

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

CONSULTATION RESPONSE

Wexford Naturalists' Field Club



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January 2015

INTRODUCTION TO THE WEXFORD NATURALISTS FIELD CLUB (WNFC)

The Wexford Naturalists' Field Club (WNFC) was founded in 2004 and has 140 members. The club promotes the active enjoyment of all aspects of the natural history of County Wexford and provides opportunities for people to increase their knowledge and enjoyment of wildlife. Members are very active in recording wildlife in County Wexford and the club has produced two publications: "The Lepidoptera of County Wexford" and "The Odonata of County Wexford". The club runs targeted recording schemes. One such scheme is the "The Hedgerow Project" a citizen science wildlife recording scheme which aims to record the fauna in and around hedgerows in County Wexford throughout the year.

GENERAL COMMENTS FROM THE WNFC

The WNFC welcomes this opportunity to comment on the Review of Section 40 of the Wildlife Act and are pleased that the consultation document acknowledges the "exceptional value" of hedgerows in Ireland and that an overriding consideration is that "any changes must be in line with Ireland's obligations to protect and enhance our habitats, birds and other species and not to increase the threat to them".

The "Hedgerow Project" run by the WNFC has been running for 2 years and records faunal species in and around hedgerows in County Wexford. While it is acknowledged that longer term data is needed before results can be interpreted comprehensively, the data gathered highlights the importance of hedgerows throughout the year to a number of faunal groups. For example, the number of bird species recorded in hedgerows increases during the spring and summer months and, in winter, while fewer species are present, the number of birds present in hedgerows remains high. The month in which the peak number of butterflies and bumblebees are recorded shows some inter year variability peaking in either June, July or August in different years perhaps influenced by weather patterns. This data highlights the importance of hedgerow habitat to pollinators from April through to September and by bird species all year round. It is therefore of paramount importance to maintain hedgerows in good ecological condition so that they may be of benefit to wildlife throughout the year. This would require hedgerow management according to best practice with rotational cutting regimes so that there is suitable habitat and forage material available for birds, pollinators and other fauna throughout the year.

The current legislation permits the cutting of hedges during the closed period for the purpose of health and safety, in the normal course of agriculture, forestry and development activities. It is therefore questionable that there is a "need" for landowners to have "clear power to cut roadside hedges" from the end of July onwards. Furthermore, the current legislation with the existing exemptions is not adequately enforced and it is often observed that unlawful and unnecessary hedge cutting is carried out within the closed season. Therefore, there is a requirement for stricter control and enforcement of the legislation.

As noted in the consultation document, hedgerows are an exceptional resource and are particularly important in the context of the Irish landscape and its low woodland cover. Therefore, hedgerows should be afforded strict protection and maintained in good ecological condition. There should be a requirement for contractors working on hedgerows in the closed season to apply in writing before any work is done (e.g. through licencing or derogation). Furthermore all contractual hedgerow

cutting personnel should have completed a course and/or be certified as to good practice. It should be mandatory for farmers, particularly those outside of agri-environment schemes, to follow best practice as part of “good farming practice”. Hedgerows are currently managed more often for “neatness” than for the benefit of wildlife, eroding the ecological structure and function of this “exceptional” habitat in Ireland. An up to date best practice manual for maintaining hedgerows should be provided encouraging rotation hedgerow cutting and hedge laying as appropriate with financial incentives provided for more labour intensive work.

According to the findings from the Ag-Biota project, a five-year scientific study conducted by University College Dublin (UCD) on behalf of the Environmental Protection Agency (EPA)², the richness and diversity of bird species during the breeding season is strongly linked to the ecological quality of Irish hedgerows. “Where the ecological quality of the hedgerows has been reduced due to the intensification of farming, there has been a marked decline in the diversity of bird species in the breeding season²”. The Ag-Biota project also highlights that “the abundance and diversity of bees, birds and other species of insects and plants have suffered serious losses as a result of changing farming practices in Ireland²”. In light of increased intensification of agriculture anticipated as a result of Food Harvest 2020, measures should be taken to avoid increased pressure on biodiversity.

With regard to burning, while it is acknowledged that difficulties with land management currently arise due to weather conditions, any change in dates should be preceded by thorough research to establish that a change in dates would not negatively impact on semi-natural habitats and relevant breeding bird species in the uplands.

Upland habitats (those predominantly affected by burning) contain semi-natural habitats some of which are protected within SACs. Given the latest Article 17 assessment of the condition of semi-natural habitats and the red listed status of upland breeding bird species (e.g. breeding curlew, golden plover and twite) it is crucial that any changes to legislation and land management practices bring about improvement in the suitability of these habitats for breeding birds and provision is provided for greater enforcement of the legislation.

In addition, cumulative effects such as other pressures in upland areas (e.g. wind farms, recreational activities and tourism) should be taken into account. Any changes in legislation should take the precautionary approach and the long term view, safeguarding biodiversity and associated ecosystem services and sustainable agriculture into the future.

RESPONSES TO QUESTIONS POSED

Hedge Cutting

Should the closed period for cutting hedges be changed?

No, the current dates provide protection for nesting birds and other fauna and flora. There should be no revision of dates particularly in light of climate change and the possibility that some bird species may either breed earlier in the year and/or produce two or more broods in a season. Data from the Nest Record Scheme run by the British Trust for Ornithology provide strong evidence of shifts towards earlier laying in a range of species, linked to climatic change¹.

Invertebrate species (e.g. pollinators) are dependent on hedgerow plants throughout the flowering period including the month of August. Allowing cutting earlier will remove flowers and seed of hedgerow plants impacting on invertebrate species and birds foraging in the winter.

Burning of Vegetation:

a. Should the current dates be maintained - if so why? Yes, the current dates should be maintained until there has been an adequate review of relevant research and current knowledge and new research programmes initiated as needed to inform on the best dates to set having regard for best habitat management for both flora and fauna species in upland areas in Ireland.

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

Yes, pending the outcome of a review of relevant research, different dates should be considered for burning (at least in upland areas) as the habitats and species concerned are obviously different. Land management practices should be specific to the habitats and species concerned. The dates and land management practices should be informed by best practice and the latest research both on land management practice and species breeding behaviour to facilitate effective land management while also improving or maintaining the condition of semi-natural habitats and their associated fauna.

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

Yes, there may be a need to consider different rules for enclosed and unenclosed lands as enclosed lands are presumably located in lowland regions and unenclosed lands in upland regions and hence support different habitats and species. As above, specific land management practices tailored to the requirements of the species and habitats concerned should be implemented.

d. Should derogations or licencing for burning be introduced during the closed periods - if so why?

Yes, consideration should be given to introducing licencing for burning during the closed periods to facilitate effective land management when wet weather prevails and to allow for regional differences in weather patterns. Licenses should only be provided where it is evident that there will not be a negative impact on either the habitat or bird species. This will require impact assessment by means of survey and reporting by ecologists to exclude the risk of disturbance to nesting birds and or damage to semi-natural habitats prior to the issuing of any licence for burning during the closed period.

Introducing derogations or licencing increases the administrative burden on both landowners and the licensing authority. It also provides another opportunity for abuse of the regulations. Monitoring and enforcement of wildlife legislation is currently inadequate. Therefore any

consideration to introducing licensing or derogations would need to be accompanied by stricter enforcement of the legislation.

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 any particular year?

No, burning for land management should be carried out when there is the least risk of impact to flora, nesting birds and other fauna. Any requirement for a deviation from this due to wet weather etc. should be examined on a case by case basis. Due to regional differences in weather and in the distribution of populations of bird species sensitive to burning, it would not be appropriate to make a general change to dates in any one year.

¹ <http://www.bto.org/about-birds/birdtrends/2014/key-findings/early-breeding>

² http://www.ucd.ie/news/2009/03FEB09/300309_farming.html

Secretary WNFC