

## **Response from Louth County Council's heritage office to the Public Consultation on the Review of s 40 of the Wildlife Act – (Burning/Cutting Controls)**

I welcome the invitation to participate in this review. I consider that a thorough, scientifically-informed review is needed on how the law can be strengthened to improve protection of hedgerows and biodiversity, rather than weakening the protection currently afforded them. I am pleased to see the comments in the last, substantive paragraph, under 'Protection of Biodiversity'.

I am not sufficiently *au fait* with ornithology to discuss the 'closed season dates' but I have other, more general points that I would like to make, some of them arising from attempts to implement the law in this county and dealing with complaints concerning its perceived breaking.

### General

The target outcome of the review should be better conservation of Ireland's birds and biodiversity generally, especially considering that 28% of Ireland's birds species are in decline, as are 31% of our habitats. This is no time for weakening nature conservation legislation.

At the same time, it is important that the law is clear, so that people understand it, and easy to comply with.

### Hedgerows

The importance of hedgerows to Ireland's nesting birds, and to other biodiversity, cannot be exaggerated. The role of hedgerows in providing habitats for biodiversity is particularly important in light of the very low percentage of tree cover in Ireland (and especially Louth). For this reason Louth County Council, with funding support from the Heritage Council, carried out a sample survey of hedgerows across the county in 2014.

As well as providing sites for wildlife to survive and reproduce, whether birds, invertebrates, shrubs or wildflowers, hedgerows also provide corridors, as mentioned under Article 10 mention the Habitats Directive. This review of s40 of the Act should be taken as an opportunity to "*encourage the [active] management of features of the landscape which are of major importance for wild fauna and flora. Such features are those which, by virtue of their linear and continuous structure (such as rivers with their banks or the traditional systems for marking field boundaries) or their function as stepping stones (such as ponds or small woods), are essential for the migration, dispersal and genetic exchange of wild species.*"

The current legislation does provide some conservation benefit, as it allows birds breed, but its major protection of wildlife is by way of a welfare measure. It protects the birds and their nests while they are in use but it does not ensure the long term conservation of threatened and declining species e.g. the yellowhammer. A major problem identified by the Louth Hedgerow Survey,

2014 was that farmers were ploughing too close to the bases of hedgerows, leaving them thin and permeable. The review should address this problem. Teagasc would be well placed to advise on farming guidelines and cross-compliance in relation to single farm payments.

### Burning

We have had a serious ongoing problem with illegal burning of upland areas here in Louth (and in adjacent areas in Armagh). Our county Fire and Rescue Service is legally required to respond to all accidental and illegally-started upland fires. This costs the people of Louth money (firefighters' call-out fees, equipment costs etc), more than €21,000 in 2012 and more than €28,000 in 2010. While controlled upland burning has an important role in creating age- and height-varied patches of heather and a mosaic habitat, this needs to be done in a planned way, in coordination with the NPWS and the Fire Service.

Specific comments on s40 of the existing legislation (the 1976 Act as amended in 2000):

There should be a stated position that construction and development works, as 'exempted' under clauses b, c, cc, d and e should be carried out in the six-months long winter season. Perhaps there should be a requirement to obtain a licence for carrying out such works in the 'closed', breeding season.

- (2) (a) Clarify "the ordinary course of agriculture" or delete this sub-clause. Clarify the definition of hedge to mean an 'agricultural' hedge. As I understand it this clause is not intended to stop people trimming small garden hedges.
- (2) (b) Delete the reference to the cutting or grubbing of whin etc (not fern)
- (2) (c) The law should state the 'preferred position' that road safety maintenance cutting of roadside hedgerows should be carried out in the six-months long winter season. Sub-section (3) is relevant to this.
- (2) (cc) update the reference to the Central Fisheries Board to IFI – could such works not also be done in winter? (see (c) above)
- (2) (d) control of invasive species e.g. Himalayan balsam should be added here (though perhaps such works need to be done under licence).
- (2) (e) comment as for (c) above.
- (2) (f) comment as for (c) above.

Differentiation between the use of hand held tools, whether powered or otherwise and tractor-mounted flails, circular saws etc. Landowners should be clearly permitted, by law, to trim back long, straggling vegetation, such as briars/brambles, with hand-held tools, such as shears, secateurs and hedgetrimmers, whether powered or otherwise. People using hand tools to carry out minor trimming can see and avoid causing harm to nesting birds. A contractor or farmer sitting in the cab of a tractor is much more likely to cause serious damage to hedge-nesting birds.

## Responses to your specific questions

### Hedge cutting

Should the closed period for cutting hedges be changed? I would prefer to see them left unchanged but would defer to, say, BirdWatch Ireland's advice.

### Burning of Vegetation

- a. Should the current dates be maintained? Yes, unless there is good scientific evidence for changing them. Perhaps there should be a facility for the NPWS to license burning at other times.
- b. No, the dates should be determined by when the protected birds begin and end breeding (which may advance through time due to climate change).
- c. No, this would be too complex and unenforceable. I note though that the east coast is much drier than the west.
- d. Perhaps. For the burning of small patches, once it has been determined that there are no birds breeding in these. Licences would be provided by the NPWS, working in close coordination with the local authority Fire Service.
- e. Probably not. I would be reluctant to see a blanket provision. Perhaps this could be supported if the possible wider time limits, within which extensions could be granted, were given in the law and the reasons for which extensions could be permitted.

I hope this is helpful,

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8<sup>th</sup> January 2015