High Hedges (Scotland) Act 2013
2013 asp 6

High hedge notices

6 Consideration of application

(1) This section applies where a relevant local authority does not dismiss an application under section 5.

(2) The authority must give every owner and occupier of the neighbouring land—

(a) a copy of the application, and

(b) a notice informing the person to whom it is given of the matters mentioned in subsection (3).

(3) The matters are—

(a) that the authority is required to make a decision under subsection (5),

(b) that the person has a right to make representations to the authority in relation to the application before the expiry of the period of 28 days beginning with the day on which the notice is given,

(c) that the authority must give a copy of any such representations to the applicant,

(d) that the authority has power to authorise entry to the neighbouring land under section 18(1), and

(e) that it is an offence under section 21 intentionally to prevent or obstruct a person authorised to enter land from acting in accordance with this Act.

(4) If any representations are received by the authority during the period mentioned in subsection (3)(b), the authority must—

(a) give the applicant a copy of those representations, and

(b) take into account those representations in making its decision under subsection (5).

(5) After the end of the period of 28 days referred to in subsection (3)(b), the authority must decide—

(a) whether the height of the high hedge adversely affects the enjoyment of the domestic property which an occupant of that property could reasonably expect to have, and

(b) if so, whether any action to remedy the adverse effect or to prevent the recurrence of the adverse effect (or both) should be taken by the owner in
relation to the high hedge (any action that is to be taken being referred to in this Act as the “initial action”).

(6) If the authority decides under subsection (5)(b) that initial action should be taken, the authority must—
   (a) specify a reasonable period of time within which the initial action is to be taken (the “compliance period”), and
   (b) decide whether any action to prevent the recurrence of the adverse effect should be taken by the owner in relation to the high hedge at times following the end of the compliance period while the hedge remains on the land (the “preventative action”).

(7) In making a decision under subsection (5)(b), the authority must have regard to all the circumstances of the case, including in particular—
   (a) the effect of the high hedge on the amenity of the area, and
   (b) whether the high hedge is of cultural or historical significance.

(8) Where the high hedge which is the subject of the application is situated on land which has been designated as a National Park, the authority must—
   (a) before making a decision under subsection (5)(b), consult the National Park authority for the National Park, and
   (b) in making its decision under that subsection, take into account any representations made by that National Park authority.

Annotations:

Commencement Information

I1 S. 6 in force at 1.4.2014 by S.S.I. 2014/54, art. 2
Changes to legislation:
There are currently no known outstanding effects for the High Hedges (Scotland) Act 2013, Section 6.