

**Príomhinnealtóir Bonneagar, Iarnród Éireann Inse Chór, Baile Átha Cliath 8.**

Chief Civil Engineer, Iarnrod Eireann, Inchicore, Dublin 8

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18<sup>th</sup> December 2014

Review of Section 40

Department of Arts, Heritage & the Gaeltacht

7 Ely Place

Dublin 2

**An Roinn Ealaíon, Oldhreachta  
agus Gaeltachta**

8 JAN 2015

**Department of Arts, Heritage  
and the Gaeltacht**

**Re: Section 40, Wildlife Amendment Act 2000**

A Chara

Thank you for your consultation letter received by the Department of the Chief Civil Engineer (CCE), Iarnród Éireann (IE) on December the 8<sup>th</sup> 2014. The letter has been reviewed by the relevant internal parties within Iarnród Éireann and the following comments have been submitted.

In some cases, conservation objectives outlined within the National Biodiversity Plan and the closed season for hedge cutting as outlined in the Wildlife Amendment Act 200 to conserve hedgerows can conflict directly with our safety requirements at level crossings where the removal of vegetation is necessary in order to provide adequate viewing distances. Level crossings as an asset have historically been associated with a substantial number of high risk incidents on the railway. Appropriate viewing distances provide the user of the unattended level crossing adequate time to cross the level crossing safely and also adequate time for the train driver to slow down or brake if necessary should an obstruction occur on the line. These requirements are set out in the CCE Department's operating procedures for the Management of User Worked Level Crossings.

The CCE Department does endeavour to comply with the practise of tree and hedge cutting activities outside of the timeline for the bird nesting season (31<sup>st</sup> of August to 1<sup>st</sup> of March). However in some instances where urgent fencing is required to prevent animal incursion on the line or for safety purposes such as emergency bridge maintenance works, or unsafe trees adjacent to the track structure it may be necessary to cut trees or vegetation within the bird nesting season (1<sup>st</sup> of March to 31<sup>st</sup> of August). In this respect IE are provided with a derogation to carry out this activity under section 49 of the Railway Infrastructure Act 2001 and also section 40(2)(1)(c) of the Wildlife amendment act 2000 which provides an exemption from the Bird Nesting season from "the cutting, grubbing or destroying of vegetation in the course of any works being duly carried out for reasons of public health or safety by a Minister of the Government or a body established or regulated by or under a statute". It is imperative Iarnród Éireann are provided with such derogations in order to maintain existing safety standards and requirements as outlined above.

The CCE Department of Iarnród Éireann is subject to regular auditing by the Railway Safety Commission (RSC) who are the appointed regulatory body for Railway safety in Ireland. The audits are conducted by the RSC in order to review our level of compliance with these technical and safety standards and it is imperative that IE implement these safety and technical requirements in order to with the provisions of S.I. No. 61 of 2008 European Communities (Railway Safety) Regulations 2008. Over the past four years IE have implemented environmental procedures relating directly to achieving compliance with the provisions of the EC Habitats Directive, the EC Birds Directive and the EC Birds and Natural Habitats Regulations 2011. Maintenance activities within Natura 2000 sites which come under the classification of a notifiable action are subject to the various stages of the appropriate assessment process in conformance with Article 6 part 3 and 4 of the Habitats Directive.

The CCE Department also acknowledge the presence of invasive species within Railway land take and have implemented procedures to prevent, treat and manage Japanese Knot weed, Giant Hogweed and Mares Tail. However further advice from the relevant competent authorities with regards to appropriate disposal measures for invasive plant species particularly Japanese Knotweed would be very welcome. In areas where invasive species are present, bio security measures and treatment programmes are implemented on site by our own staff and contractors as a preventative measure. If you have any queries in relation to the information outlined in this letter please do not hesitate to contact me.

Yours sincerely



**Éamonn Ballance**  
**Chief Civil Engineer**