



STATUTORY INSTRUMENTS.

S.I. No. 439 of 2009.

EUROPEAN COMMUNITIES (CONSERVATION OF WILD BIRDS)
(THE MURROUGH (PART OF) SPECIAL PROTECTION AREA 004186)
REGULATIONS 2009.

(Prn. A9/1511)

S.I. No. 439 of 2009.

EUROPEAN COMMUNITIES (CONSERVATION OF WILD BIRDS)
(THE MURROUGH (PART OF) SPECIAL PROTECTION AREA 004186)
REGULATIONS 2009.

I, JOHN GORMLEY, Minister for the Environment, Heritage and Local Government, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) (as amended by section 2 of the European Communities Act 2007 (No. 18 of 2007)) and for the purpose of giving further effect to Council Directive No. 79/409/EEC of 2 April 1979 and Council Directive No. 92/43/EEC of 21 May 1992, hereby make the following regulations:

1. (1) These Regulations may be cited as the European Communities (Conservation of Wild Birds) (The Murrough (Part Of) Special Protection Area 004186) Regulations 2009.

(2) These Regulations come into operation on 14th October 2009.

2. (1) In these Regulations:

“Directive” means Council Directive No. 79/409/EEC of 2 April 1979;

“farm or land management plan” means an agreement between the holder of any estate, right or interest in land within the special protection area and the Minister or the Minister for Agriculture, Fisheries and Food for the purposes of, inter alia, compliance with the Directive and Council Directive No. 92/43/EEC of 21 May 1992. Without prejudice to the generality of the foregoing, this may take the form of a plan under the Farm Plan Scheme administered by the Department of Environment, Heritage and Local Government or a Rural Environment Protection Scheme plan (REPS) administered by the Department of Agriculture, Fisheries and Food, or any similar or successor plan;

“foreshore area” means the bed and shore, below the line of high water of ordinary or medium tides, of the sea and of every tidal river and tidal estuary and of every channel, creek and bay of the sea or of any such river or estuary;

“land” includes any structure and any land covered with water (whether inland or coastal), any substratum of land and any estate, right or interest in, on, over or under land;

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

“public authority” means:—

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 6th November, 2009.*

- (a) a Minister of the Government;
- (b) a local authority within the meaning of the Local Government Act 2001 (No. 37 of 2001); or,
- (c) a board or other body (but not including a company under the Companies Acts 1963 to 2005) established by or under statute;

“special protection area” means the area which is designated under Regulation 3;

“waterbird” means any bird ecologically dependant on a wetland habitat wholly, or for at least part of their annual cycle;

“wetland” refers to areas of habitat containing water, whether natural or artificial, permanent or temporary, static or flowing, fresh, brackish or marine;

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

3. In order to ensure the survival and reproduction of the species to which Article 4 of the Directive relates, including in particular the species specified in Schedule 3 and having taken account of the matters referred to in Article 4 of the Directive, the area referred to in Schedule 2 and further identified by reference to the maps contained in Schedule 1, is designated as a special protection area.

4. (1) Subject to paragraph (2), a person shall not perform any operation or activity specified in Schedule 4 in the special protection area without the prior written consent of the Minister.

(2) There is no requirement to obtain the consent of the Minister if:—

- (a) the operation or activity is licensed by or subject to the permission of another public authority or,
- (b) the operation or activity is specified as permitted in a farm or land management plan (subject to compliance with any conditions set out therein).

5. (1) Any person who contravenes Regulation 4(1) commits an offence and is liable:—

- (a) on summary conviction to a fine not exceeding €5,000 or imprisonment for a term not exceeding 6 months or both, or
- (b) on conviction on indictment to a fine not exceeding €500,000 or imprisonment for a term not exceeding 3 years, or both.

(2) A summary offence under these Regulations may be prosecuted by the Minister.

Revocation

6. (1) (a) Paragraph 92 (inserted by Regulation 2 of the European Communities (Conservation of Wild Birds) (Amendment) (No. 3) Regulations 1996 (S.I. No. 305 of 1996)) of the Schedule to the European Communities (Conservation of Wild Birds) Regulations 1985 (S.I. No. 291 of 1985) are revoked.

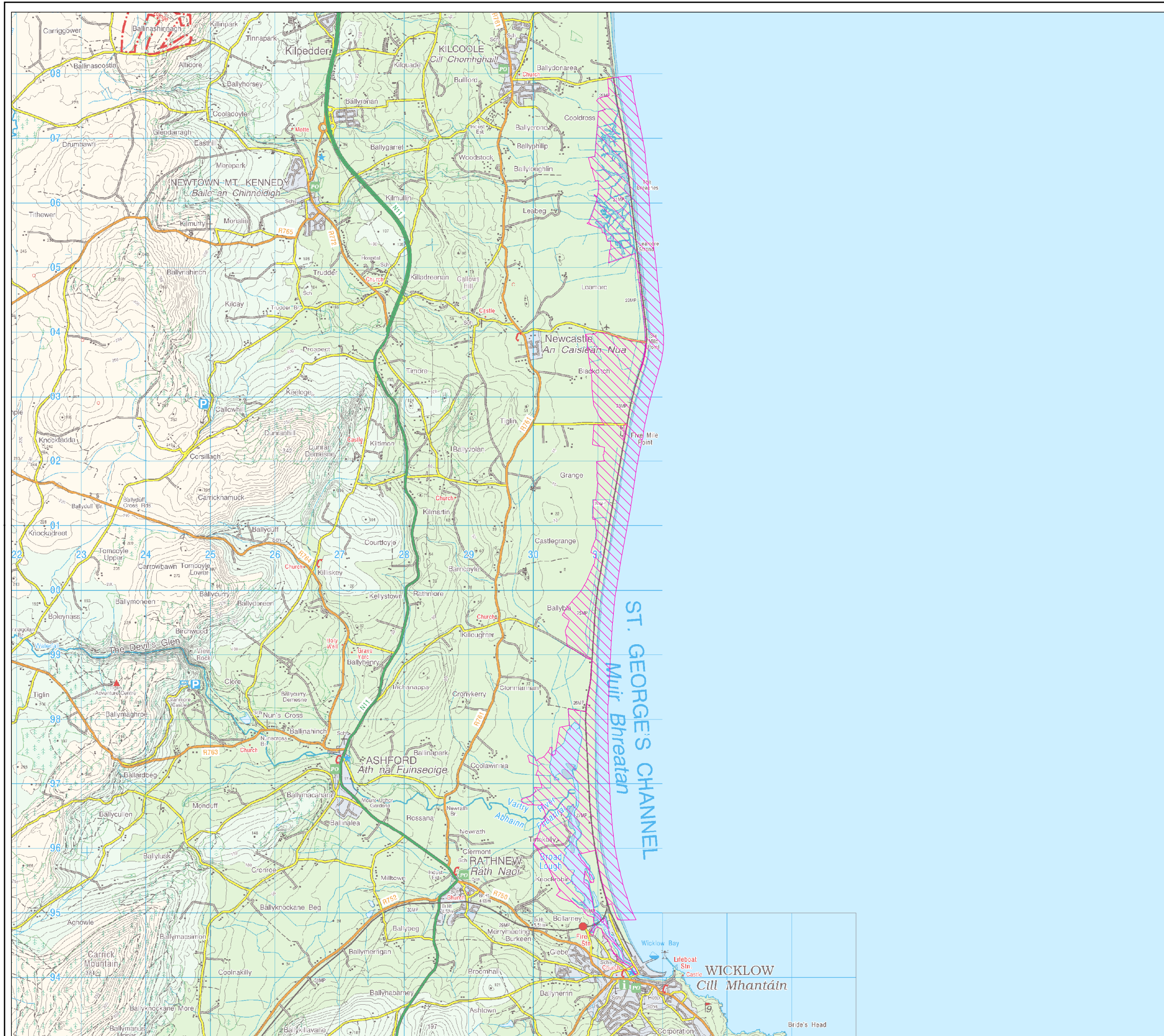
(b) Paragraph 99 (inserted by Regulation 2 of the European Communities (Conservation of Wild Birds) (Amendment) Regulations 1997 (S.I. No. 210 of 1997)) of the Schedule to the European Communities (Conservation of Wild Birds) Regulations 1985 (S.I. No. 291 of 1985) are revoked.

(2) Notwithstanding paragraph (1)—

(a) any civil or criminal proceedings brought under the Regulations revoked in paragraph (1) and pending when these Regulations come into operation may be continued as if they had been brought under these Regulations.

(b) any document, notice, decision, act or thing issued, made or done by the Minister under the Regulations revoked in paragraph (1) shall continue to have full force and effect on and after the commencement of these Regulations.

(c) any act, decision or other thing commenced but not completed by the Minister under the Regulations revoked in paragraph (1) may be continued and completed by the Minister under these Regulations.



Schedule 1

Index Sheet (Co. Wicklow)

LIMISTÉIR CHAOMHNAITHE SPEISIALTA SPECIAL PROTECTION AREA

Greater detail on boundary delineation should be sought by telephoning 1-800-405000 or viewing relevant text on www.npws.ie

Is ceart tuilleadh sonraí faoi dhreachadh teorainneacha a lorg trí ghlaoch teiléafóin a dhéanamh ar 1-800-405000 nó tríd an téacs iomchuí a léamh ag www.npws.ie

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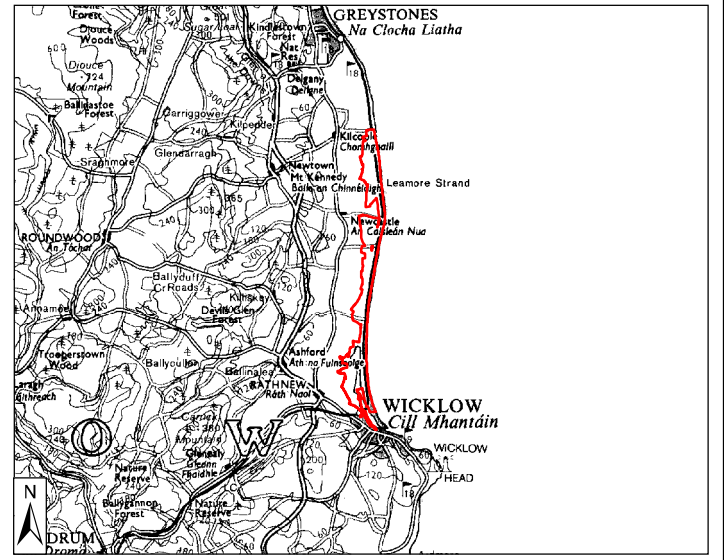
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THE MURROUGH SPA (PART OF)

004186

Area / Achar 938 ha

CO. WICKLOW
CO. CHILL MHANTÁIN



SCHEDULE 2

DESCRIPTION OF AREA

The area known as The Murrough (Part Of) SPA is situated in the County of Wicklow being the land enclosed on the map (contained in Schedule 1 to this Order) within the inner margin of the red line and hatched in red. The area of land known as the Murrough (Part Of) SPA is situated in whole or in part in the townlands of Ballybla, Ballydonarea, Ballyloughlin, Blackditch (ED Newcastle Lower), Bollarney, Murragh, Bollarney North, Castlegrange, Clonmannan, Coolawinnia, Cooldross Lower, Cooldross Lower (Part Of), Corporation Land (Part Of), Corporation Murragh, Glebe (ED Wicklow Urban) (Part Of), Grange North, Grange South, Knockrobin, Knockrobin Murragh, Leabeg Lower, Leabeg Lower (Part Of), Leabeg Middle, Leabeg Middle (Part Of), Leamore Lower, Leamore Upper, Tinakelly, Tinakelly Murragh, Wicklow.

SCHEDULE 3

LIST OF SPECIAL CONSERVATION INTERESTS

Scientific Name	Common Name
<i>Gavia stellata</i>	Red-throated Diver
<i>Anser anser</i>	Greylag Goose
<i>Branta bernicla hrota</i>	Light-bellied Brent Goose
<i>Anas penelope</i>	Wigeon
<i>Anas crecca</i>	Teal
<i>Larus ridibundus</i>	Black-headed Gull
<i>Larus argentatus</i>	Herring Gull
<i>Sterna albifrons</i>	Little Tern

WETLANDS AND WATERBIRDS

In establishing their SPA network, Member States are explicitly required under Article 4 of the Birds Directive to pay attention to the protection of wetlands. To this end the wetland habitat that is contained within this SPA and the waterbirds that utilise this resource are therefore listed as a special conservation interest for this site. This special conservation interest is listed as “Wetlands and Waterbirds”.

SCHEDULE 4**OPERATIONS OR ACTIVITIES REQUIRING CONSENT OF THE
MINISTER AND CONTROLLED NATIONALLY UNDER THE
PROVISIONS OF THE WILDLIFE ACTS 1976-2000**

- (1) Any activity that involves the deliberate killing or capture of any species of naturally occurring bird in the wild state, save where a specific derogation within the meaning of Article 9 of the Directive is in place.
- (2) The destruction, damage or removal of nests or eggs or any disturbance particularly during periods of breeding or rearing, save where a specific derogation within the meaning of Article 9 of the Directive is in place.
- (3) The rearing or keeping of birds, the hunting and capture of which is prohibited, save where a specific derogation within the meaning of Article 7 of the Directive is in place.

**SITE SPECIFIC OPERATIONS OR ACTIVITIES REQUIRING
CONSENT**

- (4) Altering watercourses or wetlands, including changing the height of the water table, blocking or altering the flow of the water or deepening any channel.
- (5) Burning areas of vegetation.
- (6) Construction or alteration of tracks, paths, roads, embankments, car parks or access routes, or using or permitting the use of land for car parking.
- (7) Harvesting marine species, unless for personal use not exceeding certain limits as may be set by the Minister from time to time.
- (8) Developing, operating or allowing leisure or sporting activities liable to cause significant disturbance to those species specified in Schedule 3 of these Regulations or damage to their habitats.
- (9) Any activity intended to disturb those species specified in Schedule 3 of these Regulations including by mechanical, air or wind powered or audible means.
- (10) Dumping, burning or disposal of any materials.
- (11) Extracting water for irrigation or other purposes.
- (12) Burning or commercial harvesting of reed or willow.
- (13) Introduction (or re-introduction) into the wild of plants or animals not currently found in the area.

- (14) Any activity which destroys habitat, except normal maintenance activities as defined in approved farm plans.
- (15) Reclaiming land for agricultural purposes, including spraying or burning vegetation, clearing scrub and rough vegetation, draining or moving soil, ploughing, harrowing or reseeded.
- (16) Planting of trees.
- (17) Reclamation or infilling.
- (18) Removal of soil, mud, gravel, rock or minerals.
- (19) Fishing by any type of nets.
- (20) Dredging whether for fishing or other purposes.
- (21) Any other activity of which notice may be given by the Minister from time to time.



GIVEN under my Official Seal,
14 October 2009.

JOHN GORMLEY, T.D.,
Minister for the Environment, Heritage and Local Government.

EXPLANATORY NOTE

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

Council Directive of 2 April, 1979 on the conservation of wild birds (79/409/EEC) provides for the conservation of wild birds by, among other things, classifying important ornithological sites as Special Protection Areas for them. The effect of these Regulations is to designate a site as a Special Protection Area in accordance with Article 4 of the Directive and to provide that contravention of the provisions of these Regulations shall constitute an offence.

A portion of the area covered by this Statutory Instrument was previously known as Kilcoole Marshes Special Area of Protection (Site Code: 004185) and was protected under S.I. No. 305 of 1996. The site also incorporated Broad Lough Special Protection Area (Site Code: 004128) and was protected under S.I. No. 210 of 1997. These S.I.s have been revoked in part and the area will now be known as the Murrough (Part Of) SPA.

Particular attention is drawn to the protection of the wetland habitat and the waterbird population in the Murrough and to the fact that the area is of special conservation interest for this reason.

Under Article 5 of the Directive all species of birds are afforded protection from disturbance, capture and damage to nests and eggs, not just the birds listed on Schedule 3 (with the exception of those birds covered under Articles 7 for hunting, and Article 9 where derogations are listed).

Please note that operations/activities other than those listed at Schedule 4 to these Regulations, such as effluent discharge, planning permission, aquaculture, fishing or forestry require a license or permission from the appropriate consent authority.

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TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
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