



# Anti-social Behaviour Act 2003

## 2003 CHAPTER 38

### PART 8

#### HIGH HEDGES

##### *Appeals*

#### **71 Appeals against remedial notices and other decisions of relevant authorities**

- (1) Where the relevant authority—
  - (a) issue a remedial notice,
  - (b) withdraw such a notice, or
  - (c) waive or relax the requirements of such a notice,each of the persons falling within subsection (2) may appeal to the appeal authority against the issue or withdrawal of the notice or (as the case may be) the waiver or relaxation of its requirements.
- (2) Those persons are—
  - (a) every person who is a complainant in relation to the complaint by reference to which the notice was given; and
  - (b) every person who is an owner or occupier of the neighbouring land.
- (3) Where the relevant authority decide either or both of the issues specified in section 68(3) otherwise than in the complainant's favour, the complainant may appeal to the appeal authority against the decision.
- (4) An appeal under this section must be made before—
  - (a) the end of the period of 28 days beginning with the relevant date; or
  - (b) such later time as the appeal authority may allow.
- (5) In subsection (4) "the relevant date"—
  - (a) in the case of an appeal against the issue of a remedial notice, means the date on which the notice was issued; and

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- (b) in the case of any other appeal under this section, means the date of the notification given by the relevant authority under section 68 or 70 of the decision in question.
- (6) Where an appeal is duly made under subsection (1), the notice or (as the case may be) withdrawal, waiver or relaxation in question shall not have effect pending the final determination or withdrawal of the appeal.
- (7) In this Part “the appeal authority” means—
- (a) in relation to appeals relating to hedges situated in England, the Secretary of State; and
  - (b) in relation to appeals relating to hedges situated in Wales, the National Assembly for Wales.

#### **Modifications etc. (not altering text)**

- C1** S. 71(1) modified (E.) (1.6.2005 in accordance with reg. 1(2)) by [High Hedges \(Appeals\) \(England\) Regulations 2005 \(S.I. 2005/711\)](#), regs. 1(1), **3**
- C2** S. 71(1) modified (E.) (1.6.2005 in accordance with reg. 1(2)) by [High Hedges \(Appeals\) \(England\) Regulations 2005 \(S.I. 2005/711\)](#), regs. 1(1), **4(1)**
- C3** S. 71(1) modified (E.) (1.6.2005 in accordance with reg. 1(2)) by [High Hedges \(Appeals\) \(England\) Regulations 2005 \(S.I. 2005/711\)](#), regs. 1(1), **4(2)**
- C4** S. 71(3) modified (E.) (1.6.2005 in accordance with reg. 1(2)) by [High Hedges \(Appeals\) \(England\) Regulations 2005 \(S.I. 2005/711\)](#), regs. 1(1), **5**
- C5** S. 71(4) modified (E.) (1.6.2005 in accordance with reg. 1(2)) by [High Hedges \(Appeals\) \(England\) Regulations 2005 \(S.I. 2005/711\)](#), regs. 1(1), **7**

#### **Commencement Information**

- I1** S. 71 in force at 31.12.2004 for W. by [S.I. 2004/3238](#), **art. 2**
- I2** S. 71(1)-(6) in force at 1.6.2005 for E. by [S.I. 2005/710](#), **art. 2**
- I3** S. 71(7) in force at 1.10.2004 for E. by [S.I. 2004/2168](#), **art. 5(a)**

## **72 Appeals procedure**

- (1) The appeal authority may by regulations make provision with respect to—
- (a) the procedure which is to be followed in connection with appeals to that authority under section 71; and
  - (b) other matters consequential on or connected with such appeals.
- (2) Regulations under this section may, in particular, make provision—
- (a) specifying the grounds on which appeals may be made;
  - (b) prescribing the manner in which appeals are to be made;
  - (c) requiring persons making appeals to send copies of such documents as may be prescribed to such persons as may be prescribed;
  - (d) requiring local authorities against whose decisions appeals are made to send to the appeal authority such documents as may be prescribed;
  - (e) specifying, where a local authority are required by virtue of paragraph (d) to send the appeal authority a statement indicating the submissions which they propose to put forward on the appeal, the matters to be included in such a statement;

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- (f) prescribing the period within which a requirement imposed by the regulations is to be complied with;
  - (g) enabling such a period to be extended by the appeal authority;
  - (h) for a decision on an appeal to be binding on persons falling within section 71(2) in addition to the person by whom the appeal was made;
  - (i) for incidental or ancillary matters, including the awarding of costs.
- (3) Where an appeal is made to the appeal authority under section 71 the appeal authority may appoint a person to hear and determine the appeal on its behalf.
- (4) The appeal authority may require such a person to exercise on its behalf any functions which—
- (a) are conferred on the appeal authority in connection with such an appeal by section 71 or 73 or by regulations under this section; and
  - (b) are specified in that person’s appointment;
- and references to the appeal authority in section 71 or 73 or in any regulations under this section shall be construed accordingly.
- (5) The appeal authority may pay a person appointed under subsection (3) such remuneration as it may determine.
- (6) Regulations under this section may provide for any provision of Schedule 20 to the Environment Act 1995 (c. 25) (delegation of appellate functions) to apply in relation to a person appointed under subsection (3) with such modifications (if any) as may be prescribed.
- (7) In this section, “prescribed” means prescribed by regulations made by the appeal authority.

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**Commencement Information**

- I4** S. 72 in force at 1.10.2004 for E. by [S.I. 2004/2168](#), [art. 5\(b\)](#)  
**I5** S. 72 in force at 31.12.2004 for W. by [S.I. 2004/3238](#), [art. 2](#)

**73 Determination or withdrawal of appeals**

- (1) On an appeal under section 71 the appeal authority may allow or dismiss the appeal, either in whole or in part.
- (2) Where the appeal authority decides to allow such an appeal to any extent, it may do such of the following as it considers appropriate—
- (a) quash a remedial notice or decision to which the appeal relates;
  - (b) vary the requirements of such a notice; or
  - (c) in a case where no remedial notice has been issued, issue on behalf of the relevant authority a remedial notice that could have been issued by the relevant authority on the complaint in question.
- (3) On an appeal under section 71 relating to a remedial notice, the appeal authority may also correct any defect, error or misdescription in the notice if it is satisfied that the correction will not cause injustice to any person falling within section 71(2).
- (4) Once the appeal authority has made its decision on an appeal under section 71, it must, as soon as is reasonably practicable—

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- (a) give a notification of the decision, and
  - (b) if the decision is to issue a remedial notice or to vary or correct the requirements of such a notice, send copies of the notice as issued, varied or corrected,
- to every person falling within section 71(2) and to the relevant authority.
- (5) Where, in consequence of the appeal authority's decision on an appeal, a remedial notice is upheld or varied or corrected, the operative date of the notice shall be—
- (a) the date of the appeal authority's decision; or
  - (b) such later date as may be specified in its decision.
- (6) Where the person making an appeal under section 71 against a remedial notice withdraws his appeal, the operative date of the notice shall be the date on which the appeal is withdrawn.
- (7) In any case falling within subsection (5) or (6), the compliance period for the notice shall accordingly run from the date which is its operative date by virtue of that subsection (and any period which may have started to run from a date preceding that on which the appeal was made shall accordingly be disregarded).

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**Modifications etc. (not altering text)**

- C6** S. 73(4) modified (E.) (1.6.2005) by [High Hedges \(Appeals\) \(England\) Regulations 2005 \(S.I. 2005/711\)](#), [regs. 1\(1\), 13](#) (with [reg. 1\(2\)](#))

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**Commencement Information**

- I6** S. 73 in force at 31.12.2004 for W. by [S.I. 2004/3238](#), [art. 2](#)
- I7** S. 73 in force at 1.6.2005 for E. by [S.I. 2005/710](#), [art. 2](#)

**Changes to legislation:**

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