



ICMSA

THE FAMILY FARM ORGANISATION

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07 January 2015,

Mr. Mark Bohan,
National Parks & Wildlife Service,
7 Ely Place,
Dublin 2.

**Re: ICMSA Submission on Review of Section 40 of the Wildlife Act
– Burning/Cutting Controls**

Dear Mr. Bohan,

Further to your letter dated the 1st December 2014 which outlines the main purpose of Section 40 as “the protection of birdlife during the nesting season, to prevent forest fires, and to protect vegetation and wildlife habitats during the months of growth and reproduction”. ICMSA believe it is appropriate that the current review should be used to bring the necessary clarity and flexibility to allow a proportionate set of measures to deal with the objectives set out above to be put in place and also to take account of local conditions.

It is now some 38 years since the original act, the 1976 Act, was introduced. Section 40 of the Act, the relevant section for this purpose, was substantially amended by the Wildlife (Amendment) Act 2000. Furthermore the principal act was modified, by way of restriction, by SI No. 477 of 2011 made under the European Communities Act to give full effect to certain EU Directives. However, given that wildlife protection measures, legislative control, scientific knowledge and collective action by stakeholders have changed enormously in the last 38 years, ICMSA in this Submission outline key amendments necessary as follows;

Hedge Cutting

Should the closed period for cutting hedges be changed? If so, to which dates?

ICMSA believe the current closed period, which was extended by the Wildlife Amendment Act 2000, is not appropriate and should be changed. In the original primary Act, section 40 extended only to the destruction of vegetation on uncultivated land areas. The Amendment Act 2000 introduced specific measures in relation to destruction of vegetation growing in any hedge or ditch during the closed period. To some extent the two measures were conflated with respect to the closed period. This is a case where “one size does not suit all”.

Teagasc figures show that approximately 450,000 ha or 6.4% of the country is covered by hedgerows, individual trees and small woodland patches and scrub, contributing hugely to wildlife in the countryside. Landowners have made a considerable contribution to nature conservation and biodiversity with over two million trees and over 40 million hedgerow plants planted as a result of measures chosen in REPS and AEOS. Teagasc estimate that since 1994, a total of 9,849km of hedgerows have been planted in Ireland as part of agri-

environmental schemes. This represents a significant improvement in terms of availability of a suitable habitat and cover for wildlife, particularly, Ireland's breeding birds.

Under cross compliance for the Basic Payment Scheme, hedgerows must be maintained and not allowed to become invasive. However, extensive growth during the summer/early autumn often results in considerable management issues with regard to hedgerows. It is generally accepted that birds have left their nests by the end of July and ICMSA believe that the closed period for hedge cutting should be amended in the principal Act from 31st August to 31st July.

Burning of Vegetation

A. Should current dates be maintained – if so why?

ICMSA believe the current dates should not be maintained.

B. Should different closed periods be introduced for burning as opposed to hedgecutting?

Yes, ICMSA believe different dates should be introduced for controlled burning as opposed to hedgecutting.

The current burning date restriction is not practical on upland/commonage areas and we believe the arguments put forward in a paper by Ciaran Nugent (DAFM) and John Casey (Teagasc) at the "Teagasc Hill Sheep Conference" in January 2014 entitled "*Prescribed fire as a Land Management tool in Irish Uplands*" sets out the argument very well for a balanced rational approach to burning while giving protection to wildlife and the need to control the growing risk of major fires. The paper contains the following conclusions:-

- There is increasing recognition of the role of fire as a potentially positive land management tool. Changes in agricultural practice and demographics in upland areas have resulted in less intensive grazing regimes, greater fuel accumulation and increased frequency and severity of wildfire incidence.
- There is a strong need to bring upland areas back into active/productive management, which balances agricultural objectives with conservation and habitat management objectives in a sustainable manner. In this context, traditional controlled burning techniques and traditions need to be updated to fit within the modern landscape

ICMSA fully agree with the above comments and believe that the current closed period should not necessarily apply to all situations. As stated above, there is a need for flexibility with regard to the operation of the closed period or periods based on local conditions. We would agree, unless there is strong scientific or ecological reasons, that there is no requirement that a single closed period should operate with respect to burning and hedge cutting.

ICMSA propose the re-introduction of the later spring closed period of the 15th April (which was previously allowed until the 2000 Amendment to the Act) which could be re-introduced without posing any proportionate risk to wildlife if local conditions were taken into account.

This would also bring the burning period into alignment with permitted burning periods in Northern Ireland, Scotland, England and Wales.

C. Should different rules apply in different areas eg between enclosed lands and unenclosed land – if so why?

With regard to the question posed on enclosed and unenclosed lands, probably the issue is whether a different closing date should apply to upland and commonage areas. Clearly from the point of view of burning, a later spring closed period of 15th April would be desirable in upland and commonage areas as outlined above.

D. Should derogations or licencing for burning be introduced during the closed periods – if so why?

Yes, ICMSA believe that in addition to a later closed period of 15th April that there should be provision in the legislation for derogations or licencing for burning during the closed period.

Certain circumstances may arise which are outside the control of the landowners whereby there may be a particular land management requirement for controlled burning during the closed and provisions should be made in the legislation for such exceptional circumstances.

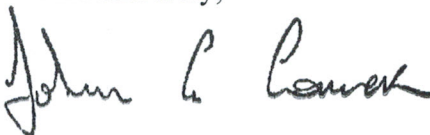
E. Should flexibility be introduced to allow dates to be changed by statutory instrument, or by allowing a Ministerial order to extend the burning period in any particular year?

By providing for the closed period(s) to be prescribed by an SI, under an implementing provision of an amendment to the Act, this should also allow the Minister to extend the burning period in any particular year while taking account of the various issues involved.

This legislative arrangement should also include the power for the Minister to grant specific derogation for the burning of vegetation during the closed period based on the programme of land management of other desirable or necessary activities.

ICMSA would appreciate you taking our comments into consideration and are available to meet if you wish to discuss the matter further.

Yours sincerely,



John Comer,
President.