



STATUTORY INSTRUMENTS.

S.I. No. 576 of 2023

EUROPEAN COMMUNITIES (BIRDS DECLARATIONS) REGULATIONS
2023

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I, DARRAGH O'BRIEN, Minister for Housing, Local Government and Heritage, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), for the purpose of giving full effect to Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009¹, hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Communities (Birds Declarations) Regulations 2023.

Interpretation

2. (1) In these Regulations—

“authorised person” means a person appointed in accordance with Regulation 5(1) or (2);

“Directive” means Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009¹ on the conservation of wild birds, as amended by Council Directive 2013/17/EU of 13 May 2013² adapting certain directives in the field of environment, by reason of the accession of the Republic of Croatia;

“Minister” means the Minister for Housing, Local Government and Heritage;

“Regulations of 1986” means the European Communities (Wildlife Act 1976) (Amendment) Regulations 1986 (S.I. No 254 of 1986).

(2) A word or expression that is used in these Regulations and also used in the Directive has, unless the contrary intention appears, the same meaning in these Regulations as in the Directive.

Derogations

3. (1) Notwithstanding the provisions of the Wildlife Act 1976 (No. 39 of 1976), the Minister may, following consultation with such other Minister, or Ministers, of Government having relevant responsibilities or functions as the Minister considers appropriate, derogate, by declaration, from any of the obligations of the State under Articles 5, 6, 7 and 8 of the Directive, in respect of any species of bird listed in Schedule 1, where there is no other satisfactory solution, for one, or more, of the following reasons:

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

¹ OJ No. L 20, 26.01.2010, p. 7.

² OJ No. L 158, 10.06.2013, p. 193.

- (ii) in the interests of air safety,
 - (iii) to prevent serious damage to crops, livestock, forests, fisheries and water, or
 - (iv) for the protection of flora and fauna;
 - (b) for the purposes of research and teaching, of re-population, of re-introduction and for the breeding necessary for these purposes;
 - (c) to permit, under strictly supervised conditions and on a selective basis, the capture, keeping or other judicious use of certain birds in small numbers.
- (2) Declarations made under paragraph (1) shall specify the following:
- (a) the species of bird which is subject to the derogation;
 - (b) the means, arrangements or methods, listed in Schedule 2, authorised for capture or killing of the species of bird concerned;
 - (c) the conditions of risk and the circumstances of time and place under which such derogations are granted;
 - (d) the authority empowered to declare that the required conditions obtain and to decide what means, arrangements or methods of capture or killing may be used, within what limits and by whom;
 - (e) the controls which shall be carried out.

Annual report to European Commission

4. The Minister shall forward to the European Commission, in respect of each year, a report on the implementation of derogations under Regulation 3.

Authorised persons

5. (1) The Minister may appoint in writing a person to be an authorised person for the purposes of these Regulations.
- (2) The appointment of an authorised person pursuant to Regulation 5(1) of the Regulations of 1986 that was in force immediately prior to the coming into operation of these Regulations is deemed to be an appointment under this Regulation.
- (3) An authorised person shall be furnished with a certificate of their appointment as an authorised person and when exercising any power conferred on an authorised person by these Regulations shall, if requested by any person affected, produce the certificate to such person.

Powers of authorised persons

6. An authorised person may, for the purposes of these Regulations—
 - (a) enter on and inspect any lands on which they reasonably believe that killing or capturing of wild birds has taken place, or
 - (b) request the owner or occupier of any lands on which they reasonably believe that killing or capturing of wild birds has taken place to provide him or her with information about—
 - (i) the number, if any, of wild birds killed or captured on such lands,
 - (ii) the means by which such wild birds have been killed or captured, or
 - (iii) any poisons which may have been laid to kill wild birds including, but without prejudice to the generality of the aforesaid, information about the quantity, type and frequency of laying of poisons.

Enforcement

7. (1) A person who—
 - (a) obstructs or interferes with an authorised person when they are exercising a power conferred by Regulation 6, or
 - (b) fails to comply with a request for information made under Regulation 6(b),commits an offence.
(2) A person who commits an offence under paragraph (1) shall be liable, on summary conviction, to a class D fine.

Proceedings under these Regulations

8. (1) Proceedings in relation to an offence under these Regulations may be brought and prosecuted by the Minister.
(2) Summary proceedings for an offence under these Regulations may be brought and prosecuted by a person who is neither the Minister nor a member of the Garda Síochána with the consent—
 - (a) of the Minister, or
 - (b) an officer of the Minister, not below the rank of Assistant Secretary, nominated by the Minister for that purpose.

Revocation and Savings

9. (1) The Regulations of 1986 are revoked.
(2) Notwithstanding paragraph (1), where any criminal proceedings for an offence under the Regulations of 1986—

- (a) were pending immediately before the coming into operation of these Regulations, or
- (b) could have been prosecuted under the Regulations of 1986 before the coming into operation of these Regulations,

the proceedings may be prosecuted and disposed of, or may be brought, prosecuted and disposed of, under the Regulations revoked by paragraph (1) as if those Regulations were not so revoked.

(3) Any declaration made by the Minister under Regulation 3(1) of the Regulations of 1986, which was operative immediately before the coming into operation of these Regulations, shall continue to be operative on, and after, the coming into operation of these Regulations and shall be dealt with as if made under these Regulations.

(4) A reference in any enactment to the Regulations revoked by paragraph (1) is, unless the context otherwise requires, to be construed and has effect as if the reference is a reference to these Regulations or the corresponding provision of these Regulations, as the case may be.

SCHEDULE 1*Regulation 3(1)***SPECIES OF BIRD**

Carrion Crow	<i>Corvus cornix;</i>
Hooded (Grey) Crow	<i>Corvus corone;</i>
Magpie	<i>Pica pica;</i>
Rook	<i>Corvus frugilegus</i>
Jackdaw	<i>Corvus monedula;</i>
Starling	<i>Sturnus vulgaris;</i>
Herring Gull	<i>Larus argentatus;</i>
Greater Black-backed Gull	<i>Larus marinus;</i>
Lesser Black-backed Gull	<i>Larus fuscus;</i>
House Sparrow	<i>Passer domesticus;</i>

Pigeon and Dove including Wood Pigeon (*Columba palumbus*), Feral Pigeon (Feral *Columba livia*) and Collared Dove (*Streptopelia decaocto*), but not including Carrier Pigeon, Fan Tailed Pigeon, Homing Pigeon or other domestic types of Rock Dove, Stock Dove (*Columba oenas*), Wild Rock Dove (*Columba livia*) or Turtle Dove (*Streptopelia turtur*);

Any species of wild bird where a declaration under Regulation 3 is made in the interests of air safety.

SCHEDULE 2

Regulation 3(2)(b)

MEANS, ARRANGEMENTS OR METHODS OF CAPTURE OR KILLING

1. Shooting with rifle or shotgun;
2. Taking, damaging or destruction of nests or eggs;
3. Non-meat-based poisoned or anaesthetic bait;
4. Cage traps with or without live decoys;
5. Traps, snares or nets approved under the Wildlife Act 1976 (Approved Traps, Snares and Nets) Regulations 2003 (S.I. No. 620 of 2003).

GIVEN under my Official Seal,
23 November, 2023.

DARRAGH O'BRIEN,
Minister for Housing, Local Government and Heritage.

L.S.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations revoke and replace the European Communities (Wildlife Act 1976) (Amendment) Regulations 1986 (S.I. No 254 of 1986) which regulated the control of wild birds in certain circumstances. These Regulations were made in order to transpose Article 9 of the Birds Directive (Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds, as amended).

These Regulations empower the Minister for Housing, Local Government and Heritage (having consulted other relevant Ministers (if any)) to declare, where there is no other satisfactory solution and for reasons set out in Article 9 of the Directive, that specimens of particular species of wild bird may be captured or killed by specified means, arrangements or methods.

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