

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

**Interim report 4: Recommendations on the
Declarations for 2018/19**

Prepared by Derek McLoughlin, Olivia Crowe and Gary Goggins

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1.0 Background:

This report forms part of a review, running between January and June 2018, of the process of the use of Article 9(1)(a) of the EU Birds Directive in Ireland. As part of this review, three interim reports have been produced to date that cover the following topics:

1. ecological status of species listed on current Declaration;
2. extent of the issue involving these species and;
3. overview of European legislation.

In addition, a targeted consultation with key stakeholders was undertaken which fed into this process. A wider public consultation is currently running for a five-week period through early May, 2018, from which a public consultation report will be produced.

A final report, due to be submitted in June 2018, will draw on all of the above material to produce recommendations on the derogation process.

As the Declarations are reviewed annually for publication in April each year, the final report will not be available before the 2018/19 Declarations are published. Therefore, in order to inform the 2018/19 list of Declarations, provisional recommendations are being made in this report.

These provisional recommendations are made with a focus on compliance with EU legislation. The provisional recommendations outlined in this report will be reviewed in the final report delivered to the DCHG, and it is considered premature to provide greater detail prior to review of the public consultation.

1.1 General principles of the Article 9 derogation system

In order to ensure legal compliance with the EU Birds Directive, it is essential that Member States only derogate from the basic prohibitions provided in Articles 5 to 8 when **ALL** three following conditions are fulfilled:

- there is no other satisfactory solution;
- one of the reasons listed in 9(1)(a), 9(1)(b), or 9(1)(c) applies;
- and the technical requirements of Article 9(2) are fulfilled.

2.0 Recommendations for the 2018/19 Declaration

Notwithstanding the completion of the overall Article 9(1) review including public consultation, which is ongoing, the recommendation for the 2018/19 general declaration is that the list remains the same as 2017/18 (See tables 1 and 2).

Following the significant concerns expressed by a local community group in north County Dublin, the three large gull species, Herring Gull, Lesser Black-backed Gull and Great Black-backed Gull were included on the General Declaration in 2017/18, for the removal of nests and eggs. During the 2017 breeding season, a total of 168 nests were removed.

Notwithstanding the genuine complaints expressed, the recent inclusion of the gulls on the General Declaration appears to fall short of compliance with Article 9 of the Birds Directive for the following reasons:

- There has not been a thorough review of other solutions properly set out and appraised;
- The status of one of the three gulls (namely Herring gull) is highly unfavourable at a national and biogeographic scale;
- The effects of direct mitigation actions being taken on the species concerned are not measurable.

If gulls are to be included on the General Declaration in 2018/19, then it is recommended that in order to achieve full compliance with Article 9 the following actions are included in any consideration:

1. A robust review of all options is undertaken and programme of action is determined for 2018/19 with inputs from all key stakeholders. This review should take into consideration, and aim to explore, the feasibility of all suitable actions, as well as potential impacts of each of these actions on the species concerned.
2. A steering group should be established comprising a Local Authority, NPWS, gull action group, NGO (e.g. BWI), independent expert, and if possible should also include an international conservation representative with experience in this respect. A Chair, independent of all key stakeholders groups, should be appointed. The principal function of the SG would be to agree on and oversee actions implemented in 2018/19, and should ensure appropriate reporting on the outcomes of any agreed actions.
3. Should direct intervention (*i.e.* removal of nests, eggs, etc.) be agreed in 2018/19, then it should be subject to a strict research programme of work ensuring that the results of any actions are measurable. Such a research programme should typically include the following:
 - a. Identification and delineation of study areas. A combination of 'treatment' and 'control' sites should be considered.
 - b. The extent of this issue should be measured over time, potentially, and not necessarily exclusively, through a widely-circulated questionnaire with a range of questions aimed at addressing the scope and severity of the issue. A range of individuals from the public and a range of sectors should be targeted.
 - c. An assessment of the impacts on the species concerned needs to take into consideration the impacts on their populations at national scale. There has been a shift in their distributions away from natural nesting areas on low-lying coasts and islands towards towns and cities. An updated assessment of nesting totals, at least at a regional scale, is needed to enable definition of the extent of direct control actions. This information is also needed to enable an assessment of impacts of any agreed actions.
4. This review and any actions arising should also set out to address the issue of food availability in towns and cities from exposed refuse, offered food, etc.

TABLE 1. STATE-WIDE DECLARATION (1ST MAY 2017 – 30 APRIL 2018)

Species	Rationale under Article 9(1)(a) of the Birds Directive	Method of capture or killing	Area/ time period covered
Hooded/ Grey Crow	Threat to public health and vector in the spread of animal diseases; prevent serious damage to livestock; protection of fauna, notably the nests and young of game birds)	Shooting with rifle or shotgun. Cage traps with or without decoys subject to conditions	State-wide; at specified times of year
Magpie	Threat to public health and vector in the spread of animal diseases; prevent serious damage to livestock; protection of fauna, notably the nests and young of game birds)	Shooting with rifle or shotgun. Cage traps with or without decoys subject to conditions	State-wide; at specified times of year
Rook	Reason: Prevent serious damage to cereal crops, brassicas and root crops such as potatoes and beet; prevent damage to livestock feedlots)	Shooting with rifle or shotgun	State-wide; at specified times of year
Jackdaw	Prevent serious damage to cereal crops, brassicas and root crops such as potatoes and beet; prevent damage to livestock feedlots)	Shooting with rifle or shotgun	State-wide; at specified times of year
Woodpigeon	Prevent serious damage to arable crops, including cereals, legumes and brassicas; threat to public health notably contamination of food storage)	Shooting with rifle or shotgun	State-wide at all times of the year
Feral Pigeon	Prevent serious damage to arable crops, including cereals, legumes and brassicas; threat to public health notably contamination of food storage)	Shooting with rifle or shotgun. Non meat based poison or anaesthetic bait may be used as a method of control but only under permit with prescribed conditions as issued by the National Parks and Wildlife Service prior to control action taking place	State-wide at all times of the year
Herring Gull Greater Black-backed Gull Lesser Black-backed Gull	Threat to public safety	Taking the nests or taking the eggs	Confined to an area of north Co. Dublin at all times of the year

TABLE 2. AIR SAFETY DECLARATION (1ST MAY 2017 – 30 APRIL 2018)

Species	
Black-headed Gull	Collared Dove
Common Gull	Common Buzzard (Dublin airport and Casement aerodrome)
Herring Gull	Eurasian Curlew (Dublin airport)
Greater Black-backed Gull	Barn Swallow (Shannon airport)
Lesser Black-backed Gull	Grey Heron (Shannon airport)
Rook	Mute Swan and Whooper Swan (Shannon airport)
Jackdaw	Golden Plover
Magpie	Hooded (Grey) Crow
Starling	Woodpigeon
Lapwing	Feral Pigeon