

DEVELOPMENT OF WILDLIFE CONSERVATION POLICY AND LEGISLATION IN IRELAND

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ABSTRACT

The mechanisms and procedures involved in the formulation of wildlife conservation policy are discussed with particular reference to the Wildlife (Amendment) Act 2000, the European Union (EU) Habitats Directive (Directive 92/43/EEC) and the National Biodiversity Plan (2002).

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NATURE CONSERVATION IN IRELAND UNDER EUROPEAN AND INTERNATIONAL LAW

The National Parks and Wildlife Service (NPWS) is part of the Department of the Environment, Heritage and Local Government (DOEHLG) and manages the Irish State's nature conservation responsibilities under National, European and international law. NPWS is charged with the conservation of a range of ecosystems and populations of flora and fauna in Ireland. A particular responsibility of NPWS is the designation and protection of Special Areas of Conservation (SACs), Special Protection Areas (SPAs) and Natural Heritage Areas (NHAs). Consultation with interested parties is an integral element of the designation process. NPWS is also responsible for:

- the implementation of both domestic legislation (e.g. Wildlife Acts 1976–2000) and international legislation (e.g. EU habitats and birds directives);
- the management and development of National Parks and Nature Reserves;
- overseeing licensing under the Convention on International Trade in Endangered Species (CITES) and the Wildlife Acts 1976–2000.

NPWS has a staff complement of some 250 permanent and contract staff directly involved in nature conservation. The administrative and professional staff are mainly based in Dublin, but the NPWS also has many field management staff based throughout the country.

Direct spending by NPWS on nature conservation for the period 1993–2001 is shown in Table 1. These figures do not include staff costs,

which are met from the administrative budget of the department as a whole.

WILDLIFE POLICY FORMULATION

Many of the policies and much of the legislation discussed in this document were framed by the Heritage Policy Unit of the Department of Arts, Heritage Gaelteacht and the Islands. Until 2003, that department also had responsibility for NPWS, as part of Dúchas—the Heritage Service (now disbanded), the Heritage Council and other heritage bodies. NPWS now continues this wildlife policy remit with DOEHLG.

The activities of many external organisations (including the United Nations and the European Union) and the approaches adopted in other countries influence biodiversity-related policies in Ireland. The EU, of which Ireland is a part, is of course particularly important. Many players in Ireland may also be involved in 'policy formulation' for wildlife conservation in Ireland. Fig. 1 is an attempt to outline these participants. Some pieces of policy or legislation largely originate with or reflect outside developments, e.g. the EU Habitats Directive (Council Directive 92/43/EEC). This directive in turn reflects to a large extent work undertaken by the Council of Europe, in particular the Bern Convention (the Convention on the Conservation of European Wildlife and Natural Habitats). The Habitats Directive was transposed into national law in 1997 by the European Community's (Natural Habitats) Regulations, S.I. 94/1997. These national regulations not only fully meet the obligations of the Habitats Directive, but they also include

provisions to meet national requirements relating to procedures for notification of landowners, objections, appeals, arbitration and compensation.

On the other hand, the Wildlife (Amendment) Act 2000 is largely of national 'parentage', though it does include numerous provisions and terminology mirroring international developments in the field of nature and biodiversity conservation.

Nationally, at government level, there are procedures in place that are intended to ensure that all relevant sections of government departments and offices are consulted in the development of policies, legislation, etc., that may be of interest. Wider consultation, with interested bodies and/or the general public, is increasingly the norm, and such consultation is increasingly being provided for formally. For example, in the wildlife area, wide consultation with conservation and other interests took place with regard to the Wildlife (Amendment) Act 2000, the European Community's (Natural Habitats) Regulations 1997, and both the draft National Biodiversity Plan (1999) and draft National Heritage Plan. While all interested parties may not have been completely satisfied with the outcome or the level of consultation in every instance, wide consultation has certainly been a priority in all these initiatives.

The interaction between the various players influencing the development of policy and legislation shown in Fig. 1 is generally a two-way process. For example, Ireland seeks to participate in, and influence the development of, EU and international biodiversity initiatives, as well as adopting and implementing these initiatives here in Ireland.

A crucial consideration for biodiversity conservation in Ireland is the need to integrate biodiversity considerations into the policies and programmes of other sectors that affect biodiversity.

Table 1—Direct spending on nature conservation by the National Parks and Wildlife Service for the period 1993–2001.

<i>Year</i>	<i>Expenditure (IR£000)</i>
1993	6,694
1994	8,544
1995	7,567
1996	6,874
1997	8,551
1998	11,738
1999	18,375
2000	14,872
2001	19,325*

*Allocation.

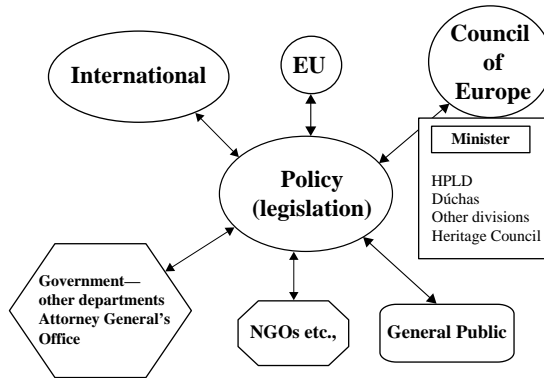


Fig. 1—Factors contributing to the formulation of wildlife conservation policy.

WILDLIFE LEGISLATION AND FISH

THE WILDLIFE ACTS, 1976 AND 2000

The Wildlife Acts of 1976 and 2000 are the principal national legislation for the protection of wildlife species and habitats in Ireland.

The Wildlife Act 1976, in general, included a comprehensive range of measures for wildlife conservation. However, the measures for the establishment of protected areas for wildlife, or at least the application of these measures, were relatively weak.

Recently, the Wildlife (Amendment) Act 2000 was enacted. The enactment of this legislation, which had a very long gestation period, is a development of considerable significance for wildlife conservation in Ireland. The amended Act enhances, updates or introduces new measures for the conservation of wildlife habitats and species in Ireland.

The main objectives of the Wildlife (Amendment) Act 2000 are summarised in Table 2. The act, for the first time, provides a statutory basis for the protection of nationally important wildlife sites (NHAs). The approach adopted, which is in general similar to that already in place for SACs, should ensure that NHAs can be permanently protected—without the need to resort to compulsory purchase as had been earlier proposed. This act increases substantially the level of fines that may be imposed (from a previous maximum of £500 (≈€625) to £50,000 (≈€625) now) and it also introduces provision for the imposition of prison sentences (up to two years) in certain circumstances. The act also includes a number of provisions relating to international wildlife issues (e.g. it has enabled Ireland to ratify the CITES treaty and the African–Eurasian Migratory Waterbirds Agreement (AEWA)). It also stipulates that Ireland shall promote the conservation of

biological diversity, a provision that was inserted to underpin Ireland's commitment to the UN Convention on Biological Diversity.

One fundamental change that the Wildlife (Amendment) Act 2000 brings about is directly relevant to aquatic ecosystems, both marine and freshwater. The Wildlife Act 1976 did not in general provide for the conservation of aquatic invertebrates or fish species—such species were by definition excluded from the act. The Wildlife Acts (which are primary legislation and can only be altered through the Oireachtas) have now been changed so that all species occurring in Ireland come within the overall scope of the act. Specified species may then be excluded from the operation of the act (this only requires the making of an order by the minister). At present, all freshwater fish species and a number of commercial marine fish and invertebrate species are excluded from the operation of the Wildlife Acts. It should be noted, however, that it is relatively easy to amend regulations as opposed to primary legislation, and additional species could be added if appropriate.

The increased scope of the Wildlife Act provides a more holistic basis for wildlife conservation in Ireland. It also provides powers, and flexibility, for the conservation of fish species under the Wildlife Acts—as fish and aquatic invertebrate species may be included (or removed) by ministerial order if appropriate in the future.

HABITATS REGULATIONS

The aim of the EU Habitats Directive (Council Directive 92/43/EEC) on the conservation of natural habitats and of wild fauna and flora is to 'contribute towards ensuring biodiversity'. It requires member states to take measures to maintain or restore natural habitats and species at a favourable conservation status in the community. Under the directive, member states are required *inter alia* to designate protected areas (SACs) for specified natural habitats and for a more limited number of specified species. The Habitats Directive was transposed into Irish law by the European Community's (Natural Habitats) Regulations 1997, S.I. 94/1997.

Under the 1997 regulations, SACs may be established for six fish species, namely: the river lamprey (*Lampetra fluviatilis*), the brook lamprey (*Lampetra planeri*), the sea lamprey (*Petromyzon marinus*), the allis shad (*Alosa alosa*), the twaite shad (*Alosa fallax*) (including the unique freshwater form, the Killarney shad (*A. fallax killarnensis*)) and the Atlantic salmon (*Salmo salar*) (in freshwater only). The Minister for the Department of the Environment, Heritage and Local Government is responsible for the process of designating SACs, while that minister and other regulatory authorities (e.g. local authorities, fisheries boards, etc.) are responsible for ensuring that the sites are not adversely affected by damaging operations or activities.

Table 2—The main objectives of the Wildlife (Amendment) Act 2000.

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- Providing statutory protection for Natural Heritage Areas (NHAs).
 - Improving a number of measures, or introduce new ones, to enhance the conservation of wildlife species and their habitats.
 - Enhancing a number of existing controls in respect of hunting, which are designed to serve the interests of wildlife conservation, and introduce new powers to regulate commercial shoot operators.
 - Broadening the scope of the Wildlife Act to include most species, including the majority of fish and aquatic invertebrate species that were excluded from the Act of 1976.
 - Ensuring or strengthening compliance with international agreements and, in particular, enabling ratification of the Convention on International Trade in Endangered Species (CITES) and the African-Eurasian Migratory Waterbirds Agreement (AEWA).*
 - Introducing statutory protection for geological and geomorphological sites.
 - Increasing monetary fines for contravention of the Wildlife Act and introducing prison sentences in addition to those fines.
 - Enabling the minister to act independently of forestry legislation, for example, in relation to the acquisition of land by agreement.
 - Strengthening the protective regime for Special Areas of Conservation (SACs) by ensuring that protection will—in all cases—apply from the time of notification of proposed sites.
 - Giving specific recognition to the minister's responsibilities in regard to promoting the conservation of biological diversity, in the context of Ireland's commitment to the UN Convention on Biological Diversity.
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*CITES was ratified in 2002 and AEWA was ratified in 2003.

Additionally, certain provisions aimed at protecting individual species are included in the European Communities (Natural Habitats) Regulations 1997. Under one of these provisions, the Habitats Directive identifies one group of species whose exploitation in the wild may need to be controlled. It is a requirement that the taking and exploitation of these species is compatible with their being maintained at a favourable conservation status. The five fish species concerned are: the river lamprey (*Lampetra fluviatilis*), the pollan (*Coregonus autumnnalis*), the allis shad (*Alosa alosa*), the twaite shad (*Alosa fallax*) and the Atlantic salmon (*Salmo salar*) (in freshwater only). Responsibility for this aspect of the directive/regulations lies with the Minister for the Marine and Natural Resources in the case of the fish species listed. The same minister is also responsible for the surveillance of the conservation status of fish species under the 1997 regulations.

BIOLOGICAL DIVERSITY AND THE NATIONAL BIODIVERSITY PLAN

The importance of biological diversity is now on a par with that of climate change, these being the two key issues in the environmental arena. The importance now attached to biodiversity has been driven mainly by the UN Convention on Biological Diversity (CBD). This convention has a very broad scope, both in terms of what it covers (wildlife as well as domesticated plants and animals, all habitats and species and genetic diversity) and in terms of the range of issues with which it interacts (e.g. agriculture, forestry, fisheries, biotechnology, genetically modified organisms (GMOs), intellectual property rights and patents, the world trade regime and international funding for the environment. Fig. 2 is an attempt to draw together some, though not all, of the processes and organisational interactions involved with the CBD. Without going into the detail of what is involved, it is clear that the CBD is the subject of a formidable process at the international and EU levels.

A major focus of the CBD is the requirement that biodiversity be integrated with all sectors. This means that all relevant sectors must recognise that they themselves have a direct responsibility for biodiversity and that they must advance its conservation and sustainable use.

Ireland has recently published its National Biodiversity Plan (2002). This plan sets out actions for the conservation and sustainable use of biodiversity, following on from the overview of Ireland's biodiversity and existing conservation measures that was provided in Ireland's First Biodiversity Report (Department of Arts,

Heritage, Gaeltacht and the Islands 1999). The process of preparing the plan has involved widespread consultation with government departments and agencies, conservation NGOs and the general public. The plan also recognises developments in a wider context—internationally, in the EU and in the context of the island of Ireland, North and South.

In drafting the National Biodiversity Plan, there was considerable consultation with the Environment and Heritage Service agency of Northern Ireland. As Ireland is essentially one biogeographical unit, North–South cooperation on biodiversity is particularly important and is reflected within the National Biodiversity Plan. The National Biodiversity Plan also contains a number of specific actions that will be developed through a joint or coordinated North–South approach. These apart, there is much scope for further cooperation on biodiversity, particularly given the new cross-border bodies (e.g. Waterways Ireland, the Loughs Agency and the Special EU Programmes Body) and processes. Increased cooperation would benefit biodiversity in both jurisdictions.

A variety of issues relevant to the conservation of fish species have been considered under the plan. Proposals specifically relating to inland waters and wetlands include commitments to:

- undertake a catchment-based national strategy for river and lake water quality and the implementation of the EU Water Framework Directive (Directive 2000/60/EC);
- prepare guidelines for wildlife-friendly drainage activities
- ensure that waters will be stocked primarily with indigenous species, and regulate translocation of fish between catchments; and
- consider specific initiatives to enhance the conservation of freshwater fish species and communities.

In addition there are several generic conservation actions included in the plan. These actions should also be directly relevant to the conservation of aquatic biodiversity and fish species and include:

- preparing 'sectoral biodiversity plans' by the relevant departments and agencies;
- creating species action plans for priority species;
- developing a strategy to deal with alien species;
- developing a prioritised programme of inventory, monitoring and research;
- establishing a postgraduate programme for biodiversity research; and
- establishing structures and processes to deliver the plan.

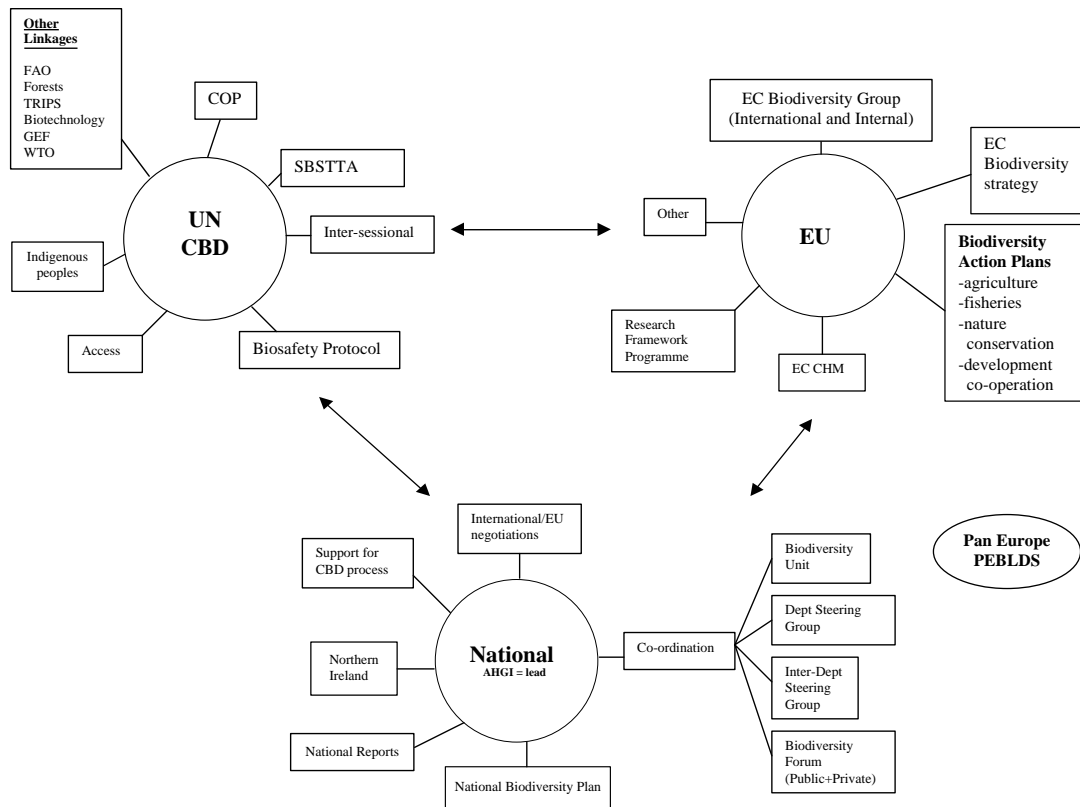


Fig. 2— Biodiversity: processes and interactions.

In our view, it will be essential that the National Biodiversity Plan and the processes it puts in place address *all* important elements of biodiversity. Indeed, one test of the success of the plan will be to ensure that important elements of biodiversity that were neglected before now— whether because departmental responsibilities were not clearly defined or for other reasons— are on the agenda in the future. Clearly, endangered fish species deserve to be included in the biodiversity process.

The plan sets out the framework for Ireland to provide for the conservation and sustainable use of biodiversity over the five-year period (2002–2006). Equally importantly, the plan initiated a permanent process of committed action to promote the conservation and sustainable use of biological diversity.

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