



# Anti-social Behaviour Act 2003

## 2003 CHAPTER 38

### PART 8

#### HIGH HEDGES

##### *Complaints procedure*

#### **68 Procedure for dealing with complaints**

- (1) This section has effect where a complaint to which this Part applies—
  - (a) is made to the relevant authority; and
  - (b) is accompanied by such fee (if any) as the authority may determine.
- (2) If the authority consider—
  - (a) that the complainant has not taken all reasonable steps to resolve the matters complained of without proceeding by way of such a complaint to the authority, or
  - (b) that the complaint is frivolous or vexatious,the authority may decide that the complaint should not be proceeded with.
- (3) If the authority do not so decide, they must decide—
  - (a) whether the height of the high hedge specified in the complaint is adversely affecting the complainant's reasonable enjoyment of the domestic property so specified; and
  - (b) if so, what action (if any) should be taken in relation to that hedge, in pursuance of a remedial notice under section 69, with a view to remedying the adverse effect or preventing its recurrence.
- (4) If the authority decide under subsection (3) that action should be taken as mentioned in paragraph (b) of that subsection, they must as soon as is reasonably practicable—
  - (a) issue a remedial notice under section 69 implementing their decision;
  - (b) send a copy of that notice to the following persons, namely—
    - (i) every complainant; and

- (ii) every owner and every occupier of the neighbouring land; and
  - (c) notify each of those persons of the reasons for their decision.
- (5) If the authority—
- (a) decide that the complaint should not be proceeded with, or
  - (b) decide either or both of the issues specified in subsection (3) otherwise than in the complainant’s favour,
- they must as soon as is reasonably practicable notify the appropriate person or persons of any such decision and of their reasons for it.
- (6) For the purposes of subsection (5)—
- (a) every complainant is an appropriate person in relation to a decision falling within paragraph (a) or (b) of that subsection; and
  - (b) every owner and every occupier of the neighbouring land is an appropriate person in relation to a decision falling within paragraph (b) of that subsection.
- (7) A fee determined under subsection (1)(b) must not exceed the amount prescribed in regulations made—
- (a) in relation to complaints relating to hedges situated in England, by the Secretary of State; and
  - (b) in relation to complaints relating to hedges situated in Wales, by the National Assembly for Wales.
- (8) A fee received by a local authority by virtue of subsection (1)(b) may be refunded by them in such circumstances and to such extent as they may determine.

## 69 Remedial notices

- (1) For the purposes of this Part a remedial notice is a notice—
- (a) issued by the relevant authority in respect of a complaint to which this Part applies; and
  - (b) stating the matters mentioned in subsection (2).
- (2) Those matters are—
- (a) that a complaint has been made to the authority under this Part about a high hedge specified in the notice which is situated on land so specified;
  - (b) that the authority have decided that the height of that hedge is adversely affecting the complainant’s reasonable enjoyment of the domestic property specified in the notice;
  - (c) the initial action that must be taken in relation to that hedge before the end of the compliance period;
  - (d) any preventative action that they consider must be taken in relation to that hedge at times following the end of that period while the hedge remains on the land; and
  - (e) the consequences under sections 75 and 77 of a failure to comply with the notice.
- (3) The action specified in a remedial notice is not to require or involve—
- (a) a reduction in the height of the hedge to less than two metres above ground level; or
  - (b) the removal of the hedge.

- (4) A remedial notice shall take effect on its operative date.
- (5) “The operative date” of a remedial notice is such date (falling at least 28 days after that on which the notice is issued) as is specified in the notice as the date on which it is to take effect.
- (6) “The compliance period” in the case of a remedial notice is such reasonable period as is specified in the notice for the purposes of subsection (2)(c) as the period within which the action so specified is to be taken; and that period shall begin with the operative date of the notice.
- (7) Subsections (4) to (6) have effect in relation to a remedial notice subject to—
  - (a) the exercise of any power of the relevant authority under section 70; and
  - (b) the operation of sections 71 to 73 in relation to the notice.
- (8) While a remedial notice has effect, the notice—
  - (a) shall be a local land charge; and
  - (b) shall be binding on every person who is for the time being an owner or occupier of the land specified in the notice as the land where the hedge in question is situated.
- (9) In this Part—
  - “initial action” means remedial action or preventative action, or both;
  - “remedial action” means action to remedy the adverse effect of the height of the hedge on the complainant’s reasonable enjoyment of the domestic property in respect of which the complaint was made; and
  - “preventative action” means action to prevent the recurrence of the adverse effect.

## **70 Withdrawal or relaxation of requirements of remedial notices**

- (1) The relevant authority may—
  - (a) withdraw a remedial notice issued by them; or
  - (b) waive or relax a requirement of a remedial notice so issued.
- (2) The powers conferred by this section are exercisable both before and after a remedial notice has taken effect.
- (3) Where the relevant authority exercise the powers conferred by this section, they must give notice of what they have done to—
  - (a) every complainant; and
  - (b) every owner and every occupier of the neighbouring land.
- (4) The withdrawal of a remedial notice does not affect the power of the relevant authority to issue a further remedial notice in respect of the same hedge.