2011 CHAPTER 21

*Enforcement powers, etc.*

**Offences**

**10.**—(1) Where—

(a) a remedial notice requires the taking of any action, and

(b) that action is not taken in accordance with that notice within the compliance period or (as the case may be) by the subsequent time by which it is required to be taken,

every person who, at a relevant time, is an owner or occupier of the neighbouring land is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(2) In subsection (1) "relevant time"—

(a) in relation to action required to be taken before the end of the compliance period, means a time after the end of that period and before the action is taken; and

(b) in relation to any preventative action which is required to be taken after the end of that period, means a time after that at which the action is required to be taken but before it is taken.

(3) In proceedings against a person ("D") for an offence under subsection (1) it is a defence for D to show that D did everything D could be expected to do to secure compliance with the notice.

(4) In any such proceedings, it is also a defence for D to show, in a case in which D—

(a) is not a person to whom a copy of the remedial notice was sent in accordance with a provision of this Act, and

(b) is not assumed under subsection (5) to have had knowledge of the notice at the time of the alleged offence,

that D was not aware of the existence of the notice at that time.

(5) D shall be assumed to have had knowledge of a remedial notice at any time if at that time—

(a) D was an owner of the neighbouring land; and

(b) the notice was at that time registered as a statutory charge.

(6) Where a person is convicted of an offence under subsection (1) and it appears to the court—

(a) that a failure to comply with the remedial notice is continuing, and

(b) that it is within that person's power to secure compliance with the notice,

the court may, in addition to or instead of imposing a punishment, order that person to take the steps specified in the order for securing compliance with the notice.

(7) An order under subsection (6) must require those steps to be taken within such reasonable period as may be fixed by the order.

(8) A person who fails without reasonable excuse to comply with an order under subsection (6) is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(9) If a person continues after conviction of an offence under subsection (8) or this subsection to fail, without reasonable excuse, to take steps which that person has been ordered to take under subsection (6), that person is guilty of a further offence and liable, on summary conviction, to a fine not exceeding one-twentieth of level 3 on the standard scale for each day on which the failure has so continued.

**Commencement Information**

**I1** S. 10 in operation at 31.3.2012 by S.R. 2012/20, **art. 2**

### Power to require occupier to permit action to be taken by owner

**11** If, on a complaint made by the owner of any land, it appears to a court of summary jurisdiction that the occupier of that land prevents the owner from taking any action on that land which the owner is by or under this Act required to take, the court may order the occupier to permit the taking of that action.

**Commencement Information**

**I2** S. 11 in operation at 31.3.2012 by S.R. 2012/20, **art. 2**

**Action by council**

**12.**—(1) This section applies where—

(a) a remedial notice requires the taking of any action; and

(b) that action is not taken in accordance with that notice within the compliance period or (as the case may be) after the end of that period when it is required to be taken by the notice.

(2) Where this section applies—

(a) a person authorised by the council may enter the neighbouring land and take the required action; and

(b) the council may recover any expenses reasonably incurred by that person in doing so from any person who is an owner or occupier of the land.

(3) Expenses recoverable under this section shall be a statutory charge and binding on successive owners of the land and on successive occupiers of it.

(4) Where expenses are recoverable under this section from two or more persons, those persons shall be jointly and severally liable for the expenses.

(5) A person shall not enter land in the exercise of a power conferred by this section unless at least 7 days' notice of the intended entry has been given to every occupier of the land.

(6) A person authorised under this section to enter land—

(a) shall, if so required, produce evidence of that person's authority before entering; and

(b) shall produce such evidence if required to do so at any time while that person remains on the land.

(7) A person who enters land in the exercise of a power conferred by this section may—

(a) use a vehicle to enter the land;

(b) be accompanied by such other persons as may be necessary;

(c) take onto the land equipment and materials needed for the purpose of taking the required action.

(8) If, in the exercise of a power conferred by this section, a person enters land which is unoccupied or from which all of the persons occupying the land are temporarily absent, that person must on departure leave the land as effectively secured against unauthorised entry as that person found it.

(9) A person who intentionally obstructs a person acting in the exercise of powers under this section to enter land and take action on that land is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(10) The exercise by a council of its functions under this section shall not render the council subject to any liability in respect of damage to any hedge, unless such damage is directly attributable to a negligent act of the council or an officer or agent of the council.

**Commencement Information**

**I3** S. 12 in operation at 31.3.2012 by S.R. 2012/20, **art. 2**

### Offences committed by a body corporate

**13** For the purposes of an offence under this Act, section 20(2) of the Interpretation Act (Northern Ireland) 1954 (c. 33) applies—

(a) with the omission of the words "the liability of whose members is limited"; and

(b) where the affairs of a body corporate are managed by its members, in relation to the acts or defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

**Commencement Information**

**I4** S. 13 in operation at 31.3.2012 by S.R. 2012/20, **art. 2**

**Changes to legislation:**
There are currently no known outstanding effects for the High Hedges Act (Northern Ireland) 2011, Cross Heading: Enforcement powers, etc..