

Biodiversity Series

European Communities (Birds and Natural Habitats) Regulations 2011



European Communities (Birds and Natural Habitats) Regulations 2011

On the 21st of September 2011, the Minister of Arts, Heritage and the Gaeltacht signed into Irish law Regulations which, among other significant provisions, strengthen the controls on the introduction of non-native species to Ireland.

The strengthened provisions were brought about in response to the growing number of non-native species which may impact on species, habitats, human health and the economy.

Regulations 49 and 50 specifically relate to non-native species and a synopsis of what they entail and mean for various sectors are provided in this series.

What is in this Biodiversity Series?

Information on:

- **Regulation 49.** Prohibition on introduction and dispersal of certain species
- **Regulation 50.** Prohibition on dealing with and keeping certain species
- What do Regulations 49 and 50 mean for **Pet Traders?**
- What do Regulations 49 and 50 mean for **Horticulture Industry?**
- What do Regulations 49 and 50 mean for the **General Public?**
- Miscellaneous **points of interest?**
- What is a **Vector material?**



Image: National Biodiversity Data Centre

Key facts

- Pathways risk analysis has shown that trade in plants and animals are one of the main routes into Ireland for invasive species.
- It is illegal to release non-native animals into the wild in Ireland.
- Any person who causes or allows the dispersal of any plant listed on the Third Schedule Part 1 will be guilty of an offence.
- Be Plant Wise is an education and awareness campaign that aims to promote responsible gardening.
- Be Pet Wise is an initiative that aims to promote responsible pet ownership.
- Provisions are made for the inspection of property to ensure compliance with the Regulations.
- Some parts of these Regulations will be enacted at a future date.

Regulation 49: Prohibition on introduction and dispersal of certain species

Animals

Regulation 49 strengthens restrictions on the introduction of animal species which are non-native to Ireland. This section prohibits:

- The breeding or reproduction of animals which are not ordinarily resident in Ireland; and
- The release or the allowing or causing to disperse or escape from confinement of animals which are not ordinarily resident

For example, the release/escape of the following without a licence would be considered an offence under this section of the Regulations:

- Any non-native species of fish
- Wild boar or hybrid into the wild
- Non-native species of deer or hybrids into the wild
- A pet species into the wild.

Plants

Regulation 49 places restrictions on the introduction of any plant species listed in Part 1 of Third Schedule. A person shall be guilty of an offence if they:

- plant
- disperse
- allow or cause to disperse
- spread or cause to grow

the plant in the Republic of Ireland.

You can apply for a licence to undertake certain activities under these Regulations

Hybrids

The Regulations are clear that hybrids or breed, cultivar, etc. of animal and plant species listed in the Third Schedules are included in the provisions described above. *Spartina anglica*, *Spartina x townsendii*, Roach hybridized with bream.

Alternative names

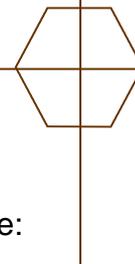
The Regulations are quite clear in that they also apply to the Schedule 3 listed species even if known by any different scientific or common names (see example box 1).

Example box 1. Alternative names for the one plant

Scientific synonyms for: *Myriophyllum aquaticum*, *Myriophyllum brasiliense*, *Myriophyllum proserpinacoides*.

Used common names in trade: Parrot's feather, Brazilian watermilfoil, thread of life, water feather.

Regulation 50: : Prohibition on dealing in and keeping certain species



You must consult the Third Schedule to find out what species and vector material Regulation 50 applies to. The Schedules list both animal and plant species and vector material.

Section 50 of the Regulations make it an offence to or intend to:

- Import
- Buy
- Sell
- Breed
- Reproduce or propagate
- Offer or expose for sale
- Advertise
- Publish a price list
- Transport
- Distribute

any animal or plant species or vector material listed in the Third Schedule.

Note: Regulation 50 is not in effect until the date on which the Minister gives public notice of this. See Regulation 74 on page 134 for details.

You can apply for a licence to undertake certain activities under these Regulations.

Timelines for implementation

- Date the Regulations came into Force: 21st September 2011
- Anticipated date for the Minister to give public notice of Regulation 50 to come into effect: **NO DATE DETERMINED YET**
- Time after this date to notify the Minister you hold species or vector material: 21 days
- Time after this date to apply for transitional licence: **NOT DETERMINED YET**

What do I do if I have in my possession species or vector material after the Minister gives notice?

If you are in possession of any species that is listed in the Third Schedule once the Minister gives notice that Regulation 50 is in effect, you must inform the Minister in writing. Under no circumstances should you release any plant, animal or vector material into the wild if you are in possession of them. This would be an offence.

Am I entitled to compensation for any losses arising from Section 50?

Under certain circumstances you may be entitled to compensation. The Minister may compensate you for any losses.

What do Regulations 49 and 50 mean for Horticulture Industry?

- Trade in the Third Schedule listed species will be prohibited. Possession, importation, purchase, sale, distribution, transportation, advertising for sale and propagation of the species is not allowed. Release or introduction into the wild is also prohibited.
 - The Minister will give notice of a date from which Regulation 50 *Prohibition on dealing in and keeping certain species* will be in effect. From that date plant traders will have 21 days to inform the Minister in writing that you are in the possession of a species listed in the third schedule or the vector material. You may also apply for a transitional licence.
 - If a Third Schedule plant species is in your possession with a licence granted under Paragraph (7) then it must be kept in confinement which is secure from escaping or dispersal. It also applies to any part or life stage of the plant that may develop into an adult.
- Authorised Officers, under Regulation 50, may enter and inspect any land or premises or board a vehicle at any time to carry out their functions in relation to these Regulations.
- If charged with any offence under these Regulations it must be proven in defence that the accused took 'all reasonable steps and exercised due diligence to avoid committing the offence'.



Water primrose (Paul Murphy)



Himalayan balsam (Colette O' Flynn)



Curly waterweed (Colette O' Flynn)



Be Plant Wise and do not dump plants in to the wild

Be Plant Wise is an education and awareness campaign that aims to promote responsible gardening. More information and guidance for the horticultural industry and gardeners can be found on the following website:

<http://invasivespeciesireland.com/what-can-i-do/be-plant-wise/>

What do Regulations 49 and 50 mean for Pet Traders?

- Trade in the Third Schedule listed species will be prohibited. Possession, importation, purchase, sale, distribution, transportation, advertising for sale and breeding of the species is not allowed. Release or introduction into the wild is also prohibited.
- The Minister will give notice of a date from which Regulation 50 *Prohibition on dealing in and keeping certain species* will be in effect. From that date pet traders will have 21 days to inform the Minister in writing that you are in the possession of a species listed in the third schedule or the vector material. You may also apply for a transitional licence.
- If a Third Schedule animal species is in your possession with a licence granted under Paragraph (7) then it must be kept in confinement which is secure from escaping or dispersal. It also applies to any part or life stage of the animal that may develop into an adult.
- Authorised officers, under Regulation 50, may enter and inspect any land or premises or board a vehicle at any time to carry out their functions in relation to these Regulations.
- If charged with any offence under these Regulations it must be proven in defence that the accused took 'all reasonable steps and exercised due diligence to avoid committing the offence'.



Be Pet Wise and do not release any pets into the wild

Be Pet Wise is an initiative of Invasive Species Ireland that aims to promote responsible pet ownership. More information and guidance for pet owners and traders can be found on the following website:

<http://invasivespeciesireland.com/what-can-i-do/pets>

What is a Vector material?

Generally speaking, a vector material is material which will aid the spread of an invasive species. There are currently two types of vector materials listed in the Regulations.

Blue mussel (*Mytilus edulis*) seed

The first vector material listed in the Regulations is blue mussel seed which can act as a vector material for the invasive species *Crepidula fornicata*.

The Regulations are specific to blue mussel seed which is taken from 50 km, either within Ireland or outside of Ireland of an established population of *Crepidula fornicata*.

The Regulations do not state that the population must be known to the person moving the mussel seed. It is likely that ignorance of the distribution of *Crepidula fornicata* could not be used as a defence.



Soil or spoil taken from places infested with Japanese knotweed (*Fallopia japonica*) etc.

The second vector material listed in the Regulations is the soil or spoil taken from places infested with Japanese knotweed, giant knotweed and their hybrid bohemian knotweed.

Anyone that wants to move soil infested with any of these species should first learn to identify the species.

ID Guides are available from the following:

<http://invasives.biodiversityireland.ie/id-sheets/>



Additional points of interest



- A wildlife dealer is not exempt from these Regulations (Regulation 64) threat the habitats or species protected under these Regulations.
 - If charged with any offence under these Regulations it must be proven in defence that the accused took 'all reasonable steps and exercised due diligence to avoid committing the offence'.
 - A person who incites aids or abets an action that is an offence under these regulations shall also be guilty of an offence (Regulation 65).
 - Authorised officers, under Regulation 5, may enter and inspect any land or premises or board a vehicle at any time to carry out their functions in relation to these Regulations.
 - The Minister may develop threat response plans under Regulation 39 and for the purposes of this regulation and generally for addressing the exclusion, eradication or control of species referred to in the Third Schedule and any other species that the Minister considers poses a
- A person who commits an offence under Regulations 49, 50 and 65 (noted here) is liable:
 - (a) on summary conviction, to a Class A fine or imprisonment for a term not exceeding six months, or both, or
 - (b) on conviction on indictment, to a fine not exceeding €500,000, or imprisonment for a term not exceeding three years, or both.
 - Regulation 65. Offence of inciting or aiding and abetting
A person who incites, directs, procures, permits or assists another person to carry out an action that is an offence under these Regulations shall also be guilty of an offence.
 - The Minister has the power to add species to the Schedule lists as required.

Where can I access the Regulations?

The Regulations can be downloaded from the NPWS website at the following link:
www.irishstatutebook.ie/pdf/2011/en.si.2011.0477.pdf

For quick reference, extracts from the Regulations discussed in this document can be accessed from the following link:

<http://invasivespeciesireland.com/background/legislation-2/>

For more information on the National Biodiversity Data Centre see:

www.biodiversityireland.ie

This Biodiversity Series was prepared by Colette O'Flynn and John Kelly. It is provided for information only. The authors and their organisations are not responsible for any loss, howsoever caused, arising from the use of this information.