



STATUTORY INSTRUMENTS.

S.I. No. 355 of 2015



EUROPEAN COMMUNITIES (BIRDS AND NATURAL HABITATS)
(AMENDMENT) REGULATIONS 2015

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I, HEATHER HUMPHREYS, Minister for Arts, 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 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, the Slovak Republic, and the Republic of Croatia 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:

PART 1

PRELIMINARY AND GENERAL

Citation, construction and commencement

1. (1) These Regulations may be cited as the European Communities (Birds and Natural Habitats) (Amendment) Regulations 2015.

(2) These Regulations, the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011) and the European Communities (Birds and Natural Habitats) (Amendment) Regulations 2013 (S.I. No. 499 of 2013) may be cited together as the European Union (Birds and Natural Habitats) Regulations 2011 to 2015.

(3) The Wildlife Act 1976, the Wildlife (Amendment) Act 2000, the Wildlife (Amendment) Act 2010, the Wildlife (Amendment) Act 2012, the European Communities (Birds and Natural Habitats) (Restrictions of the Use of Poison Bait) Regulations 2010 (S.I. 481 of 2010), the European Communities (Birds and Natural Habitats) Regulations 2011, the European Communities (Birds and Natural Habitats) (Amendment) Regulations 2013, and these Regulations shall be construed together as one.

(4) These Regulations shall come into operation on 21 July 2015.

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 18th August, 2015.*

Definition

2. In these Regulations, “Regulations of 2011” means the European Communities (Birds and Natural Habitats) Regulations 2011.

PART 2:

AMENDMENTS

Amendments to the Regulations of 2011.

3. Regulation 2 of the Regulations of 2011 is amended:

(1) by substituting the following for the definition of “the Birds Directive”—

“ ‘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;”

and

(2) by substituting the following for the definition of “the Habitats 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;”

4. Regulation 3(3) of the Regulations of 2011 is amended by substituting “Upon serving or giving a notice in accordance with paragraph (1) or (2) of this Regulation,” for “Upon serving or giving a notice in accordance with paragraph (1) or (2) of these Regulations,”.

5. Regulation 5 of the Regulations of 2011 is amended by the insertion of an additional paragraph after paragraph (16):

“(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.”

6. Regulation 15(6) of the Regulations of 2011 is amended by substituting “(c) that” for “(b) that”.

7. Regulation 18 of the Regulations of 2011 is amended by substituting the following for paragraph (6):

“(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,

(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).”

8. Regulation 28 of the Regulations of 2011 is amended by substituting “paragraph (11)” for “paragraph (12)” in paragraph 10.

9. Regulation 32 of the Regulations of 2011 is amended by substituting “(Agriculture)” for “(Amendment)” in paragraph (1).

10. Regulation 40 of the Regulations of 2011 is amended by the insertion of an additional paragraph after paragraph (4)—

“(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.”

11. Regulation 42 of the Regulations of 2011 is amended by the insertion of the following paragraph after paragraph (25):

“(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.”

12. Regulation 49 of the Regulations of 2011 is amended by inserting the following paragraphs after paragraph (12),

“(13) Where the Minister considers—

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

the Minister may, notwithstanding anything contained in Section 40 of the Wildlife Act 1976, grant a licence for the destruction, by such means as the Minister may specify, of vegetation comprising or containing that species at

any time including, where he or she considers it warranted, during the period from 1 March to 31 August.

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

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

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

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

(iii) in any specified situation or circumstances.

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

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

13. Regulation 67(2) of the Regulations of 2011 is amended:

by inserting “49(14)(d)” after “49(2)”.

14. The Third Schedule of the Regulations of 2011 is amended by:

(1) Removing all text in the row containing the species “Water Lettuce” “*Pistia stratiotes*” from Part 1 of the Schedule.

(2) Amending “*Elodea*” in the Second column of Part 1 of the Schedule to read “*Elodea* (all species except *Elodea canadensis*)”.

(3) Amending “Carp” in the First column of Part 2 of the Schedule to read “Carp (except Koi Carp)” and in the Second column to read “*Cyprinus carpio* (except Koi varieties of *Cyprinus carpio*)”.

15. The European Communities (Birds and Natural Habitats) (Restrictions of the Use of Poison Bait) Regulations 2010 are amended by substituting the following for Regulation 11:

“11. Summary proceedings for an offence under these Regulations may be brought by—

(a) the Minister, or

- (b) a member of An Garda Síochána, or
- (c) a person who is neither the Minister nor a member of An Garda Síochána with the consent of the Minister or an officer nominated for that purpose.”



GIVEN under the Official Seal of the Minister for Arts, Heritage and the Gaeltacht.
21 July 2015.

HEATHER HUMPHREYS,
Minister for Arts, Heritage and the Gaeltacht.

EXPLANATORY NOTE

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

These Regulations amend the European Communities (Birds and Natural Habitats) Regulations 2011 to update the definitions of the Birds Directive (2009/147/EC) and the Habitats Directive (92/43/EEC) to reflect the accession of the Republic of Croatia to the European Union. Furthermore these Regulations correct typographical errors in the 2011 Regulations and provide other provisions to assist Ireland's management of its obligations under the Birds and Habitats Directives, including in relation to Invasive Alien Species, An Garda Síochána and the Commission for Energy Regulation. These Regulations also correct a typographical error in the European Communities (Birds and Natural Habitats) (Restrictions on the use of Poison Bait) Regulations 2010.

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nó trí aon díoltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2.
(Tel: 01 - 6476834 or 1890 213434; Fax: 01 - 6476843)
or through any bookseller.

€2.54

