

HIGH HEDGES (SCOTLAND) ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

High hedge notices

Section 10 – High hedge notice: withdrawal and variation

29. This section provides that a local authority can, having regard to all the circumstances of the case, withdraw or vary a high hedge notice. “Vary” is defined in section 34(1). Before making any withdrawal or variation, subsection (2) states that regard must be had in particular to (a) whether, after the withdrawal or variation, the height of the high hedge would adversely affect the enjoyment of the domestic property that an occupant could reasonably expect to have and (b) all of the circumstances of the case, including the effect of the high hedge on the amenity of the area and whether it is of cultural or historical significance.
30. Under subsections (3) and (4), where a local authority withdraws a high hedge notice it must notify each owner and occupier of the domestic property identified in the notice and each owner and occupier of the neighbouring land of its action giving reasons for the decision and notifying the recipient of the right to appeal.
31. Subsection (5) allows the local authority to issue another high hedge notice if it has withdrawn a previous high hedge notice. A later application may be made in respect of the same hedge.
32. Subsections (6) to (9) relate to the issuing of a revised high hedge notice. Where a local authority varies a notice, it must issue a revised notice containing the date on which it is to take effect. This must be at least 28 days after the date on which the revised notice is given, so as to allow time for an appeal under section 12 to be made. The same notification requirements apply as in respect of a withdrawal of a notice. A revised notice can be withdrawn or further varied. Subsection (8) provides that where a high hedge is situated on land designated as a National Park the local authority must, where it withdraws or varies a high hedge notice, give notice of such withdrawal or variation to the relevant National Park authority.