

Circular Letter NPWS 2/08

30 May 2008

### **Use of Herbicide Spray on Vegetated Road Verges**

Dear Manager

I am directed by the Minister for the Environment, Heritage and Local Government to refer to Section 40 of the Wildlife Act 1976, as amended by Section 46 of the Wildlife (Amendment) Act 2000 (which places restrictions on the destruction of vegetation on uncultivated land during the period from 1 March to 31 August in any year), and to the Habitats Regulations 1997-2005.

The Minister has reason to believe that there have been recent instances in which extensive poorly-targeted spraying of road verges with herbicide has been carried out by local authorities, ostensibly in an effort to control noxious weeds. The Minister has been in contact with the National Roads Authority regarding a circular which they issued in regard to the control of noxious weeds, and understands that that circular, and accompanying guidelines, contained detailed procedures that, if observed, would not have led to such spraying.

It must be emphasised that while Section 40 of the Wildlife Act permits the destroying of noxious weeds (section 40 (1) (d) of the Act as amended), it does not in that context authorise the destruction of adjacent vegetation. Accordingly, the Minister has asked me to say that extensive, untargeted spraying of road verges with herbicide is, *prima facie*, an offence under Section 40 of the Wildlife Acts, and it is his policy to prosecute in such cases.

The National Parks and Wildlife Service of the Department of the Environment Heritage and Local Government are currently consulting with the National Roads Authority (NRA) and the Department of Agriculture, Fisheries and Food regarding the requirements for the protection of ecologically sensitive habitats and in particular for Natura 2000 sites. It is envisaged that the NRA will issue comprehensive guidelines, which will, in addition to noxious weeds, also address the issue of controlling invasive species. In this regard, the requirements of the Noxious Weeds Act, the Wildlife Acts and the European Communities

(Natural Habitats) Regulations must be considered in tandem given the exigencies of the national roads network with regard to the control and management of noxious weeds and the requirements of national and EU law for the protection of wildlife species and habitats. It is intended that these guidelines will be available in advance of the 2009 growing season.

In conclusion, I am to emphasise that, where there is the possibility that spraying (or any other control method) could be detrimental to any Natura 2000 site or candidate site or to a species referred to in Annex IV of the Habitats Directive or to wild birds or their habitats, the procedures set out in this Department's Circular Letter PD 2/07 and NPWS 1/07 and Circular Letter NPWS 2/07 should, respectively, be followed before any spraying is carried out. Where such issues need to be considered, the local National Parks and Wildlife staff should be contacted.

Yours sincerely



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To all County and City Managers, Town Clerks