



STATUTORY INSTRUMENTS.

S.I. No. 354 of 2018



EUROPEAN UNION (INVASIVE ALIEN SPECIES) (FRESHWATER
CRAYFISH) REGULATIONS 2018

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EUROPEAN UNION (INVASIVE ALIEN SPECIES) (FRESHWATER
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I, Josepha Madigan, Minister for Culture, Heritage and the Gaeltacht, in exercise of the powers conferred on me by Section 3 of the European Communities Act 1972 (No.27 of 1972), and for the purpose of giving further effect to Council Regulation 1143/2014 of 22 October 2014¹, hereby make the following regulations:

PART 1

PRELIMINARY AND GENERAL

Citation and commencement

1. (1) These Regulations may be cited as the European Union (Invasive Alien Species) (Freshwater Crayfish) Regulations 2018.

(2) These Regulations shall come into operation on 3 September 2018.

Interpretation

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

“invasive alien species of crayfish” means any live specimen of a species of crayfish listed in Schedule 1 of these Regulations.

“authorised officer” means—

- (a) a person appointed under Regulation 4,
- (b) a member of the Garda Síochána, or
- (c) an officer of customs, as defined in the Customs Act 2015;

“EU Regulation” means Regulation (EU) No 1143/2014 of the European Parliament and of the Council of 22 October 2014 on the prevention and management of the introduction and spread of invasive alien species;

“eradication” means the complete and permanent removal of a population of invasive alien species of crayfish by lethal or non-lethal means;

“land”, where the context admits, includes—

- (a) any land,
- (b) land covered by water including inland waters,

¹OJ L 317, 4.11.2014, p. 35–55

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 18th September, 2018.*

“the Minister” means the Minister for Culture, Heritage and the Gaeltacht;

“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;

“premises” includes any place, vehicle, ship or other vessel, aircraft, railway wagon or other means of transport or any container;

“public authority” means—

- (a) An Bord Pleanála,
- (b) a Board or other Body (but not including a company under the Companies Acts) established by or under statute,
- (c) Gas Networks Ireland,
- (d) Bord Iascaigh Mhara,
- (e) Bord Na Móna,
- (f) Coillte,
- (g) Commission for Regulation of Utilities,
- (h) Commissioners of Public Works in Ireland,
- (i) 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 subparagraph (b),
- (j) Eirgrid,
- (k) Electricity Supply Board,
- (l) Environmental Protection Agency,
- (m) Fáilte Ireland,
- (n) Geological Survey Ireland,
- (o) Inland Fisheries Ireland,
- (p) Irish Water,
- (q) a local authority,

- (r) Marine Institute,
- (s) a Minister of Government,
- (t) a planning authority,
- (u) a regional authority,
- (v) Teagasc,
- (w) Transport Infrastructure Ireland,
- (x) Waterways Ireland.

“Regulations of 2011” means European Communities (Birds and Natural Habitats Regulations) 2011 (S.I. No. 477 of 2011);

“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;

(2) In these Regulations a word or expression that is used in these Regulations and is also used in the EU Regulation shall, unless the contrary intention is expressed, have in these Regulations the meaning that it has in the EU Regulation.

PART 2

COMPETENT AUTHORITIES

Competent Authorities

3. (1) The competent authority in the State for the purposes of these Regulations and the EU Regulation is—

- (a) subject to paragraph (b), the Minister;
- (b) in relation to the activities specified in Article 15 of the EU Regulation and Regulation 9 of these Regulations, the Minister, the Minister for Agriculture, Food and the Marine, and the Office of the Revenue Commissioners

(2) Notwithstanding paragraph (1), the Minister may designate any other public authority or person, for such period as the Minister sees fit and specifies in the designation, also to be a competent authority, subject to any limitations or conditions that he or she decides, to grant approvals in relation to any or all of the matters referred to in these Regulations.

(3) The Minister may at any time revoke or amend a designation made under this Regulation.

(4) Where the Minister makes, amends or revokes a designation under this Regulation the designation or the revocation shall be published in the *Iris Oifigiúil* and in at least 2 daily newspapers published and circulating in the State.

PART 3

AUTHORISED OFFICERS

Appointment of authorised officers

4. (1) The Minister or the Minister for Agriculture, Food and the Marine may appoint in writing, any person he or she considers appropriate to be an authorised officer for the purposes of these Regulations.

(2) A public authority, with the Minister's prior written consent, may appoint in writing any person, the public authority considers appropriate, to be an authorised officer for the purposes of these Regulations.

(3) (a) The Minister, may terminate the appointment of an authorised officer appointed by him or her, whether or not the appointment was for a fixed period or specified purpose, or;

(b) The Minister for Agriculture, Food and the Marine may terminate the appointment of an authorised officer appointed by him or her, whether or not the appointment was for a fixed period or specified purpose, or;

(c) The public authority, may terminate the appointment of an authorised officer appointed by him or her pursuant to paragraph (2), whether or not the appointment was for a fixed period or specified purpose, and;

(d) The Minister may terminate the appointment of an authorised officer appointed by a public authority pursuant to paragraph (2) whether or not the appointment was for a fixed period or specified purpose.

(4) An appointment as an authorised officer ceases—

(a) if it is terminated in accordance with paragraph (3),

(b) if it is for a fixed period, on the expiration of that period,

(c) if it is for a specified purpose, on the completion of that purpose, or

(d) if the person appointed is an officer of either the Minister or the Minister for Agriculture, Food and the Marine upon the person ceasing to be such an officer or class of person.

(5) Nothing in paragraph (3) is to be construed so as to prevent the Minister, the Minister for Agriculture, Food and the Marine or a public authority from re-appointing as an authorised officer a person to whom paragraph (3) relates.

(6) A person appointed as an authorised officer under Regulation 4 of the European Communities (Birds and Natural Habitats) Regulations 2011 shall stand appointed as an authorised officer for the purposes of these Regulations as if he or she was appointed by the Minister under paragraph (1).

(7) (a) An authorised officer appointed under this Regulation shall be furnished with a warrant of his or her appointment.

(b) When exercising a function conferred on him or her as an authorised officer, the officer shall, if requested by a person affected, produce the warrant of appointment or a copy, or other evidence to that person for inspection.

(8) An appointment of an authorised officer pursuant to Regulation 4 of the European Communities (Birds and Natural Habitats) Regulations 2011 that was in force immediately prior to the commencement of these Regulations is deemed to be an appointment under this Regulation, and paragraphs (2), (3) and (4) shall apply to such an appointment.

(9) A person designated as an inspector under Regulation 12 of the European Communities (Licensing and Inspection of Zoos) Regulations 2003 shall stand appointed as an authorised officer for the purposes of these Regulations as if he or she was appointed by the Minister under paragraph (1).

Functions of authorised officers

5. (1) Subject to regulation 6, an authorised officer may for the purpose of ensuring that these Regulations are being complied with—

- (a) at all reasonable times, enter and inspect, any land, premises or vehicle of which he or she has reasonable grounds to suspect;
 - (i) an invasive alien species of crayfish is, may be or has been present,
 - (ii) a record relating to an invasive alien species of crayfish is, may be or has been present,
 - (iii) equipment, machinery or other object used in connection with an invasive alien species of crayfish is, may be or has been present, or
 - (iv) an offence has been, is being, or is at risk of being committed,

and bring onto those lands, premises or vehicle such other persons, including a member of An Garda Síochána, or equipment or materials, as he or she considers necessary.

(b) enter on to any land or premises 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,

(c) at any time if he or she has reasonable grounds to suspect that

(i) there is, or may be, a risk of the importation into the State or release into the environment of an invasive alien species of crayfish, or

(ii) an offence under these Regulations has been, is being or is about to be committed at any land or premises, or

(iii) evidence of any such offence is to be found at any land or premises,

enter any such land or premises and bring onto those land or premises such other persons including a member of An Garda Síochána or equipment or materials, as he or she may consider necessary,

(d) at any time if he or she has reasonable grounds for suspecting that there is or may be a risk of the importation into the State or release into the environment of an invasive alien species of crayfish, or that an offence under these Regulations has been, is being or is about to be committed, involving the use of any vehicle, or that evidence of any such offence is to be found at, in or on any vehicle,

(i) halt and 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 to a place specified by the authorised officer, and such vehicle may be detained at that place by the authorised officer for such period as he or she may consider necessary,

(e) at any time if he or she has reasonable grounds to suspect that;

(i) there is or may be a risk of the importation into the State or release into the environment of an invasive alien species of crayfish by a person, or

(ii) an offence under these Regulations has been, is being or is about to be committed, by a person,

stop that person and open and examine any object in that person's possession, including a bag, box, package, parcel or suitcase,

- (f) examine any specimen of any crayfish, or any part, product or derivative of any such specimen, equipment, machinery or other object,
- (g) take, without payment, any crayfish as he or she may reasonably require and carry out or have carried out on the samples such analyses, examinations, checks and inspections as he or she considers necessary or expedient for the purposes of his or her functions,
- (h) require a person in charge or control of a vehicle, machinery, equipment, premises or other object to refrain from moving it,
- (i) require the owner, occupier or person in charge of land or premises or any specimen of crayfish, or any part, product or derivative of any such specimen or a vehicle, equipment, machinery or other object to produce to the officer such records or documents including records or documents kept in electronic format that are in the person's possession or procurement, or under the person's control, as the officer may reasonably require,
- (j) examine and take or take copies of, or of extracts from, any such record or document,
- (k) take photographs, record information on data loggers, make tape, electrical, digital, video or other recordings,
- (l) request the name and address of the person in possession or control of a specimen of crayfish or any part, product or derivative of any such specimen of an invasive alien species of crayfish or a vehicle, equipment, machinery or other object,
- (m) if he or she has reason to believe, or reason to suspect, that a specimen of an animal, product or derivative of any such specimen, is an invasive alien species of crayfish, seize and detain the invasive alien specimen or specimens of crayfish for as long as he or she may consider necessary,
- (n) seize and—
 - (i) destroy an invasive alien species of crayfish, without payment, or
 - (ii) require the owner or person in charge of an invasive alien species of crayfish to destroy the specimen or specimens in a manner specified by the officer

(2) 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 the things reasonably necessary for the purpose for which the entry or boarding is made and including, but not limited to, any of the following—

- (a) carry out an inspection,

- (b) carry out surveillance and examinations including of any specimen of a crayfish, or any part, product or derivative of any such specimen of a crayfish or a vehicle, equipment, machinery or other object,
- (c) take photographs, record information on data loggers, make tape, electrical, digital, video or other recordings,
- (d) carry out tests and make copies of records or documents, including records or documents kept in electronic form, found therein and take samples,
- (e) examine any equipment or other object on the lands or premises,
- (f) monitor, examine or inspect works being carried out on the lands or premises,
- (g) monitor, examine or inspect lands, premises, objects, or holdings or other such facilities for keeping animals,
- (h) require that the land, premises, objects, or holdings or other such facilities for keeping animals be left undisturbed for a specified period,
- (i) 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 land or premises,
- (j) 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,
- (k) 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,
- (l) remove and retain any crayfish, crayfish product, or a vehicle, equipment, machinery or other object 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,
- (m) seize and—
 - (i) destroy an invasive alien species of crayfish, without payment, or
 - (ii) require the owner or person in charge of an invasive alien species of crayfish to destroy the invasive alien species of crayfish in a manner specified by the officer,

- (n) require a person in charge or control of the vehicle, equipment, machinery or other object to—
 - (i) refrain from moving it, or move it to a location where it may be searched, and
 - (ii) give information regarding its place of departure, journey or destination,
 - (o) detain a vehicle, equipment, machinery or other object for such reasonable period necessary for the purposes of permitting an inspection or a search under this Regulation either at the place where it was first detained or at such other location as the authorised officer requires,
 - (p) direct a person to make alterations to land, premises, vehicle or other objects, as the authorised officer considers reasonable, to prevent the release into the environment of an invasive alien species of crayfish,
 - (q) carry out any of the eradication measures adopted by the Minister under Regulation 10 or any other such measures that the officer deems necessary in order to achieve the complete and permanent removal of the population of the invasive alien species of crayfish, 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.
- (3) An authorised officer who has reasonable grounds for suspecting that a person has committed an offence under these Regulations may, at all reasonable times—
- (a) stop and search the person
 - (b) require the person to give his or her name and address and, if requested, to verify the information given,
 - (c) require the person to give such information and assistance as the authorised officer considers necessary for the purposes of exercising his or her functions under these Regulations, and
 - (d) require the person to declare whether he or she has in his or her possession and, if the authorised officer considers it necessary, to produce on demand for examination—
 - (i) any specimen of an invasive alien species of crayfish,
 - (ii) any appropriate permit or permission granted by the Minister.

- (e) and shall ensure that, as far as practicable, the person being searched understands the reason for the search and that it is conducted with due respect for that person.

(4) An authorised officer shall not enter, except with the consent of the occupier, a private dwelling unless he or she has obtained a search warrant under Regulation 6 authorising such entry.

(5) An authorised officer, when exercising a function under these Regulations, may be accompanied by other persons and may take with him or her, or those persons may take with them, any equipment or materials to assist the officer in the exercise of the function.

(6) An authorised officer may use reasonable force, if necessary, to enter land or premises to exercise his or her functions under these Regulations.

(7) Where, in the course of exercising a function under these Regulations, an authorised officer finds or comes into possession of anything that the officer has reasonable grounds for suspecting to be evidence of an offence or suspected offence under these Regulations, the officer may seize and retain it for use in evidence in proceedings for an offence under these Regulations.

(8) Where an authorised officer has reasonable grounds for suspecting that there is evidence, on a person or in a vehicle, of an offence committed under these Regulations relating to an invasive alien species of crayfish, the officer may without warrant—

- (a) search or cause to be searched the person and, if the officer considers it necessary, detain the person for such time as is reasonably necessary to carry out the search,
- (b) search or cause to be searched a vehicle in which the officer suspects that evidence in relation to an offence committed under these Regulations may be found and for the purpose of carrying out the search, if the officer thinks fit, require the person who is in charge or control of the vehicle to bring it to a stop and when stopped to refrain from moving it or, in case the vehicle is already stationary, to refrain from moving it, or
- (c) seize and detain, or cause to be seized and detained anything found in the course of a search under this paragraph which any such officer reasonably suspects to be something which might be required as evidence in proceedings for an offence under these Regulations.

(9) Where an authorised officer decides to search or cause to be searched a person under paragraph (8) the officer may require the person to accompany that officer to either a Garda Síochána station or an office of the Revenue Commissioners or any office of a public authority for the purpose of being so searched at that station or office.

(10) An authorised officer may stop a vehicle for the purposes of these Regulations and may require it to be moved for inspection to such place as he or she directs.

(11) Nothing in these Regulations operates to prejudice any power to search or to stop, or to seize or detain property, which may, apart from these Regulations, be exercised by a member of the Garda Síochána or an officer of the Revenue Commissioners.

(12) No liability shall attach to the Minister, or an authorised officer, or to the Garda Commissioner, or a delegate officer, or a member of the 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 these Regulations.

(13) An authorised officer shall not, other than with the consent of the occupier, enter a private dwelling unless he or she has obtained a warrant from the District Court under regulation 6 authorising such entry.

(14) An authorised officer, where he or she considers it necessary, may be accompanied by a member of the Garda Síochána when performing any powers conferred on an authorised officer by this Regulation.

Search warrant

6. (1) If a judge of the District Court is satisfied on the information on oath of an authorised officer that there are reasonable grounds for suspecting that—

- (a) evidence of or relating to the commission or intended commission of an offence under these Regulations is or may be found in or any land, premises, vehicle or private dwelling,
- (b) a record relating to such an offence is or may be in or on any land, premises, vehicle or private dwelling, or
- (c) an authorised officer in the exercise of his or her functions under these Regulations has been prevented from entry on to or in any lands, premises, vehicle or private dwelling,

then the judge may issue a search warrant.

(2) A search warrant issued under this Regulation shall be expressed and shall operate to authorise a named authorised officer accompanied by such authorised officers or other person as the named authorised officer thinks necessary, at any time, within one month from the date of issue of the warrant, on production, if so requested, of the warrant, to enter the land, premises, vehicle or private dwelling specified in the warrant and to exercise all or any of the functions conferred on an authorised officer by or under these Regulations.

(3) The powers conferred on an authorised person by a warrant issued under this regulation shall be exercisable by the person as regards a dwelling only if, and only for so long as, he is accompanied by a member of An Garda Síochána.

Obstruction

7. A person who—

- (a) obstructs or impedes an authorised officer in the exercise of his or her functions under Regulation 5,
- (b) fails to comply with a requirement or direction of an authorised officer under Regulation 5,
- (c) refuses or prevents entry or access to an authorised officer to land, premises, vehicles or other objects (other than a private dwelling), or
- (d) in purporting to give information to an authorised officer for the performance of the officer's functions under Regulation 5—
 - (i) makes a statement that the person knows to be false in a material particular or recklessly makes a statement which is false in a material particular, or
 - (ii) fails to disclose a material particular,

commits an offence.

PART 4

RESTRICTIONS

Offences

8. (1) A person who intentionally—

- (a) brings into the territory of the Union, including transit under customs supervision;
- (b) keeps, including in contained holding;
- (c) breeds, including in contained holding;
- (d) transports to, from or within the Union, except for the transportation of species to facilities in the context of eradication;
- (e) places on the market;
- (f) uses or exchanges;
- (g) releases into the environment

an invasive alien species of crayfish, commits an offence.

(2) An invasive alien species of crayfish which is prohibited from being imported or exported or is subject to any restriction on importation or exportation is deemed to be so prohibited or restricted for the purposes of the Customs Act 2015.

Official controls

9. (1) The competent authority shall carry out the official controls in accordance with Article 15 of the EU Regulation.

(2) Where goods have been detained as a result of non-compliance with the EU Regulation in accordance with Article 15(5) of EU Regulation the relevant competent authority shall inform the Minister as soon as practicable,

(3) Where an authorised officer has:

- (a) identified an invasive alien species of crayfish, or;
- (b) reason to believe that a specimen, animal, or any part, product or derivative of any such specimen is an invasive alien species of crayfish, and it is not subject to a valid permit or authorisation in accordance with the EU Regulation, or;
- (c) cause to believe that these Regulations or the EU Regulation are not being complied with

the authorised officer may—

- (i) seize such species, specimen, animal, or any part, product or derivative of any such specimen,
- (ii) destroy such species, specimen, animal, or any part, product or derivative of any such specimen in such manner and at such place as the authorised officer requires,
- (iii) serve or cause to be served on any person who is the owner of the species, specimen, animal, or any part, product or derivative of any such specimen or an importer, or exporter of such species, specimen, animal, or any part, product or derivative of any such specimen or the person who appears to such officer to be in control for the time being of such species, specimen, animal, or any part, product or derivative of any such specimen a notice requiring them to—
 - (I) destroy the specimen in such manner and at such place as determined by the authorised officer, or
 - (II) dispose of the specimen in such manner as determined by the authorised officer,

or

- (iv) undertake or cause to be undertaken any checks necessary to establish whether the species, specimen, animal, or any part, product or derivative of any such specimen is an invasive alien species of crayfish.

(4) The cost of the seizure, destruction and checks of any species, product or object pursuant to paragraph (3) may be recovered by the competent authority or the Minister from the person who was the owner of the species, specimen, animal, or any part, product or derivative of any such specimen at the time of seizure, destruction or checks as a simple contract debt in any court of competent jurisdiction.

PART 5

ERADICATION

Rapid eradication

10. (1) Where the Minister confirms the appearance in the State or part thereof of an invasive alien species of crayfish—

- (a) whose presence in the State was previously unknown,
- (b) or that has reappeared in the State after having been previously reported as eradicated

he or she shall—

- (i) without delay, publish a statement on the internet providing details of the confirmation, and
- (ii) as soon as practicable but within 3 months of confirmation of the appearance, develop and adopt eradication measures and apply or secure the application of those eradication measures.

(2) The Minister may convene an emergency response panel, with the appropriate expertise, to assist in developing and implementation of rapid eradication measures.

(3) In addition to the measure referred to in paragraph (1)(b)(i) the Minister may, where he or she thinks it is reasonable to do so, publish notice of the confirmation by any or all of the following means:

- (a) by publication in one or more national, regional or local newspapers,
- (b) by broadcasting the notice on one or more radio channels,
- (c) by display of the relevant notice in one or more Garda Síochána stations, points of entry into the State, ports, local authority offices, local offices of the Department of Agriculture, Food and the Marine or other suitable places where the presence of or introduction into the State of an invasive alien species of crayfish may occur, or
- (d) by publicising the notice in such other manner as the Minister

may decide.

- (4) The eradication measures developed and adopted by the Minister under paragraph (1) shall be in accordance with Article 17(2) of the EU Regulation.
- (5) The Minister may by Direction require the owner or occupier of any land, including a public authority, to carry out eradication measures in relation to any invasive alien species of crayfish in a manner specified in the Direction.
- (6) A Direction issued under paragraph (5) shall be in writing and may be directed at a person, or may be of general application throughout the State.
- (7) (a) Where a Direction specifies a named person the Direction may be given to the person or body concerned in one of the following ways:
- (i) by delivering it to the person,
 - (ii) by leaving it at the address at which the person ordinarily resides or carries on business,
 - (iii) by sending it by post in a pre-paid registered letter to the address at which the person ordinarily resides or carries on business,
 - (iv) if an address for service of notices or directions has been furnished by the person, by leaving it at, or sending it by prepaid registered post addressed to the person at that address,
 - (v) by sending it by means of electronic mail or facsimile machine, to a device or facility for the reception of electronic mail or facsimiles located at the address at which the person ordinarily carries on business or, if an address for the services of notices or directions has been furnished by the person, that address, but only if—
 - (I) the sender's facility for the reception of electronic mail generates a message confirming a receipt of the electronic mail or the facsimile machine generates a message confirming successful transmission of the total number of pages of the notification, and
 - (II) the notification is also given in one of the other ways mentioned in (i), (ii), (iii) or (iv) of this subparagraph.
- (b) Where the name of the person concerned cannot be ascertained by reasonable inquiry a direction under paragraph (5) may be addressed to "the occupier" or "the person in charge" as the case may require.
- (c) For the purposes of this Regulation, a company registered under the Companies Acts is considered to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body is considered to be ordinarily resident at its principal office or place of business.

(8) (a) Where a Direction has general application in the State the Minister shall give public notice that a Direction, or Directions, have been made, and the aforesaid notice shall be—

- (i) published in at least one newspaper published and circulating in the State,
- (ii) published on the internet.

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

- (i) display the relevant notice in one or more Garda Síochána stations, ports, local authority offices, local offices of the Department of Agriculture, Food and the Marine or other suitable places where the presence of or introduction into the State of an invasive alien species of crayfish may occur,
- (ii) publish the relevant notice in one or more other national, regional or local newspapers, or
- (iii) publish the relevant notice in such other manner as the Minister may decide.

(9) Prior to the making of a Direction under this Regulation and at any time following the making of a Direction the Minister may consult with all or any public authority.

(10) The Minister may modify or revoke a Direction given pursuant to paragraph (5) by giving a further Direction pursuant to paragraph (5).

(11) A person who contravenes a Direction given pursuant to paragraph (5) commits an offence.

(12) Where a person fails or refuses to comply with a Direction given pursuant to paragraph (5), the Minister may apply to the High Court for an order requiring the person to comply with the Direction.

(13) An application for an order under paragraph (12) may include an application for an order to pay the Minister such amount, being an amount, not greater than the court has jurisdiction to award in contract, by way of financial penalty as the Minister may propose as appropriate in the light of non-compliance. The court is not bound by the amount proposed, but it shall consider the circumstances of non-compliance and its effect on persons concerned.

(14) Any financial penalty ordered by the appropriate court to be paid by a person under paragraph (13) shall be paid to and retained by the Minister as income.

(15) Where a person contravenes a Direction under this Regulation or any provision thereof, notwithstanding anything else in this Regulation, an authorised officer may undertake any eradication measure required by the Direction.

(16) In undertaking eradication measures under paragraph (15) an authorised officer may take such action as he or she considers necessary, including authorising a person or persons to access and enter onto land to undertake the eradication measures, 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.

Derogation from rapid eradication measures

11. (1) Following the confirmation of the appearance in the State, or part thereof, of an invasive alien species of crayfish under Regulation 10(1) and following the development of eradication measures under clause (ii) of paragraph 1 of that Regulation, the Minister may, on the basis of robust scientific evidence, decide not to adopt, apply or secure the application of those measures, in accordance with subparagraphs (a), (b) or (c) of Article 18(1) of the EU Regulation.

(2) Where the European Commission, in accordance with Article 18(2) of the EU Regulation, rejects the decision of the Minister not to adopt, apply or secure the application of eradication measures, the Minister shall then adopt, apply or secure the application of the eradication measures in accordance with Regulation 10.

PART 6

MISCELLANEOUS

Offences and penalties

12. (1) A person who commits an offence under Regulation 7 is liable on summary conviction to a class A fine.

(2) A person who commits an offence under Regulation 8(1), or 10(11), is liable—

- (a) on summary conviction, to a class A fine or to imprisonment for a term not exceeding 6 months or to both, or
- (b) on conviction on indictment, to a fine not exceeding €100,000 or to imprisonment for a term not exceeding 2 years or to both.

Prosecution of offences

13. Summary proceedings for offences under these Regulations may be brought by—

- (a) the Minister,
- (b) a competent authority, or
- (c) by a member of the Garda Síochána.

Costs of prosecutions

14. (1) Where a person is convicted of an offence under these Regulations in proceedings brought by the prosecuting authority, the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order the person to pay to the prosecutor, the costs and expenses, measured by the court, incurred by the prosecuting authority in relation to the investigation, detection and prosecution of the offence, including costs and expenses incurred in the taking of samples, the carrying out of tests, examinations and analyses and in respect of the remuneration and other expenses of authorised officers, directors, employees, consultants and advisers, as the case may be.

Payment of fines to prosecuting authorities

15. (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 prosecutor, provide by order for the payment of the amount of the fine to the prosecutor.

(2) Payment to be paid under paragraph (1) may be enforced by the prosecutor as if it were due on foot of a decree or order made by the court in civil proceedings.

Offences by body corporate

16. (1) Where an offence is committed under these Regulations by a body corporate and is proved to have been so committed with the consent, connivance or approval of or to have been attributable to the neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate or a person who was purporting to act in any such capacity, that person, as well as the body corporate, commits an offence and is liable to be proceeded against and punished as if he or she committed the first-mentioned offence.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.

Guidelines and codes of practice

17. (1) The Minister may issue guidelines and codes of practice in relation to the performance of the functions of competent authorities insofar as the requirements of these Regulations 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) Subject to paragraph (4), failure on the part of any person to observe any provision of a guideline or a code of practice issued under this Regulation shall not of itself render that person liable to any civil or criminal proceedings.

(4) 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 (5) shall have effect with respect to that guideline or code of practice in relation to those proceedings.

(5) 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.

SCHEDULE

Invasive Alien Species of Crayfish

First column	Second column	Third column
Common name	Scientific name	Geographical application
Spiny-cheek crayfish	<i>Orconectes limosus</i>	Throughout the State
Virile crayfish	<i>Orconectes virilis</i>	Throughout the State
Signal crayfish	<i>Pacifastacus leniusculus</i>	Throughout the State
Red swamp crayfish	<i>Procambarus clarkii</i>	Throughout the State
Marbled crayfish	<i>Procambarus fallax f. virginalis</i>	Throughout the State



GIVEN under the Official Seal of the Minister for Culture, Heritage and the Gaeltacht.
3 September 2018.

JOSEPHA MADIGAN,
Minister for Culture, Heritage and the Gaeltacht.

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