



High Hedges (Scotland) Act 2013

2013 asp 6

High hedge notices

2 Application for high hedge notice

- (1) Where subsection (2) applies, an owner or occupier of a domestic property (referred to in this Act as the “applicant”) may apply to the relevant local authority for a high hedge notice.
- (2) This subsection applies where the applicant considers that the height of a high hedge situated on land owned or occupied by another person adversely affects the enjoyment of the domestic property which an occupant of that property could reasonably expect to have.

3 Pre-application requirements

- (1) Before making an application under section 2(1), the applicant must take all reasonable steps to resolve the matters in relation to the high hedge which would otherwise be the subject of the application.
- (2) In complying with the duty imposed by subsection (1) the applicant must have regard to any guidance issued by the relevant local authority under section 31(2)(a).

4 Fee for application

- (1) An application must be accompanied by a fee of such amount (if any) as the relevant local authority may fix.
- (2) An authority may fix different fees for different applications or types of application.
- (3) A fee fixed by an authority must not exceed an amount which it considers represents the reasonable costs of an authority in deciding an application under this Act.
- (4) A fee paid to an authority may be refunded by it in such circumstances and to such extent as it may determine.
- (5) An authority must publish information on the circumstances in which and the extent to which it may normally be considered appropriate for a fee paid to the authority to be refunded under subsection (4).

- (6) When publishing information in accordance with subsection (5), an authority must have regard to any guidance on the refund of application fees issued by the Scottish Ministers under section 31(1).

5 Dismissal of application

- (1) A relevant local authority must dismiss an application where the authority considers that—
- (a) the applicant has not complied with the duty imposed by section 3(1), or
 - (b) the application is frivolous or vexatious.
- (2) As soon as is reasonably practicable after dismissing an application, the authority must notify the applicant of—
- (a) its decision, and
 - (b) the reasons for its decision.

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.

7 Notice of decision where no action to be taken

- (1) This section applies where—
 - (a) the relevant local authority decides under section 6(5)(a) that there is no adverse effect, or
 - (b) the relevant local authority decides under section 6(5)(b) that no action should be taken in relation to the high hedge.
- (2) As soon as is reasonably practicable after making its decision the authority must notify the persons mentioned in subsection (3) of—
 - (a) the making of the decision,
 - (b) the reasons for it,
 - (c) the right to appeal under section 12(1).
- (3) Those persons are—
 - (a) the applicant, and
 - (b) every owner and occupier of the neighbouring land.
- (4) Where the high hedge which is the subject of the application is situated on land which has been designated as a National Park and subsection (1)(b) applies, the authority must notify the National Park authority for the National Park of its decision.

8 High hedge notice

- (1) Where a relevant local authority decides under section 6(5)(b) that action should be taken, it must issue a high hedge notice as soon as is reasonably practicable after making that decision.
- (2) A high hedge notice is a notice—

- (a) identifying the high hedge which is the subject of the notice and the neighbouring land,
 - (b) identifying the domestic property in relation to which the authority has decided under section 6(5)(a) that an adverse effect exists,
 - (c) stating the date on which the notice is to take effect,
 - (d) stating the initial action that is to be taken by the owner of the neighbouring land and the compliance period for that action,
 - (e) stating any preventative action that is to be taken by the owner of the neighbouring land,
 - (f) informing the recipient that there is a right to appeal under section 12(2)(a),
 - (g) informing the recipient that the authority is entitled to authorise a person to take action under section 22 where there is a failure to comply with the notice and that the authority may recover the expenses of that action, and
 - (h) informing the recipient that it is an offence under section 24 intentionally to prevent or obstruct a person authorised to take action from acting in accordance with this Act.
- (3) The date referred to in subsection (2)(c) must be at least 28 days after the date on which the notice is given.
- (4) The authority must—
- (a) give the persons mentioned in subsection (5) a copy of the high hedge notice, and
 - (b) notify those persons of the reasons for its decision.
- (5) Those persons are—
- (a) the applicant, and
 - (b) every owner and occupier of the neighbouring land.
- (6) Where the high hedge to which a high hedge notice relates is situated on land which has been designated as a National Park, the authority must give the National Park authority for the National Park a copy of the high hedge notice.

9 Effect of high hedge notice

A high hedge notice is binding on every person who is for the time being an owner of the neighbouring land specified in the notice.

10 High hedge notice: withdrawal and variation

- (1) After a relevant local authority issues a high hedge notice, it may—
 - (a) withdraw the notice, or
 - (b) vary the notice.
- (2) Before withdrawing or varying a notice under subsection (1), the authority must have regard to all the circumstances of the case, including in particular—
 - (a) whether, after the proposed withdrawal or variation, the height of the high hedge would adversely affect the enjoyment of the domestic property which an occupant of that property could reasonably expect to have, and
 - (b) the matters mentioned in section 6(7).

- (3) Where an authority withdraws a high hedge notice under subsection (1)(a), it must give the persons mentioned in subsection (4) notice of—
 - (a) the withdrawal,
 - (b) the reasons for the withdrawal, and
 - (c) the right to appeal under section 12(2)(b).
- (4) Those persons are—
 - (a) every owner and occupier of the domestic property identified in the notice, and
 - (b) every owner and occupier of the neighbouring land.
- (5) The withdrawal of a high hedge notice under subsection (1)(a) does not of itself prevent the issuing of a further high hedge notice in respect of the same hedge.
- (6) Where an authority varies a high hedge notice under subsection (1)(b), it must—
 - (a) issue a revised high hedge notice stating the date on which the revised notice takes effect,
 - (b) give a copy of the high hedge notice to the persons mentioned in subsection (4),
 - (c) notify those persons of the reasons for its decision, and
 - (d) notify those persons of the right to appeal under section 12(2)(b).
- (7) The date referred to in subsection (6)(a) must be at least 28 days after the date on which the revised notice is given.
- (8) Where the high hedge to which a high hedge notice relates is situated on land which has been designated as a National Park, the authority must—
 - (a) where it withdraws the high hedge notice under subsection (1)(a), give the National Park authority for the National Park notice of the withdrawal,
 - (b) where it varies the high hedge notice under subsection (1)(b), give the National Park authority for the National Park a copy of the revised notice.
- (9) Subsections (1) to (8) apply in relation to a revised high hedge notice issued by the authority under subsection (6)(a) as they apply in relation to a high hedge notice.

11 Tree preservation orders

- (1) Subsection (2) applies where a high hedge notice issued by a relevant local authority, relates to a high hedge which—
 - (a) includes a tree which is subject to a tree preservation order, or
 - (b) forms part of a group of trees or woodland which is subject to a tree preservation order.
- (2) The tree preservation order has no effect in relation to the initial action or any preventative action specified in the high hedge notice.