



# High Hedges (Scotland) Act 2013

## 2013 asp 6

### *General*

#### **31 Guidance**

- (1) The Scottish Ministers may, after consulting such persons as they consider appropriate, issue guidance about this Act.
- (2) A local authority may, after consulting such persons as the authority considers appropriate, issue guidance on—
  - (a) the duty imposed by section 3(1),
  - (b) any other provision of this Act.
- (3) A local authority must have regard to any guidance issued under subsection (1) when—
  - (a) issuing guidance under subsection (2),
  - (b) carrying out its functions under this Act.

#### **32 Report on operation of Act**

- (1) The Scottish Parliament must make arrangements for one of its committees or sub-committees to report to the Scottish Parliament on the operation of this Act during the review period.
- (2) In this section, the “review period” means the period—
  - (a) beginning on the day on which section 2 comes into force, and
  - (b) ending 5 years after that day or on such earlier date as may be determined by the committee or sub-committee making the report under subsection (1).
- (3) A report under subsection (1)—
  - (a) may be made in such form and manner as the committee or sub-committee considers appropriate, but
  - (b) must be made no later than 18 months after the end of the review period.
- (4) The Scottish Parliament must publish a report made under subsection (1).

**33 Service of documents**

- (1) If, having made reasonable inquiries, a person is unable to ascertain the name or address of a person to whom a notice relating to land is to be given under this Act, the notice may be given by—
- (a) addressing it to the person concerned by name or by a description of the person's interest in the land, and
  - (b) delivering it by—
    - (i) leaving it in the hands of a person who is or appears to be resident on the land or employed on the land, or
    - (ii) fixing it to a building or object on, or to a conspicuous part of, the land (or, where that is not practicable, to a building or object near that land).
- (2) Where a document is delivered as mentioned in subsection (1)(b)(ii) it is to be taken to have been given on the day on which it is fixed on or near the building, object or land, unless the contrary is shown.

**34 Interpretation**

- (1) In this Act, unless the context otherwise requires—
- “applicant” has the meaning given by section 2(1),
  - “compliance period” has the meaning given by section 6(6)(a),
  - “domestic property” means—
    - (a) any part of a building in Scotland which is occupied or intended to be occupied as a separate dwelling, and
    - (b) a yard, garden, garage or outhouse in Scotland which belongs to such a building or is usually enjoyed with it,
  - “high hedge” has the meaning given by section 1,
  - “high hedge notice” has the meaning given by section 8(2),
  - “initial action” has the meaning given by section 6(5)(b),
  - “neighbouring land”, in relation to a high hedge, means the land on which the high hedge is situated,
  - “new owner” has the meaning given by section 27(1),
  - “notice of discharge” has the meaning given by section 29,
  - “notice of liability for expenses” has the meaning given by section 26,
  - “office-holder in the Scottish Administration” is to be construed in accordance with section 126(7) of the Scotland Act 1998 (c.46),
  - “owner” in relation to any property, means a person who has right to the property whether or not that person has completed title; but if, in relation to the property (or, if the property is held pro indiviso, in relation to any pro indiviso share in it) more than one person comes within that description of owner, then “owner” means such person as most recently acquired such right,
  - “preventative action” has the meaning given by section 6(6)(b),
  - “register”, in relation to a notice of liability for expenses and a notice of discharge, means register the information contained in the notice in question in the Land Register of Scotland or, as the case may be, record the notice in question in the General Register of Sasines; and “registered” and other related expressions are to be construed accordingly,

“relevant local authority” means the local authority in whose area the high hedge is situated,

“tree preservation order” has the meaning given by section 160(1) of the Town and Country Planning (Scotland) Act 1997 (c.8),

“vary”, in relation to a high hedge notice, means—

- (a) remove initial action or preventative action from the notice,
- (b) amend initial action, the compliance period or preventative action in the notice,
- (c) add further initial action (with a compliance period) or preventative action to the notice,
- (d) correct a defect, error or misdescription in the notice.

- (2) References in this Act to a high hedge include references to part of a high hedge.
- (3) References in this Act to enjoyment of domestic property include references to enjoyment of part of the property.
- (4) Where domestic property is for the time being unoccupied, references in this Act to the reasonable enjoyment of that property are to be read as if they were references to the reasonable enjoyment of an occupant of the property if the property were occupied.

### **35 Power to modify meaning of “high hedge”**

- (1) The Scottish Ministers may by regulations modify the meaning of “high hedge” for the time being in section 1 by—
  - (a) adding a type of tree or shrub to, or removing a type of tree or shrub from, section 1(1)(a),
  - (b) increasing or reducing the height above ground level specified in section 1(1)(b) and (2),
  - (c) modifying or adding to the effect of a hedge specified in section 1(1)(c).
- (2) Regulations under this section may—
  - (a) make different provision for different cases,
  - (b) include such supplementary, incidental, consequential, transitory or transitional provision or savings as the Scottish Ministers consider appropriate,
  - (c) modify any enactment (including any other provision of this Act).
- (3) Regulations under this section are subject to the affirmative procedure.

### **36 Ancillary provision**

- (1) The Scottish Ministers may by order make such supplementary, incidental, consequential, transitional or transitory provision or savings as they consider appropriate for the purposes of, in consequence of, or for giving full effect to, any provision of this Act.
- (2) An order under this section may modify this or any other enactment.
- (3) An order under this section containing provision which adds to, replaces or omits any part of the text of an Act, is subject to the affirmative procedure.
- (4) Otherwise an order under this section is subject to the negative procedure.

### **37 Crown application**

- (1) No contravention by the Crown of any provision made by or under this Act makes the Crown criminally liable.
- (2) Despite subsection (1), any provision made by or under this Act applies to persons in the public service of the Crown as it applies to other persons.
- (3) The powers conferred by sections 18, 19 and 22 are exercisable in relation to Crown land only with the consent of the appropriate authority.
- (4) For the purposes of subsection (3), land is “Crown land” if an interest in the land—
  - (a) belongs to Her Majesty in right of the Crown or in right of Her private estates,
  - (b) belongs to an office-holder in the Scottish Administration or to a Government department,
  - (c) is held in trust for Her Majesty for the purposes of the Scottish Administration or a Government department.
- (5) In subsection (3) “appropriate authority” means—
  - (a) in the case of land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, the Crown Estate Commissioners,
  - (b) in the case of any other land belonging to Her Majesty in right of the Crown, the office-holder in the Scottish Administration or, as the case may be, Government department having the management of the land,
  - (c) in the case of land belonging to Her Majesty in right of Her private estates, a person appointed by Her Majesty in writing under the Royal Sign Manual or, if no such appointment is made, the Scottish Ministers,
  - (d) in the case of land belonging to an office-holder in the Scottish Administration or to a Government department or held in trust for Her Majesty for the purposes of the Scottish Administration or a Government department, the office-holder or Government department.
- (6) Any reference in this section to Her Majesty’s private estates is to be construed in accordance with section 1 of the Crown Private Estates Act 1862 (c.37).
- (7) If a dispute arises in relation to the meaning of “appropriate authority” in the case of any land—
  - (a) it is for the Scottish Ministers to determine the appropriate authority, and
  - (b) the Scottish Ministers’ decision is final.
- (8) In this section “Government department” means a department of the United Kingdom Government.

### **38 Commencement**

- (1) This section and sections 34, 36 and 39 come into force on the day after Royal Assent.
- (2) The other provisions of this Act come into force on such day as the Scottish Ministers may by order appoint.
- (3) An order under subsection (2) may contain transitory or transitional provision or savings.

**39 Short title**

The short title of this Act is the High Hedges (Scotland) Act 2013.