

Heritage Bill Briefing Notes

Key Points

Under Section 40 Wildlife Act vegetation on uncultivated land and any vegetation growing in any hedge or ditch is protected during the period March to August, inclusive. The Heritage Bill (2016) proposes to make changes to S40 to permit, under Regulation, “*the cutting of vegetation growing in any hedge or ditch on the roadside*” during August and the “*burning of vegetation*” in March. It also exempts landowners from Section 40 in any cutting, etc. undertaken pursuant to Section 70 Roads Act.

A coalition of environmental NGOs and over 28,500 citizens who have signed a petition, are concerned that the proposed changes will have a negative impact on already threatened wildlife. This note details the issues and asks for your support in introducing amendments to the Heritage Bill as it passes through Dáil Éireann.

Summary – General

- No scientific basis for the proposed changes.
- Proposed changes impact on Ireland’s commitments under European Regulations but have not been formally discussed with the EC
- Puts additional pressures on already threatened species.
- 2 year ‘Pilot’ period covers all 26 counties.
 - No methodology for such a study has been provided.
 - No baseline data has been recorded despite two years elapsing during the passage of the Bill.
 - NPWS already under-resourced and no additional resources have been promised.

Summary – Burning – Section 7(1)

- Burning in March destroys occupied nesting territories (even if the birds have yet to lay eggs) – if an established area is destroyed in this way, breeding may not happen that year
- Burning has limited value as a land management tool – other management strategies, including grazing, should be deployed to better improve upland farmland areas
- Agricultural policies should reflect the value of scrub and upland habitats for biodiversity and stock management (for shelter, etc.) and not seek to have such areas made ineligible for agricultural payments.

Summary – Hedgerows Sections 7(2) & 8

- Cutting hedgerows in March - August impinges on the biodiversity value of hedgerows.
- Proposed changes are for the convenience of land managers not to strengthen wildlife protection – Section 8 results in reduced oversight of biodiversity protection.
- There is already provision for dealing with road related health & safety issues in existing legislation.
- Proposed changes permit, but do not compel, landowners to cut hedges during August. The main road safety issue (landowners who fail to comply with their obligations under Section 70 of the Roads Act) is not addressed.
- The Bill is internally inconsistent. The purpose of Section 7(2), to allow regulated cutting in August, is nullified by Section 8, which allows year-round self-definition of road safety issues by landowners with no regulation or Ministerial oversight.
- Creates the risk of a year-round free-for-all on roadside hedge cutting.

Hedgerows

What we have under the current legislation (Wildlife Act)

- Hedge cutting restricted during period 1st March to 31st August (Closed Period).
- Roads Authority can cut during the Closed Period for health & safety purposes. (Road Safety issues during the Closed Period are defined by the Roads Authority).
- Roads Authority is answerable to the Minister for Heritage for works undertaken during the Closed Period for health and safety purposes.

BirdWatch Ireland, Hedgelaying Association of Ireland, Irish Wildlife Trust, Federation of Irish Beekeepers Associations, An Taisce 23 May 2017

- Discrepancy between the provisions of Section 70 (2) Roads Act and Section 40 as regards landowners.
- Currently there is some legal uncertainty as to whether a landowner who is served a Section 70 notice by the Roads Authority during the Closed Period is exempt from the Wildlife Act but in reality NPWS are very unlikely to consider a prosecution where a Section 70 notice exists.

Section 7(2) of the Heritage Bill

- Landowners can cut roadside hedges under regulation by the Minister for Heritage during August for a 2 year period (renewable by Oireachtas resolution).
- No draft Regulations have been published.
- Road safety issues during the month of August would be self-defined by landowners.

Section 8

- Exempts landowners from Section 40 of the Wildlife Act for road safety purposes.
- Road Safety issues (year round) are now self-defined by landowners with no regulation and no answerability to the Minister.
- **Section 7(2) of the Heritage Bill is effectively over-ridden – there is an internal inconsistency within the Bill.**
- This Section amends the principle Act; it is not subject to the 2 year 'pilot' period.

Other points

- DAHRRGA / NPWS do not have authority in matters of H&S in relation to roads.
- There are no Government guidelines for landowners on assessing and dealing with road safety issues caused by structures on their land.

Burning and environmental impacts

- Annual wild fires have severely damaged upland habitats across Ireland so that the National Parks and Wildlife Service have assessed all of them as in 'bad' condition. The decline in hill farming has coincided with the decline in wildlife and habitats.
- Many upland bird species are locally extinct and listed on BirdWatch's 'red list' of birds of high conservation concern – Curlew, Red Grouse, Nightjar, Twite, Ring Ouzel, Golden Eagle
- A UK study (University of Leeds) found that controlled burning resulted in loss of biodiversity, water pollution, soil degradation and increased carbon emissions. Effects from annual wild fires are likely to be much worse.
- Controlled burning does not happen in Ireland. An FoI request from the IWT found that in 2016 controlled burning happened in one location.
- Data gathered by the IWT in 2015 and 2016 shows that approximately 50% of all wild fires take place in areas designated for nature conservation Failure to protect these areas risks sanction from the European Commission.
- Existing enforcement measures are not effective in preventing wild fires – an FoI request from the IWT found that in 2016 no farmer was penalised under cross compliance rules despite extensive and widespread wild fires that year.
- Our hills are valuable for more than just the food produced from them. They also are important landscapes for recreation and amenity, protect water quality, help prevent flooding, store carbon and are home to unique wildlife.
- Rewarding farmers for all of these services – and not only one as is currently the case – holds the key to protecting our environment and the livelihoods which depend upon them.
- Restoring peatlands will help us reach our commitments under climate change agreements, will protect water for downstream use, including alleviating floods and restore habitats for endangered wildlife.
- What is urgently needed is a new Uplands Strategy which brings together complementary interests and which can propose tailored solutions to suit each area.
- One third of Ireland's wild bee population is already threatened with extinction. Our honey bees need hedgerows, heather and gorse. There is no joined up thinking with this bill and the National Pollinator Plan.