

Review of Section 40 of the Wildlife Act – Burning/Cutting Controls

Submission by

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Hedges:

Hedgerows are a vital ecosystem and biodiversity corridor in Ireland, most important given the stark absence of native woodland habitat. They must therefore be managed properly – in fact, we suggest that hedgerows should be considered for Annex I Status under the EU Habitats Directive.

The sustained health of our hedgerows depends on

- 1) How they are managed, and
- 2) Who is in charge of their management

The current closed period allows birds to finish their nesting period, with a few exceptions – the young of yellowhammers, for example, are known to remain in the nest until at least late August, if not September. The yellowhammer is “a species in trouble; it’s red-listed as a ‘bird of conservation concern’ here. According to the recently published Bird Atlas, the yellowhammer’s breeding range in Ireland has shrunk by 61% since the Atlas survey of 1968 to 1972. Declines are most notable in the north and west of the country. The species, once found in every Irish county and on islands, is now almost absent west of a line from Cork to Belfast” (Ornithologist Richard Collins, Irish Examiner, Feb 2 2015).

Also, some species of wild birds need to raise several broods per year to maintain population levels – to cut hedges any earlier than the end of August would endanger their ability to do so.

Under the EU Wild Birds Directive, all birds’ nests, eggs and young are protected.

Of course there is a need to maintain road safety, but current legislation already allows local authorities to maintain hedgerows, and to direct landowners to take action on particular sections that may be deemed dangerous.

It would better behove drivers to drive more slowly, and to obey the rules of the road. Furthermore, the cutting of roadside vegetation such as blackthorn can result in debris that causes a hazard for cyclists – along with pedestrians, our most vulnerable of road users. If this hazard has been created during the summer months then the number of cyclists affected will be greatest, and will include much-needed tourists.

The question of who should be allowed to manage hedges is a vexed one. Under current legislation, there is no regulation of hedge-cutters. Anyone can be a contractor, and cut hedges for purely financial motives. This is not ideal, as it encourages that such work be done as quickly as possible, rather than with any regard for habitat protection.

We suggest that hedge cutters should be licenced and trained, and should be obliged to carry out their work with regard for the health of the trees that they are cutting (too often we see broken branches, stripped bark etc., leading to stress on the plant) and with regard to general ecological health.

Burning of vegetation:

This scourge of Irish landscape management, and public safety, has become a serious issue in recent years. Fires are started, usually at weekends, presumably in order to avoid prosecution by the authorities for burning during the closed period. These tend to burn out of control, especially during the warmer months. One can only imagine what damage to wildlife – birds and their young, small mammals, insects, spiders etc. is perpetrated. And of course they have spread too close for comfort to human habitation on many occasions.

Current legislation allows for clearance of cutting or grubbing isolated clumps of gorse/furze or the mowing of isolated growths of fern in the ordinary course of agriculture. Any burning during the period currently regarded as closed would be detrimental to wildlife, and dangerous to humans.

Questions to consider:

Hedge Cutting

Should the closed period for cutting hedges be changed? No. The continued survival of some species of hedge-nesting birds depends on them having at least as much nesting time as they are currently allowed by law.

The March 1st – August 31st closed period was extended under the 2000 Amendment Act for precisely the same reasons surrounding this Review Process – namely, the alarming decline in our wild birds in Ireland, in their natural state.

Macroom District Environmental Group (M.D.E.G.) was a stakeholder during the 1996-2000 period leading up to the enactment of the revised Wildlife Act.

Maintain Section 40 in present format.

Burning of Vegetation

- a. Should the current dates be maintained? The primary reason for the current dates is to protect the breeding and rearing patterns of birds. The start date for the closed period should certainly be maintained - the onset of spring marks the beginning of avian behaviour of mating, territorial protection, and the laying and incubation of eggs. Any burning is completely incompatible with these behaviours.

The 1979 EU Wild Birds Directive protects all birds in the “natural state” during “breeding; nesting; resting; hunting; rearing and migrating” – any considerations surrounding the revision of S.40 (l) must address these “life cycles”.

- b. Should different closed periods be introduced for burning as opposed to hedge cutting? It probably makes sense to keep the same closed periods for both practices; however, a scientific approach should be maintained and further review at a future date. What is paramount is the protection of ALL of Ireland’s wildlife species and ecosystems.
- c. Different rules should not apply in different lands. Whether it is enclosed lands or unenclosed lands bird nesting occurs at the same time of year and having different closed period for burning makes no sense.
- d. There should be no derogations for burning. As stated earlier, all birds, their nests and eggs are protected under the Wild Birds Directive. There is simply no excuse for burning which results in the killing of legally protected wild creatures.

In Muskerry barony (mid-west Cork) we have had no dedicated Conservation Ranger for many years – the proposition concerning licencing for burning is predicated on an NPWS presence.

Illegal burning of upland and lowland heath tends to occur on the Friday p.m. preceding a Bank Holiday, and proceeds into the Monday p.m. The NPWS becomes unavailable at 4p.m on the Friday.

The late Minister for State, Shane McEntee, noted this pattern of illegality as widespread in the southwest of the country.

- e. Any Ministerial order to extend the burning period would be contrary to the legal protection already mentioned, and furthermore one cannot imagine any good scientific reason for granting such an extension.

As Food Harvest 2020 accelerates, and development competes with our E.U./domestic wildlife commitments, flexibility could result in uncertainty – Conservation Rangers already have difficulty reconciling S.40 (l) (a) and (b) with Subsection 1 that exonerates “farming or forestry” from the S.40 rule!

Final points:

1. Licence and train all hedgerow contractors
2. We propose Habitats Directive Annex I as a mechanism to bring our dwindling field boundary network to the prominence this “Monument” deserves
3. Issue unambiguous guidelines to Local Authorities on the closed period and Section 70 of the 1993 Roads Act
4. M.D.E.G. questions Minister Hogan’s delisting from the Planning Acts (2000) of hedgerows under an Instrument dated 8th September 2011 that removed these features from planning protection.

Submission ends

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