

CONSULTATION

Response Document



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Review of the Derogation Process under Article 9(1)(a) of the
EU Birds Directive

Submission on the Article 9a Consultation

to

National Parks and Wildlife Service

The Department of Culture, Heritage and the Gaeltacht

04 May 2018

Introduction to CIEEM

The Chartered Institute of Ecology and Environmental Management (CIEEM), being the leading membership organisation supporting professional ecologists and environmental managers in Ireland and the United Kingdom, welcomes the opportunity to participate in this consultation process.

CIEEM was established in 1991 and has more than 5,000 members drawn from local authorities, government agencies, industry, environmental consultancy, teaching/research, and voluntary environmental organisations. The Chartered Institute has led the way in defining and raising the standards of ecological and environmental management practice with regard to biodiversity protection and enhancement. It promotes knowledge sharing through events and publications, skills development through its comprehensive training and development programme and best practice through the dissemination of technical guidance for the profession and related disciplines.

Amongst others, CIEEM is a member of:

- National Biodiversity Forum (Ireland)
- Irish Forum on Natural Capital (working group member)
- The Environmental Science Association of Ireland
- Europarc Federation
- IUCN – The World Conservation Union
- Professional Associations Research Network
- Society for the Environment
- United Nations Decade on Biodiversity 2011-2020 Network
- The UK All Party Parliamentary Group on Biodiversity
- The UK Environmental Policy Forum

CIEEM has approximately 250 members in Ireland who are drawn from across the private consultancy sector, NGOs, government and semi-state agencies, local authorities, academia and industry. They are practising ecologists and environmental managers whose work involves sustainably managing habitats - terrestrial and aquatic habitats (marine and freshwater) - and species.

Comments from CIEEM

CIEEM welcomes the opportunity to participate in the consultation process in respect of Review of the Derogation Process under Article 9(1)(a) of the EU Birds Directive.

The review has been undertaken by ornithological experts who are members of the CIEEM Ireland Policy Working Group which comprises experienced, Irish-based, practitioners and specialists with a wide breadth of knowledge across the ecological and environmental management spectrum in Ireland.

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CIEEM would like to make a number considered comments on the consultation document, as follows:

Public safety

We should like to draw attention to following:

Under Article 9 one of the key requirements for derogation is that there is no other satisfactory solution. Regarding the public safety risk posed by gulls, the licensing authority must ensure that the applicant has adequately considered all possible alternatives, for example, denying nesting opportunities in areas of high public use, or implementing a more rigorous litter management scheme. Only where these methods have been implemented and proved ineffective could the DCHG confirm that there is no other satisfactory solution.

The state-wide Declaration for May 2017 – April 2018 allowed for the taking of nests and eggs of Herring Gull, Greater Black-backed Gulls and Lesser Black-backed Gulls in the vicinity of Balbriggan, Co. Dublin for reasons of public safety. However, it is noted that these three species are currently listed on the Birds of Conservation Concern in Ireland as a result of declines in their breeding populations and ranges. In particular, the Herring Gull is included on the Red-list, because its breeding population has declined by more than 50%, and its breeding range by more than 70%.

On page 7 of the consultation document, at Section 3.4, it is noted that derogations may not be incompatible with the Birds Directive if they could undermine the conservation of the species for which derogations have been granted. Considering that the breeding populations of these gull species are currently of very poor conservation status, it seems reasonable to conclude that the taking of their nests and eggs could be contrary to Article 9 of the Birds Directive.

Further, in respect of the inclusion of Herring Gull, Greater Black-backed Gull & Lesser Black-backed Gull for threat to public safety at an area of north Co. Dublin, no clear scientific based evidence/justification is provided in relation to the this. On pages 7 and 8 the consultation document refers to a 'pilot scheme' in relation to 'rogue' gulls taking food directly from people. While we are aware of the general issues of such instances, as highlighted in the media in recent years, where is the scientific based evidence that would be required to justify the inclusion of these species on this derogation (e.g. the number of

instances/conflicts involved, the nature of the instances involved, other possible solutions available etc.)?)

Similarly, the lack of information pertaining to the 'pilot scheme' - which is of direct relevance here - is of concern. For example, what is the nature of the pilot scheme, what is its enforcement, what is the nature of its monitoring/reporting, what is the timeframe and how will the removal of eggs/nests of relevant species be linked to success or not etc.?

Considering the increased media attention about this issue in recent years, it is possible that similar derogations for gulls at sites of high public usage may be requested in future years. Where this is the case, it is considered that the DCHG should request an assessment of the potential impact of such measures on the conservation status of the relevant gull species by a competent ecologist, in order to ensure that the derogation would "*not lead to a situation where a species' population and range is reduced to such an extent that it becomes vulnerable or leads to an unfavourable conservation state*". If such a derogation would have a significant impact on the breeding population of one or more of these species (e.g. affecting more than 1% of national breeding pairs), then it would appear not be in compliance with the Birds Directive, in which case the DCHG should not grant a derogation licence. All derogations should be evidence – based.

In conclusion therefore, it is disappointing to see that these gull species still appear on the general list for the area in north Co. Dublin. While it is welcomed that the licence is restricted to a small geographic location, it is questioned why these species cannot be removed from this list altogether – unless there is available scientific-led data and evaluation that does support the derogation but which is not provided in the consultation document.

Air safety

No clear scientific based evidence is given in the consultation document to justify the inclusion of several bird spp. in relation to air safety and specific airfields. In particular, we should like to draw attention to following:

- Airfields that have bird scaring programmes in place: these may help form the basis of highlighting the species of potential relevance regarding air safety specific to each airfield. Such programmes may also identify the stage at which scaring techniques are not adequate - such that the capturing/killing of the particular bird species is the only option under derogation, but none of this information is provided in the consultation document.
- Where bird species information is lacking for a particular airfield, e.g. where there is no bird scaring programme in place, an on-going monitoring programme would help in highlighting the species of potential relevance regarding air safety specific to each airfield. The information provided for this consultation is lacking in this regard.
- Where bird-related activities (whether monitoring, scaring and/or control) currently occur at an airfield, there is simply not sufficient information provided in the public consultation document in its current form to allow understanding of the context relevant for each airfield.

It is disappointing to see that curlew is still on the list despite its severe population decline across Ireland and, on account of this decline, consideration should be given to its complete removal from future lists. However, it is recognised that this species may present a risk to aircraft and that their safety is paramount and it is welcomed that it is currently only on the list for Dublin airport.

GENERAL COMMENTS

It is noted in Table 1 (page 9) that the bird population trends are not referenced so it is not clear where these data come from. Also, should not the trends be evaluated in terms of significance - e.g. as available through the Countryside Bird Survey (CBS)?

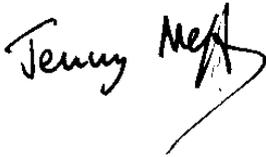
CIEEM considers that any review such as this should be informed by a review of scientific literature and evidenced-based results. As stated above, there is an apparent lack of supporting scientific evidence to justify the inclusion of certain species on the 2018 -2019 derogation list, which is concerning.

CIEEM requests that the Department look into this in greater detail and provides the necessary evidence to support the derogation proposals.

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CIEEM members are knowledgeable about the natural heritage of Ireland and, as a professional body representing practicing ecologists, CIEEM is well placed to advise on specific areas of wildlife legislation now and in the future.

CIEEM would welcome any opportunity to discuss any proposed changes in relation to derogations under Article 9 and is willing to assist as appropriate, at any stage, including reviewing/commenting on proposed amendments to Article 9 derogations as they become available.



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