

Review of Section 40 of the Wildlife Acts 1976-2012 – Burning / Cutting Controls

Submission to the Department of Arts, Heritage and the Gaeltacht from South Dublin County Council

January 2015

South Dublin County Council welcomes the opportunity to comment on the review of Section 40 of the Wildlife Acts 1976-2012 governing the control of burning and hedge cutting.

While the consultation document primarily seeks commentary in regard to amending the closed period for hedge cutting, it is considered that this review is also an opportunity to provide clarity and consistency of opinion under Section 40 in relation to (i) street tree maintenance and (ii) cutting of hedges on cultivated land in urban areas.

As a local authority, South Dublin County Council is responsible for the management and maintenance of an estimated 60,000 street trees along the public roads and footpaths within its administrative area along with woodlands, parkland trees, shrubberies, natural hedgerows and ornamental hedges on Council-owned or 'taken-in-charge' land, including roadside verges and medians, public footpaths, open spaces, parks and public cemeteries

Amendment of closed period

In relation to amending the closed period from March 1st to August 31st, it is considered that no change is required in regard to cutting of field hedgerows.

Cutting of hedges on cultivated land in urban areas

It is acknowledged that the exemptions under section 40 already allow for local authorities to carry out cutting of hedges on health and safety grounds and also that the Roads Act 1993 obliges landowners to take all reasonable steps to ensure that trees, shrubs etc. are not a hazard to road users. However, clarity is required to allow cutting of hedges during the closed season in built-up urban area where hedges are clearly planted on cultivated ground for design, ornamental or other specific functions. The majority of hedges planted to fulfil these functions are primarily monocultures of ornamental and non-native species, typically in the height range of 1.0m – 1.5m and their functions include inter alia:

1. Hedge planting provided as anti-dazzle barrier in central medians of roads.
2. Hedge planting to channel pedestrians to safe crossing points.
3. Hedge planting against walls to deter graffiti.
4. Hedge planting for design / decorative impact.
5. Hedges planted for ornamental / specific design purposes e.g. privet, beech, Ionicera, laurel, photinia, cotoneaster, etc.
6. Hedge planting used as barrier/defensive planting.

The following images illustrate hedge planting for the above functions:

Image 1: Hedge planting provided as anti-dazzle barrier in central median



Image 2. Hedge planting to channel pedestrians to safe crossing points



Image 3: Hedge planting against walls to deter graffiti



Image 4: Hedge planting for design / decorative impact.



Image 5: Hedge planting for design / decorative impact.



Image 6: Hedge planting for decorative impact / barrier planting.



Cutting of cultivated hedges planted to fulfil the above functions may be necessary during the growing season to maintain their specific design function and to reduce seasonal growth where it represents a risk to public health and safety. Any necessary cutting of cultivated hedges during the closed period should involve a pre-works assessment of the hedge and compliance with best practice protocols to ensure minimal impact on wildlife and nesting birds and to enable hedges that are cultivated and maintained retain their important role as wildlife corridors.

Maintenance of street trees

The Wildlife Act prohibits cutting of vegetation on uncultivated land between March 1st and August 31st. However, it is accepted and in practice that street trees are cultivated and as such, this allows for tree maintenance works to be carried out during the closed period subject to compliance with best practice protocols in regard to pre-works assessment of trees for active nests or nesting birds. Where an active nest or nesting birds are observed, no tree works should be carried out. The primary reason for a year round programme of street tree maintenance is to ensure public safety and minimise tree hazards.

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Phenological and biological research also indicates that a number of tree species including cherry and walnut are best pruned in mid-summer to avoid introduction of disease while maple and horse chestnut will bleed sap extensively if pruned during early season growth. It should also be noted that the wildlife value of cultivated trees which undergo maintenance should not be underestimated as they can still provide nest sites, food sources and act as a place of refuge from predators for birds and other wildlife.

Having regard to the above and for reasons of clarity which is not currently provided by the Wildlife Acts, it is recommended that the exemptions to section 40 should provide for the clear exclusion of street trees, subject to compliance with protocols to ensure minimal impact on wildlife and nesting birds.

Summary South Dublin County Council Recommendations

1. In relation to amending the closed period from March 1st to August 31st, it is considered that no change is required in regard to field hedgerows.
2. In relation to exemptions under Section 40 of the Wildlife Act, clarity should be provided in regard to cutting of certain types of hedges on cultivated land to allow cutting on a year round basis including during the closed season in built-up urban areas subject to compliance with protocols to ensure minimal impact on wildlife and nesting birds.
3. It is recommended that the exemptions to section 40 should provide for the clear exclusion of street trees subject to compliance with protocols to ensure minimal impact on wildlife and nesting birds.

Yours sincerely,



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