



An Taisce  
The National Trust for Ireland



## Heritage Bill

### Key Points

#### Key Asks for communications with TDs and Councillors:

1. **The removal of Sections 7 and 8 of the Heritage Bill** as they represent a significant roll back of the legislative protection for breeding birds contained in Section 40 of the Wildlife Act (1976 as amended 2000) and other wildlife including bees at a time when they need all the help they can get.
2. **The establishment of forums of key stakeholders to sit together and discuss** the concerns/issues about managing our uplands and roadside hedgerows and come up with positive solutions to minimise the conflict with nature and to provide a new vision for the conservation of our uplands and hedgerows.
3. **The commissioning of research by the government on bird nesting dates in Ireland in our uplands and lowland hills and hedgerows** to inform any changes to the dates protecting birds and bees.

#### Background information:

##### 1.0 Proposed Legal Changes

Sections 7 and 8 of the Heritage Bill propose changes to Section 40 of the Wildlife Act (1976 and amended 2000) which provides a general system of protection for breeding birds in Ireland.

- 1.1 Proposed changes (Section 7 (1)) would permit burning, under so-far unspecified regulation, in the upland mountains and lowland hills in March -extending the current season of burning by one month (going from 6 months to 7)
- 1.2 Proposed changes (Section 7 (2)) would provide a legal provision solely to allow roadside hedgecutting in August, under so-far unspecified regulation, -reducing the period of protection for breeding birds by one month (going from 6 months to 5)
- 1.3 Section 8 exempts landowners from the restrictions Section 40 when cutting hedges for road safety purposes.
- 1.4 Proposal is for 2 years with roll over granted by each House of the Oireachtas (**except Section 8 which would be a permanent change**).



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## 2.0 Issues and Concerns

- 2.1 The proposed changes are the most significant roll back of the legal protections for our wildlife ever in the State. At a time when we should be ensuring greater protection for vulnerable wildlife and, as Ireland prides itself as a 'green' island with wild tourism and green agriculture, the government is reducing the legal protections for our birds and nature. Despite clear evidence that many bird and wild bee populations are under threat there is nothing positive for wildlife in the changes in the Heritage Bill, but rather the dilution of the protections afforded wildlife currently with proposed regulation intended to minimise the damage.
- 2.2 Permitting burning in March will negatively impact the birds of our uplands which return to the hills to breed during this month. These birds include the threatened Hen Harrier and Curlew which is on the brink of extinction as well as countless other smaller birds. While habitat loss is the main threat and pressure on these species, the proposed legislation could put these birds over the edge. Additionally, no research has been carried out on the timing of nesting in the uplands in Ireland. **The research should come first and the precautionary principle must apply.**
- 2.3 The Bill is contradictory on hedge cutting. Section 7 looks to extend the season for the cutting of roadside hedges, under regulation, to cover the month of August while Section 8, which at first glance seems reasonable, actually gives **unregulated** scope for landowners to cut roadside hedges for self-defined road safety issues throughout the whole of the Closed Period (March – August). The proposed changes will create a free for all where landowners can cut road side hedgerows even for perceived aesthetic 'tidy up' reasons and use the 'safety' card as a justification. The structure of the Bill means that it will be virtually unenforceable by NPWS staff. The existing legislation already exempts roads authorities and other state bodies from the restrictions of Section 40 of the Wildlife Act when acting in the interests of public safety. There has been no formal assessment as to why any change is needed. August cutting will negatively impact late nesting birds like Yellowhammer which are already endangered and are on the Red List of Birds of Conservation Concern in Ireland. It will also create massive confusion in the countryside as the message will go out that road side hedgecutting is allowed year-round.
- 2.4 Besides the potentially severe impacts on breeding birds, the legislation will affect a whole suite of invertebrates (including wild bees and honey bees, butterflies etc) and mammals who use our hedgerows and uplands for food and shelter.



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2.5 Permitting burning in March will not reduce the likelihood of large scale wild fires like those witnessed in Spring 2017 and which destroyed thousands of hectares of upland habitat, forestry and also the home of one family, as well as causing devastating impacts to wildlife. It will not stop a landowner from lighting a match and setting fire to vegetation. It does not ask if this is the best way to manage our uplands for farming and wildlife? The message being sent out is that controlled burning will be permitted only. However, there are few examples of the practice of controlled burning in Ireland-few people have these skills. And the government has failed to adequately enforce the laws that exist the impacts of burning on wildlife. Allowing burning in March will not end wild fires. This will put significant pressure on the wildlife and habitats of our uplands which are already in bad ecological status.

2.6 These legislative changes will put Ireland in breach of Article 5 of the Birds Directive which requires that member states put in place a general system of protection for birds including during the period of breeding and rearing of chicks. The proposed changes to the Wildlife Act to allow cutting, grubbing or otherwise destroying vegetation in August and the burning of vegetation in March must comply with the relevant articles of the Habitats Directives. The setting of fires within the open and closed season for burning within Natura 2000 sites also requires compliance with Article 6 of the Habitats Directive. Particularly in relation to burning, the current implementation of Article 6 of the Habitats Directive is non-existent. In addition, according to Freedom of Information requests there have been very few requests for consent by landowners to the NPWS to burn in Natura 2000 sites though this activity is an Action Requiring Consent. The state has not enforced this requirement. There is also a serious issue with failure of the State with cross compliance with agricultural and environmental legislation. The State is failing to protect birds of conservation interest, and habitats and sites of international importance and protected by EU law.

2.7 Staff at Directorate General for Environment and Directorate General for Agriculture at the European Commission have been informed of the issues in relation to the Heritage Bill and we continue to appraise them of the progression of this legislation. A letter from DG Agri on 29/5/2017 states that any proposed legislation must meet the requirements of the Birds Directive and the Habitats Directives as well as other requirements for landowners under cross compliance rules.

### 3.0 Additional issues

3.1 No scientific basis for the proposed changes has been put forward by government. However, BirdWatch Ireland has presented the best available science which is from the UK nest records



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scheme. It is on this basis that we put forward the rationale that the existing dates work for birds with the exception of Yellowhammer. There is an urgent need to undertake similar research work in Ireland. In 2017 BirdWatch Ireland undertake survey work using our branch network of citizen scientist members to survey for nesting records for Yellowhammer in late summer. Yellowhammer is a late-nesting species which breeds in hedgerows well into September. There are grounds for an extension of the closed period for hedgecutting into September to protect breeding and red-listed Yellowhammer.

3.2 The legislation puts additional pressures on already threatened species.

3.3 The legislation is being sold as a 2-year 'Pilot' period covers all 26 counties but no methodology for such a pilot has been provided; No baseline data has been gathered. Most worryingly, Section 8 of the Bill is not subject to the 'Pilot' period, it can continue indefinitely.

3.4 Over 30,000 Irish people have signed a petition saying no to the Heritage Bill and wanting greater protection for nature in Ireland. People in Ireland care about nature. Their voices should also be heard.

3.5 The argument has been put forward that this proposed legislation brings us in line with legislation in the UK in relation to hedgecutting and burning. Please note the following:

- The dates for hedgecutting in Northern Ireland and the UK have been brought in line with those of Ireland (March 1-August 31) in order to meet Good Agricultural and Ecological Condition (GAEC) rules for the single farm payment.
- The dates for burning in Scotland, England and Wales are mainly driven by the Grouse shooting industry on large estates. In 2016 the European Commission initiated legal action against the English government for consenting of burning on blanket bog<sup>1</sup> due to impacts on habitats and species. During a review of the Burning dates in the UK in 2007, it was acknowledged that birds were nesting earlier and consideration was given to setting the end date for burning as March 1<sup>2</sup> but there was strong resistance to this from the burning community. Temperature also plays a role in the dates for burning in the UK. In Scotland, the altitude of the Highlands means that Spring comes later and hence later bird breeding dates and later burning.

**ENDS**

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<sup>1</sup> <https://www.rspb.org.uk/our-work/our-positions-and-casework/casework/cases/walshaw-moor/>

<sup>2</sup> [http://www.legislation.gov.uk/ukxi/2007/2003/pdfs/ukxiem\\_20072003\\_en.pdf](http://www.legislation.gov.uk/ukxi/2007/2003/pdfs/ukxiem_20072003_en.pdf)