Derogation Number
DER-KERRY SLUG-2025-05

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 **Neansai O'Donovan** of **MKO, Tuam Road, Galway, County Galway, H91 VW84** a derogation. It is stated that this derogation is issued:

A. 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
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 **Kerry Slug** 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

Terms and Conditions

1. This derogation is granted solely to allow the activities specified in connection with the works located at **Cummeenabuddoge, County Kerry & Caherdowney, County Cork** for **Neansai O'Donovan.**
2. All activities authorised by this derogation, and all equipment used in connection herewith, shall be carried out, constructed and maintained (as the case may be) so as to avoid unnecessary injury or distress to any species of **Kerry Slug**.
3. The works will be carry out by an ecologist(s): **Neansai O'Donovan, Viorel Anitei & Padraig Desmond (with Jack Coffey, Malena Thren, Adam Scott & Cuan Feely under supervision)**
4. This derogation may be modified or revoked, for stated reasons, at any time.
5. The mitigation measures outlined in the application report (**Kerry Slug Derogation Licence Application Supporting Information - Knocknamork Construction Compliance**), 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.
6. The actions which this derogation authorise shall be completed between the **8th October – 31st December 2025, inclusive.**
7. 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.
8. 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.
9. 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.
10. The local NPWS **Regional Staff** should be contacted prior to the commencement of any activity:
    i. **Danny O'Keeffe (Kerry)** danny.okeeffe@npws.gov.ie
    ii. **Declan O'Donnell (Cork)** declan.odonnell@npws.gov.ie,
11. Prior to any construction work which involves removal of areas of rock and natural vegetation that constitutes suitable **Kerry Slug** habitat, the area should be competently searched for the presence of Kerry Slug and any found should be removed for translocation. This removal work should commence one month before the start of any scheduled work.
12. **Kerry Slugs** removed from the site should be translocated to a suitable area of habitat, this area to be approved in advance by NPWS.
13. Where possible rocks that are used by **Kerry Slugs** should be removed intact and placed within suitable translocation areas.
14. All trapping and translocation work must be carried out by a suitably qualified person.
15. There should be no net loss of habitat due to the work and replacement habitat should be provided in terms of woodland planting of native species that suitable for **Kerry Slugs** or by movement and replacement of rock outcrops or by creation of new bare rock faces.
16. On completion of the actions which this derogation authorises, all recordings of Kerry Slugs affected will be made using the standardised data form provided below and must be submitted to the NPWS within four weeks of the expiry date of this derogation. Included with the below returns form, a report must be submitted to **Dr. Chris Peppiatt, chris.peppiatt@npws.gov.ie.** This report should include locations of all translocation sites, the number of **Kerry Slugs** translocated, areas of replacement habitat created and results of the monitoring programme. A copy of same report must be submitted to **wildlife.reports@npws.gov.ie**.

For the Minister for Housing, Local Government & Heritage

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

08 October 2025

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

Derogation Assessment

Name of Applicant: Neansai O'Donovan

Location/Name of Project: Cummeenabuddoge, County Kerry & Caherdowney, County Cork

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 have been reviewed in full. The application relies on regulation 54(2)(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'* as the reason chosen for a derogation that they believe applies to the proposed activity.

In the detail provided it is clear that the applicant is relying on the imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences aspect of Reason C. The proposed development, outlined on page 20 of the submitted application at the Knocknamork Renewable Energy Development consist of a number of wind turbines, solar array and connection works. Once completed this development will provide renewable energy to the national grid and will assist Ireland in progressing towards its renewable energy targets and reduction of carbon emissions in line with National and European policy.

The applicants have provided evidence as to the nature and scale of the public health and public safety reasoning, therefore, 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 – Assessed by Cork Regional Staff Louis O'Sullivan

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 purpose of the derogation is to allow the following activity to take place: The translocation of Kerry slug Geomalacus maculosus prior to the construction of the Knocknamork Renewable Energy Development and Grid Connection. The specific situation that needs to be addressed is that this species is protected under Annex II and IV of the European Habitats Directive affording it protection from disturbance and habitat destruction, two things that will occur with the construction of the above development. Therefore a derogation licence is required in order to translocate individuals from the proposed construction areas to alternative suitable habitat within the site.
The alternative solutions suggested by the applicant are:

1. "Do-Nothing" scenario

Applicant: The 'do-nothing' alternative would imply that the windfarm will be constructed without undertaking the necessary translocation measures for Kerry. Slug, which will most likely result in a direct negative impact and loss of individuals of the local Kerry slug population. –*Regional agree with this assessment*

2. Alternative 1

Applicant: The other alternative would be to not construct the renewable energy development; however, this would exclude the opportunity to harness renewable energy and remove a vital contribution to the national and European plans to increase the production of renewable energy. Therefore, the only satisfactory alternative is to undertake a search, metric trapping and translocation of Kerry slug as set out in Section 3 to reduce impacts on the Kerry slug and to fulfil the mitigation measures during the construction, and legal requirements of this vital infrastructural permitted development. - *Regional agree with this assessment*

The applicant has provided satisfactory evidence that alternative solutions have clearly been considered. As outlined on page 13 of the accompanying report. The applicant examined sufficient alternative solutions. 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.

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

Test 2: Absence of a satisfactory alternative – Assessed by Kerry Regional Staff (Danny O'Keeffe)

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: Deliberately capture or kill any specimen of the relevant species in the wild.]

The specific situation that needs to be addressed is (The derogation licence is required to comply with mitigation measures as set out in the relevant planning applications. The permitted development is required to support sustainable development, renewable or green energy, comply with national planning policies, and support economic or social developments in the form of a nationally important infrastructure development project. The construction of the wind farm, solar energy production, and suitable connection to provide the national grid with renewable energy will have consequences of primary importance for the environment by producing renewable energy and helping Ireland in the reduction of carbon emissions as part of the Climate Action Plan to halve Ireland's emissions by 2030 and reach net zero by no later than 205)

The alternative solutions suggested by the applicant are:

1. "Do-Nothing" scenario [The 'do-nothing' alternative would imply that the windfarm will be constructed without undertaking the necessary translocation measures for Kerry Slug, which will most likely result in a direct negative impact and loss of individuals of the local Kerry slug population. This is unsatisfactory as it is legally required to obtain the derogation licence and follow the mitigation measures set out. *Regional agree with this assessment*

2. Alternative 1.. Applicant: The other alternative would be to not construct the renewable energy development; however, this would exclude the opportunity to harness renewable energy and remove a vital contribution to the national and European plans to increase the production of renewable energy. Therefore, the only satisfactory alternative is to undertake a search, metric trapping and translocation of Kerry slug as set out in Section 3 to reduce impacts on the Kerry slug and to fulfil the mitigation measures during the construction, and legal requirements of this vital infrastructural permitted development. *Regional agree with this assessment*

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

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

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

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)

Surveys in the area of the proposed works have shown that the Kerry Slug is present within the EIAR site boundary (adjacent to the planning application boundary) and in the wider area. It is quite likely that at least some individuals are present within the planning application boundary.
The applicant is proposing that mitigation will be provided by searching for Kerry Slug individuals and translocating them to suitable similar nearby habitats.

The site is within the core distribution range of the Kerry Slug in Ireland. The wider area contains significant areas of suitable habitat for the species and suitable habitat for the slug is available within and surrounding the permitted development site.

It is accepted that the permitted development will not result in a significant loss of habitat for the species at a population level. It is also accepted that the habitat loss is unlikely to have an impact outside of the works footprint.

The range and population of this species in Ireland has been assessed as increasing and it is not considered that the permitted development would affect the conservation status of Kerry Slug in this country

<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>

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:

[add additional conditions where required]

Signed: Date: October 8, 2025

Position: Ecologist