



# High Hedges Act (Northern Ireland) 2011

2011 CHAPTER 21

An Act to provide for the control of high hedges. [3rd May 2011]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

## *Introductory*

### **Complaints to which this Act applies**

- 1.—(1) This Act applies to a complaint which—
  - (a) is made for the purposes of this Act by an owner or occupier of a domestic property; and
  - (b) alleges that the complainant's reasonable enjoyment of that property is being adversely affected by the height of a high hedge situated on land owned or occupied by another person.
- (2) This Act also applies to a complaint which—
  - (a) is made for the purposes of this Act by an owner of a domestic property that is for the time being unoccupied, and
  - (b) alleges that the reasonable enjoyment of that property by a prospective occupier of that property would be adversely affected by the height of a high hedge situated on land owned or occupied by another person,

as it applies to a complaint falling within subsection (1).

(3) In relation to a complaint falling within subsection (2), references in sections 3 and 5 to the effect of the height of a high hedge on the complainant's

reasonable enjoyment of a domestic property are to be read as references to the effect that it would have on the reasonable enjoyment of that property by a prospective occupier of the property.

(4) This Act does not apply to complaints about the effect of the roots of a high hedge.

(5) In this Act, in relation to a complaint concerning a high hedge—

“complainant” means—

- (a) a person by whom the complaint is made; or
- (b) if every person who made the complaint ceases to be an owner or occupier of the domestic property specified in the complaint, any other person who is for the time being an owner or occupier of that property;

and references to the complainant include references to one or more of the complainants;

“the neighbouring land” means the land on which the high hedge is situated;

“the council” means the district council in whose district that land is situated.

(6) In this Act “domestic property” means—

- (a) a dwelling; or
- (b) a garden or yard which is used and enjoyed wholly or mainly in connection with a dwelling.

(7) In subsection (6) “dwelling” means any building or part of a building occupied, or intended to be occupied, as a separate dwelling.

(8) A reference in this Act to the reasonable enjoyment of domestic property includes a reference to the reasonable enjoyment of a part of the property.

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**Commencement Information**

**II** S. 1 in operation at 31.3.2012 by S.R. 2012/20, art. 2

## **High hedge**

**2.—**(1) In this Act “high hedge” means so much of a barrier to light as—

- (a) is formed wholly or predominantly by a line of two or more evergreens; and

- (b) rises to a height of more than two metres above ground level.

(2) For the purposes of subsection (1) a line of evergreens is not to be regarded as forming a barrier to light if the existence of gaps significantly affects its overall effect as such a barrier at heights of more than two metres above ground level.

(3) In this section “evergreen” means an evergreen tree or shrub or a semi-evergreen tree or shrub.

(4) But nothing in this Act applies to trees which are growing on land of 0.2 hectares or more in area which is forest or woodland.

**Commencement Information**

**I2** S. 2 in operation at 31.3.2012 by S.R. 2012/20, art. 2

*Complaints procedure*

**Procedure for dealing with complaints**

**3.—**(1) This section has effect where a complaint to which this Act applies—

- (a) is made to the council; and
- (b) is accompanied by such fee (if any) as the council may determine.

(2) If the council considers—

- (a) that the complainant has not taken all reasonable steps to resolve the matters complained of without proceeding by way of such a complaint to the council, or
- (b) that the complaint is frivolous or vexatious,

the council may decide that the complaint should not be proceeded with.

(3) If the council does not so decide, it must decide—

- (a) whether the height of the high hedge specified in the complaint is adversely affecting the complainant's reasonable enjoyment of the domestic property so specified; and
- (b) if so, what action (if any) should be taken in relation to that hedge, in pursuance of a remedial notice under section 5, with a view to remedying the adverse effect or preventing its recurrence.

(4) If the council decides under subsection (3) that action should be taken as mentioned in paragraph (b) of that subsection, it must as soon as is reasonably practicable—

- (a) issue a remedial notice under section 5 implementing its decision;
- (b) send a copy of that notice to the following persons, namely—
  - (i) every complainant; and
  - (ii) every owner and every occupier of the neighbouring land; and
- (c) notify each of those persons of the reasons for its decision.

(5) If the council—

- (a) decides that the complaint should not be proceeded with, or
- (b) decides either or both of the issues specified in subsection (3) otherwise than in the complainant's favour,

it must as soon as is reasonably practicable notify the appropriate person or persons of any such decision and of the council's reasons for it.

- (6) For the purposes of subsection (5)—
  - (a) every complainant is an appropriate person in relation to a decision falling within paragraph (a) or (b) of that subsection; and
  - (b) every owner and every occupier of the neighbouring land is an appropriate person in relation to a decision falling within paragraph (b) of that subsection.

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**Commencement Information**

**I3** S. 3 in operation at 31.3.2012 by S.R. 2012/20, art. 2

**Fees**

**4.—(1)** The Department shall by regulations prescribe the maximum fee which may be determined by a council under section 3(1)(b).

- (2) A fee received by a council under section 3(1)(b)—
  - (a) must be refunded by it where subsection (3) applies; and
  - (b) may be refunded by it in such other circumstances and to such extent as it may determine.
- (3) This subsection applies where—
  - (a) a fee is paid to the council under section 3(1)(b) in connection with the making of a complaint to which this Act applies;
  - (b) a remedial notice is issued by, or on behalf of, the council in respect of the complaint; and
  - (c) the remedial notice takes effect.

(4) Regulations may make provision, in relation to a case where subsection (3) applies, for the payment to the council by any person who is an occupier or owner of the neighbouring land of a fee of such amount (if any) as the council may determine.

- (5) Regulations under subsection (4) may in particular—
  - (a) provide for the fee not to exceed such amount as may be prescribed by the regulations;
  - (b) provide that, where two or more persons are liable to pay the fee, those persons are jointly and severally liable;

- (c) provide for the fee to be refunded in such circumstances or to such extent as may be prescribed by, or determined in accordance with, the regulations.

**Commencement Information**

- I4** S. 4(1) in operation at 31.1.2012 for specified purposes and at 31.3.2012 in so far as not already in operation by [S.R. 2012/20, art. 2, Sch.](#)
- I5** S. 4(2)(3) in operation at 31.3.2012 by [S.R. 2012/20, art. 2](#)
- I6** S. 4(4) in operation at 31.1.2012 for specified purposes and at 31.3.2012 in so far as not already in operation by [S.R. 2012/20, art. 2, Sch.](#)
- I7** S. 4(5) in operation at 31.3.2012 by [S.R. 2012/20, art. 2](#)

**Remedial notices**

- 5.—(1)** For the purposes of this Act a remedial notice is a notice—
- (a) issued by the council in respect of a complaint to which this Act applies; and
  - (b) stating the matters mentioned in subsection (2).
- (2)** Those matters are—
- (a) that a complaint has been made to the council under this Act about a high hedge specified in the notice which is situated on land so specified;
  - (b) that the council has decided that the height of that hedge is adversely affecting the complainant's reasonable enjoyment of the domestic property specified in the notice;
  - (c) the initial action that must be taken in relation to that hedge before the end of the compliance period;
  - (d) any preventative action that the council considers must be taken in relation to that hedge at times following the end of that period while the hedge remains on the land; and
  - (e) the consequences under sections 10 and 12 of a failure to comply with the notice.
- (3)** The action specified in a remedial notice is not to require or involve—
- (a) a reduction in the height of the hedge to less than two metres above ground level; or
  - (b) the removal of the hedge.
- (4)** A remedial notice shall take effect on its operative date.
- (5)** “The operative date” of a remedial notice is such date (falling at least 28 days after that on which the notice is issued) as is specified in the notice as the date on which it is to take effect.