

# **HIGH HEDGES (SCOTLAND) ACT 2013**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Expenses of enforcement***

##### ***Section 25 – Recovery of expenses from owner of land***

56. Subsection (1) enables the local authority to recover expenses incurred in taking the action required under a high hedge notice from the owner of the neighbouring land. The expenses can also be recovered from subsequent owners. Associated reasonable administrative expenses may also be recovered. Interest is also recoverable.
57. Subsection (3) provides that each owner of the neighbouring land is jointly and severally liable for the expenses and interest. Each owner is equally liable for the full amount with a right of relief against the other owners.

##### ***Section 26 – Notice of liability for expense of local authority action***

58. This section enables a notice of liability for expenses to be registered in the appropriate property register against neighbouring land. Subsection (2) sets out the information the notice must contain.

##### ***Section 27 – Recovery of expenses from new owner of land***

59. This section deals with the liability of an incoming or “new” owner of the neighbouring land. It provides that a new owner, as well as the former owner, is liable for any expenses and interest for which the former owner is liable, under the terms of section 25. However, this is only the case where subsection (2) applies.
60. Subsection (2) provides that a new owner is liable only if a notice of liability for expenses is registered in the property registers (on or before a date 14 days prior to the new owner becoming the owner). If no such notice is registered then the new owner is not liable.

##### ***Section 28 – Continuing liability of former owner***

61. This section provides that an owner of the neighbouring land does not cease to be liable if they are no longer the owner of that land. If the new owner has paid the expenses and interest to the local authority, the new owner may recover that amount paid from the former owner, if the former owner is liable. This remains the case even if another person takes ownership of the land.

##### ***Section 29 – Notice of discharge***

62. This section applies where the liability for expenses and interest to which a registered notice of liability for expenses relates has been discharged. It states that the relevant local authority must register a notice (“a notice of discharge”) in the appropriate property register. Subsection (3) sets out the information the notice must contain.

*These notes relate to the High Hedges (Scotland) Act 2013 (asp 6)  
which received Royal Assent on 2 May 2013*

63. Subsection (5) provides that the notice of liability for expenses is discharged as soon as the notice of discharge has been registered.

***Section 30 – Receipt of notices by the Keeper***

64. This section makes it clear that the Keeper of the Registers of Scotland is not required to investigate or determine whether or not the information contained in either a notice of liability for expenses or a notice of discharge is accurate.