NPWS An tSeirbhís Páirceanna Náisiúnta agus Fiadhúlra National Parks and Wildlife Service

Derogation Number
DER-Flora-2026-10

EUROPEAN COMMUNITIES (BIRDS AND NATURAL HABITATS) REGULATIONS, 2011 (S.I. No 477 of 2011)

DEROGATION

Granted under Regulation 54 of the European Communities (Birds and Natural Habitats) Regulations 2011, hereinafter referred to as "the Habitats Regulations".

The Minister for Housing, Local Government & Heritage, in exercise of the powers conferred on him by Regulation 54 of the Habitats Regulations hereby grants to **Paul Murphy** of **EirEco Environmental Consultants, Carron, County Clare, V93 N673** a derogation. It is stated that this derogation is issued:

A. For the purpose of research and education, of re-populating and re-introducing these species and for the breeding operations necessary for these purposes, including artificial propagation of plants
B. As there is no satisfactory alternative, and the action authorised by this derogation will not be detrimental to the maintenance of the population of flora referred to below at a favourable conservation status in their natural range.

This derogation authorises the following:
1. Disturbance
2. Actions authorised within the derogation

The derogation is issued in respect of the following **Flora species**:

- **Slender Naiad** ***Najas flexilis***

Terms and Conditions

1. This derogation is granted solely to allow the activities specified in connection with the works located at **Killarney National Park, Lough Leane, Killarney, County Kerry** for **Paul Murphy**
2. Special efforts should be taken to minimize disturbance to, and impacts on, any species of protected Flora during works.
3. This derogation may be modified or revoked, for stated reasons, at any time. In addition, the Minister reserves the right to revoke the derogation where updated information indicates that the basis upon which the derogation was granted has materially changed.
4. The mitigation measures outlined in the application report **(Supporting Information for an Application for Derogation under Regulation 54 & 54A of the European Communities (Birds and Natural Habitats) Regulations 2011 to test whether Slender Naiad (Najas flexilis) can be germinated ex-situ from seeds collected from living plants in Lough Leane, Killarney National Park)** together with any changes or clarification agreed in correspondence between NPWS and the agent or applicant, are to be carried out. Strict adherence must be paid to all the proposed measures in the application.
5. The actions which this derogation authorise shall be completed between **9th October – 31st December 2026, inclusive.**
6. Special efforts should be taken to minimize disturbance to, and impacts on, any species of protected flora during works.
7. The derogation holder should carefully consult the NPWS Flora Protection Order Map Viewer – Bryophytes (https://www.npws.ie/maps-and-data/flora-protection-order-map-viewer-bryophytes), available on the NPWS website, to ensure that they are aware of the locations of the known populations of protected bryophyte species in order to avoid accidental disturbance. For protected vascular plants and charophytes the Flora (Protection) Order 2022 Map Viewer (https://www.npws.ie/news/npws-flora-protection-order-2022-map-viewer-%E2%80%93-vascular-plants-charophytes-and-lichens-has-been) should similarly be consulted.
8. Strict biosecurity measures should be applied following current best practice protocols (see, for example, https://invasives.ie/biosecurity/check-clean-dry/), for the purposes of preventing the introduction and spread of disease and alien species. All equipment should be appropriately treated before and after work and before moving to a new site.
9. If this derogation addresses works that are subject of a planning application, no such works permitted under this derogation can occur until planning permission is granted.
10. If this derogation expires prior to works permitted under this derogation commencing, a new application must be sought in advance, including the provision of any updated data or reports.
11. This derogation shall be produced for inspection on a request being made on that behalf by a member of An Garda Síochána or an authorised NPWS officer appointed under Regulation 4 of the Habitats Regulations.
12. Derogation holders should liaise with local **NPWS District Conservation Officer – Mary Sheehan,** mary.sheehan@npws.gov.ie in advance of works.
13. On completion of the actions which this derogation authorises, all recordings of flora species affected will be made using the standardised Returns form and must be submitted to the NPWS **within four weeks of the expiry date of this derogation**. Included with the Returns form, a brief report describing works undertaken and details of any populations of protected plant species recorded should be provided to NPWS on expiry of the derogation.
    - Reports should include records of the protected species (species, location, grid references [10-figure, GPS-derived, National Grid], recorder/s, dates [day/month/year], size of populations recorded [area/number of plants], to be supplied also in MS Excel format) as well as details of any samples retained.

Both documents must be submitted to wildlife.reports@npws.gov.ie to **constitute a derogation return.**

For the Minister for Housing, Local Government & Heritage

Fiona O' Mahony.

(an officer authorised by the Minister to sign on his behalf)

11 September 2026

Any query in relation to this derogation should be sent to reg54derogations@npws.gov.ie

National Parks & Wildlife Service
LICENCE

Derogation Assessment

Name of Applicant: Paul Murphy

Location/Name of Project: Killarney National Park, Lough Leane, Killarney, County Kerry

Tick the following prohibition as chosen on the application:

(a) Deliberately capture or kill any specimen of the relevant species in the wild	☐
(b) Deliberately disturb these species particularly during the period of breeding, rearing, hibernation and migration	☐
(c) Deliberately take or destroy eggs of the relevant species in the wild	☐
(d) Damage or destroy a breeding or resting place of such an animal, or	☐
(e) Keep, transport, sell, exchange, offer for sale or offer for exchange any specimen of the relevant species taken in the wild, other than those taken legally as referred to in Article 12(2) of the Habitats Directive.	☐
(a) Deliberately pick, collect, cut, uproot or destroy any specimen of these species in the wild, or	☒
(b) Keep, transport, sell, exchange, offer for sale or offer for exchange any specimen of these species taken in the wild, other than those taken legally as referred to in Article 13(1)(b) of the Habitats Directive.	☐

Test 1: A reason(s) listed in Regulation 54 (a)-(e) applies to the proposed activity

i. Tick which reason <u>the applicant claims</u> should be applied to the derogation

(a) In the interests of protecting wild flora and fauna and conserving natural habitats,	☐
(b) To prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property	☐
(c) In the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment,	☐
(d) For the purpose of research and education, of re-populating and re-introducing these species and for the breeding operations necessary for these purposes, including artificial propagation of plants, or	☒
(e) To allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking or keeping of certain specimens of the species to the extent specified therein, which are referred to in the First Schedule.	☐

ii. Test 1: Conclusion

Please tick the following where it applies:

There is a valid reason(s) listed in Regulation 54 (a)-(e) which applies to the proposed activity:	Yes	☒
	No	☐

Please outline your analysis below and state how the applicant has provided evidence to support your conclusion:

The application form and associated documentation provided by the applicant has been reviewed in full. The application relies on regulation 54(2) (d) "For the purpose of research and education, of re-populating and re-introducing these species and for the breeding operations necessary for these purposes, including artificial propagation of plants".

As outlined in the accompanying report titled "Supporting Information for an Application for Derogation" a derogation is required to facilitate proposed activity at Lough Leane, Killarney National Park, Co. Kerry.

The objective of the activity is to "safeguard future Lough Leane N.flexilis populations, given that since 2013, the species has seen a dramatic decline in abundance and distribution" with a conservation status assessed as bad with a deteriorating trend. The project will test if N.flexilis can be germinated "ex-situ" from seeds collected from living plants.
The applicant has provided evidence as to the nature and scale of the research and education, of re-populating and re-introducing the species aspect and the proposed activity is necessary to achieve these overall objectives. Based on the above this application has passed Test 1 and can now proceed to Test 2

Test 2: Absence of a satisfactory alternative

Please tick the following where it applies and add a comment below to support the recommendation:

The applicant has provided satisfactory evidence that alternative solutions have been considered and have given reasons why the proposed approach is the only satisfactory alternative:	Yes	☒
	No	☐

Please outline your analysis below and state how the applicant has provided evidence to support your conclusion (If you wish to add additional conditions please complete pg. 6):

The documentation submitted by the applicant has been reviewed, including the evidence for alternative solutions.

The purpose of the derogation is to allow the following activity to take place:
Collection of *Najas flexilis* seed/fruit in Lough Leane. The seeds/fruits will be collected directly from living Najas flexilis plants using appropriate and established collection procedures. Collection will be undertaken carefully to minimise disturbance or damage to parent plants. Only mature seeds/fruits suitable for the proposed ex-situ germination trials will be collected, and the quantity collected from individual plants will be kept to the minimum necessary to achieve the objectives of the project. Plants will not be uprooted. Seeds will be stored appropriately and transported accordingly.

The specific situation that needs to be addressed is to safeguard future Lough Leane N.flexilis populations. Since 2013, the species has seen a dramatic decline in abundance and distribution, despite Lough Leane being cited as once possibly having the largest population in Europe.

The alternative solutions suggested by the applicant are:

1. "Do-Nothing" scenario would result in no collection of mature seeds/fruits and no ex-situ germination trial would be undertaken. While this approach would avoid collection of seeds, it would not fulfil the purpose of the proposed activity, which is to support research relating to the species' propagation and conservation. This would not resolve the situation of declining populations.

2. Alternative 1: Collection of small volumes of surface sediment. This alternative may be only partially effective or even not effective as there is no guarantee that viable seeds are within the collected sediment. It also potentially could be a more damaging method as there is potential to uproot *Najas Flexilis* Plants.

3. Alternative 2: Conducting a survey. This would only inform on the distribution and relative abundance of *Najas flexilis*. This approach would not allow for the collection of mature seeds/fruits therefore does not resolve the situation of declining populations.

The applicant has provided satisfactory evidence that alternative solutions have clearly been considered. As outlined on page 8 of the accompanying report, two alternative solutions and the *"do-nothing alternative"* were examined by the applicant.

Based on the assessment of the application documentation, it is regarded that the applicant has considered all available alternative solutions and at this time, no other alternative solutions are apparent.

Having weighed the possible solutions to solve the applicant's problem against the effects of a derogation on the species concerned, it is concluded that the application has passed Test 2 and can proceed to Test 3.

Upon completion of your assessment, please return this Recommendation to WLU to continue the application process.

Test 3: Impact of a derogation on conservation status of the species

Please tick the following where it applies and add a comment below to support the recommendation:

The derogation would NOT be detrimental to the maintenance of the populations of the species in question at a favourable conservation status in their natural range.	Yes	☒
	No	☐

Please outline your analysis below and state how the applicant has provided evidence to support your conclusion. (If you wish to add additional conditions please complete pg. 6)

This application for a derogation licence for Paul Murphy and Aisha O'Connor, was sent on their behalf by Killarney National Park Ranger Conservation Ranger Shonagh Gray who is, along with NPWS Regional Manager Mary Sheehan, involved in the project. The application is an extension of a recent derogation [DER-Flora-2026 to DER-Flora - 01 -2026 – 08] expired on 31st May 2026 (and for which a return was made recently), which authorised the collection of *Najas flexilis* seeds from sediment in Lough Leane for propagation trails. Collection of mature seeds/fruits of *Najas flexilis* from Lough Leane in the Killarney National Park forms part of an NPWS conservation programme to restore the population of the species there and it is important that collection of the material is undertaken as soon as possible. No negative impacts on the *Najas flexilis* population is envisaged from the proposed actions, on the contrary, collection of material could provide significant benefits for the species in the Killarney National Park.

The applicant has provided a comprehensive document with supporting information that sets out the nature and scale of the research and education, of re-populating and re-introducing the species aspects of the project, and how the proposed activity is necessary to achieve these overall objectives. The evidence provided and the analysis of alternatives indicates that the derogation would not be detrimental to the population of *Najas flexilis* in question and, as such, it is recommended that the derogation be granted

<u>If the answer above is Yes then the derogation may be granted, providing Tests 1 and 2 have also been met.</u>

<u>Upon completion of your assessment, please return this Recommendation to WLU to continue the application process.</u>

NPWS An tSeirbhís Páirceanna Náisiúnta agus Fiadhúlra National Parks and Wildlife Service

Derogation decision

The application for a derogation under Regulation 54 of the European Communities (Birds and Natural Habitats) Regulations, 2011 (S.I. 477 of 2011), as amended, has been assessed by officials in the Department and the following decision has been made:

Tick box where appropriate:

There is no satisfactory alternative	☒
and the derogation is not detrimental to the maintenance of the populations of the species to which the Habitats Directive relates at a favourable conservation status in their natural range.	☒

Therefore, a derogation may be granted to the applicant, since it is—

(a) in the interests of protecting wild fauna and flora and conserving natural habitats	☐
(b) to prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property,	☐
(c) in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment,	☐
(d) for the purpose of research and education, of repopulating and re-introducing these species and for the breeding operations necessary for these purposes, including the artificial propagation of plants, or	☒
(e) to allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking or keeping of certain specimens of the species to the extent specified therein, which are referred to in the First Schedule.	☐
OR **This application has been refused as one or more of the conditions set out above have not been met**	☐

The following conditions should be attached to the derogation:

1.
2.
3.
4.

[add additional conditions where required]

Signed: Date: September 11, 2026

Position: Ecologist