

Kerry Wildfire Partnership

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

Public Consultation Response

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The Kerry Wildfire partnership was initially established as the Kerry Wildfire Inter-Agency Group in 2012 in response to rising levels of wildfire incidence in Co. Kerry, and increasingly adverse impacts on civil protection, economic land management and conservation arising from fire in the county.

The partnership consists of local level Agriculture, Forestry, Local Authority, Garda, Fire Service and NPWS officers, and also incorporates representatives of the main farming organisations. The purpose of the partnership is to enable improved information exchange, public and agency awareness and enhanced fire prevention and response capabilities between the member organisations. Similar partnerships exist in Co. Cork, Co. Clare and Co. Laois.

The main aim of the partnership is to reduce the severity and incidence of wildfires in Kerry. In this regard, the Group has reduced the number of out of control wildfires in the county from 561 callouts in 2010 to 99 callouts in 2014. This has been achieved by meeting with farming groups and providing advice and guidance to these groups, thereby raise awareness of the hazards posed by gorse/wildland fires in the county.

As a consequence, it has become the pattern in Kerry that the vast majority of controlled burns are pre-notified to the Fire Control Centre and inappropriate fire service call-outs are avoided. Through focused, multi-agency endeavour awareness of good burning practice is increasing and controlled burning is taking place safely (calls to burns where control by the landowner is lost are very rare in the last two seasons). This is a very satisfactory scenario from the perspective of all Authorities in Kerry. However, it is also the case that approximately 70% of reported controlled burning takes place outside the permitted period. While most controlled burning calls took place in March and April, The majority of wildfire call-outs in 2014 occurred during April.

A clear distinction needs to be made between the impacts of properly managed prescribed burning operations, and the impacts of uncontrolled wildfires. Wildfires are more intense and cover large areas, and can have severe effects on soil and plant communities. Small, properly planned and contained prescribed fires should not impact adversely on soils or fauna and should effect fast and cool treatment of unwanted dead vegetation only. ([Bleken, Mysterud and Mysterud, 1997](#); [Forest Service, 2013](#); [FAO, 1999](#); [FAO, 2011](#); [Murgatroyd, 2002](#); [Montiel and Kraus, 2010](#); [Montiel, 2013](#))

Kerry wildfire partnership promotes adoption of best practice in the use of fire by landowners. In 2014 we carried out a number of training events to demonstrate best practice to land owners.

Through the partnership, Kerry Fire and Rescue Service is currently working with the Department of Agriculture Food and the Marine, Teagasc and farming representatives in the development of prescribed fire training for landowners within current legislative limits. A pilot training program has been developed and first elements of this were delivered to farming groups in West Cork and South Kerry on the 19th & 20th November, 2014.

The current closed period for the burning of vegetation by landowners is the 1st March to the 31st August and is based on the generally recognised nesting and breeding period for wild birds. In the original Wildlife Act, 1976, the dates for the period were 15 April to 31 August but were extended by the Wildlife (Amendment) Act, 2000 to the current dates - primarily to afford further protection to wild birds. The burning of vegetation by landowners in Northern Ireland is not allowed from the 15th April to the 31st August with some derogation permitted under a licensing scheme. It is nonetheless worth noting that the Northern Ireland Fire Service attended over 2000 wildfires last year.

Prescription of specific dates in any proposal by NPWS would have to be in compliance with the [European Communities \(Birds and Natural Habitats\) Regulations 2011](#). Kerry Wildfire Partnership is not in a position to provide guidance on nesting times for various bird species which needs to be in accordance with clear scientific research based evidence).

In the absence of such evidence, under no circumstances should a precautionary principle be applied to exclude the use of fire in the landscape. Such an approach is certain to create conditions for further fuel accumulation that will drive more extensive and destructive wildfire events in the future, and that will certainly adversely impact on priority habitats and species in affected areas. Furthermore, total fire exclusion would be likely to severely alienate key stakeholders seeking to use fire in land management, and create an unsustainable and untenable law enforcement requirement for the state to implement. The current approach of cooperation, education and capacity building being piloted by existing wildfire partnerships where the use of prescribed fire is concerned is likely to have a more satisfactory outcome for all concerned in the long run, and this is already being clearly demonstrated.

It is acknowledged that landowners and their representatives have often stated that the closed period is too inflexible. With regard to the issue of flexibility, Kerry Wildfire Partnership would recommend that the legislation be amended to allow the closed period be set through Ministerial Regulations rather than through primary legislation.

Kerry Wildfire Partnership also believes that any proposed amendment should be complemented with suitable Regulations that would require mandatory notification to the Fire Service of all prescribed (Controlled) burning activity within a county, and that landowners would be required to prepare formal prescribed burning plans for all operations involving fire.

Allowing landowners more opportunities to burn hazardous vegetation in safe weather conditions, and ensuring that prescribed fire operations are carried out in a planned, professional environment will reduce fuel loading and wildfire risk during more dangerous weather conditions. A mosaic of smaller, less intense and carefully contained prescribed fires as an essential adjunct to appropriate upland grazing regimes can help protect upland landscapes, habitats and species from the damaging effects of wildfires in the long term (Mourne Heritage Trust, 2014; Tubridy, 2013)

A more flexible burning season would facilitate the strategic use of prescribed fire at critical control points in the landscape, to limit fire progression; and permit more effective suppression of wildfires before they become large wildfires (Fire paradox, 2010; Montiel and Kraus, 2009).

To summarise, the following points should be considered:

- The prescribed dates for both burning and hedge cutting should be removed from primary legislation and be set-down in Regulations (SI), and be subject to periodic review in conjunction with relevant stakeholders.
- Suitably Focussed applied research is required to better establish the effect managed prescribed fire on habitats and biodiversity under Irish conditions. Currently, most research inferences in this area are based on UK research, under different land management, socio-economic and soil hydrological conditions.
- Hedge cutting and prescribed burning of land are two distinctly different operations, generally occurring on different types of land and with different operational conditions, equipment, safety and environmental factors to consider. Accordingly, these operations should be dealt with separately from a legislative point of view.
- Different periods apply for burning and hedge cutting – different operational conditions are required for both types of activity. Hedge cutting is less weather dependent than burning and will have a wider operational envelope as a consequence. Kerry Wildfire Partnership is not in a position to comment on hedge cutting issues.

- All prescribed burning should take place within a professionally planned and supervised operational environment, in the interests of human safety, ecological and environmental protection.
- The burning season should be extended if possible and deemed appropriate to do so. Increasing the available open season could provide opportunities to conduct burning activity during suitably safe weather conditions that generally occur during March.
- Unenclosed land and enclosed land should be treated equally by legislation. Fires on all types of land fire potentially pose a risk, however proper planning and implementation of prescribed fires should mitigate against any such risk.
- Derogations during the closed period should be considered, under licence and only where there is an overriding public interest or valid scientific or civil protection requirement (i.e. protective burning to reduce dangerous fuel loads) or where weather conditions during the preceding open season have not been suitable for essential prescribed burning, such as strategic fuel reduction, to take place.
- In addition to derogations, any new legislation should make it possible for authorities to limit or exclude fire in the outdoors during dangerous or unsuitable weather conditions (Condition Red/Condition Orange) during the legal burning period, in a similar fashion to 'red flag' warnings in the United States and other jurisdictions.
- Any amendment should ensure mandatory notification to the Fire Service of all prescribed (Controlled) burning activity within a county.
- Any amendment should require formal prescribed burning plans to be prepared by landowners intending to burn, outlining required operational conditions for all operations involving the use of fire, and that these plans be retained by the landowner supervising burning operations.
- Any measures to extend the burning season should also be balanced by suitable measures aimed at enhancing enforcement of relevant regulations on the ground.

- Local level Fire Management Groups such as the Cork Wildfire Cooperative and Kerry Wildfire Partnership should be directly supported by the Departments and Agencies concerned as a means to coordinate and communicate fire management activities, training and awareness at local level in areas most affected by wildfire.
- Stakeholder-led Wildfire Forums involving wider national stakeholders exist in the United Kingdom, including Northern Ireland, and permit coordination of stakeholder activities in relation to fire, and structures of this type should also be established and supported.

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