

HIGH HEDGES (SCOTLAND) ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Appeals

Section 12 – Appeals

35. This section provides rights of appeal to Scottish Ministers against decisions made by local authorities.
36. Under subsection (1), applicants may appeal against decisions made by the local authority that there is no adverse effect or that no action should be taken in relation to the hedge.
37. Under subsections (2) and (3), owners and occupiers of the domestic property and owners and occupiers of the neighbouring land may appeal against the issue of a high hedge notice or a withdrawal or variation of a high hedge notice.
38. Subsection (4) provides that any appeal must be made before the end of the period of 28 days, beginning with the date of the notification by the local authority of the decision or the high hedge notice or the withdrawal of the notice or the revised high hedge notice as the case may be.

Section 13 – Effect of appeal

39. This section provides that, where an appeal has been made against a high hedge notice, the notice has no effect until the appeal is either determined, withdrawn or abandoned. The section also provides that where an appeal has been made against the withdrawal or variation of a notice, the withdrawal or variation has no effect until the appeal is either determined, withdrawn or abandoned.

Section 14 – Determination of appeal

40. This section sets out how Scottish Ministers may determine an appeal. It allows Scottish Ministers to confirm the decision or high hedge notice, quash the decision or high hedge notice, vary a notice or issue a high hedge notice, depending on circumstances.

Section 15 – Person appointed to determine appeal

41. As with appeals under the Town and Country Planning (Scotland) Act 1997, this section enables Scottish Ministers to appoint a person to hear and determine an appeal. Under subsection (2), the appointed person will have, in relation to the appeal, the same powers and duties provided for Scottish Ministers under the Act. Under subsection (3), the decision of the appointed person is to be treated as that of the Scottish Ministers.

Section 16 – Notice of determination

42. This section sets out the notification requirements once an appeal has been determined.

Section 17 – Period for taking initial action following appeal

43. This section sets out the relevant time period in which the initial action must be taken (“the compliance period”), following appeals.