

Kilkenny County Council



Hedge Cutting Policy Document

January 2021

RELEVANT LEGISLATION

1.1 The current legislation relevant to the subject project derives from the Roads Act 1993, the Wildlife Act 1976 as amended by the Wildlife Act 2000 and the Heritage Act 2018.

1.2 Under **Section 70 of the 1993 Roads Act** the owner or occupier of land shall take all reasonable steps to ensure that a tree, shrub, hedge or other vegetation on the land is not a hazard or potential hazard to persons using a public road and that it does not obstruct or interfere with the safe use of a public road or the maintenance of a public road. Where a tree, shrub, hedge or other vegetation is a hazard or potential hazard to persons using a public road or where it obstructs or interferes with the safe use of a public road or with the maintenance of a public road, a road authority may serve a notice in writing on the owner or occupier of the land on which such tree, shrub, hedge or other vegetation is situated requiring the preservation, felling, cutting, lopping, trimming or removal of such tree, shrub, hedge or other vegetation within the period stated in the notice. Subject to the right of appeal within 14 days to the District Court, it is an offence for an owner or occupier of land to fail to comply with a notice and, in such circumstances, allows the road authority to take the action specified in the notice or other such action as it thinks fit, and to recover any reasonable costs incurred from the owner or occupier as a simple contract debt in any court of competent jurisdiction.

1.3 Between the 1st March and 31st August each year it is an offence under Section 40 (1)(a) of the **Wildlife Act 1976 as amended by the Wildlife (Amendment) Act 2000 and the Heritage Act 2018** to cut, grub, burn or otherwise destroy any vegetation growing on any land not then cultivated or growing in any hedge or ditch. Exceptions exist in respect of certain works relating to agriculture, fisheries development works, forestry work, public safety, road and other construction works and noxious weeds.

1.4 The Heritage Act 2018 added provisions to allow for managed hedge cutting and burning at certain times within the existing closed period on a pilot two year basis. In accordance with Section 7 of the Heritage Act 2018, the Minister may make

regulations to allow burning of vegetation during the month of March and/or to allow the cutting of vegetation growing in any roadside hedge or ditch during the month of August in parts of the State as specified in the regulations. Section 7 of the Heritage Act 2018 is to remain in force until the expiration of two years from the date of the passing of the Act and 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 three years as is specified in the resolution.

2.0 CHALLENGES ASSOCIATED WITH HEDGE CUTTING

Low compliance levels by landowners / occupiers of land with hedge cutting responsibilities impact on several areas of the community and the economy, including:

- Health & Safety of motorists, cyclists and pedestrians arising from:
- Increased risk of traffic collisions with resulting personal and economic costs
- Blocked footpaths,
- Obscured Road Signs,
- Obscured view of the road ahead,
- Poor visibility at junctions and property access points,
- Uncut roadside hedges forcing drivers and other road users to move towards the road centre;
- Injury from unsafe trees / branches falling on vehicles during storms or due to impact from high vehicles;
- Eye / facial injury to cyclists / pedestrians due to overgrown hedges protruding onto roads;
- Increased motoring / transport costs due to damage to vehicles such as scratches to paintwork and damaged mirrors on buses and trucks;
- Impacts on tourists due to costs arising from loss of deposits with car rental companies due to vehicle damage caused by briars and tree limbs.

Compliance rates therefore need to be maximised, preferably voluntarily.

2.1 In the context of the safe use and the maintenance of a public road and the avoidance of hazards or potential hazards to persons using a public road, Section 70 of the 1993 Roads Act places the responsibility for hedge cutting on owners/occupiers. Hedge Cutting is not the responsibility of Local Authorities. However, Local Authorities have powers under Section 70 of the 1993 Roads Act to issue Notices and/or take immediate action if deemed necessary.

Procedures

- Public advertisements placed in newspapers or on websites reminding landowners / occupiers of their responsibilities under the Roads Act
- Inspections of roadside hedges carried out by Local Authority personnel
- Where required, verbal requests by Local Authority personnel to errant landowners to cut hedges
- Where necessary, formal Hedge Cutting Notices served by Local Authorities on non-compliant landowners / occupiers.

“The Council will endeavour to ensure that the Owner or Occupier of land shall take all reasonable steps to ensure that a tree, shrub, hedge or other vegetation on the land is not a hazard or potential hazard to persons using a public road and that it does not obstruct or interfere with the safe use of a public road or the maintenance of a public road in accordance with Subsection 70(2) (a) of the 1993 Roads Act.”

3.0 Target annually

- Kilkenny County Council will place public advertisements each year reminding landowners / occupiers of their responsibilities with regard to hedge cutting;
- Kilkenny County Council will endeavour to increase landowner awareness through consultation with farming organisations such as the Irish Farmers Association, of the legislative duties of landowners/ occupiers and aim towards a culture of support and information, particularly regarding the dangers of Japanese Knotweed.

- Kilkenny County Council will inspect hedges along roads with a view to identifying hedges that need to be cut;
- Kilkenny County Council will place emphasis on Verbal requests, early in the cutting season, to landowners to cut overgrown hedges. Monitoring Reports will be kept on these requests and follow-up action pursued;
- Kilkenny County Council will serve a formal Hedge Cutting Notice in cases of non-compliance with Verbal Request;
- Kilkenny County Council will lead by example by carrying out hedge cutting early in the season on lands that they have responsibility for along public roads;
- Kilkenny County Council will as a matter of last resort (but this does not lessen its significance nor the Council's determination), prosecute landowners / occupiers who do not comply with Hedge Cutting Notices;

4.0 Hedge Cutting During Closed Season

Where cutting of roadside vegetation becomes necessary for safety purposes during the closed period, it will be the policy to provide for the following:

- A suitable visual record of the area, precisely identifying the safety issue (photographs or video);
- The minimum amount of work required to rectify the safety issue should be identified and specified. This should be sufficient to ensure continued safety until the commencement of the open season for hedge-cutting.
- Work should only be carried out by appropriately qualified contractors / operators using machinery that has the least impact on biodiversity. The flail cutter is damaging to wildlife in a hedge during the growing season. Reciprocating bar cutters or Multi-Disc Saw Blades are more benign but involve clearing up.
- On completion, an appropriate visual record should be made of the area.

5.0 CONCLUSION

It is considered that any hedge cutting initiative should strive to meet multiple objectives in a balanced and cost-effective way that ensures that road safety objectives do not unnecessarily compromise biodiversity. Successful solutions to the approach to hedge cutting must therefore meet the following three combined objectives:-

- a. A safe road system,
- b. Protection of roadside nature and biodiversity,
- c. Cost effective management and delivery.

This policy document covers the three objectives and Kilkenny County Council will endeavour to follow the National and Local Policy to ensure that roads are kept safe, biodiversity is maintained and protected and that an open communication process is there between landowners/occupiers in relation to maintaining hedge rows in County Kilkenny.