

## **Consolidated Version of the Wildlife Acts**

### **SECTION 40 of the WILDLIFE ACT 1976 as amended by the WILDLIFE (AMENDMENT) ACT 2000 and the HERITAGE ACT 2018**

Destruction of vegetation on uncultivated land restricted

- 40(1) (a) It shall be an offence for a person to cut, grub, burn or otherwise destroy during the period beginning on the 1st day of March and ending on the 31st day of August in any year, any vegetation growing on any land not then cultivated.
- (b) It shall be an offence for a person to cut, grub, burn or otherwise destroy any vegetation growing in any hedge or ditch during the period mentioned in paragraph (a) of this subsection.

(2) Subsection (1) of this section shall not apply in relation to

- (a) the destroying, in the ordinary course of agriculture or forestry, of any vegetation growing on or in any hedge or ditch;
- (b) the cutting or grubbing of isolated bushes or clumps of gorse, furze or whin or the mowing of isolated growths of fern in the ordinary course of agriculture;
- (c) 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;
- (cc) the clearance of vegetation in the course of fisheries development works carried out by the Central Fisheries Board or a regional fisheries board in the exercise of its functions under the Fisheries Acts, 1959 to 1999;
- (d) the destroying of any noxious weed to which the Noxious Weeds Act, 1936, applies;
- (e) the clearance of vegetation in the course of road or other construction works or in the development or preparation of sites on which any building or other structure is intended to be provided;
- (f) the removal or destruction of vegetation required by a notice served by the Minister under section 62 (1) of the Act of 1946 to be removed or destroyed;
- (g) the felling, cutting, lopping, trimming or removal of a tree, shrub, hedge or other vegetation pursuant to section 70 of the Roads Act 1993;

but this subsection shall not operate to exclude from subsection (1) of this section anything done by burning.

- (3) The Minister may request from the person concerned details of any works carried out under subsection (2)(c) and such details shall be furnished to the Minister by that person together with a statement of the public health or safety factors involved.
- (4) In any proceedings taken in respect of a contravention of this section consisting of the doing of any act, it shall be a good defence to prove that the doing of that act was necessary for the purpose of extinguishing or preventing the spread of a fire while it was in progress or for the purpose of saving human life or was necessary in any other emergency in respect of which that act was an appropriate measure.

## **Section 7 of the Heritage Act 2018**

### **Destruction or burning of vegetation on uncultivated land**

7. (1) Notwithstanding section 40 (as amended by the Inland Fisheries Act 2010) of the Act of 1976, the Minister may make regulations, in relation to land referred to in that section, to allow the burning of vegetation during such period or periods during the month of March of such year in such part or parts of the State as specified in the regulations, subject to such conditions or restrictions specified in the regulations to ensure the protection of fauna or flora.
- (2) Notwithstanding section 40 of the Act of 1976, the Minister may make regulations, in relation to land referred to in that section, to allow the cutting of vegetation growing in any hedge or ditch on the roadside during the month of August of such year as is specified in the regulations, subject to such conditions or restrictions specified in the regulations in relation to hedgerow husbandry, management or maintenance to ensure the protection of fauna or flora.
- (3) A person to whom regulations under this section apply, or acting on behalf of such person, who does anything in contravention of the regulations commits an offence.
- (4) (a) Subject to *paragraph (b)*, this section remains in force until the expiration of 2 years from the date of the passing of this Act and then shall expire.  
  
(b) This section may be continued in force from time to time by a resolution of each House of the Oireachtas, passed before its expiry, for such further period not to exceed 3 years as is specified in the resolution.
- (5) In this section “fauna or flora” means fauna and flora protected under Chapter III of Part II of the Act of 1976.