

*These notes refer to the High Hedges Act (Northern Ireland)
2011 (c.21) which received Royal Assent on 3 May 2011*

High Hedges Act (Northern Ireland) 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 12 - Action by council

This section gives the council power to enter the neighbouring land and carry out the works specified in the remedial notice, if the owner or occupier of the land fails to comply with its requirements. It will be open to the council to exercise these powers whether or not criminal proceedings are brought under section 11.

Subsections (2) and (3) provide the council with the power to carry out the required work and then recover the costs of this work from the owner or occupier of the land. Any unpaid expenses would (until recovered) be registered as a statutory charge on the land on which the hedge is situated.

Under subsection (4), should the expenses be recoverable from two or more people, those people will be equally liable.

Any persons exercising the powers conferred by this section must give 7 days notice of their intended entry and, if requested at any stage, must produce evidence of their authority. Such persons are also authorised to bring with them any equipment, vehicle or persons as required to gather information and to take samples of the hedge involved in the case. If the land is unoccupied, subsection (8) requires such persons to leave it as effectively secured as they found it. Intentionally obstructing a person exercising these powers is an offence, under subsection (9), punishable on summary conviction by a fine not exceeding level 3 on the standard scale.

This section also provides a council with protection against liability in situations where it has performed remedial action in default and, despite it having taken due care and taken expert advice, a hedge subsequently dies.