraph (4) or required under paragraph (10), and any other information or documentation relevant to the application in the Ecological Assessment Unit's possession.

(d) The public may make submissions or observations in writing concerning the proposed plan or project to the Ecological Assessment Unit within 30 days from the date of publication of the notice or whatever longer timeframe is set out in the notice, and where additional information is published, at least 30 days from the date of publication of that information.

(e) The Ecological Assessment Unit shall have regard to any submissions or observations received during the public consultation under subparagraph (d).

(14) Where the Minister is required to make a decision to undertake or adopt a plan or project within a time limited by any enactment, that time period shall not, in a case in which a requirement is made by the Ecological Assessment Unit under paragraph (4), include the period beginning on the day the requirement is made and ending 8 weeks after the day of receipt by the Ecological Assessment Unit concerned of the requested further information or evidence.

(15) Notwithstanding any other provision of these Regulations, the Minister shall undertake or adopt a plan or project, only after having received the determination of the Ecological Assessment Unit that the plan or project shall not adversely affect the integrity of a European site.

(16) Subject to any other provision of these Regulations, the Minister—

(a) may undertake or adopt a plan or project where he or she has made modifications to a plan or project or attached conditions to the decision to undertake or adopt the plan or project where the Ecological Assessment Unit is satisfied to do so having determined that the plan or project would not adversely affect the integrity of the European Site if it is carried out in accordance with the consent and the said modifications or conditions attaching thereto.

(b) shall not undertake or adopt a plan or project containing any conditions, restrictions or requirements purporting to—

(i) permit the deferral of the collection of information required for a screening for Appropriate Assessment or for an Appropriate Assessment or the completion of a screening for Appropriate

Assessment or an Appropriate Assessment until after the determination of the Ecological Assessment Unit pursuant to paragraph (11) has been given,

(ii) accept an incomplete Natura Impact Statement, or

(iii) permit or facilitate the avoidance of compliance with the conditions set out in Article 6(4) of the Habitats Directive.

(17) (a) The Ecological Assessment Unit shall make available for inspection, any determination that it makes in relation to a plan or project and provide reasons for that determination, as soon as may be after the making of the determination or giving the notice, as appropriate, by members of the public during office hours of the offices of the Minister and shall also make the determination or notice available in electronic form including by placing the documents on the Minister's website.

(b) Information that is identified by the Minister as being of a commercially sensitive nature shall, provided and for so long as it could be withheld under Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 be exempted by the public authority from the requirements of subparagraph (a).

(c) Information that if made publicly available could pose a risk to the conservation of protected species or habitats may be exempted from the requirements of subparagraph (a).

(18) Notwithstanding the fact that the making, adoption and consent procedures relating to plans and projects which fall under the Planning and Development Acts 2000 to 2021 do not come within the scope of these Regulations, the Ecological Assessment Unit shall, pursuant to Article 6(3) of the Habitats Directive, take cognisance of such plans and projects in assessing any effects that might arise when such plans or projects are considered in combination with any activities, plans or projects for which the Ecological Assessment Unit is undertaking screening for Appropriate Assessment or Appropriate Assessment.

(19) (a) Where another public authority referred to in this paragraph as "the first authority", has carried out a screening for Appropriate Assessment or an Appropriate Assessment in relation to a plan or project, if the Ecological Assessment Unit is required to carry out a screening for Appropriate Assessment or an Appropriate Assessment of the same plan or project, it shall take account of the screening for Appropriate Assessment or Appropriate Assessment of the first authority in relation to that plan or project, and of any information, including a Natura Impact Statement that was prepared for consideration by the first authority in relation to the plan or project.

(b) In taking account of a screening for Appropriate Assessment or Appropriate Assessment in relation to a plan or project and of a Natura Impact Statement, the Ecological Assessment Unit shall consider the extent to which the scope of that screening for Appropriate Assessment or Appropriate Assessment or the Natura Impact Statement covers the issues that would be required to be addressed by the Ecological Assessment Unit in a screening for Appropriate Assessment or Appropriate Assessment of the plan or project in view of the scope of the consent to be given by it, and shall identify any issues that have not, in that regard, been adequately addressed.

(c) Subject to subparagraph (b) and without prejudice to its right to request all such information as it considers necessary to carry out a screening for Appropriate Assessment or Appropriate

Assessment, the Ecological Assessment Unit may limit its requirement for information, including a Natura Impact Statement, to those issues that it determines have not been adequately addressed for the purposes of the Ecological Assessment Unit in the process of screening for Appropriate Assessment and Appropriate Assessment by the first authority or by another second authority.

(d) Where a plan or project requires two or more consents, each of which would require screening for Appropriate Assessment or Appropriate Assessment, the Ecological Assessment Unit and other public authority may carry out, following joint consultation, a joint screening for Appropriate Assessment or a joint Appropriate Assessment.

(e) Where the Ecological Assessment Unit and the another public authority propose to carry out a joint screening for Appropriate Assessment or a joint Appropriate Assessment pursuant to subparagraph (d), the Ecological Assessment Unit and the public authority concerned shall so inform the Minister of the plan or project and provide him or her with a single contact address for correspondence, and they may agree that either the Ecological Assessment Unit or the other public authority shall, in consultation with the other, lead the process and or co-ordinate correspondence with the proponent.

(f) This paragraph applies to consents under the Planning and Development Acts 2000 to 2021 and to screening for Appropriate Assessments and Appropriate Assessments carried out thereunder.

(20) A plan or project referred to in this Regulation includes a plan or project that is within, partially within or outside a European Site.

(21) In relation to a plan or project that is likely to affect more than one European Site or an area that is within more than one European Site, the screening for Appropriate Assessment and Appropriate Assessment shall address the impact of the plan or project, individually or in combination with other plans and projects, on each of the sites likely to be affected.

(22) A member of the Ecological Assessment Unit that is involved in the preparation of plan or project for which the Minister requests a screening for Appropriate Assessment pursuant to paragraph (1) shall not have any part in forming the Ecological Assessment Unit's determination on screening for Appropriate Assessment or Appropriate Assessment.

Proposed plans or projects and imperative reasons of overriding public interest

43. (1) ~~Where~~ Subject to Regulation 43A, where , notwithstanding a determination by a public authority that a plan or project or part thereof will adversely affect a European Site, and in the absence of alternative solutions, a public authority considers that the plan or project should nevertheless be made for imperative reasons of overriding public interest, including those of a social and economic nature, the authority shall—

Commented [N82]: Inserted by Regulation 8(a)(i) of S.I. No. 293/2021 - European Union (Birds and Natural Habitats) (Amendment) Regulations 2021

Commented [N83]: Inserted by Regulation 8(a)(ii) of S.I. No. 293/2021 - European Union (Birds and Natural Habitats) (Amendment) Regulations 2021

(a) set out the imperative reasons of overriding public interest that necessitate the carrying out of the plan or project,

(b) propose the compensatory measures that are necessary to ensure that the overall coherence of the Natura 2000 network is protected,

(c) prepare a statement of case that imperative reasons of overriding public interest exist and of the compensatory measures that are required, and

(d) forward the said statement of case together with details of the proposed plan or project and Natura Impact Statement to the Minister.

(2) A statement of case referred to in subparagraph (1)(c) shall specify—

(a) the considerations that led to the assessment by the public authority that the plan or project would adversely affect the integrity of a European site,

(b) the reasons for the forming of the view by the public authority that there are no alternative solutions (including the option of not proceeding with the plan or project or part thereof),

(c) the reasons for the forming of the view by the public authority that imperative reasons of overriding public interest apply to the plan or project, and

(d) the compensatory measures that are being proposed as necessary to ensure the overall coherence of Natura 2000, including if appropriate, the provision of compensatory habitat.

(3) In relation to a European Site that hosts a priority natural habitat type or priority species, the only imperative reasons of overriding public interest that may be considered are those relating to—

(a) human health,

(b) public safety,

(c) beneficial consequences of primary importance to the environment, or

(d) subject to paragraph (5), and having obtained an opinion from the European Commission, other imperative reasons of overriding public interest.

(4) In relation to a European Site that does not host a priority natural habitat type or priority species, the imperative reasons of overriding public interest may also include those of a social or economic nature.

(5) In invoking imperative reasons of overriding public interest under subparagraph (3)(d) the public authority shall advise the Minister why he or she should be satisfied to request an opinion from the European Commission.

(6) A public authority shall make a statement of case referred to in subparagraph (1)(c) available for inspection, as soon as may be after it is prepared and forwarded to the Minister as appropriate, by members of the public during office hours of the offices of the authority and shall also make the statement available in electronic form including by placing the documents on the authority's website.

(7)(a) Where the Minister receives a statement of case under paragraph ~~(1)~~ (1)(c) relating to a European Site that does not host a priority habitat type or priority species, he or she shall, as soon as possible, consider whether—

Commented [N84]: Substituted by Regulation 8(b) of S.I. No. 293/2021 - European Union (Birds and Natural Habitats) (Amendment) Regulations 2021

(i) imperative reasons of overriding public interest exist,

(ii) an absence of alternative solutions has been established, and

(iii) the compensatory measures proposed are sufficient to ensure the overall coherence of Natura 2000 is protected.

(b) Where the Minister considers it appropriate, he or she may—

(i) consult with such other Minister of the Government, having regard to the functions of that other Minister, and

(ii) consider any views of a Minister of the Government consulted pursuant to subparagraph (b)(i) and which are received by the Minister before he or she issues a notice under paragraph (8) or (9).

(8) Where the Minister forms the opinion that imperative reasons of overriding public interest exist, that an absence of alternative solutions has been established, and that the compensatory measures, or revised or modified compensatory measures, as the case may be, are sufficient to ensure that the overall coherence of the Natura 2000 network is protected, he or she shall as soon as possible issue a notice to this effect to the public authority and the public authority may decide to consent to—

(a) the plan or project or

(b) that part of the plan or project that would have an adverse effect on the integrity of a European Site.

(9) Where the Minister forms the opinion that imperative reasons of overriding public interest do not exist, or that an absence of alternative solutions has not been established or that the compensatory measures, or revised or modified compensatory measures, as the case may be, are not sufficient to ensure that the overall coherence of the Natura 2000 network is protected, he or she shall as soon as possible issue a notice to this effect to the public authority and the public authority shall not consent to—

(a) the plan or project, or

(b) that part of the plan or project that would have an adverse effect on the integrity of a European Site.

(10) Where the Minister issues a notice under paragraph (8) he or she shall inform the Commission of the matter, including the compensatory measures proposed.

(11) The public authority shall make available for inspection by members of the public during office hours at the office of the authority, and may also publish on the internet a notice issued to the authority under paragraph (8) or (9).

(12)(a) Where the Minister receives a statement of case under subparagraph (1)(c) relating to a European Site that hosts a priority habitat type or priority species, he or she shall, as soon as may be, consider whether—

(i) imperative reasons of overriding public interest exist,

(ii) an absence of alternative solutions has been established, and

(iii) the compensatory measures proposed are sufficient to ensure the overall coherence of Natura 2000 is protected.

(b) Where the Minister considers it appropriate, he or she may—

(i) consult with such other Minister of the Government, having regard to the functions of that other Minister, and

(ii) consider any views of a Minister of the Government consulted pursuant to subparagraph (b)(i) and which are received by the Minister before he or she issues a notice under paragraph (17), (18) or (19).

(13) Where the Minister forms the opinion that imperative reasons of overriding public interest comprising only a reason or reasons set out in subparagraphs (3)(a) to (3)(c) exist, that an absence of alternative solutions has been established, and that the compensatory measures, or revised or modified compensatory measures as the case may be, are sufficient to ensure that the overall coherence of the Natura 2000 network is protected, the Minister shall issue a notice to this effect to the public authority and the public authority may consent to—

(a) the plan or project, or

(b) that part of the plan or project that would have an adverse effect on the integrity of a European Site.

(14)(a) Where the Minister considers that imperative reasons of overriding public interest may exist and may comprise or include a reason or reasons other than the reasons set out in subparagraphs (3)(a) to (3)(c), that an absence of alternative solutions has been established, and that the compensatory measures proposed are sufficient to ensure the overall coherence of Natura 2000 is protected, he or she shall consider whether the opinion of the Commission should be sought in relation to the matter.

(b) Where the Minister proposes not to seek the opinion of the Commission pursuant to subparagraph (a) he or she shall, in addition to any consultation that may have taken place under subparagraph (12)(b), as soon as possible consult with such other Minister of the Government as the Minister considers appropriate having regard to the functions of that other Minister and request that the other Minister furnish his or her views as soon as possible.

(c) The Minister shall consider any views received from any other Minister of the Government consulted under subparagraph (b) where those views are received by the Minister before he or she decides whether to seek the opinion of the Commission under subparagraph (a).

(15) Where the Minister—

(a)having formed an opinion in accordance with paragraph (14)(a)

(b) having sought the opinion of the Commission in relation to the matter, and

(c) having considered the opinion of the Commission,

he or she shall issue a notice to the public authority,

(i) authorising the public authority to consent to the plan or project, subject to such conditions or other requirements as the Minister may specify, or

(ii) directing the public authority not to consent to the plan or project, and

(iii) giving his or her reasons for the decision conveyed in said notice.

(16) A public authority, having received a notice pursuant to paragraph (15)—

(a) shall consent to the plan or project, subject to such conditions or other requirements as the Minister has specified, where the Minister has given his or her authorisation, or

(b) shall not consent to the plan or project, where the Minister has so directed.

(17) Where the Minister—

(a) forms the opinion that imperative reasons of overriding public interest do not exist, or

(b) forms the opinion that the imperative reasons of overriding public interest comprise or include a reason or reasons other than those in subparagraphs ~~(4)(a) to (4)(c)~~ 3(a) to 3(c) and he or she has decided not to seek the opinion of the Commission in relation to the matter, or

(c) forms the opinion that the compensatory measures, or revised or modified compensatory measures as the case may be, are not sufficient to ensure that the overall coherence of the Natura 2000 network is protected,

he or she shall issue a notice to this effect to the public authority and the public authority shall not consent to—

(i) the plan or project, or

(ii) that part of the plan or project that would have an adverse effect on the integrity of a European Site.

(18) Where the Minister issues a notice under paragraph (15) he or she shall inform the Commission of the matter, including the compensatory measures proposed.

(19) The public authority shall make available for inspection by members of the public during office hours at the office of the authority, and may also publish on the internet a notice issued to the authority under ~~paragraph (15) or (16)~~ paragraph (15), (16) or (17).

(20) The provisions of this Regulation shall not apply to a candidate special protection area.

Proposed plans or projects and imperative reasons of overriding public interest where the Minister is Public Authority; general

43A. (1) Where, notwithstanding a determination by the Ecological Assessment Unit, pursuant to Regulation 42A, that a plan or project or part thereof will adversely affect a European Site and, in the absence of alternative solutions, the Minister considers that the plan or project should nevertheless be made for imperative reasons of overriding public interest, including those of a social and economic nature, the Minister shall—

(a) set out the imperative reasons of overriding public interest, including those of a social and economic nature, that necessitate the carrying out of the plan or project,

(b) propose the compensatory measures that are necessary to ensure that the overall coherence of the Natura 2000 network is protected,

(c) prepare a statement of case that imperative reasons of overriding public interest exist and of the compensatory measures that are required, and

Commented [N85]: Substituted by Regulation 8(c) of S.I. No. 293/2021 - European Union (Birds and Natural Habitats) (Amendment) Regulations 2021

Commented [N86]: Substituted by Regulation 8(d) of S.I. No. 293/2021 - European Union (Birds and Natural Habitats) (Amendment) Regulations 2021

Commented [N87]: Inserted by Regulation 9 of S.I. No. 293/2021 - European Union (Birds and Natural Habitats) (Amendment) Regulations 2021

Commented [N88]: Inserted by Regulation 9 of S.I. No. 293/2021 - European Union (Birds and Natural Habitats) (Amendment) Regulations 2021

(d) forward the said statement of case together with details of the proposed plan or project, the Natura Impact Statement and, where appropriate, the Commission's opinion, requested under paragraph (5), to the Ecological Assessment Unit.

(2) A statement of case referred to in paragraph (1)(c) shall specify the following:

(a) the considerations that led to the assessment by the Ecological Assessment Unit that the plan or project would adversely affect the integrity of a European Site;

(b) the reasons for the forming of the view by the Minister that there are no alternative solutions (including the option of not proceeding with the plan or project or part thereof);

(c) the reasons for the forming of the view by the Minister that imperative reasons of overriding public interest, including those of a social and economic nature, apply to the plan or project;

(d) the compensatory measures that are being proposed as necessary to ensure the overall coherence of the Natura 2000 network is protected, including if appropriate, the provision of compensatory habitat.

(3) In relation to a European Site that hosts a priority natural habitat type or priority species, the only imperative reasons of overriding public interest that may be considered are those relating to—

(a) human health,

(b) public safety,

(c) beneficial consequences of primary importance to the environment, or

(d) subject to paragraph (5), and having obtained an opinion from the European Commission, other imperative reasons of overriding public interest.

(4) In relation to a European Site that does not host a priority natural habitat type or priority species, the imperative reasons of overriding public interest may also include those of a social and economic nature.

(5) In invoking imperative reasons of overriding public interest under paragraph (3)(d), the Minister shall request an opinion from the European Commission prior to forwarding the information mentioned in paragraph (1)(d) to the Ecological Assessment Unit.

(6) The Minister shall make a statement of case referred to in paragraph (1)(c) available for inspection, as soon as may be after it is prepared and forwarded to the Ecological Assessment Unit, by members of the public during office hours of the offices of the Minister and shall also make the statement available in electronic form including by placing the documents on the Minister's website.

(7) This Regulation and Regulations 43B and 43C shall not apply to a candidate special protection area.

(8) A member of the Ecological Assessment Unit that is involved in the preparation of plan or project for which a statement of case has been forwarded to the Ecological Assessment Unit under this

Regulation shall not perform any of the functions of the Ecological Assessment Unit under Regulation 43B or 43C.

Proposed plans or projects and imperative reasons of overriding public interest where the Minister is Public Authority; sites not hosting priority habitats and species

43B. (1) This Regulation shall apply to sites that do not host a priority type or priority species where a statement of case together with details of the proposed plan or project, the Natura Impact Statement and, where appropriate, the Commission's opinion, requested under Regulation 43A(5), are forwarded to the Ecological Assessment Unit under Regulation 43A(1).

Commented [N89]: Inserted by Regulation 9 of S.I. No. 293/2021 - European Union (Birds and Natural Habitats) (Amendment) Regulations 2021

(2) (a) Where the Ecological Assessment Unit receives a statement of case under paragraph (1)(c) of Regulation 43A relating to a European Site that does not host a priority habitat type or priority species, it shall, as soon as possible, consider whether –

(i) imperative reasons of overriding public interest exist,

(ii) an absence of alternative solutions has been established, and

(iii) the compensatory measures proposed are sufficient to ensure the overall coherence of the Natura 2000 network is protected.

(b) Where the Ecological Assessment Unit considers it appropriate, it may

(i) consult with such other Minister of the Government, having regard to the functions of that other Minister, and

(ii) consider any views of a Minister of the Government consulted pursuant to clause (i) and which are received by the Ecological Assessment Unit before issuing its opinion under paragraph (3) or (4).

(3) Where the Ecological Assessment Unit forms the opinion that imperative reasons of overriding public interest exist, that an absence of alternative solutions has been established, and that the compensatory measures, or revised or modified compensatory measures, as the case may be, are sufficient to ensure that the overall coherence of the Natura 2000 network is protected, the Ecological Assessment Unit shall as soon as possible issue a notice to this effect to the Minister and the Minister may decide to undertake or adopt—

(a) the plan or project or

(b) that part of the plan or project that would have an adverse effect on the integrity of a European Site.

(4) Where the Ecological Assessment Unit forms the opinion that imperative reasons of overriding public interest do not exist, or that an absence of alternative solutions has not been established or that the compensatory measures, or revised or modified compensatory measures, as the case may be, are not sufficient to ensure that the overall coherence of the Natura 2000 is protected, the Ecological Assessment Unit as soon as possible issue a notice to this effect to the Minister and the Minister shall not undertake or adopt —

(a) the plan or project, or

(b) that part of the plan or project that would have an adverse effect on the integrity of a European Site.

(5) Where the Minister, having had regard to the opinion of the Ecological Assessment Unit, makes a decision under paragraph (3), he or she shall inform the Commission of the matter, including the compensatory measures proposed.

(6) The Minister shall make available for inspection by members of the public during office hours at the office of the authority, and may also publish on his or her website a notice of –

(a) a decision made under paragraph (3), or

(b) the fact that he or she is not proceeding pursuant to paragraph (4),

to undertake or adopt —

(i) a plan or project, or

(ii) that part of a plan or project that would have an adverse effect on the integrity of a European Site.

Proposed plans or projects and imperative reasons of overriding public interest where the Minister is Public Authority; sites hosting priority habitats and species

43C. (1) This Regulation shall apply to sites that host a priority type or priority species where a statement of case together with details of the proposed plan or project, the Natura Impact Statement and, where appropriate, the Commission's opinion, requested under Regulation 43A(5), are forwarded to the Ecological Assessment Unit under Regulation 43A(1).

Commented [N90]: Inserted by Regulation 9 of S.I. No. 293/2021 - European Union (Birds and Natural Habitats) (Amendment) Regulations 2021

(2) (a) Where a statement of case relating to a European Site that hosts a priority habitat type or priority species together with details of the proposed plan or project, the Natura Impact Statement and, where appropriate, the Commission's opinion, requested under Regulation 43A(5), are forwarded to the Ecological Assessment Unit under Regulation 43A(1), the Ecological Assessment Unit shall, as soon as may be, consider whether—

(i) imperative reasons of overriding public interest exist,

(ii) an absence of alternative solutions has been established, and

(iii) the compensatory measures proposed are sufficient to ensure the overall coherence of the Natura 2000 network is protected.

(b) Where the Ecological Assessment Unit, considers it appropriate, it may—

(i) consult with such other Minister of the Government, having regard to the functions of that other Minister, and

(ii) consider any views of a Minister of the Government consulted pursuant to clause (i) and which are received by the Ecological Assessment Unit before issuing its opinion under paragraph (3) or (4).

(3) Where Ecological Assessment Unit, forms the opinion that imperative reasons of overriding public interest comprising only a reason or reasons set out in paragraph (3)(a) to (c) of Regulation 43A exist, and having had regard to the opinion issued by the Commission pursuant to the Minister's request under paragraph (5) of Regulation 43A, and that an absence of alternative solutions has been established, and that the compensatory measures, or revised or modified compensatory measures as the case may be, are sufficient to ensure that the overall coherence of the Natura 2000 network is protected, the Ecological Assessment Unit shall issue a notice to this effect to the Minister and the Minister may decide to undertake or adopt —

(a) the plan or project, or

(b) that part of the plan or project that would have an adverse effect on the integrity of a European Site.

(4) Where Ecological Assessment Unit, forms the opinion that imperative reasons of overriding public interest comprising only a reason or reasons set out in paragraph (3)(a) to (c) of Regulation 43A do not exist, and having had regard to the opinion issued by the Commission pursuant to the Minister's request under paragraph (5) of Regulation 43A, and that an absence of alternative solutions has been established, and that the compensatory measures, or revised or modified compensatory measures as the case may be, are not sufficient to ensure that the overall coherence of the Natura 2000 network is protected, the Ecological Assessment Unit shall issue a notice to this effect to the Minister and the Minister may not undertake or adopt —

(a) the plan or project, or

(b) that part of the plan or project that would have an adverse effect on the integrity of a European Site.

(5) Where the Minister, having had regard to the opinion of the Ecological Assessment Unit, makes a decision under paragraph (3), he or she shall inform the Commission of the matter, including the compensatory measures proposed.

(6) The Minister shall make available for inspection by members of the public during office hours at the office of the authority, and may also publish on his or her website a notice of –

(a) a decision made under paragraph (3), or

(b) the fact that he or she is not proceeding pursuant to paragraph (4),

to undertake or adopt —

(i) a plan or project, or

(ii) that part of a plan or project that would have an adverse effect on the integrity of a European Site."

Overriding public interest and serving public health and safety

43D. Notwithstanding these Regulations and the Wildlife Act 1976, for the purposes of Article 16f of the Renewable Energy Directive, until climate neutrality is achieved, where a renewable energy project or any part thereof consists of—

Commented [RF91]: 43D is inserted by Regulation 4 of the European Communities (Birds and Natural Habitats) (Amendment) Regulations 2026 (S.I. 320 of 2026)

(a) the planning, construction and operation of a renewable energy plant,

(b) the connection of such a plant to the grid,

(c) the grid referred to in paragraph (b), or

(d) storage assets,

such a renewable energy project is presumed as—

(i) being in the overriding public interest, and

(ii) serving public health and safety,

when balancing legal interests in individual cases for the purposes of—

(I) Article 6(4) and point (c) of Article 16(1) of the Habitats Directive, and

(II) point (a) of Article 9(1) of the Birds Directive.

Consent by public authorities

44. (1) ~~The provisions of Regulations 42 and, if applicable, 43, apply before a public authority may give consent for a plan or project under these Regulations~~. The provisions of Regulations 42, 42A, and, if applicable, 43 to 43C, apply before a public authority may give consent for a plan or project under these Regulations

Commented [N92]: Substituted by Regulation 10 of S.I. No. 293/2021 - European Union (Birds and Natural Habitats) (Amendment) Regulations 2021

(2) A public authority may, for the purposes of these Regulations, attach conditions to any consent or at any time vary such conditions as the public authority deems appropriate, or revoke such consent if, in the opinion of the public authority, the conditions attached to such consent have been breached or the continuation of such consent would be liable to destroy, or significantly alter, damage or interfere with the species and habitats for which the site may be or has been designated and the public authority shall communicate in writing anything determined pursuant to this paragraph to the persons concerned.

(3) A public authority shall give reason for—

(a) a decision to give consent,

(b) a decision to refuse to give consent, or

(c) a decision to attach conditions, vary conditions or revoke consent.

(4) This Regulation shall not apply to planning authorities in the exercise of their functions under the Planning and Development Acts 2000 to 2011.

Compensatory measures

45. ~~When a public authority—~~

~~(a) agrees to a plan or project under Regulation 43, or~~

~~(b) affirms or modifies its decision or approval under Regulation 43,~~

~~it shall take all necessary steps to secure that any compensatory measures approved by the Minister under Regulation 43 are taken in a timely manner so as to ensure that the overall coherence of Natura 2000 is protected.~~

(1) When a public authority—

(a) agrees to a plan or project under Regulation 43, or

(b) affirms or modifies its decision or approval under Regulation 43,

it shall take all necessary steps to ensure that any compensatory measures approved by the Minister under Regulation 43 are taken in a timely manner so as to ensure that the overall coherence of the Natura 2000 network is protected.

(2) When the Minister, decides to undertake or adopt a plan or project under Regulation 43B(3) or 43C(3), he or she shall take all necessary steps to ensure that any compensatory measures are taken in a timely manner so as to ensure that the overall coherence of the Natura 2000 network is protected.

Commented [N93]: Substituted by Regulation 11 of S.I. No. 293/2021 - European Union (Birds and Natural Habitats) (Amendment) Regulations 2021

Review of existing plans

46. (1) Where a public authority has decided to adopt or undertake, or has given any approval for a plan, the implementation of which—

(a) is not yet completed at the date of the making of these Regulations and may continue or commence after the date of the making of these Regulations, or

(b) is not yet completed at the date on which a relevant site becomes a European Site and may continue or commence after the date on which the relevant site becomes a European Site,

and the public authority has not conducted a screening for Appropriate Assessment or an Appropriate Assessment of the implications for the European Site of the plan in view of the site's conservation objectives before deciding to undertake, or give any approval for that plan where the plan—

(i) is likely to have a significant effect on the European Site, either individually or in combination with other plans or projects, and

(ii) is not directly connected with or necessary to the management of the European Site,

then the public authority shall review its decision or approval for the plan, applying the provisions of Regulations 42 and 43 with the appropriate modifications, and it may thereupon affirm, modify or revoke its decision or approval.

(2) ~~The Minister may request a public authority to carry out a review of a plan in accordance with paragraph (1) and the public authority shall comply with such request.~~

(2) (a) The Minister may request a public authority to carry out a review of a plan in accordance with paragraph (1) and the public authority shall comply with such a request.

(b) The Ecological Assessment Unit may request the Minister to carry out a review of a plan in accordance with paragraph (1) and the Minister shall comply with such a request.

Commented [N94]: Substituted by Regulation 12(a) of S.I. No. 293/2021 - European Union (Birds and Natural Habitats) (Amendment) Regulations 2021

(3) For the purposes of this Regulation, a decision, including a decision to adopt or undertake, or give approval for a plan, may include those adopted, undertaken or approved pursuant to any of the enactments set out in the Second Schedule to these Regulations.

(4) ~~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 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 [N95]: 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 [N96]: 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—

Commented [N97]: Inserted by Regulation 12 of the European Communities (Birds and Natural Habitats) (Amendment) Regulations 2015 (S.I. 355/2015)

(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.

Commented [N98]: Inserted by Regulation 12 of the European Communities (Birds and Natural Habitats) (Amendment) Regulations 2015 (S.I. 355/2015)

(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 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—

Commented [N99]: Substituted by Regulation 14 of S.I. No. 293/2021 - European Union (Birds and Natural Habitats) (Amendment) Regulations 2021

(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 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—

Commented [N100]: Substituted by Regulation 15 of S.I. No. 293/2021 - European Union (Birds and Natural Habitats) (Amendment) Regulations 2021

(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,

(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—

Commented [N101]: Substituted by Regulation 16(a) of S.I. No. 293/2021 - European Union (Birds and Natural Habitats) (Amendment) Regulations 2021

(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,

(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.

Commented [N102]: Substituted by Regulation 16(b)(i) of S.I. No. 293/2021 - European Union (Birds and Natural Habitats) (Amendment) Regulations 2021

Commented [N103]: Substituted by Regulation 16(b)(ii) of S.I. No. 293/2021 - European Union (Birds and Natural Habitats) (Amendment) Regulations 2021

(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.

Commented [N104]: Substituted by Regulation 16(c) of S.I. No. 293/2021 - European Union (Birds and Natural Habitats) (Amendment) Regulations 2021

Derogations — flora, fauna and habitats

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.

Commented [N105]: Inserted by Regulation 17 of S.I. No. 293/2021 - European Union (Birds and Natural Habitats) (Amendment) Regulations 2021

(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.

(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.

Commented [N106]: Inserted by Regulation 18 of S.I. No. 293/2021 - European Union (Birds and Natural Habitats) (Amendment) Regulations 2021

(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 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.

Mitigation measures in relation to protection of species in permit-granting procedure for renewable energy projects outside renewables acceleration areas

55B. (1) Notwithstanding Regulation 51 and the Wildlife Act 1976, in relation to prohibitions on deliberate killing or disturbance of the species protected under Article 5 of the Birds Directive in that Act where those prohibitions are necessitated by the State's obligations under European Union law, paragraph (2) shall apply for the purposes of Article 16b(2) of the Renewable Energy Directive.

Commented [RF107]: 55B inserted by Regulation 5 of the European Communities (Birds and Natural Habitats) (Amendment) Regulations 2026 (S.I. 320 of 2026)

(2) Where a renewable energy project, other than where the project is within a renewables acceleration area, has adopted necessary mitigation measures, any killing or disturbance of the species protected under—

(a) Article 12(1) of the Habitats Directive, or

(b) Article 5 of the Birds Directive,

shall not be considered to be deliberate.

PART 7

MISCELLANEOUS

Miscellaneous amendments

56. (1) Section 13A of the Foreshore Act 1933 (as inserted by Regulation 13 of the European Communities (Environmental Impact Assessment) Regulations 1989 and amended by Regulation 9 of the European Communities (Environmental Impact Assessment) (Amendment) Regulations 1999) is amended—

(a) by substituting the following subparagraph for subparagraph (i) of paragraph (b) of subsection (2A),

"(i) a European Site, meaning

(I) a candidate site of Community importance,

(II) a site of Community importance,

(III) a candidate special area of conservation,

(IV) a special area of conservation,

(V) a candidate special protection area, or

(VI) a special protection area",

and

(b) by the repeal of subparagraphs (ii), (iii) and (iv) of paragraph (b) of subsection (2A).

(2) Section 62 of the Forestry Act 1946 (as amended by Section 72 of the Wildlife (Amendment) Act 2000) is amended by substituting the following subsection for subsection (1A)—

"(1A) Where either or both the wood and land to which subsection (1) of this section relates is or forms part of a European Site (within the meaning of Regulation 2 of the European Communities (Birds and Natural Habitats) Regulations 2011), or is or forms part of either or both wood and land to which Regulations 28, 29, 38 or 39 of the European Communities (Birds and Natural Habitats)

Regulations 2011, apply, then the Minister may serve a notice under subsection (1) of this section only where there has been relevant compliance with Regulations 42 and 43 of the European Communities (Birds and Natural Habitats) Regulations 2011."

(3) Section 13A of the Petroleum and Other Minerals Development Act 1960 (as inserted by Regulation 19 of the European Communities (Environmental Impact Assessment) Regulations 1989 and amended by Regulation 12 of the European Communities (Environmental Impact Assessment) (Amendment) Regulations 1999) is amended—

(a) by substituting the following clause for clause (I) of subparagraph (ii) of paragraph (c) of subsection (1),

"(I) a European Site, meaning

(A) a candidate site of Community importance,

(B) a site of Community importance,

(C) a candidate special area of conservation,

(D) a special area of conservation,

(E) a candidate special protection area, or

(F) a special protection area",

and

(b) by the repeal of clauses (II), (III) and (IV) of subparagraph (ii) of paragraph (c) of subsection (1)

(4) Section 40A of the Gas Act 1976 (as inserted by Regulation 20 of the European Communities (Environmental Impact Assessment) Regulations 1989 and amended by Regulation 13 of the European Communities (Environmental Impact Assessment) (Amendment) Regulations 1999) is amended—

(a) by substituting the following clause for clause (I) of subparagraph (ii) of paragraph (c) of subsection (1),

"(I) a European Site, meaning

(A) a candidate site of Community importance,

(B) a site of Community importance,

(C) a candidate special area of conservation,

(D) a special area of conservation,

(E) a candidate special protection area, or

(F) a special protection area",

and

(b) by the repeal of clauses (II), (III) and (IV) of subparagraph (ii) of paragraph (c) of subsection (1).

(5) Section 9 of the Wildlife Act 1976 (as amended by Section 8 of the Wildlife (Amendment) Act 2000 and Regulation 2 of the European Communities (Natural Habitats) (Amendment) Regulations 2005) is amended in subsection (5) by substituting the following for "the European Communities (Natural Habitats) Regulations 1997, as amended by the European Communities (Natural Habitats)(Amendment) Regulations 1998 and by the European Communities (Natural Habitats) (Amendment) Regulations 2005"—

"the European Communities (Birds and Natural Habitats) Regulations 2011".

(6) Section 45 of the Wildlife Act 1976 (as amended by the European Communities (Wildlife Act 1976) (Amendment) Regulations 1985 and Section 51 of the Wildlife (Amendment) Act 2000 and Regulation 2 of the European Communities (Natural Habitats) (Amendment) Regulations 2005 is amended in subsection (1) by substituting the following for "Part 1 or 2 of the First Schedule to the European Communities (Natural Habitats) Regulations 1997, as amended by the European Communities (Natural Habitats) (Amendment) Regulations 1998 and by the European Communities (Natural Habitats) (Amendment) Regulations 2005"—

"Part 1 or 2 of the First Schedule to the European Communities (Birds and Natural Habitats) Regulations 2011".

(7) Section 50 of the Roads Act 1993 (as inserted by Regulation 20 of the European Communities (Environmental Impact Assessment) Regulations 1989 and amended by Regulation 14 of the European Communities (Environmental Impact Assessment) (Amendment) Regulations 1999) is amended—

(a) by substituting the following subparagraph for subparagraph (i) of paragraph (d) of subsection (1),

"(i) a European Site, meaning

(I) a candidate site of Community importance,

(II) a site of Community importance,

(III) a candidate special area of conservation,

(IV) a special area of conservation,

(V) a candidate special protection area, or

(VI) a special protection area",

and

(b) by the repeal of subparagraph (ii), (iii) and (iv) of paragraph (d) of subsection (1).

(8) Section 372AW of the Taxes Consolidation Act 1997 (as inserted by Section 29 of the Finance Act 2007) is amended by substituting the following subparagraph for subparagraph (i) of paragraph (c) of subsection (3)—

"(a) a European Site (within the meaning of Regulation 2 of the European Communities (Birds and Natural Habitats) Regulations 2011), or".

(9) Section 26 of the Dublin Docklands Development Authority Act 1997 (as amended by Regulation 16 of the European Communities (Environmental Impact Assessment) (Amendment) Regulations 1999) is amended—

(a) by substituting the following clause for clause (I) of subparagraph (ii) of paragraph (b) of subsection (1),

"(I) a European Site, meaning

(A) a candidate site of Community importance,

(B) a site of Community importance,

(C) a candidate special area of conservation,

(D) a special area of conservation,

(E) a candidate special protection area, or

(F) a special protection area",

and

(b) by the repeal of clauses (II), (III) and (IV) of subparagraph (ii) of paragraph (b) of subsection (1).

(10) Section 5 of the Maritime Safety Act 2005 is amended by substituting the following paragraph for paragraph (a) of the definition of "natural heritage area"—

"(a) a European Site (within the meaning of Regulation 2 of the European Communities (Birds and Natural Habitats) Regulations 2011),".

(11) Regulation 3 of the European Communities (Environmental Impact Assessment) (Amendment) Regulations 1999 is amended by substituting the following definition for the definition of "special area of conservation"—

""special area of conservation" has the meaning assigned to it in Regulation 2 of the European Communities (Birds and Natural Habitats) Regulations 2011".

(12) Regulation 7 of the European Communities (Environmental Impact Assessment) (Amendment) Regulations 2001) is amended by substituting the following definition for the definition of "European Site"—

""European Site" means—

(a) a candidate site of Community importance,

(b) a site of Community importance,

(c) a candidate special area of conservation,

(d) a special area of conservation,

(e) a candidate special protection area, or

(f) a special protection area".

(13) Schedule 3 of the Planning and Development Regulations 2001 (as amended by Regulation 42 of the Planning and Development Regulations 2006) is amended in Form No. 2 (Planning Application Form) by substituting the following for "a European Site (under S.I. No. 94 of 1997)"—

"a European Site, meaning

(a) a candidate site of Community importance,

(b) a site of Community importance,

(c) a candidate special area of conservation,

(d) a special area of conservation,

(e) a candidate special protection area, or

(f) a special protection area".

(14) Schedule 2 of the Planning and Development Regulations 2001 (as amended by Regulation 4 of the Planning and Development Regulations 2005) is amended in Class 17 of Part 3 by substituting the following for "the European Communities (Natural Habitats) Regulations 1997, or any Regulations or enactment amending or replacing those Regulations"—

"the European Communities (Birds and Natural Habitats) Regulations 2011 or any Regulations or enactment amending or replacing those Regulations".

(15) Regulation 2 of the European Communities (Environmental Assessment of Certain Plans and Programmes) Regulations 2004 is amended by substituting the following definition for the definition of "European Site"—

""European Site" means—

(a) a candidate site of Community importance,

(b) a site of Community importance,

(c) a candidate special area of conservation,

(d) a special area of conservation,

(e) a candidate special protection area, or

(f) a special protection area".

(16) Regulation 2 of the European Communities (Aerial Fertilisation) (Forestry) Regulations 2006 is amended by substituting the following definition for the definition of "European Site"—

""European Site" means—

(a) a candidate site of Community importance,

(b) a site of Community importance,

(c) a candidate special area of conservation,

(d) a special area of conservation,

(e) a candidate special protection area, or

(f) a special protection area".

(17) Regulation 3 of the Waste Water Discharge (Authorisation) Regulations 2007 is amended—

(a) by substituting the following definition for the definition of "European Site",

""European Site" means—

(a) a candidate site of Community importance,

(b) a site of Community importance,

(c) a candidate special area of conservation,

(d) a special area of conservation,

(e) a candidate special protection area, or

(f) a special protection area",

and

(b) by substituting the following definition for the definition of "Natural Habitats Regulations",

""Natural Habitats Regulations" means the European Communities (Birds and Natural Habitats) Regulations 2011".

(18) Regulation 5 of the Waste Management (Facility Permit and Registration) Regulations 2007 is amended by substituting the following definition for the definition of "European Site"—

""European Site" means—

(a) a candidate site of Community importance,

(b) a site of Community importance,

(c) a candidate special area of conservation,

(d) a special area of conservation,

(e) a candidate special protection area, or

(f) a special protection area".

(19) Regulation 2 of the European Communities (Control of Dangerous Substances in Aquaculture) Regulations 2008 is amended—

(a) by substituting the following definition for the definition of "European Site",

""European Site" means—

(a) a candidate site of Community importance,

(b) a site of Community importance,

(c) a candidate special area of conservation,

(d) a special area of conservation,

(e) a candidate special protection area, or

(f) a special protection area,

and

(b) by substituting the following definition for the definition of "Natural Habitats Regulations",

""Natural Habitats Regulations" means the European Communities (Birds and Natural Habitats) Regulations 2011".

(20) Regulation 2 of the European Communities (Environmental Liability) Regulations 2008 is amended by substituting the following definition for the definition of "Natural Habitats Regulations"—

""Natural Habitats Regulations" means the European Communities (Birds and Natural Habitats) Regulations 2011".

(21) Section 7 of the Protection of Animals (Amendment) Act 1965 is amended by the insertion after "generates poisonous gas" of the following—

“, provided that the person complies with the provisions of Regulations 54 of the European Communities (Birds and Natural Habitats) Regulations 2011”.

(22) Subsection (1) of Section 14 of the Protection of Animals (Amendment) Act 1965 is amended by the insertion after “the provisions of this section” of the following—

“and Regulations 54 and 55 of the European Communities (Birds and Natural Habitats) Regulations 2011”.

(23) The European Communities (Wildlife Act 1976) (Amendment) Regulations, 1986, as amended by the European Communities (Wildlife Act 1976) (Amendment) Regulations, 1997, is amended by the insertion after Regulation 3(1)—

“(2) Before the Minister makes a declaration pursuant to Regulation 3(1), the Minister shall be satisfied that the making of the declaration will not authorise any action that is inconsistent with the requirements of the Directive (as amended) or Council Directive 92/43/EEC of 21 May 1992 (O.J. No. L 206, 22.7.1992, p.7) (as amended).”

(24) The Wildlife Act 1976 is amended in Section 11, subsection (2) by the insertion of the following after paragraph (b)—

“(bb) encourage the management of features of the landscape which are of major importance for wild flora and fauna including birds, which include those features which by virtue of—

(i) their linear and continuous structure, such as rivers or canals with their banks or the traditional systems of marking field boundaries, or

(ii) their function as stepping stones, such as ponds or small woods,

are essential for the migration, dispersal and genetic exchange of wild species, for the purposes of the Habitats Directive or the Birds Directive,

(bc) take the requisite measures to maintain the population of the species referred to in Article 1 of the Birds Directive at a level that corresponds in particular to ecological, scientific and cultural requirements, while taking account of economic and recreational requirements, or to adapt the population of these species to that level,

(bd) take the requisite measures to preserve, maintain or re-establish a sufficient diversity and area of habitats by the preservation, maintenance and re-establishment of biotopes and habitats for all of the species of birds referred to in Article 1 of the Birds Directive, in particular the following measures—

(i) the creation of European Sites, or

(ii) the upkeep and management in accordance with the ecological needs of habitats inside and outside European Sites, or

(iii) the re-establishment of destroyed biotopes, and

(iv) the creation of biotopes."

(25) The Wildlife Act 1976 , as amended by Section 26 of the Wildlife (Amendment) Act 2000 , is amended in Section 15 subsection (2)(a) by the insertion of the following before "and that in the case of such habitat or ecosystem"—

"or,

(iv) has features of the landscape which are of major importance for wild flora and fauna including birds, which include those features which by virtue of—

(I) their linear and continuous structure, such as rivers or canals with their banks or the traditional systems of marking field boundaries, or

(II) their function as stepping stones, such as ponds or small woods, are essential for the migration, dispersal and genetic exchange of wild species, for the purposes of the Habitats Directive or the Birds Directive, or

(III) their importance for the maintenance of the population of the species referred to in Article 1 of the Birds Directive at a level that corresponds in particular to ecological, scientific and cultural requirements, while taking account of economic and recreational requirements, or for adapting the population of these species to that level, or

(IV) their importance for the preservation, maintenance or re-establishment of a sufficient diversity and area of habitats by the preservation, maintenance and re-establishment of biotopes and habitats for all of the species of birds referred to in Article 1 of the Birds Directive, in particular for

(A) the creation of European Sites, or

(B) the upkeep and management in accordance with the ecological needs of habitats inside and outside European Sites, or

(C) the re-establishment of destroyed biotopes, and

(D) the creation of biotopes.

(26) The Wildlife Act 1976 is amended in Section 17 subsection (1) by the insertion of the following before "then, subject to subsection (5) of this section"—

“or that land has features of the landscape which are of major importance for wild flora and fauna including birds, which include those features which by virtue of:

(a) their linear and continuous structure, such as rivers or canals with their banks or the traditional systems of marking field boundaries, or

(b) their function as stepping stones, such as ponds or small woods,

are essential for the migration, dispersal and genetic exchange of wild species, for the purposes of the Habitats Directive or the Birds Directive,”

(27) The Wildlife (Amendment) Act 2000 is amended in Section 16 subsection (6) by the replacement of that subsection by the following—

“(6)(a) The Minister, in publishing or causing to be published a notice under subsection (1), shall have regard to whether, on the basis of the scientific advice available to the Minister at a particular time, the area is worthy of conservation by virtue of

(i) its special scientific interest for one or more species, communities, habitats, landforms or geological or geomorphological features, or for its diversity of natural attributes, or

(ii) in light of the requirements of the Birds Directive and the Habitats Directive:

(I) the features of its landscape which are of major importance for wild flora and fauna including birds, which include those features which by reason of:

(A) their linear and continuous structure, such as rivers or canals with their banks or the traditional systems of marking field boundaries, or

(B) their function as stepping stones, such as ponds or small woods,

are essential for the migration, dispersal and genetic exchange of wild species, for the purposes of the Habitats Directive or the Birds Directive, or

(II) its importance for the maintenance of the population of the species referred to in Article 1 of the Birds Directive at a level that corresponds in particular to ecological, scientific and cultural requirements, while taking account of economic and recreational requirements, or for adapting the population of these species to that level, or

(iii) its importance for the preservation, maintenance or re-establishment of a sufficient diversity and area of habitats by the preservation, maintenance and re-establishment of biotopes and habitats for all of the species of birds referred to in Article 1 of the Birds Directive, in particular for—

(I) the creation of European Sites, or

(II) the upkeep and management in accordance with the ecological needs of habitats inside and outside European Sites, or

(III) the re-establishment of destroyed biotopes, and

(IV) the creation of biotopes.

(b) The scientific advice referred to in paragraph (a) shall take account of, as appropriate, the size of the site, its location, the type of natural feature or features contained in it, its importance for the purposes of the Birds Directive and the Habitats Directive and the degree of negative, or potentially negative, human impact."

(28) The Wildlife Act 1976 as amended by the Wildlife (Amendment) Acts 2000 and 2010 and by the European Communities (Natural Habitats) (Amendment) Regulations 2005 is amended in Section 9 by the replacement of subsection (5) by the following—

"(5) nothing shall be allowed to be done by licence or permit that would not be allowed to be done under the provisions of the European Communities (Birds and Natural Habitats) Regulations 2011 or that would otherwise contravene the requirements and obligations of the Birds Directive or the Habitats Directive."

Education and research

57. (1) The Minister shall—

(a) promote education and general information on the need to protect species of wild flora and fauna and to conserve their habitats and natural habitats,

(b) encourage the necessary research and scientific work for the purpose of meeting the requirements of Article 18 of the Habitats Directive with particular attention to scientific work necessary for the implementation of Articles 4 and 10 of that Directive,

(c) encourage research and any work required as a basis for the protection, management and use of the population of all species of bird referred to in Article 1 of the Birds Directive with particular attention to the subjects listed in Annex V to the Birds Directive,

(d) supply information, where appropriate, for the purpose of proper co-ordination of research and scientific work carried out at Member State and European Union level to other Member States and the European Union,

(e) pay particular attention to research and work on the subjects listed in Annex V of the Birds Directive, and

(f) promote the development of national, regional or local databases in relation to approved plans or projects, pursuant to Regulation 42, for the purposes of facilitating the evaluation of the impact of such plans or projects on the coherence of the Natura 2000 network.

(2) The Minister may consult, or take such action as he or she considers necessary in conjunction with, any other Minister of Government or public authority or any other person with responsibility for the functions referred to in paragraph (1), for the purposes of this Regulation.

Introduction of certain species

58. (1)(a) Where the Minister carries out or causes to be carried out an investigation which establishes that the reintroduction within the State or the establishment in any specified part thereof, of certain native species specified in Annex IV to the Habitats Directive—

(i) would not have an adverse effect on the integrity of a European Site,

(ii) would not cause deterioration of the natural habitats or species referred to in Article 2 of the Habitats Directive or Article 1 of the Birds Directive,

(iii) would contribute effectively to re-establishing those species at a favourable conservation status, and

(iv) would thereby contribute to their conservation,

the Minister may, after consultation with such other Ministers of Government, local authorities or other bodies and individuals as he or she considers appropriate and having taken into account any other relevant considerations he or she considers appropriate, may authorise the reintroduction or establishment of any of the native species so specified.

(b) Having satisfied himself or herself that any introduction of species of bird which does not occur naturally in the wild state in the State but that formerly did so occur, the Minister, after consultation with such other Ministers of Government, local authorities or other bodies and individuals as he or she considers appropriate and, having taken into account any other relevant considerations he or she considers appropriate, and having carried out an investigation that establishes that such introduction—

(i) would not have an adverse effect on the integrity of a European Site, or

(ii) would not cause deterioration of the natural habitats or the conservation status of any species referred to in Article 2 of the Habitats Directive or Article 1 of the Birds Directive,

may authorise the reintroduction or establishment of any such species.

(c)Regulations 49 and 50 shall not apply to anything done pursuant to an authorisation under this paragraph.

(2)(a) The Minister may, in consultation with any other Minister of Government that has relevant responsibilities where appropriate, by Direction prohibit, except under licence granted by the Minister, the introduction into the wild of any species so as not to prejudice natural habitats within their natural range or wild fauna and flora, or the genetic integrity of indigenous populations of such species.

(b) The Minister shall publish or cause to be published in the Iris Oifigiúil a copy of every Direction under this paragraph.

(3) A person who fails to comply with a Direction under paragraph (2)(a) shall be guilty of an offence.

Reports

59. (1) The Minister shall draw up a report on the implementation of the measures taken under the Habitats Directive every six years from the date of expiry of the period laid down in Article 17 of the Habitats Directive.

(2) The report under paragraph (1) shall include in particular information concerning the conservation measures referred to in Article 6(1) of the Habitats Directive as well as evaluation of the impact of those measures on the conservation status of the natural habitat types of Annex I of the Habitats Directive and the species in Annex II of the Habitats Directive and the main results of the surveillance referred to in Article 11 of the Habitats Directive.

(3) The Minister shall forward the report under paragraph (1) to the European Commission.

(4) The Minister shall make such arrangements as he or she considers appropriate for a copy of any report provided to the European Commission under paragraph (1) to be made available for inspection by members of the public.

(5) The Minister shall forward to the European Commission every three years, starting from 7 April 1981, a report on the implementation of national provisions taken under the Birds Directive.

(6) A public authority shall furnish to the Minister, within a reasonable period to be specified by the Minister and in such format as he or she may specify, when the Minister reasonably requests it, any information at its disposal which he or she considers relevant for the purposes of drawing up any report under this Regulation.

(7) The Minister shall furnish, within a reasonable period to be specified by him or her, when requested by a public authority to do so, a statement of the conservation objectives of any European Site.

Power of the Minister to obtain information from public authorities

60. (1) A public authority shall provide to the Minister any information that it holds, or that is under its control, that the Minister requests in writing from the public authority, being information that the Minister considers is required for a properly informed exercise by him or her of his or her functions under these Regulations.

(2) Without prejudice to the generality of paragraph (1), information shall include data, statistics, records, observations, reports, and the results and conclusions of research or monitoring or inspection.

(3) Where the public authority does not hold all, or any, of the information requested by the Minister and all or any of that information is not under its control, the public authority shall, as soon as may be, inform the Minister of that fact within 28 days of the date on which the Minister made his or her request.

(4) Subject to paragraph (3) and (5), the public authority shall provide the information referred to in paragraph (1) within 28 days after the date on which the Minister made the request.

(5) Where the public authority is unable to provide all or any of the information referred to in paragraph (1) within 28 days after the Minister made the request, the public authority shall inform the Minister of the date by which it expects to provide the information or the outstanding information and of the reason for the delay, and the public authority shall provide the information to the Minister within 48 days after the Minister made the request, or such other reasonable period as may be agreed with the Minister.

Retention of records

61. (1) A public authority shall retain all records of or in relation to—

(a) the conclusions of any screening for Appropriate Assessment pursuant to the Habitats Directive and the reasons therefore,

(b) the conclusions of any Appropriate Assessment pursuant to the Habitats Directive and the reasons therefore,

(c) the decision to agree or to disagree with any plan or project which was the subject matter of a screening for Appropriate Assessment and, if applicable, an Appropriate Assessment pursuant to the Habitats Directive and the reasons therefore,

(d) information submitted by an applicant for consent pursuant to Regulation 42,

(e) the considerations of overriding public interest and the processes of Regulation 43,

(f) any consent to which these Regulations relate, and

(g) the adoption or undertaking of a plan or project, to which these Regulations relate, by a public authority, including information compiled or prepared pursuant to Regulations 42(8) and 42(12),

for a period of at least 12 years, or such longer period as the Minister may, by Direction given under this Regulation, specify.

(2) A public authority shall furnish, when requested by the Minister to do so, a copy of any of the records referred to in paragraph (1) or, if the Minister so requests, a compilation or summary or abstract of any such records in such format as he or she may specify.

(3) A public authority shall furnish, when requested by another public authority to do so, a copy of any of the records referred to in paragraph (1).

(4) The Minister shall, by Direction, specify the content and format of information to be provided by a public authority on its website or, if specified in the Direction, in a national, regional or local database, in relation to plans and projects that it has approved for the purposes of facilitating the evaluation by other public authorities, pursuant to Regulation 42, of whether a combination of plans and projects may have a significant effect on a European Site for the purposes of Article 6(3) of the Habitats Directive.

(5) A public authority shall provide information in relation to plans and projects that it has approved, in accordance with a Direction given by the Minister under paragraph (4).

(6)(a) The Minister may cause an examination of all or of any of the records referred to in paragraph (1) to be carried out on his behalf, and such an examination may investigate any aspect or aspects of the manner in which the public authority has exercised its responsibilities under these Regulations.

(b) Following the completion of an examination under subparagraph (a), the Minister may make such recommendations to the public authority as he or she considers appropriate, giving the reasons for his or her recommendations.

(c) A public authority shall facilitate the carrying out of an examination under this paragraph.

Veracity and completeness of information, data and declarations

62. (1)(a) Where a person submits or is required to submit or prepares or is required to prepare for submission information or data, including but not limited to a Natura Impact Statement, in relation to—

(i) an application to a public authority for consent to undertake a plan or project, or

(ii) a decision by a public authority to adopt or undertake a plan or project,

and such person supplies false information or withholds or fails to divulge information or data likely to be relevant to the determination by a public authority under Article 6(3) of the Habitats Directive of whether it may agree to the plan or project, having ascertained whether the plan or project, individually or in combination with other plans or projects, will have a significant effect on, or adversely affect the integrity of, a European Site,

(b) where a person, in applying for a licence, permit or derogation under these Regulations, supplies false information to the public authority to which the application was made, or withholds information which he or she believes to be relevant to the decision to be made on his or her application by the public authority, or

(c) where a person makes a declaration pursuant to Regulation 13(2), 17(2), 33(2), 37(2) or 37(4), and that declaration is, in any respect, false or misleading,

that person shall be guilty of an offence.

(2) It shall be a defence to a charge of committing an offence under this Regulation to prove that the accused took all reasonable steps and exercised all due diligence to avoid committing the offence.

General provisions regarding licences etc.

63. (1) A licence, consent, permission, permit, derogation or other authorisation given by the Minister or by a public authority under, pursuant to or in accordance with these Regulations may be subject to such terms, conditions, restrictions or requirements as may be specified in the licence, consent, permission, permit, derogation or other such authorisation for the purposes of complying with the requirements of the Habitats Directive or the Birds Directive.

(2) A licence, consent, permission, permit, derogation or other authorisation given under these Regulations or under any of the enactments referred to in the Second Schedule may include conditions requiring compliance with any guideline or code of practice issued under Regulation 71 or such provisions thereof as may be specified in the conditions.

(3) A person who fails to comply with the terms, conditions, restrictions or requirements of a licence, consent, permission, permit, derogation or other authorisation given by a public authority pursuant to or in accordance with these Regulations shall be guilty of an offence.

(4) A public authority may decide at any time to vary such terms, conditions, restrictions or requirements referred to in paragraph (1) as the public authority deems appropriate, or revoke such licence, consent, permission, permit, derogation or other authorisation referred to in paragraph (1) if, in the opinion of the public authority—

(a) the said terms, conditions, restrictions or requirements attached to such licence, consent, permission, permit, derogation or other authorisation have been breached, or

(b) where the continuation of such licence, consent, permission, permit, derogation or other authorisation would result in the deterioration of natural habitats and the habitats of species as well as the disturbance of species for which a European Site has been selected, in so far as such disturbance could be significant in relation to the objectives of the Habitats Directive and Birds Directive,

and the public authority shall communicate in writing its decision to the person concerned.

(5)Paragraph (4) shall not apply where a licence, consent, permission, permit, derogation or other authorisation has been given on the grounds of overriding public interest, and any activity thereunder has been lawfully carried out, or for the purposes of meeting the objectives of the Habitats Directive or the Birds Directive.

(6) A public authority shall not give a licence, consent, permission, permit, derogation or other authorisation in respect of any activity, plan or project until after the completion of an Environmental Impact Statement or Environmental Report where the completion of same is required by any enactment.

(7) A public authority shall not give a licence, consent, permission, permit, derogation or other authorisation in respect of any activity, plan or project where the public authority is aware from an Environmental Impact Statement or Environmental Report required by any enactment or from surveillance carried out or from action taken on foot of Ministerial guidance contained in a Code of Practice, including guidance relating to the protection of Annex IV Species, or from other information available to the public authority, that the giving of the licence, consent, permission, permit, derogation or other authorisation would not be in compliance with the provisions of Regulation 51, 52 or 53 unless the Minister has granted a licence pursuant to Regulation 54 or 55.

(8) For the avoidance of doubt, a licence, consent, permission, permit, derogation or other authorisation to which paragraph (1) applies includes any such licence, consent, permission, permit, derogation or other authorisation granted under these Regulations or under any other statute to which these Regulations apply.

Licenced wildlife dealer

64. For the avoidance of doubt, a licenced wildlife dealer, within the meaning of the Wildlife Acts 1976 to 2010, is not exempt from the provisions of these Regulations.

Offence of inciting or aiding and abetting

65. A person who incites, directs, procures, permits or assists another person to carry out an action that is an offence under these Regulations shall also be guilty of an offence.

Offences by Body Corporate

66. Where an offence under these Regulations has been committed by a Body Corporate and it is proved to have been so committed with the consent or connivance of, or to be attributable to any neglect on the part of, any person who, when the offence was committed, was a director, manager, secretary or other officer of the Body Corporate, or a person purporting to act in any such capacity, that person, as well as the Body Corporate, shall be guilty of the offence and both the Body Corporate and the individual shall be liable to be proceeded against and punished as if guilty of the first-mentioned offence.

Offences and penalties

67. (1) A person who commits an offence under Regulation 5(7)(a), 5(7)(d), 5(10), 7(2), 23(3), 35(4)(d)(i) or 35(4)(d)(iii) is liable on summary conviction to a Class A fine or imprisonment for a term not exceeding six months, or both.

(2) A person who commits an offence under Regulation 5(7)(b), 5(7)(c), 7(4)(b), 7(4)(e), 9(13), 28(9), 29(3), ~~30(9), 31(10)~~, 30(9), 30A(11), 31(10), 32(8), 35(1), 35(4)(c), 35(4)(d)(ii), 35(6)(g), 35(10), 35(16), 36(2), 36(3)(b), 36(7), 49(1), 49(2), 49(14)(d) 50(1), 50(2), 50(3), 51(2), 52(2), 53(5), 53(7), 58(3), 62(1), 63(3), 65, 74(3), 74(6) or 74(9) is liable—

Commented [N108]: Inserted by Regulation 19 of S.I. No. 293/2021 - European Union (Birds and Natural Habitats) (Amendment) Regulations 2021

Commented [N109]: Inserted by Regulation 13 of the European Communities (Birds and Natural Habitats) (Amendment) Regulations 2015 (S.I. 355/2015).

(a) on summary conviction, to a Class A fine or imprisonment for a term not exceeding six months, or both, or

(b) on conviction on indictment, to a fine not exceeding €500,000, or imprisonment for a term not exceeding three years, or both.

(3) In imposing any penalty under paragraph (1) or (2), the court shall, in particular, have regard to the risk or extent of injury to the environment arising from the act or omission constituting the offence, and to the polluter pays principle.

Prosecution of offences

68. Summary proceedings for offences under these Regulations may be brought by—

(a) the Minister or another Minister of Government,

(b) an officer of the Minister or of another Minister of Government or other person nominated by the Minister or by another Minister of Government for the purpose,

(c) subject to Section 8 of the Garda Síochána Act 2005, by a member of An Garda Síochána, or

(d) a public authority as defined in these Regulations.

Cost of prosecutions

69. (1) Where a person is convicted of an offence under these Regulations, the court shall, unless it is satisfied that there are special and substantial reasons for not doing so, order the person to pay to—

(a) the Minister or another Minister of Government,

(b) an officer of the Minister or of another Minister of Government or other person nominated by the Minister or by another Minister of Government for the purpose,

(c) subject to Section 8 of the Garda Síochána Act 2005, by a member of An Garda Síochána, or

(d) a public authority as defined in these Regulations,

the costs and expenses, measured by the court, incurred by such Minister or other person in relation to the investigation, detection or prosecution of the offence.

(2) Costs and expenses referred to in paragraph (1) may include costs and expenses incurred in relation to any one or more of the following—

(a) the taking of samples,

(b) the carrying out of tests,

(c) examinations and analyses, and

(d) the remuneration and other expenses of authorised officers, consultants and advisers.

Payment of fines to prosecuting authorities

70. (1) Where a court imposes a fine or affirms or varies a fine imposed by another court for an offence under these Regulations, it shall, on the application of the Minister, another Minister of

Government or other person who brought the prosecution, provide by order for the payment of the amount of the fine to such Minister or other person.

(2) Payment to be paid under paragraph (1) may be enforced by the Minister, other Minister of Government or another person specified in paragraph (1) as if it were due on foot of a decree or order made by the court in civil proceedings.

Guidelines and codes of practice

71. (1) The Minister may issue guidelines and codes of practice in relation to the performance of the functions of public authorities insofar as the requirements of these Regulations, the Habitats Directive or the Birds Directive apply to those functions, or in relation to the general duties of other persons to which these Regulations apply.

(2) The Minister may issue such guidelines and codes of practice as he or she considers appropriate for the guidance of the public in relation to these Regulations.

(3) The Minister shall, in particular, issue guidelines for the strict protection of the animal species listed in Annex IV(a) of the Habitats Directive.

(4) Guidelines under this Regulation shall address the steps that public authorities, in the exercise of their functions, including works and maintenance and in giving statutory or other consent or licensing or adopting or carrying out plans or projects, shall take to avoid, in relation to the species listed in Annex IV(a) of the Habitats Directive—

(a) all forms of deliberate capture or killing of specimens of these species in the wild,

(b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration,

(c) deliberate destruction or taking of eggs from the wild, and

(d) deterioration or destruction of breeding sites or resting places,

which shall include, as appropriate, notifying persons seeking or receiving statutory or other approval, licence, permit or any other form of consent, of their obligations under Regulation 54.

Guidelines and codes of practice in criminal and civil proceedings

72. (1) Without prejudice to Regulation 63, and subject to paragraph (2), failure on the part of any person to observe any provision of a guideline or a code of practice issued under Regulation 71 shall not of itself render that person liable to any civil or criminal proceedings.

(2) Where in any criminal proceedings a party is alleged to have committed an offence under these Regulations, being a provision for which there was a guideline or a code of practice at the time of the alleged contravention, paragraph (3) shall have effect with respect to that guideline or code of practice in relation to those proceedings.

(3) Any provision of a guideline or code of practice which appears to the court to give practical guidance as to the observance of the requirement or prohibition alleged to have been contravened shall be admissible in evidence; and if it is proved that any act or omission of the defendant alleged to constitute the contravention is a failure to observe such provision of the guideline or code of practice, or if it is proved that any act or omission of the defendant is in compliance with such provision of the guideline or code of practice, then such failure or compliance shall be admissible in evidence.

Revocations and savings

73. (1) The European Communities (Natural Habitats) Regulations 1997 and all amendments of those Regulations are revoked.

(2) The European Communities (Birds and Natural Habitats) (Control of Recreational Activities) Regulations 2010 are revoked.

(3) Notwithstanding paragraphs (1) and (2)—

(a) any civil proceedings brought under the Regulations revoked in paragraph (1) or (2) and pending when these Regulations come into operation may be continued as if they had been brought under these Regulations,

(b) if any criminal proceedings for any offence under the Regulations revoked in paragraph (1) or (2)—

(i) were pending immediately before the making of these Regulations, or

(ii) could have been brought under the Regulations revoked in paragraph (1) or (2) before the making of these Regulations,

the proceedings may be prosecuted and disposed of, or may be brought, prosecuted and disposed of under the Regulations revoked in paragraph (1) or (2) as if those Regulations were not so revoked,

(c) any document, notice, decision, appointment, consent, authorisation, agreement, act or thing given, issued, sent, made or done by the Minister or other public authority under the Regulations revoked in paragraph (1) or (2) which has full force and effect immediately before the making of these Regulations shall continue to have full force and effect on and after the commencement of

these Regulations and shall be dealt with as if issued, sent, made or done under these Regulations, and

(d) any decision, appointment, consent, authorisation, agreement, act or thing commenced but not completed by the Minister, or other public authority, under the Regulations revoked in paragraph (1) or (2) may be continued and completed by the Minister, or other public authority, under these Regulations.

(4) A reference, in any enactment, to the Regulations revoked in paragraph (1) or (2) is, unless the context otherwise requires, construed and has effect as if the reference is reference to these Regulations or the corresponding provision of these Regulations.

(5) Where any document or notice refers to the Regulations revoked in paragraph (1) or (2) and provision is made by these Regulations corresponding to those Regulations, then, unless the context otherwise requires, that reference shall be construed as, or as the case may be, as including a reference to, the corresponding provision of these Regulations.

(6) A reference in any enactment to a European Site shall, unless the context otherwise requires, be deemed to be a reference to a European Site as defined in these Regulations.

(7) Notwithstanding the revocation of the Regulations referred to in paragraph (1) and (2), European Sites which have full force and effect immediately before the making of these Regulations shall continue to have full force and effect on and after the commencement of these Regulations.

(8) For the avoidance of doubt, Regulation 2 of the European Communities (Natural Habitats) (Amendment) Regulations 2005, is not revoked as it does not constitute amendments of the European Communities (Natural Habitats) Regulations 1997.

Transitional provisions in relation to Regulations 49 and 50

74. (1) Regulation 50 shall come into effect on the date on which the Minister gives public notice of its coming into effect.

(2) A person referred to in Regulation 50(1) who, on the date on which that Regulation comes into effect, has in his or her possession an animal, plant, thing or vector material referred to in subparagraphs (a), (b) or (c) of that Regulation (referred to in this Regulation as “items”) shall, within 21 days after that date, submit to the Minister particulars of the items that he or she has in his or her possession.

(3) A person referred to in paragraph (2) who fails to submit particulars to the Minister in accordance with that paragraph shall be guilty of an offence.

(4) The Minister shall acknowledge in writing receipt of the particulars of the items and following an inspection, if the Minister considers it appropriate, by an authorised officer, he or she shall grant a

transitional licence to the person who submitted the particulars, authorising that person to be in possession of the items specified therein.

(5) A transitional licence shall be for such period, not exceeding six months, as the Minister considers appropriate, and it may contain conditions and may require the licensee to take specified actions, which may include the disposal of the items and the manner of their disposal, within a specified period.

(6) A person who fails to comply with the conditions of a transitional licence or who has failed to take actions required under such a licence within the period specified in the licence shall be guilty of an offence.

(7) A person who has received a transitional licence under paragraph (3) may, not later than 21 days before the expiry of the transitional licence, apply for a licence in accordance with Regulation 50(7) in respect of the items that he or she has in his or her possession.

(8) If the Minister refuses to grant a licence under Regulation 50(7) in respect of the items that a person who has a transitional licence has in his or her possession, the Minister may advise or, if he or she considers it necessary, direct by notice given in writing, that person in relation to the disposal of the items concerned and the manner of their disposal.

(9) A person who fails to comply with a direction under paragraph (8) shall be guilty of an offence.

(10) The Minister may provide compensation where a person can establish that he or she suffered a financial loss as a consequence of being prevented by Regulation 50 from selling any of the items that were in his or her possession on the date on which public notice was given, and may reimburse vouched expenses incurred by a person in the disposal of such items in accordance with the requirements of a transitional licence or of a direction under paragraph (8).

(11) For the purposes of the effective and equitable implementation of Regulations 49 and 50, the Minister may, by public notice or otherwise, provide such derogations from the provisions of these Regulations as may be necessary to facilitate the management and depletion of existing items or stocks of items and to consider any applications for licences for which persons in possession of such items or stocks of items may wish to apply.

FIRST SCHEDULE

FLORA AND FAUNA

PART 1

All species listed in Annex IV of the Habitats Directive

PART 2

All species listed in Annex V of the Habitats Directive.

SECOND SCHEDULE

Number	Year	Short Title/Citation
		Agriculture Acts 1931 to 1980
6	1987	Air Pollution Act, 1987
		Airports and Aviation Acts 1936 to 2004
		Aquaculture Acts 1997 to 2006
33	1925	Arterial Drainage Act, 1925
23	1928	Arterial Drainage (Minor Schemes) Act, 1928
		Arterial Drainage Acts 1945 and 1995
		Aviation Regulation Acts 2001 to 2004
		Barrow Drainage Acts 1927 and 1933
		British-Irish Agreement Acts 1999 and 2002
		Canals Act 1986 and 2005
12	1963	Coast Protection Act, 1963
		Communications Regulation Acts 2002 to 2010
		Customs-free Airport Acts 1947 to 2004
14	1990	Derelict Sites Act, 1990
		Destructive Insects and Pests Acts 1958 and 1991
15	2008	Dublin Transport Authority Act, 2008
		Dumping at Sea Acts 1996 to 2009
		Electricity (Supply) Acts 1927 to 2004

		Electricity and Gas Regulations Acts 1999 to 2002
40	2006	Energy (Miscellaneous Provisions) Act, 2006
35	1995	Energy (Miscellaneous Provisions) Act, 1995
		Environmental Protection Agency Acts 1992 and 2003
15	1950	Erne Drainage & Development Act, 1950
		Fisheries Acts 1959 to 2003
54	1998	Fisheries and Foreshore (Amendment) Act, 1998
		Fisheries Harbour Centres Acts 1968 and 1980
		Foreshore Acts 1933 to 2011
		Forestry Acts 1946 to 1988
17	2007	Foyle & Carlingford Fisheries Act, 2007
		Foyle Fisheries Acts 1952 to 1983
10	2002	Gas (Interim) (Regulation) Act, 2002
		Gas Acts 1976 to 2009
		Harbours Acts 1996 to 2009
		Housing Acts 1966 to 2009
		Inland Fisheries Acts 1959 to 2010
42	1923	Land Act, 1923
19	1927	Land Act, 1927
41	1936	Land Act, 1936
26	1939	Land Act, 1939
12	1946	Land Act, 1946

16	1950	Land Act, 1950
18	1953	Land Act, 1953
21	1954	Land Act, 1954
2	1965	Land Act, 1965
24	1984	Land Act, 1984
24	2005	Land Act, 2005
25	1949	Land Reclamation Act, 1949
		Lands Clauses Consolidation Act, 1845
54	1936	Liffey Reservoir Act, 1936
17	1949	Local Authorities (Works) Act, 1949
		Local Government (Sanitary Services) Acts 1878 to 2001
		Local Government (Water Pollution) Acts 1977 to 2007
		Local Government Acts 1925 to 2003
		Maritime Safety Acts 1992 to 2006
		~~Minerals Development Acts 1940 to 1995~~ Minerals Development Act 2017
		Minister for Community, Rural and Gaeltacht Affairs (Powers and Functions) Acts 2003 and 2007
		National Monuments Acts 1930 to 2004
38	1936	Noxious Weeds Act, 1936
4	2010	Petroleum (Exploration & Extraction) Safety Act 2010
		Petroleum and Other Minerals Development Acts 1960 and 1995

Commented [N110]: Substituted by Section 256 of the Minerals Development Act 2017

		Plant Varieties (Proprietary Rights) Acts 1980 and 1998
27	2003	Protection of the Environment Act 2003
37	2009	Public Transport Regulation Act, 2009
		Radiological Protection Acts 1991 to 2002
		Registration of Deeds and Title Acts 1964 and 2006
		Roads Acts 1993 to 2007
		Road Traffic Acts 1961 to 2010
8	1933	Road Transport Act, 1933
17	1934	Road Transport Act, 1934
23	1935	Road Transport Act, 1935
		Safety, Health and Welfare at Work Acts 2005 and 2010
8	2006	Sea Fisheries and Maritime Jurisdiction Act, 2006
		Sea Pollution Acts 1991 to 2006
		Sea-Fisheries Acts 2003 to 2007
		Shannon Electricity Acts 1925 and 1933
		Shannon Fisheries Acts 1935 and 1938
		Shannon Navigation Acts 1990 and 2005
25	1954	State Property Act, 1954
		Transport (Dublin Light Rail) Acts 1996 and 1998
55	2001	Transport (Railway Infrastructure) Act, 2001
21	1944	Transport Act, 1944
12	1950	Transport Act, 1950

25	1955	Transport Act, 1955
19	1958	Transport Act, 1958
31	1959	Transport Act, 1959
17	1963	Transport Act, 1963
30	1964	Transport Act, 1964
26	1966	Transport Act, 1966
31	1969	Transport Act, 1969
24	1970	Transport Act, 1970
1	1974	Transport Act, 1974
23	1981	Transport Act, 1981
37	1983	Transport Act, 1983
15	1985	Transport Act, 1985
27	1987	Transport Act, 1987
31	1986	Transport (Re-organisation of Córas Iompair Éireann) Act, 1986
23	1936	Turf (Use and Development) Act, 1936
		Turf Development Acts 1946 to 1998
		Údarás na Gaeltachta Acts 1979 to 2010
		Waste Management Acts 1996 to 2003
30	2007	Water Services Act, 2007
1	1942	Water Supplies Act, 1942
4	1937	Whale Fisheries Act, 1937

Wildlife Acts 1976 to 2010

THIRD SCHEDULE

Non-native species subject to restrictions under Regulations 49 and 50

Part 1: PLANTS

First column	Second column	Third column
Common name	Scientific name	Geographical application
American skunk-cabbage	Lysichiton americanus	Throughout the State
A red alga	Grateloupia doryphora	Throughout the State
Brazilian giant-rhubarb	Gunnera manicata	Throughout the State
Broad-leaved rush	Juncus planifolius	Throughout the State
Cape pondweed	Aponogeton distachyos	Throughout the State
Cord-grasses	Spartina (all species and hybrids)	Throughout the State
Curly waterweed	Lagarosiphon major	Throughout the State
Dwarf eel-grass	Zostera japonica	Throughout the State
Fanwort	Cabomba caroliniana	Throughout the State
Floating pennywort	Hydrocotyle ranunculoides	Throughout the State

Fringed water-lily	Nymphoides peltata	Throughout the State
Giant hogweed	Heracleum mantegazzianum	Throughout the State
Giant knotweed	Fallopia sachalinensis	Throughout the State
Giant-rhubarb	Gunnera tinctoria	Throughout the State
Giant salvinia	Salvinia molesta	Throughout the State
Himalayan balsam	Impatiens glandulifera	Throughout the State
Himalayan knotweed	Persicaria wallichii	Throughout the State
Hottentot-fig	Carpobrotus edulis	Throughout the State
Japanese knotweed	Fallopia japonica	Throughout the State
Large-flowered waterweed	Egeria densa	Throughout the State
Mile-a-minute weed	Persicaria perfoliata	Throughout the State
New Zealand pigmyweed	Crassula helmsii	Throughout the State
Parrots feather	Myriophyllum aquaticum	Throughout the State
Rhododendron	Rhododendron ponticum	Throughout the State

Salmonberry	Rubus spectabilis	Throughout the State
Sea-buckthorn	Hippophae rhamnoides	Throughout the State
Spanish bluebell	Hyacinthoides hispanica	Throughout the State
Three-cornered leek	Allium triquetrum	Throughout the State
Wakame	Undaria pinnatifida	Throughout the State
Water chestnut	Trapa natans	Throughout the State
Water fern	Azolla filiculoides	Throughout the State
~~Water lettuce~~	~~Pistia stratiotes~~	~~Throughout the State~~
Water-primrose	Ludwigia (all species)	Throughout the State
Waterweeds	Elodea ~~(all species)~~ (all species except Elodea canadensis)	Throughout the State
Wireweed	Sargassum muticum	Throughout the State

Commented [N111]: Deleted by Regulation 14(1) of the European Communities (Birds and Natural Habitats) (Amendment) Regulations 2015. (S.I. 355/2015).

Commented [N112]: Substituted by Regulation 14(2) of the European Communities (Birds and Natural Habitats) (Amendment) Regulations 2015. (S.I. 355/2015).

Part 2: ANIMALS

A: animals to which Regulations 49 and 50 apply throughout the State or in particular places or categories of places.

First column	Second column	Third Column
Common name	**Scientific name**	**Geographical application**

A colonial sea squirt	Didemnum spp.	Throughout the State
A colonial sea squirt	Perophora japonica	Throughout the State
All freshwater crayfish species except the white-clawed crayfish	All freshwater crayfish species except Austropotamobius pallipes	Throughout the State
American bullfrog	Rana catesbeiana	Throughout the State
American mink	Neovison vison	Throughout the State
American oyster drill	Urosalpinx cinerea	Throughout the State
Asian oyster drill	Ceratostoma inornatum	Throughout the State
Asian rapa whelk	Rapana venosa	Throughout the State
Asian river clam	Corbicula fluminea	Throughout the State
Bay barnacle	Balanus improvisus	Throughout the State
Black rat	Rattus rattus	Offshore islands only
Brown hare	Lepus europaeus	Throughout the State
Brown rat	Rattus norvegicus	Offshore islands only
Canada goose	Branta canadensis	Throughout the State

Carp (except Koi Carp)	Cyprinus carpio (except Koi varieties of Cyprinus carpio)	Throughout the State
Chinese mitten crab	Eriocheir sinensis	Throughout the State
Chinese water deer	Hydropotes inermis	Throughout the State
Chub	Leuciscus cephalus	Throughout the State
Common toad	Bufo bufo	Throughout the State
Coypu	Myocastor coypus	Throughout the State
Dace	Leuciscus leuciscus	Throughout the State
Freshwater shrimp	Dikerogammarus villosus	Throughout the State
Fox	Vulpes vulpes	Offshore islands only
Grey squirrel	Sciurus carolinensis	Throughout the State
Greylag goose	Anser anser	Throughout the State
Harlequin Ladybird	Harmonia axyridis	Throughout the State
Hedgehog	Erinaceus europaeus	Offshore islands only
Irish stoat	Mustela erminea hibernicus	Offshore islands only

Commented [N113]: Inserted by Regulation 14(3) of the European Communities (Birds and Natural Habitats) (Amendment) Regulations 2015. (S.I. 355/2015).

Commented [N114]: Inserted by Regulation 14(3) of the European Communities (Birds and Natural Habitats) (Amendment) Regulations 2015. (S.I. 355/2015).

Japanese skeleton shrimp	Caprella mutica	Throughout the State
Muntjac deer	Muntiacus reevesi	Throughout the State
Muskrat	Ondatra zibethicus	Throughout the State
Quagga Mussel	Dreissena rostriformis	Throughout the State
Roach	Rutilus rutilus	Throughout the State
Roe deer	Capreolus capreolus	Throughout the State
Ruddy duck	Oxyura jamaicensis	Throughout the State
Siberian chipmunk	Tamias sibiricus	Throughout the State
Slipper limpet	Crepidula fornicata	Throughout the State
Stalked sea squirt	Styela clava	Throughout the State
Tawny owl	Strix aluco	Throughout the State
Wild boar	Sus scrofa	Throughout the State
Zebra mussel	Dreissena polymorpha	Throughout the State

B: animals to which specified provisions of Regulations 49 and 50 apply.

First column	Second column	Third Column

Common name	Scientific name	Geographical application
Fallow deer	Dama dama	Throughout the State
Sika deer	Cervus nippon	Throughout the State

Part 3: VECTOR MATERIALS

First column	Second column	Third Column
Vector material	Species referred to	Geographical application
Blue mussel (Mytilus edulis) seed for aquaculture taken from places (including places outside the State) where there are established populations of the slipper limpet (Crepidula fornicata) or from places within 50 km. of such places	Mussel (Mytilus edulis) Slipper limpet (Crepidula fornicata)	Throughout the State
Soil or spoil taken from places infested with Japanese knotweed (Fallopia japonica), giant knotweed (Fallopia sachalinensis) or their hybrid Bohemian knotweed (Fallopia x bohemica)	Japanese knotweed (Fallopia japonica) Giant knotweed (Fallopia sachalinensis) Bohemian knotweed(Fallopia x bohemica)	Throughout the State

FOURTH SCHEDULE:

Species	Annex of Habitats Directive
Allis shad (Alosa alosa)	II & V
Brook lamprey (Lampetra planeri)	II
Killarney shad (Alosa fallax killarnensis)	II & V
Pollan (Coregonus autumnalis)	V

River lamprey (Lampetra fluviatilis)	II & V
Salmon (Salmo salar) (in freshwater only)	II & V
Sea lamprey (Petromyzon marinus)	II
Twaite shad (Alosa fallax)	II & V

GIVEN under the Official Seal of the Minister for Arts, Heritage and the Gaeltacht,

21 September 2011.

JIMMY DEENIHAN,

Minister for Arts, Heritage and the Gaeltacht.