
EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 8 of the Anti-social Behaviour Act 2003 (“the Act”) gives local authorities the power to deal with complaints about high hedges which are having an adverse effect on a neighbour’s enjoyment of his or her property.

A complaint may be made by the owner or occupier of a domestic property (the “complainant”) on the grounds that his or her reasonable enjoyment of the property is being adversely affected by the height of a hedge situated on land owned or occupied by another person. A complaint must be made to the local authority in whose area the land on which the hedge is situated lies and the complaint must be accompanied by a fee determined by the local authority (subject to a maximum amount prescribed, in relation to hedges situated in Wales, by the National Assembly for Wales (“the National Assembly”)).

Section 71 of the Act sets out the various rights of appeal against a local authority’s decisions under section 68 of the Act (procedure for dealing with complaints) and under section 70 of the Act (withdrawal, waiver or relaxation of remedial notices) and against any remedial notice issued by the local authority. In relation to hedges situated in Wales, an appeal must be made to the National Assembly (“the appeal authority”).

In its capacity as the appeal authority in relation to hedges situated in Wales, section 72 of the Act gives the National Assembly the power to make regulations to—

- (a) provide the procedure for dealing with appeals under Part 8 of the Act (including specifying the grounds on which appeals may be made);
- (b) appoint another person to hear and determine appeals (an “appointed person”); and
- (c) require an appointed person to carry out all or any of the National Assembly’s functions in relation to such appeals.

The National Assembly may allow or dismiss an appeal, completely or in part. If the National Assembly allows an appeal, it may quash or vary the remedial notice to which the appeal relates and may also issue a remedial notice where the local authority decided not to do so when it dealt with the original complaint. Whatever its decision on an appeal, the National Assembly may correct any defect, error or misdescription in the original remedial notice if it considers no injustice will be caused in doing so.