



NPWS

An tSeirbhís Páirceanna
Náisiúnta agus Fiadhúlra
National Parks and Wildlife
Service

Bird nesting season and vegetation removal

Frequently Asked Questions

Purpose of this document

This document provides answers to frequently asked questions on the protection of nesting birds provided by Section 40 of the Wildlife Act 1976, as amended¹. Whilst many of these questions address the removal or cutting of hedgerows, it should be noted that birds nest in a wide variety of locations including trees, scrub and buildings.

It is important to note that other statutory protections for birds, nests, eggs and vegetation also apply, including Section 22 of the Wildlife Act and Article 5 of the EU Birds Directive.

In addition, activities in Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) may require a separate consent to be given prior to being undertaken. If in doubt, seek legal advice or consult the National Parks and Wildlife Service (NPWS).

Note:

Please note this document is for guidance purposes only. While every care has been taken in the preparation of this document, it is important to note that procedures are subject to change due to legislative changes and case law. The information in this document should not be relied upon as containing, or as a substitute for, legal advice. Legal or other professional advice on specific issues may be required in any particular case.

For any questions or comments in relation to the document, please contact info@npws.gov.ie

¹ Please note that the Wildlife Act has been amended a number of times in the past. The latest version is available at <https://revisedacts.lawreform.ie/eli/1976/act/39/revised/en/html>. Please note that this is an unofficial consolidation and is prepared for ease of reference only.

Why are hedgerows important?

Hedgerows are a vital feature of the Irish landscape, serving as natural boundaries composed of dense rows of shrubs and trees. Hedgerows are a unique feature of the Irish landscape, playing an important role in biodiversity, agriculture, and cultural heritage. They vary in their age, size and structure with some hedgerows being many hundreds of years old and containing mature trees as well as dense thorny vegetation and a range of wild flowers. Some of the oldest hedgerows form historic boundaries between townlands or Counties.

Hedgerows typically contain a diverse mix of native plant species, contributing to their ecological importance. These living fences provide habitat and shelter for wildlife, support pollinators, and serve as corridors for species movement across fragmented habitats. Furthermore, hedgerow contribute to soil conservation, water regulation, and the scenic value of rural areas. However, Ireland has experienced a significant decline in hedgerow lengths, with up to 6,000 kilometres of hedgerow lost every year, impacting biodiversity and agricultural productivity.



Figure 1 Hedgerow with native grassland species growing in a strip at the edge of a field.

When can vegetation be cut/removed?

Hedgerow biodiversity benefits from a certain amount of regular cutting to maintain the diversity of different plant species and preventing the more vigorous plants from dominating the hedgerow structure. However, cutting at certain times of the year can cause disturbance and damage to breeding birds, their nests and eggs – all of which are protected under Irish and EU law.

Section 40 of the Wildlife Act focuses on preventing disturbance to birds during the nesting season by limiting the cutting and removing of vegetation (including hedgerows) during the bird nesting period.

Under Section 40, vegetation cutting or removal is only permitted from the **1 September to 28 February**. The Wildlife Act prohibits the cutting, grubbing, burning, or destruction of vegetation growing on uncultivated land or hedgerows outside of this period, to safeguard nesting birds and other wildlife during their critical breeding season. Although Section 40 permits vegetation removal within in this period, if it results in the destruction of nests or disturbance to nesting birds, such activities may still be unlawful under Section 22 of the Wildlife Act.

Landowners have the responsibility to ensure compliance when managing hedgerows and other vegetation on their property. This includes being aware of nesting seasons and taking necessary precautions to protect wildlife, such as monitoring vegetation for nesting activity (such as occupied nests or nests containing eggs) before undertaking any cutting or removal.



Figure 2 Hedgerow maintenance should be undertaken outside the bird nesting season.

Are there exemptions that allow cutting/removal of vegetation during the bird nesting season?

Section 40 of the Wildlife Act recognises that there may be some circumstances when hedge cutting is required for specific and important reasons and therefore may take place when such activities are usually prohibited. These exemptions only apply in a very limited range of circumstances, which are explained below.

These exemptions do not override Section 22 of the Wildlife Act or the Birds Directive, which offer year-round protection for birds and nests. Even if an exemption under Section 40 applies, additional legal requirements may still be in force. It is also important to note that if the activity is to take place within an SAC or SPA, these may qualify as “activities requiring consent” (ARCs) and require authorisation from the NPWS. Further information on ARCs may be found on the NPWS website.

Landowners and their agents where relevant, (e.g. landscape contractors), are responsible for deciding if an exemption applies to their circumstances. It is advisable to keep records of such activities and to record the reasons for the

vegetation removal in the event of an investigation by the NPWS of alleged breaches of Section 40.



Figure 3 Robin (*Erithacus rubecula*) in a hedgerow.

Public Health and Safety

Section 40 of the Wildlife Act provides that hedge cutting or vegetation removal may be allowed in the course of any works to ensure public health or safety by a Minister or a body established or regulated under a statute. For example, where such hedge cutting is necessary to prevent obstruction of public roads or maintaining sightlines at junctions. Similarly, Section 70 of the Roads Act 1993 permits felling, lopping, trimming or removal of a tree, shrub, hedge or other vegetation.

Agricultural activities

Section 40 of the Wildlife Act recognises exemptions for vegetation cutting conducted "*in the course of agricultural activities*." Agricultural exemptions generally apply to activities essential for enabling farm access, machinery movement, or

managing livestock and maintaining farmland productivity, such as trimming field boundaries to prevent encroachment onto arable land. The intention of the law is to allow necessary agricultural management while protecting the biodiversity value in hedgerows. However, these exemptions do not override the legal protection afforded to offer year-round protection for birds and nests.

Hedge Cutting in Private Gardens

Where hedges within or surrounding private gardens require cutting in the course of normal horticultural practices, or other types of vegetation removal then this exemption is deemed to apply. However (and as with all other activities deemed to be “exempt” of the normal cutting restrictions) if nests or breeding birds are encountered then such works may have to be suspended to avoid disturbance or direct harm.

Construction works

Removal of, or works to vegetation related to the construction of a road or other development projects may be exempt from vegetation cutting restrictions under Section 40 of the Wildlife Act.

Where planning permission has been granted for such developments, there may be conditions attached to the permission may impose separate restrictions on vegetation removal. These conditions may apply in order to protect nesting birds in such habitats. This can have the effect of removing the exemption referred to above and mean that such vegetation cannot be removed during the nesting season.

Landowners and their agents should note that exemptions under Section 40 do not automatically permit vegetation removal for speculative or future developments and should not carry out pre-emptive removal of vegetation, in order to avoid delays that may occur due to the statutory restrictions on when cutting may occur. This exemption should only apply where there is a genuine intention to carry out construction works.

Landowners should be aware that removing vegetation to bypass future restrictions may still breach wildlife laws if nesting birds are impacted.



Figure 4 Removal of hedgerows using machinery.

Managing dead, broken and uprooted vegetation

The restrictions on vegetation cutting/removal referred to in Section 40 of the Wildlife Act apply to vegetation growing on land and therefore do not apply to works to trees or hedgerows that are no longer growing (i.e. uprooted or broken).

Landowners may cut and remove dead vegetation but are strongly encouraged to do so outside of the bird-nesting season, since the legal protection of nesting birds, nests and their eggs will still apply.

Emergencies

In emergencies, such as severe weather causing hazards, hedge cutting may be necessary to mitigate risks. However, Section 40 only provides an exemption from the restrictions where the activity is being carried out for public health or safety reasons, as opposed to cutting required to address a potential risk in the future.

Examples of scenarios where this exemption may apply include lopping of unsafe branches or trees overhanging public roads following storm damage or removal of vegetation where there may be an imminent fire risk.

Where there may be a foreseeable risk to health and safety in the future, it is advisable to cut vegetation outside of the nesting season. The legal protection of nesting birds, nests and their eggs will still apply regardless of the reasons of public health or safety

It is important to note that there is no exemption to the burning of vegetation during the closed season.

Note: Whilst there are exemptions that exist that permit vegetation cutting/removal to take place, it is still an offence under Section 22 of the Wildlife Acts to wilfully destroy, injure or mutilate the eggs or nest of a protected wild bird, or to wilfully disturb a protected wild bird on or near a nest containing eggs or unflown young at any time of the year. Therefore, it is strongly advised that any works take place outside the nesting season regardless of the reasons for the works wherever possible.

If works must take place when nests and/or breeding birds may be present, it will be necessary to carry out checks for nests and/or breeding birds prior to such works being undertaken so that such offences can be avoided.

Note that some species of birds will build nest and lay eggs either early or late in the breeding season and potentially outside of the restricted period. Whilst the majority of breeding activity takes place in March-August, there is a risk that birds may be disturbed outside this period.



Figure 5 Blackbird (*Turdus merula*) chicks in a nest within a hedgerow.

What are the penalties for breaking the law?

Individuals found guilty of illegally cutting or removing vegetation during the closed season contrary to section 40 of the Wildlife Act can face substantial fines of up to €5,000.

Offenders may also be required by a Court to restore the habitat or pay for environmental damage caused by their actions. This could involve replanting hedges or other measures to mitigate the impact on wildlife. In addition to the prosecution, the breach will be cross-reported to the Department of Agriculture, Food and the Marine and a sanction may be applied under to the farmer(s) area-based payments if applicable.

Beyond legal penalties, individuals or businesses may suffer reputational harm if found in violation of wildlife protection laws, which can affect community relations and public perception.



Figure 6 Fencing erected to prevent machinery working close to hedgerows

Who should be contacted if an offence is suspected?

Suspected breaches of Section 40 of the Wildlife Act can be reported to **WildlifeEnforcement@npws.gov.ie**, your local NPWS office <https://www.npws.ie/contact-us> or An Garda Síochána.

The Department of
Housing, Local Government and Heritage



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