

A Quick Guide to Protected Species in Ireland

This Guide has been produced by Scott Cawley Ltd, Environmental Consultants. It presents a brief guide to the protected animals and plants in the Republic of Ireland. It is aimed at developers, architects, planners, landscape architects and engineers who may come across protected species during the course of their work.

There are two levels of species-protection in Ireland: National-level and European-level. For species protected at national-level, the relevant legislation is the Wildlife Act 1976 and Wildlife (Amendment) Act 2000 which is implemented through several sets of regulations. The European-level legislation is the 'Habitats Directive' and the 'Birds Directive' which is also implemented in Ireland by detailed regulations.

Why should I be concerned about the presence of protected species?

The laws that protect rare, endangered or sensitive plants and animals in Ireland provide for strict penalties in the event of offences being committed. For example, disturbance of a bat roost could result in a fine of €1,904 and/or 12 months imprisonment and, on indictment, is €63,487 and/or two years imprisonment. Note that fines may be imposed in relation to each offence committed. However, the cost of suspending construction works for several days or even weeks as a result of the need to investigate any suspected offences could result in much more significant costs.

What happens if I have protected species on my land that I want to develop?

The mere presence of protected species does not necessarily prevent any development on a site. With the correct advice, a number of techniques can be used to avoid affecting the protected species during the development. It is important to get professional advice at an early stage so that any changes to the project can be addressed before key decisions are made.

Wildlife Act 1976 and Wildlife (Amendment) Act 2000

The Wildlife Act is Ireland's primary national legislation for the protection of wildlife. It covers a broad range of issues, from the designation of nature reserves, the protection of species, regulation of hunting and controls in wildlife trading. The Act is implemented by a series of regulations

What species are protected?

It provides strict protection for nearly all birds, 22 other animal species, and 86 plant species. These species are protected from injury, or from disturbance / damage to their breeding or resting place wherever these occur. It should be noted that resting places (e.g. badger setts) are protected even if there are no animals present.



Leisler's Bat (Bernie McDonnell, Dublin Zoo)

Animal Species Protected Under the Wildlife Acts

Mammals

Badger
All Bat species
All Deer species
Hare species
Hedgehog
Otter
Pine Marten
Red Squirrel
Dolphin species

Porpoise species
Seal species
Whale species
Pygmy Shrew
Stoat

Amphibians

Natterjack Toad
Common Frog
Common Newt

Reptiles

Common Lizard
Leatherback turtle

Invertebrates

Freshwater crayfish
Freshwater pearl mussel
Kerry slug

Flora Protection Order 1999

Plants that are protected under this Order cannot be wilfully cut, picked, uprooted or damaged or parts of the plants removed. It includes 56 vascular plants, 14 mosses, 4 liverworts and 2 stoneworts.



Betony

Wildlife Act Protected Species Licences

Works that aim to protect species by disturbing, capturing or relocating them can only be conducted under a licence from the National Parks and Wildlife Service of the Department of the Environment, Heritage and Local Government. It is their responsibility to protect each species and their habitat and therefore any licence issued for mitigation work is issued on a site-specific basis depending on the species and impacts involved. This permit is separate to the planning process and whilst a project may receive planning permission, this does not mean that a Wildlife Act Licence will automatically be granted.

Applications for licences can take up to 6 weeks to process and therefore will need to be applied for well in advance. There are also conditions attached to the licence that may, amongst others, impose time or seasonal restrictions on when works may be carried out. Monitoring and reporting requirements that normally last up to a year beyond the completion of the works will also be required. Similar licences may be required for species protected by the Flora Protection Order 1999.

Habitats and Birds Directives and European Communities (Natural Habitats) Regulations 1997

These Regulations act to transpose two European Commission Directives into Irish law: the 'Birds Directive' (1979) which relates to wild birds, and the 'Habitats Directive' (1992) which deals with habitats and animals. Species protection can be split into two categories: species protected within designated Natura 2000 sites (SACs and SPAs), and species protected both inside and outside of these areas. The European Directives contain lists of plants and animals that are rare or declining on a European scale, listed separately in a range of 'Annexes'.

Protection Within Protected Areas

Annex II of the 'Habitats Directive' and Annex I of the 'Birds Directive' list a number of species that require protection of their habitats, for which Natura 2000 sites (SACs and SPAs) should be designated.

In Ireland, this list includes 20 mammals, fish, amphibians and invertebrates, 21 birds and 5 plants. More than 10% of the Irish national territory is designated as proposed SAC or SPA. Any plan or development project that may have an impact on a Natura 2000 site, whether inside the site boundaries or not, must undertake an '**Appropriate Assessment**' in order to determine the significance of any effects on the species and habitats found within the site.



Otter Prints



White-clawed Crayfish

Protection outside protected sites

In contrast, plants and animals listed on Annex IV and Annex II(b) of the Habitats Directive are strictly protected wherever they occur in the country, whether inside a Natura 2000 site or outside. The list includes all bats, all cetaceans (whales, dolphins and porpoises), 5 other animals and 3 plants. Many of these species are also listed on Annex II. Each of these species is protected from injury, or disturbance / damage to their breeding or resting places. They are also protected from accidental harm so it is essential that developers know if these species are present or absent before they carry out any works.

Annex II (Protected within SACs)*

- Otter
- Lesser Horseshoe Bat
- Grey Seal and Common Seal
- Bottle-nosed Dolphin
- Harbour Porpoise
- Kerry Slug
- White-clawed Crayfish
- *Vertigo* Snails (3 species)
- Freshwater Pearl Mussel
- Marsh Fritillary (a butterfly)
- Atlantic Salmon (in freshwater)
- River, Brook and Sea Lamprey (fish)
- Allis, Twaite and Killarney Shad (fish)
- Killarney Fern
- Slender Naiad (an aquatic plant)
- Yellow Marsh Saxifrage (a plant)
- Shining Sickle-moss
- Petalwort (a liverwort)

Annex IV (Protected wherever they occur)

- All bat species
- Otter
- Kerry Slug
- Natterjack Toad
- Killarney Fern
- Slender Naiad (an aquatic plant)
- Yellow Marsh Saxifrage (a plant)
- All Whales, Dolphins and Porpoises
- Leatherback Turtle
- Sturgeon (a fish)

*The presence of Annex II species outside of designated areas (SACs, SPAs) will also be taken into account by planning authorities and the NPWS during the determination of planning applications and therefore should be addressed at pre-planning stages.

Derogation Licences for European-protected species

These are similar to Wildlife Act Licences but apply to European-protected species. The application for the licence should be made by the body responsible for undertaking the works (e.g. the developer) but is often prepared by their ecological consultant. The NPWS also require the application to be made before planning permission is received to allow them the opportunity to comment. The licence is required in order to allow any works that might affect the protected species (e.g. removal of a bat roost, any works in rivers). Conditions will be attached to the derogation including timing of works, monitoring and reporting requirements that normally last up to a year beyond the completion of the works.

How can I ensure that I operate within the law?

1. **Get advice from a professional Ecologist as early as possible. For some species, e.g. Bats, Otter, Kerry Slug, you cannot defend yourself by pleading that any damage or disturbance was accidental. Therefore it is essential that you get advice early.**
2. **Ensure that adequate surveys are carried out at the correct time of year (e.g. adequate bat surveys may require several surveys during the different seasons for some species). If the survey 'window' is missed then it may result in costly delays.**
3. **Integrate any licence application or mitigation timescales into your overall project to avoid unnecessary delays.**
4. **Avoid relying on pre-construction surveys as a licence may not always be granted and can lead to cessation of works. Licences may often limit works to certain times of year which may not be convenient to the developer.**
5. **Integrate recommended mitigation measures into the projects. Developers who are proactive and support conservation measures are more likely to have a smoother passage through the planning process**

This document does not claim to be a legal interpretation of the referenced legislation and legal advice should be sought where relevant. Full reference to the aforementioned legislation is recommended.



How Scott Cawley can help.

Scott Cawley Ltd is one of Ireland’s leading ecological consultancies. We have extensive experience of protected species surveys, species and habitat mitigation, management and monitoring. Our day-to-day services including providing practical advice to developers, architects, engineers and planners on how to address protected habitat and species issues. Staff have experience of protected species licencing for bats, badgers, otters, birds, Kerry Slug and several other native fauna and flora species.

Services we can provide include:

- Pre-planning ecological constraints and due-diligence studies;
- Surveys for protected species;
- Applications for protected species licences;
- Planning and implementing practical mitigation measures;
- Preparing Ecological Impacts Assessments for EISs and ‘Appropriate Assessments’ for plans, programme and projects that may be located near Natura 2000 sites.

Other ecological Services we provide include:

- BREEAM Assessments (Suitably Qualified Ecologists);
- Specialist botanical and fauna surveys;
- Phase I Habitat and Phase 2 NVC Surveys;
- Habitat Mapping;
- Habitat Creation, Restoration and Management Plans;
- Construction Supervision for ecological mitigation measures.



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