



STATUTORY INSTRUMENTS.

S.I. No. 625 of 2015



EUROPEAN UNION HABITATS (BALLYCULLINAN, OLD DOMESTIC
BUILDING SPECIAL AREA OF CONSERVATION 002246)
REGULATIONS 2015

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I, HEATHER HUMPHREYS, Minister for Arts, Heritage and the Gaeltacht, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving further effect to Council Directive 92/43/EEC of 21 May 1992¹, hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Union Habitats (Ballycullinan, Old Domestic Building Special Area of Conservation 002246) Regulations 2015.

Interpretation

2. (1) In these Regulations—

“Directive” means Habitats Directive within the meaning of the Regulations of 2011;

“Minister” means Minister for Arts, Heritage and the Gaeltacht;

“Regulations of 2011” means European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011);

“Special Area of Conservation” means such area designated under Regulation 3 as a Special Area of Conservation.

(2) In these Regulations a word or expression that is used in these Regulations and is also used—

(a) in the Regulations of 2011 shall, unless the contrary intention is expressed, have in these Regulations the meaning that it has in the Regulations of 2011, or

(b) in the Directive shall, unless the contrary intention is expressed, have in these Regulations the meaning that it has in the Directive.

Designation of Special Area of Conservation

3. (1) In order to ensure the protection of natural habitats and species in Annex I and II to the Directive, including in particular the natural habitat type and animal and plant species specified in Schedule 3, having taken account of the matters referred to in Article 4 of the Directive and having been adopted

¹OJ No. L206, 22.07.1992, P. 7

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 5th January, 2016.*

by the European Commission in accordance with the procedure laid down in Article 4(2) of the Directive, the area referred to in Schedule 2 and further identified by reference to the map contained in Schedule 1, is designated as a Special Area of Conservation in accordance with Article 4(4) of the Directive.

(2) The Minister shall, in accordance with the Regulations of 2011, establish and publish such particular conservation objectives as he or she, from time to time, considers necessary for the Special Area of Conservation with regard to the natural habitat type and animal and plant species specified in Schedule 3.

Matters relating to maps

4. (1) (a) The indicative map contained in Schedule 1 showing the boundary of the Special Area of Conservation shall be drawn to such convenient scale as the Minister thinks fit and sealed and shall be deposited in the offices of the Minister.

(b) The Minister may prepare more detailed maps, in such convenient number of separate sheets as the Minister thinks fit, showing the boundary of the Special Area of Conservation and shall seal each of the maps and shall deposit them in the offices of the Minister.

(c) Any dispute involving the boundaries of the Special Area of Conservation shall be determined by reference to maps prepared under subparagraph (b) in relation to the area.

(2) (a) A map referred to in paragraph (1) (b) when so deposited in the offices of the Minister shall be retained in such office and the map, or a true copy of it, shall be open for inspection free of charge in such offices by any person at any time at which the offices are open for the transaction of public business.

(b) The Minister may cause to be prepared and supplied to any person so requesting a true copy of a map deposited with the Minister or any particular part or sheet of it and to charge for such copy such sum to cover administrative costs as the Minister decides.

Activities requiring consent

5. (1) Subject to paragraph (2), a person shall not carry out, cause or permit to be carried out or continue to carry out any activity specified in Schedule 4 within the Special Area of Conservation except with, and in accordance with, consent given by the Minister under Regulation 30 of the Regulations of 2011, upon application in writing to the Minister to carry out the activity.

(2) There is no requirement to obtain the consent of the Minister where a proposed activity or continued activity referred to in paragraph (1)—

(a) is one that requires consent or consents under one or more of the enactments set out in the Second Schedule to the Regulations of 2011 or under the Planning and Development Acts 2000 to 2015 and the activity is carried out with and in compliance with such consent or consents,

- (b) is part of a project that has received consent under one or more of the enactments set out in the Second Schedule to the Regulations of 2011 or under the Planning and Development Acts 2000 to 2015 and the project or activity is carried out with and in compliance with a consent or consents given under the applicable statutes,
 - (c) is part of a project that has received consent under one or more regulations made under the European Communities Act 1972 or under one or more regulations made under any of the enactments set out in the Second Schedule to the Regulations of 2011 and the project or activity is carried out with and in compliance with such consent, or
 - (d) has been authorised as part of an agreed farm or land management plan.
- (3) A person affected by a decision to refuse to give consent, to attach or vary conditions or revoke a consent under Regulation 30 of the Regulations of 2011, in respect of an activity referred to in paragraph (1), may appeal the decision under Regulation 37 (3) of the Regulations of 2011.

Offence

6. (1) A person who causes or permits to be carried out or continues to carry out, or permits or assists in carrying out any activity referred to in Regulation 5(1), without a consent or otherwise than in accordance with a consent given by the Minister under Regulation 30 of the Regulations of 2011, or without a consent or otherwise than in accordance with a consent referred to in Regulation 5(2) commits an offence and 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.
- (2) In imposing a penalty under paragraph (1), the court shall, in particular, have regard to the risk or extent of injury to the environment arising from the act constituting the offence.
- (3) Proceedings for a summary offence under paragraph (1) may be brought by
- (a) the Minister or another Minister of Government,
 - (b) an officer of the Minister or of another Minister of Government or other person nominated by the Minister or by another Minister of Government for the purpose,
 - (c) subject to Section 8 of the Garda Síochána Act 2005, by a member of An Garda Síochána, or
 - (d) the public authority concerned.

Authorised officers


7. A person appointed as an authorised officer under Regulation 4 of the Regulations of 2011 for the purposes of ensuring compliance with these Regulations may exercise the powers of an authorised officer under Part 2 of the Regulations of 2011.

Costs of prosecutions

8. Where a person is convicted of an offence under Regulation 6, the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order the person to pay to the prosecutor the costs and expenses, measured by the court, incurred by the prosecutor or other person in relation to the investigation, detection and prosecution of the offence, including costs and expenses incurred in the taking of samples and the carrying out of tests, examinations and analyses.

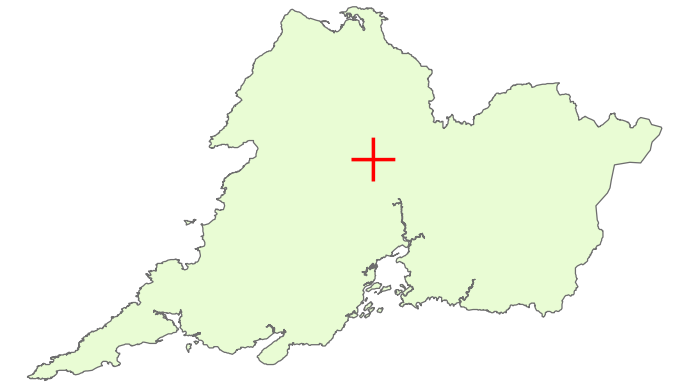
Sceideal 1 / Schedule 1

LIMISTÉAR FAOI CHAOMHNÚ SPEISIALTA SPECIAL AREA OF CONSERVATION

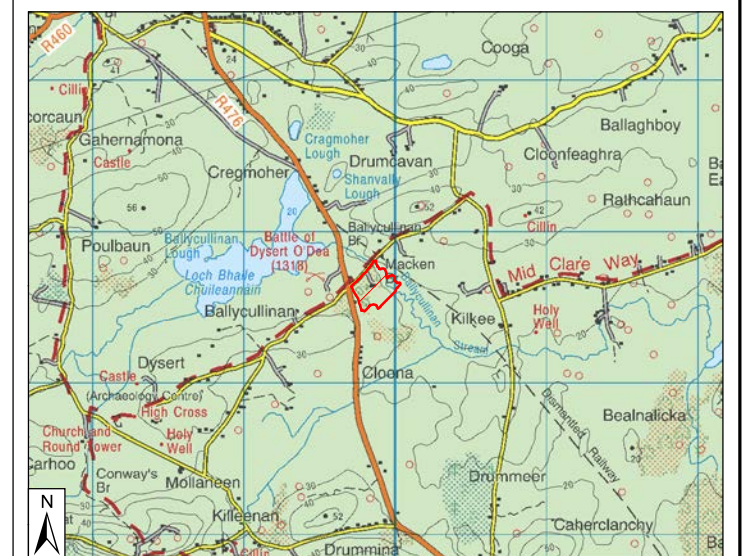
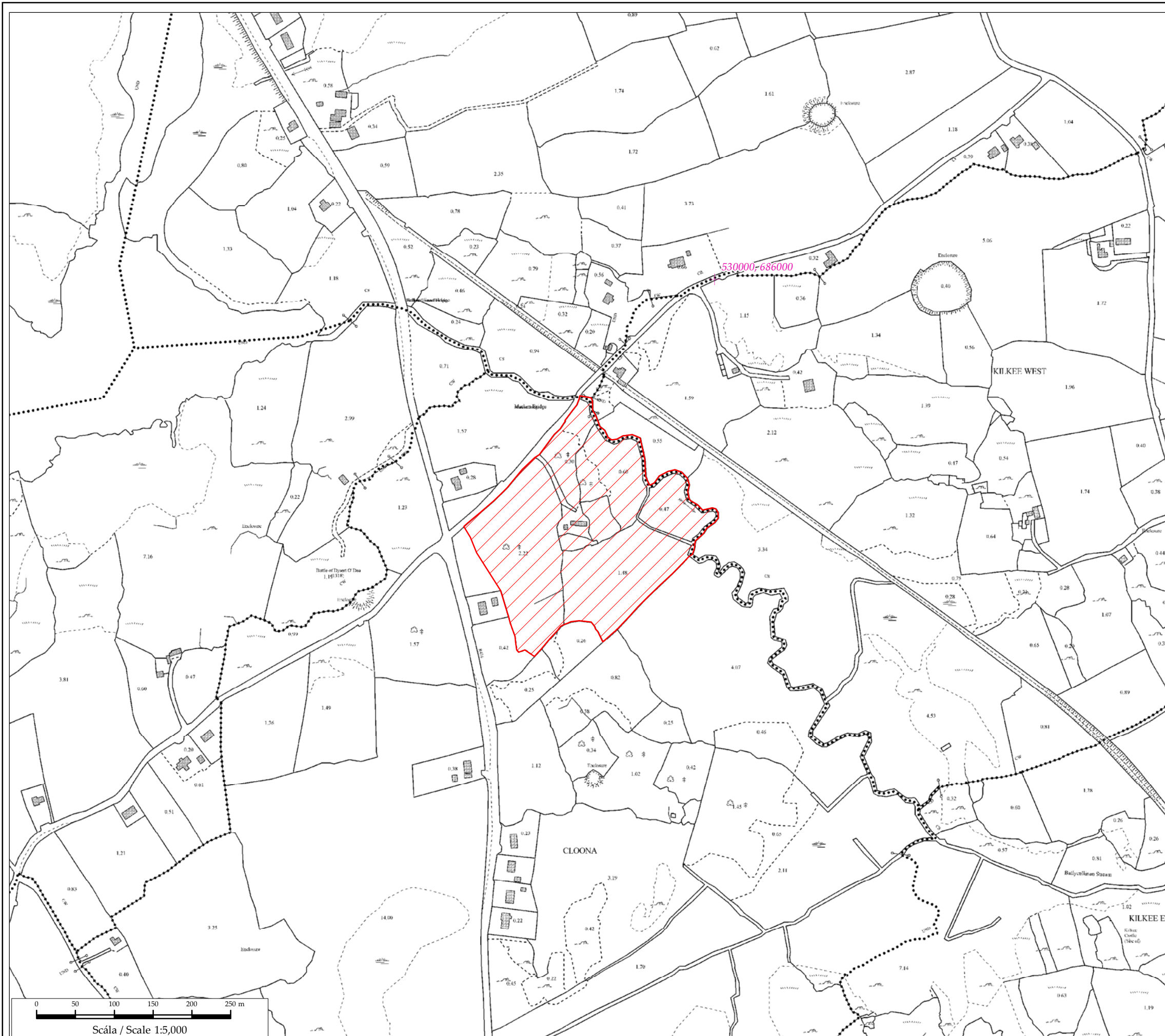
 Limistéar faoi Chaomhnú Speisialta
Special Area of Conservation

LCS Bhaile Uí Chuileannáin, Seanfhoirgneamh Tís
Ballycullinan, Old Domestic Building SAC

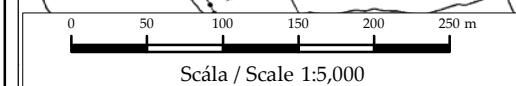
002246
Achar / Area 5.74 ha



Co. an Chláir
Co. Clare



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Schedule 2*Regulation 3***Description of area designated as a Special Area of Conservation**

The area known as Ballycullinan, Old Domestic Building Special Area of Conservation 002246 is situated in the county of Clare being the land and waters enclosed on the map (contained in Schedule 1) within the inner margin of the red line and hatched in red and is situated in whole or in part in the townlands of Cloona, Drumcavan and Kilkee West.

Schedule 3*Regulation 3***Natural habitat type and animal and plant species lists****Animal and Plant Species**

NATURA 2000 Code	Common Name	Scientific Name
1303	Lesser Horseshoe Bat	<i>Rhinolophus hipposideros</i>

Schedule 4*Regulation 5***Activities requiring consent of Minister**

ARC Code	Description
ARC 06	Introduction, or re-introduction, of plants or animals not found in the area. [Consent is not required for the planting of crops on established reseeded grassland or cultivated land.]
ARC 09	Construction or alteration of tracks, paths, roads, bridges, culverts or access routes.
ARC 10	Construction, removal or alteration of fences, stone walls, hedge-rows, banks or any field boundary other than temporary electric fencing. [Consent is not required for normal maintenance.]
ARC 15	Burning, topping, clearing scrub or rough vegetation or reseed-ing. [Consent is not required for these activities on established reseeded grassland or cultivated land provided it is greater than 20m from a river, stream or floodplain; or greater than 50m from a wetland, lake, turlough or pond.]

- ARC 16 Modification of caves and/or their entrances.
- ARC 18 Application of pesticides, including herbicides. [Consent is not required for these activities on established reseeded grassland or cultivated land provided it is greater than 20m from a river, stream or floodplain or greater than 50m from a wetland, lake, turlough or pond.]
- ARC 28 Felling of trees or removing timber, including dead wood.
- ARC 29 Planting of trees or multi-annual bioenergy crops.
- ARC 31 Developing or consenting to the development or operation of commercial recreational/visitor facilities or organised recreational activities.
- ARC 34 Alteration, renovation or removal of buildings, ruins or other structures.



GIVEN under my Official Seal,
22 December 2015.

HEATHER HUMPHREYS,
Minister for Arts, Heritage and the Gaeltacht.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

The European Union's Habitats Directive (92/43/EEC) (as amended) requires Member states to protect habitats and wildlife areas of European interest by, among other things, designating sites as Special Areas of Conservation in order to create a coherent European ecological network. The hyperlink: http://ec.europa.eu/environment/nature/legislation/habitatsdirective/index_en.htm which connects to the European Commission Environment (Nature and Biodiversity) website also contains a further link to the text of the Habitats Directive.

The effect of these Regulations is to complete the formal designation of the site as a Special Area of Conservation in accordance with Article 4 of the Directive. The geographical area of the Special Area of Conservation designated by these Regulations is defined in Schedule 1 (a map of the area) and Schedule 2 (a list of the townlands in question or a description of the area). For more detailed maps than those contained in Schedule 1, or for greater detail on boundary delineation, contact should be made with the National Parks and Wildlife Service of the Department of Arts, Heritage and the Gaeltacht or by viewing the relevant text or map details on www.npws.ie.

The natural habitat types and animal and plant species lists cited in Schedule 3 of these Regulations are specified, in accordance with the Directive, in order to ensure their conservation (i.e. the measures required to maintain or restore the natural habitats and the populations of species of wild fauna and flora at a favourable status). The updated list of published conservation objectives referred to in Regulation 3 is available on www.npws.ie. Public authorities should have regard to these objectives when undertaking a screening or appropriate assessment of plans or projects in accordance with the EU Habitats Directive.

Those activities that require consent of the Minister or in some circumstances another public authority listed at Schedule 4 to these Regulations are cited for their potential to cause disturbance or damage to the natural habitat types and animal and plant species specified in Schedule 3 of these Regulations. Land-owners or occupiers should contact the local National Parks and Wildlife Service office of the Department of Arts, Heritage and the Gaeltacht before undertaking any of the works listed at Schedule 4. (See www.npws.ie for contact details). Please note that activities other than those listed at Schedule 4 to these Regulations, such as effluent discharge, construction work, aquaculture, fishing or forestry require a licence or permission from the appropriate consent authority.

These Regulations provide (Regulation 6) that contravention of the provisions of these Regulations shall constitute an offence. Regulation 6 also provides for penalties.

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