



IRISH  
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## EU Nature Restoration Law

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## **EU Nature Restoration Law**

### **Introduction**

While the EU Nature Restoration Regulation law is an immediate concern for any farmer operating on peat soils its reach will have significant consequences for all farmers and property owners.

The reason why it is of such concern to all property owner's, centres on the premise that. When this regulation becomes law, it legislates for compulsory actions to be carried out on private lands. While this is being implemented on the perceived need to deliver a societal benefit, it opens the door on all properties by providing the EU and State potential access to private property for the delivery of a stated objective. This is a very dangerous road to go down and one that we hope Irish and EU legislators will reconsider.

Beyond this there are additional issues of major concern that we will outline in this submission and further discuss with committee members at the Oireachtas Committee.

### **Regulation overview**

This regulation is a progression of the EU Biodiversity Strategy and will provide the legal framework for its implementation. The regulation has set out a clear plan with specific timelines and restoration targets.

In providing a critical analysis of this proposed regulation and proposals to protect and enhance biodiversity we need to establish why the current model operated through the Natura 2000 network has failed. In our assessment this designation model failed on its objectives due to the lack of active engagement with the farmers and landowners. This point was covered in detail in our policy paper on the EU Biodiversity Strategy which has already been sent to members of this committee.

Unfortunately, the process followed in this regulation is more of the same. There is scant reference to the landowners and critically no new EU money for a budget and no recognition of their property rights. When we assess the budgets (detailed from pages 52 through to 79) we see a gravy train for ecologists, environmentalists and administrators and we wonder how those in DG Envy that designed this regulation can't see this and are not embarrassed by it.

Staying with the lack of embarrassment we have also noted the Public Consultation process on page 9. This references an on-line consultation process conducted between January and April of 2021 that received 111,842 replies of which 97% were in favour of general EU restoration targets. This is comparable with results delivered by Vladimir Putin in recent elections and under no circumstances should be used to justify the proposed regulation.

## Assessing the Regulation Detail

The regulation covers a total of 23 Articles and 78 Recitals. While the recitals provide valuable insight as to how the proposals will be implemented they are not legally enforceable and for this reason we will focus primarily on the 23 Articles and specifically Articles 3, 4 9 and 16.

### Article 3

This covers the definitions of which 15 are detailed. Of particular interest is Article 3 (3) that defines what restoration means stating *“the process of actively or passively assisting the recovery of an ecosystem towards or to good condition”*

While actively is quite clear, passively is non-interference and this is the model favoured for the delivery of a Strictly Protected Designation as outlined in the EU Biodiversity Strategy. It is important to also recognise that this designation type (which isn't yet in place in Ireland) is to be targeted at carbon rich soils (peatlands) and will need to cover at least 10% of the EU land base.

### Article 4

Article 4 (2) states that *“Member States shall put in place the restoration measures that are necessary to re-establish the habitat types listed in Annex 1 in areas not covered by those habitat types.”*

In public discussion on this Regulation over the last number of weeks the focus has been on the drained peatlands as detailed in Article 9. However, our hills and upland areas feature very strongly in these restoration targets as detailed here under Annex 1 of the Birds and Habitats Directive that covers wet and dry heathlands and blanket bogs which are dominant on our hills.

Article 4 (2) also details the restoration targets with the delivery of full restoration on *“100% of the surface area by 2050.”*

By compelling Member States to put in place the restoration measures on these lands we are developing a law that will not be possible to comply with.

### Article 9

This article due to the possibility of a forced rewetting of 300,000ha of drained peatlands has received the majority of discussion relating to the overall proposal. Obviously this is very concerning and similar to Article 4 we could be developing a law that can't be complied with.



Important to also recognise that when defining this under Article 9 (1) they specify that this is *“in addition to the areas that are subject to restoration measures under Article 4 (1), (2) and (3).*

What this means is that while these areas (drained peatlands) are recognised as an agricultural area that could still support agriculture activity as defined under Recital 55 (blueberry and cranberry cultivation and grazing of water buffaloes) the areas under Article 4 (Hill lands) are viewed as existing habitats.

### **Article 16**

This article covers Access to Justice and what is quite shocking is that there is no direct reference to those that own the property.

Under Article 16 (1) there is reference made for a member of the public (that could be a landowner) to *“challenge the substantive or procedural legality of the national restoration plans and any failures to act of the competent authority.”* However, to do this they must be deemed to *“have a sufficient interest or that maintain the impairment of a right.”*

What is also very concerning is Article 16 (2). Here while Member States will *“determine what constitutes a sufficient interest and impairment of a right.”* There is a free pass for *“non-governmental organisations promoting environmental protection and meeting any requirements under national law shall be deemed to have rights capable of being impaired and their interests shall be deemed sufficient.”*

This is the ultimate cranks charter that will be abused by environmental NGO’s. Currently we see how these laws are being used to slow and derail critical infrastructural projects and what is proposed here will significantly add to this chaos.

### **Summary**

While we all recognise the need to protect and enhance biodiversity this can only be done in partnership with farmers and landowners. Forcing a law through that will undermine property rights is not the way to improve on biodiversity ambition.

What we need to see in the Oireachtas is a motion objecting to this regulation. This will compel our Government Minister with responsibility here to take a different approach.

Land and the control of land is a very emotive issue with Irish people – this regulation is nothing more than a land-grab, the largest since Cromwell

In our opinion it is vital that our farmers who still work these lands retain control of the land that they and previous generations fought for and worked on.