

9th January 2015

**Review of Section 40,
Department of Arts, Heritage & the Gaeltacht,
7 Ely Place,
Dublin 2**

**Re: Public Consultation – Review of Section 40
Clare County Council Fire & Rescue Service Comments**

Dear Sir/Madam,

I refer to the review of Section 40 of the Wildlife Act – Burning/Cutting Controls and in particular to the public consultation. As a Chief Fire Officer I have a particular interest in some aspects of this subject, dealing primarily with both controlled and uncontrolled burning in the countryside. My comments will be on that basis.

In 2011 I was a member of the Department of Agriculture's Land and Forest Fire Working Group, that provided a list of recommendations to the then Minister of State, Sean Connick, T.D. These recommendations can be found at:

<http://www.agriculture.gov.ie/media/migration/forestry/landandforestfires/LandandForestFiresrecommendations.doc>

The majority of these recommendations have been taken on board by the various agencies, and in reviewing Section 40 of the Wildlife Act, it may be useful to include new sub-clauses to cover the following:

- **Oblige Landowners to notify their intention to burn to the appropriate Fire Service (generally through their Regional Communication Centre) and the Garda Síochána HQ for that area.**

While Section 39 does require that a person shall not burn any vegetation growing within one mile of a wood, unless they give notice to An Garda Síochána, the occupier of the wood and the Minister, this (a) only deals with growing vegetation which is not allowed under Section 40 for the closed period; and (b) there is no notification required to be provided to the Fire Service.

Fire Services have used the media to deliver a fire safety message to all persons that may wish to carry out controlled burning (of cut vegetation) during the year and we have found that:

- (i) There is a reduction in the number of unnecessary call-outs to the Fire Service and
- (ii) People that notify the Fire Service are satisfied to provide their name and contact number, thus showing a high degree of responsibility for their actions, and taking greater care that their fires do not become uncontrolled
- (iii) Thus providing savings for the Local Authorities / Exchequer due to reduced costs in attendance at same by the Fire Service or An Garda Síochána

As an example of this media advisory see link to Clare County Council's advice on the matter <http://www.clarecoco.ie/emergency-services/news/wildfire-advice-issued-to-clare-land-owners.html> (I have attached a copy of same)

- **Refer to the guidance provided in the Department of Agriculture, Food and the Marine “Prescribed Burning Code of Practice – Ireland and request that any persons intending to carry out burning should take cognisance of the guidance provided within this code of practice**

The Prescribed Burning Code of Practice provides basic information on planning, preparing and implementing safe, effective controlled fires for land management purposes.

The Code of Practice outlines measures that can be applied to ensure that prescribed burning operations are carried out safely and effectively, thus minimising the risk of wildfires occurring and preventing damage to both rural communities (lives and property) and wildlife habitats.

It can be found at:

<http://www.agriculture.gov.ie/media/migration/forestry/landandforestfires/CofPPrescribedBurningFinal90212.pdf>

I refer to the particular questions posed as part of the public consultation:

- ***Hedge Cutting***

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

There has been a large increase in the number of cyclists that are using our country roads on a regular basis – an activity that is having an effect on the population at large, both directly and indirectly.

If the evidence does suggest that birds will generally have left their nests in July, then it would make sense that clear guidance/power/responsibility could be given/put on landowners to keep their hedges from intruding onto roads, thus making it safer for cyclists and pedestrians.

- ***Burning of Vegetation***

a) Should the current dates be maintained – if so why?

It may be more appropriate to look at what landowners require? Landowners may be in a position to cut vegetation prior to the start of the current closed season date, however it is unlikely that the weather will be appropriate to burning of the vegetation. A suggestion would be to allow the burning of vegetation, gorse, furze, whin, etc. subject to an appropriate assessment of the materials to ensure that consideration is given to:

- (i) Maintaining the habitats of birds, wild plants and other ecologically important organisms that provide food and shelter for birds and
- (ii) The location of any burning to be carried out should be in the open air, away from wood/forest/hedgerows, and from areas of population and roadways

b) Should different closed periods be introduced for burning as opposed to hedge cutting?

I would suggest that the closed periods will be different for the above reasons:

Hedge cutting during the summer will provide additional safety for road users

Burning during the summer can lead to a greater risk of uncontrolled fires due to a generally drier period, so greater care should be taken if extending the closed period

c) Should different rules apply in different areas e.g. between enclosed lands and unenclosed land – if so why

This will make any possible policing of this area much more difficult, it may be more appropriate to keep the rules similar for all land types

d) Should derogations or licensing for burning be introduced during the closed periods – if so why?

Some work has been carried out in this area in other jurisdictions with positive results. The main issue I would see here is one of resources – what agency would be responsible both for agreeing to derogations/licences and for ensuring that such burns were carried out in accordance with the derogation/licence.

In Scotland, the Muirburn Code provide guidance in this area that allows for an extended season depending on (i) authority and (ii) height above sea level – see extract and link below:

In Scotland, below 450m (1,500 feet) above sea level, muirburn is permitted only between the 1st October and 15th April inclusive. This may be extended to 30th April on the authority of the proprietor or of the Scottish Government. Above 450m (1,500 feet) the muirburn season is 1st October to 30th April extendable as above to 15th May.

<http://www.scotland.gov.uk/Resource/Doc/219276/0058846.pdf>

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 a particular year?

Yes is the simple answer. After a particularly wet season(s), it may be appropriate to review what is required, and to allow for the extension of the burning period in a particular year. This may also lead to better management of woodland in giving landowners direction that on a 2/3/4 year period, they will have an opportunity to clear land of scrub and dead material by burning, an area that currently increases the likelihood for uncontrolled burning in woodland and set forestry.

Yours sincerely,

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