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

# Application for Derogation

## Under Regulation 54 & 54A of the European Communities (Birds and Natural Habitats) Regulations 2011, as amended

**Revision 2.0 – July 2025**



- This form can be used by any individual or Company applying for a derogation under Regulation 54 of the European Communities (Birds and Natural Habitats) Regulations 2011 ("the Regulations") **or** any individual applying on behalf of the Minister for Housing, Local Government and Heritage under Regulation 54(A) of the Regulations.

- Note this application form is not for Domestic Dwelling Derogations (bats within private homes) which can be found here > (3D Application Form)

- Please ensure that you answer questions fully in order to avoid delays and/or your application being rejected on the basis that it does not contain sufficient information and detail for the application to be considered further.

- Please read and familiarise yourself with the NPWS Guidance on Applications for Regulation 54 Derogations for Annex IV species: Guidance for Applicants

- Please read and familiarise yourself with the European Commission's Guidance document on the strict protection of animal species of Community interest under the Habitats Directive

- Please also note that the responses to these questions are supplementary to the documentation required for the NPWS to be in a position to consider your application. A complete application should include both the application form and an associated report. Failure to supply either will result in your application being returned and/or refused.

- In circumstances in which a derogation is given on foot of this application, the Applicant is responsible for ensuring compliance with the conditions of any such derogation, even though they may employ another person to act on their behalf. To carry out any activity without, or not in accordance with, a derogation granted under regulation 54 or 54A of the Regulations constitutes a criminal offence, subject to prosecution.

- If you experience any problems filling in this form, please contact the Wildlife Licensing Unit: reg54derogations@npws.gov.ie

- Please note – applications, associated reports and derogations will be published on the NPWS website and/or the Department's Open Data website.

- Where any applicant is applying for a derogation to carry out surveys, please ensure to list all qualified ecologists and trainees under their supervision. See section 1(c) of Part A.

## Part A: The Applicant - Personal Details

These questions relate to the person responsible for any proposed works and who will be the **Applicant**.
**If this application is being submitted on behalf of a third party, please also complete Part B below.**

**1. (a) Name of Applicant**

| Title (Mr/Mrs/Miss/Ms/Dr) | Forename(s) | Surname |
|---|---|---|
| Miss | Maria | Foley |
| **(b)** Company Name, if applicable | Dingle Oceanworld | |
| **(c)** Address Line 1 | The wood | |
| Address Line 2 | | |
| Town | Dingle | |
| County | Kerry | |
| Eircode | V92 Y913 | |
| **(d)** Contact number | [redacted] | |
| **(e)** Email address | [redacted] | |
| **(f)** Address where works are to be carried out if different from (b) above. | | |
| Address Line 1 | | |
| Address Line 2 | | |
| Town | | |
| County | | |
| Eircode | | |

**Details of Person Submitting Application on Behalf of Applicant/Derogation Holder**

Information relating to the person (e.g. ecologist) responsible for submitting the application on behalf of the applicant should be entered below:

**1. (b) Name of Person/Ecologist**

| Title (Mr/Mrs/Miss/Ms/Dr) | Forename(s) | Surname |
|---|---|---|
| miss | Maria | Foley |
| **(b)** Company Name | Dingle Oceanworld | |
| Address Line 1 | The wood | |
| Address Line 2 | Dingle | |
| Town | Dingle | |
| County | Kerry | |
| Eircode | V92 Y913 | |
| **(c)** Contact number | [redacted] | |
| **(d)** Email address | [redacted] | |
| **(e)** Relationship to Applicant | employee | |

**For Survey Derogations Only**

**1. (c) Please Indicate the Names to Appear on the Derogation Along with the Position Held e.g. Supervisor/Trainee**

| Forename(s) | Surname | Supervisor or Trainee |
|---|---|---|
| Maria | Foley | Supervisor |
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## Part B: Species covered by the Derogation

1. **Species of Animal:** Please indicate which species is/are the subject of the application:

- Bat ☐
- Otter ☐
- Kerry Slug ☐
- Natterjack Toad ☐
- Dolphin ☐
- Whale ☐
- Turtle ☒
- Porpoise ☐

2. Please detail the exact species (scientific name): Caretta caretta

3. Please provide the maximum number of individuals affected* 4

4. Please provide the maximum number of breeding or resting sites affected* 1

5. Please provide the maximum number of eggs to be taken* n/a

6. Please provide the maximum number of eggs to be destroyed* n/a

*If no figures can be provided for the maximum number of individuals, breeding sites, resting places and eggs to be covered by the derogation please provide reasons why.

7. **Species of Plant:** Please indicate which species is/are the subject of the application:

- Killarney Fern ☐
- Slender Naiad ☐
- Marsh Saxifrage ☐

8. If you previously received a derogation for any species of animal or plant, please state derogation number and confirm that you have made a return to NPWS on the numbers actually affected by that derogation.

Der-natterjacktoad-2025-01

9. **Proposed Dates for Activities:** Please indicate the timeframe that you propose to carry out the activities. Dates set by NPWS may differ from dates proposed here. *A derogation will only be issued with a start and end date within a calendar year.*

| | |
|---|---|
| Start Date: | 16/06/2026 |
| End Date: | 31/12/2026 |

## Part C: Nature of the Derogation.

1. Please tick which prohibition(s) the application for a derogation relates to:

| **Regulation 51** | |
|---|---|
| Deliberately capture or kill any specimen of the relevant species in the wild | ☐ |
| Deliberately disturb these species particularly during the period of breeding, rearing, hibernation and migration | ☐ |
| Deliberately take or destroy eggs of the relevant species in the wild | ☐ |
| Damage or destroy a breeding or resting place of such an animal, or | ☐ |
| 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. | ☒ |
| **Regulation 52** | |
| Deliberately pick, collect, cut, uproot or destroy any specimen of these species in the wild, or | ☐ |
| 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. | ☐ |

**Further information should be provided in the format set out in Part E: Template for Supporting Information**

## Part D: Derogation Tests

**Note: The following <u>summary</u> information must be provided by the applicant in all cases, and will be used to determine if a derogation can be provided. Further information must be provided in the format set out in Part E: Template for Supporting Information**

### Test 1: Reason for the Derogation

1. Please tick which reason(s) below explains how this application qualifies under Regulation 54(2)(a-e) or Regulation 54A(2)(a-e) of the European Communities (Birds and Natural Habitats) Regulations: Please provide a summary of how the application meets the 3 conditions required to provide a derogation. Note that in all cases additional information must be provided (see Part E).

| | | |
|---|---|---|
| **a.** | In the interests of protecting wild flora and fauna and conserving natural habitats **(proceed to 1a)** | ☐ |
| **b.** | To prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property **(proceed to 1b)** | ☐ |
| **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 **(proceed to 1c)** | ☐ |
| **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 **(proceed to 1d)** | ☒ |
| **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 **(proceed to 1e)** | ☐ |

**1a.** In the interests of protecting wild flora and fauna and conserving natural habitats:

i) Please state the wild flora, fauna or habitats that require protection and /or conservation.

n/a

ii) Please summarise how the interests of protection and conservation of the species/habitat concerned justify affecting another species under strict protection.

**1b)** To prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property:

i) Please summarise the nature of the potential damage, why it is considered “serious” and how this outweighs the conservation interest of the species under strict protection.

**1c)** 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:

i) Where the reason is for public health and public safety, summarise the evidence provided to support this reason (e.g. documentary evidence of the risk from a chartered structural engineer, tree surgeon, Garda Síochána, qualified health professional etc.)

ii) Where the reason is 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”, summarise the nature of the public interest and how this outweighs the conservation interest of the species under strict protection.

**1d)** 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:

i) Please summarise the objective(s) of the proposed activities making reference to those listed above and how the the purpose of such activities overrides the interests of strict protection of the species. [1]

The objective of the proposed activity is the rescue, rehabilitation and, where appropriate, re-introduction of four sea turtles to the wild. The activity is undertaken for the purpose of protecting and conserving the species and directly supports the re-population and re-introduction of sea turtles to their natural environment.
The rescued turtles require intervention, including safe collection, transport, veterinary assessment, rehabilitation and ongoing care, with the ultimate objective of returning suitable individuals to the wild. The rehabilitation process also provides an opportunity to improve knowledge of sea turtle health, rehabilitation and release, while supporting public education and awareness of sea turtle conservation.
Where the rescue operation results in temporary or unavoidable disturbance to another strictly protected species or its habitat, such disturbance is incidental to the conservation activity and is restricted to what is necessary to safely rescue and rehabilitate the turtles. Measures are taken to minimise any such disturbance.
The conservation objective of successfully rescuing, rehabilitating and, where possible, re-introducing the four sea turtles therefore provides the overriding justification for the limited and necessary disturbance associated with the activity.

**1e)** 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

i) Please clearly state the objective of the activity and verify that this reason is being chosen as the objective of the activity does not match reasons a-d listed above.

[1] Note that this reason may be appropriate for when research involves surveys that may cause disturbance of species under strict protection. But the sole purpose of the surveys should be for research and education or the other reasons listed above under 1d.

ii) Please summarise how the activity will result in the taking or keeping of limited numbers of specimens of the species, how it will be applied on a selective basis and to a limited extent, and how it will be done under strictly supervised conditions.

## Test 2: Absence of Alternative solutions

**2**. Please summarise the alternative solutions that have been considered and why these solutions are deemed unsatisfactory. This must include the option of the "do-nothing" alternative and evidence should be objective and robust. Note that in all cases further information must be provided in the format set out in Part E: Template for Supporting Information.

| Alternative Solution | Reasons for "Unsatisfactory" |
|---|---|
| Do-Nothing | This option was considered but is not considered satisfactory. The turtles were found stranded, injured, cold-stunned or otherwise in a condition requiring human intervention. Leaving the animals without assistance would result in a significant risk of deterioration and death and would provide no opportunity for veterinary treatment, rehabilitation or eventual return to the wild. The purpose of the rescue is specifically to give these individuals an opportunity to recover and, where medically and behaviourally appropriate, be re-introduced to the wild. |
| Attempt to provide assistance without removing the turtles from the wild | This option was considered but is not considered practical or sufficient for turtles requiring assessment, veterinary treatment and rehabilitation. Appropriate rehabilitation requires controlled conditions where the animal can be monitored, treated, fed and assessed over time. In-situ assistance would not provide the same level |

| | |
|---|---|
| | of care or allow the necessary assessment of the turtle's fitness for eventual release. |
| Transfer the turtles immediately to another facility | Immediate transfer was considered; however, this would not remove the need for rescue, stabilisation and initial veterinary assessment. The turtles must first be safely collected and assessed following stranding. Where specialist rehabilitation or veterinary facilities are more appropriate, transfer can be considered once the animal is stable and fit to travel. |

* Please insert additional rows above if needed

## Test 3: Impact of a Derogation on Conservation Status

**3**. Please summarise the possible impacts on the population of the species that is subject to this application, taking into account all the mitigation and/or compensation measures that are to be undertaken. Evidence that such mitigation has been successful elsewhere should be provided where relevant. Mitigation measures being relied upon must ensure that the derogation will not be 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. Note that in all cases further information must be provided in the format set out in Part E: Template for Supporting Information.

The proposed derogation is not expected to have a detrimental effect on the wider population of loggerhead sea turtles (*Caretta caretta*). The turtles concerned are rescued individuals that require rehabilitation and, where suitable, will be returned to the wild in appropriate warmer waters within their natural range. They will not be released into Irish waters, where the environmental conditions are generally unsuitable for the long-term survival of rehabilitated loggerhead turtles.

The principal potential impact on the population would be the loss of an individual if a turtle were released when it was not sufficiently fit to survive independently. This risk will be minimised through veterinary assessment, ongoing health monitoring, blood testing and appropriate diagnostic investigations, together with assessment of body condition, swimming ability, feeding behaviour and general fitness. A turtle will only be considered for release when it has demonstrated sufficient health and fitness to survive independently in the marine environment.

## Part E: Template for Supporting Information

This application form should provide a summary of the evidence that the applicant has provided. In all cases, it is necessary to provide separate supporting information so that the assessment of the application can be undertaken in a robust and comprehensive manner. Applicants should refer to guidance provided by the NPWS and the European Commission whilst preparing this application form and the supporting information.

It is essential that supporting information is prepared in a consistent manner using the template below so that NPWS officials assessing the application can locate the relevant evidence to determine if the three Tests can be met. Failure to provide sufficient evidence will result in the application being refused.

The structure of the Supporting Information should be as follows:

1) Table of Contents

2) Introduction
    a. Objective of the proposed works (for example, as part of construction of a national road, repair of roofing, undertaking surveys etc.)
    b. Name, qualifications and relevant experience of scientific staff, including trainees, (e.g. ecologist) involved in the preparation of the application and those responsible for carrying out the proposed activity.
    c. If this application is for the carrying out of surveys that may cause disturbance, qualifications of all involved must be provided and trainees must be clearly identified.

3) Background to proposed activity including location, ownership, type of and need for the proposed activity, planning history, policy context, zoning in relevant Development plan (or equivalent), etc.

4) Full details of proposed activity to be covered by the derogation (including a site plan). The site may be inspected by an NPWS representative, so the details given should clearly reflect the extent of the project. This information will be used to compare site conditions with the Method Statement.

5) Ecological Survey and site assessment (Not required for applications to carry out surveys)
    a. Pre-existing information on species at location and environs.
    b. Status of the species in the local/regional area (relevant to the consideration of the impact on the population at the relevant geographic scale (Test 3))
    c. Objective(s) of survey
    d. Description of Surveys Area
    e. Survey methodology (including evidence as to how the methodology represents best practice and is appropriate to the Objective). Methodology should include survey maps, details of timing, climate, equipment used and identify any uncertainties or difficulties encountered.
    f. Survey results including raw data, any processed or aggregated data, and negative results as appropriate. Photographs and maps must be provided where site-specific features are referred.
    g. Population size class assessment.

6) Evidence to support the Derogation Tests

    a. Test 1 - Reason for Derogation:
        i. There should be a clear explanation as to why a specific reason(s) has been selected in the application form.

ii. Applicants are advised to read the guidance published by the NPWS 'Guidance on Applications for Regulation 54 Derogations for Annex IV species: Guidance for Applicants" with specific reference to Section 3.1.

b. Test 2 - Absence of Alternative Solutions
   i. Applicants must list the alternatives to the proposed activity that have been considered, including the do-nothing alternatives in a clear and objective manner. A basic requirement is that these alternatives should be compared in terms of their impact on the species subject to strict protection. It should be clear to NPWS officials as to why the chosen approach has been selected.
   ii. Applicants are advised to read the guidance published by 'Guidance on Applications for Regulation 54 Derogations for Annex IV species: Guidance for Applicants" with specific reference to Section 3.2.

c. Test 3 - Impact of a derogation on Conservation Status
   i. Applicants should include details of the population at the appropriate geographic scale and an evaluation of how the proposed activity will affect the conservation status both before and after mitigation measures have been applied.
   ii. Full and detailed descriptions of proposed mitigation measures that are relevant to the potential impact on the target species. Evidence that such mitigation has been successful elsewhere should be provided, where available.
   iii. Applicants are advised to read the guidance published 'Guidance on Applications for Regulation 54 Derogations for Annex IV species: Guidance for Applicants" with specific reference to Section 3.3.

7) Monitoring the impacts of the derogations
   a. Applicants must include details of how they propose to verify whether the derogations have been implemented correctly and whether they achieved their objective, using scientifically based evidence, and, if necessary, how the applicant will take corrective measures where required.
   b. Applicants should provide details of proposed reports to be submitted to the NPWS including the results of monitoring.
   c. Applicants are advised to read the guidance published by the European Commission "Guidance document on the strict protection of animal species of Community interest under the Habitats Directive" with specific reference to Section 3.4.

## Part F. Declaration

I declare that all of the foregoing particulars are, to the best of my knowledge and belief, true and correct. I understand that the deliberate killing, injuring, capturing or disturbing of protected species, or damage or destruction of their breeding sites or resting places or the deliberate taking or destroying of eggs is an offence without a derogation and that it is a legal requirement to comply with the conditions of any derogation I may be granted following this application. I understand that NPWS may visit to check compliance with a derogation.

Please note that under Regulation 5 of the European Communities (Birds and Natural Habitats) Regulations 2011-2021 an authorised officer may enter and inspect any land or premises for the purposes of performing any of their functions under these Regulations or for obtaining any information which they may require for such purposes.

**Signature of the Applicant** Maria Foley **Date** 14/10/2026

**Name in BLOCK LETTERS** MARIA FOLEY

**PRIVACY STATEMENT**

**See Privacy Statement at www.npws.ie/licences**

**npws.ie**



Department of Housing, Local Government and Heritage

An Roinn Tithíochta,
Rialtais Áitiúil agus Oidhreachta
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