



## 2011 CHAPTER 21

### *Complaints procedure*

#### **Procedure for dealing with complaints**

**3.—**(1) This section has effect where a complaint to which this Act applies—

- (a) is made to the council; and
- (b) is accompanied by such fee (if any) as the council may determine.

(2) If the council considers—

- (a) that the complainant has not taken all reasonable steps to resolve the matters complained of without proceeding by way of such a complaint to the council, or
- (b) that the complaint is frivolous or vexatious,

the council may decide that the complaint should not be proceeded with.

(3) If the council does not so decide, it must decide—

- (a) whether the height of the high hedge specified in the complaint is adversely affecting the complainant's reasonable enjoyment of the domestic property so specified; and
- (b) if so, what action (if any) should be taken in relation to that hedge, in pursuance of a remedial notice under section 5, with a view to remedying the adverse effect or preventing its recurrence.

(4) If the council decides under subsection (3) that action should be taken as mentioned in paragraph (b) of that subsection, it must as soon as is reasonably practicable—

- (a) issue a remedial notice under section 5 implementing its decision;
- (b) send a copy of that notice to the following persons, namely—

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*Changes to legislation: There are currently no known outstanding effects for the High Hedges Act (Northern Ireland) 2011, Cross Heading: Complaints procedure. (See end of Document for details)*

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- (i) every complainant; and
  - (ii) every owner and every occupier of the neighbouring land; and
  - (c) notify each of those persons of the reasons for its decision.
- (5) If the council—
- (a) decides that the complaint should not be proceeded with, or
  - (b) decides either or both of the issues specified in subsection (3) otherwise than in the complainant's favour,

it must as soon as is reasonably practicable notify the appropriate person or persons of any such decision and of the council's reasons for it.

- (6) For the purposes of subsection (5)—
- (a) every complainant is an appropriate person in relation to a decision falling within paragraph (a) or (b) of that subsection; and
  - (b) every owner and every occupier of the neighbouring land is an appropriate person in relation to a decision falling within paragraph (b) of that subsection.

#### Commencement Information

**II** S. 3 in operation at 31.3.2012 by S.R. 2012/20, art. 2

#### Fees

**4.—(1)** The Department shall by regulations prescribe the maximum fee which may be determined by a council under section 3(1)(b).

- (2) A fee received by a council under section 3(1)(b)—
- (a) must be refunded by it where subsection (3) applies; and
  - (b) may be refunded by it in such other circumstances and to such extent as it may determine.
- (3) This subsection applies where—
- (a) a fee is paid to the council under section 3(1)(b) in connection with the making of a complaint to which this Act applies;
  - (b) a remedial notice is issued by, or on behalf of, the council in respect of the complaint; and
  - (c) the remedial notice takes effect.

(4) Regulations may make provision, in relation to a case where subsection (3) applies, for the payment to the council by any person who is an occupier or owner of the neighbouring land of a fee of such amount (if any) as the council may determine.

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- (5) Regulations under subsection (4) may in particular—
- (a) provide for the fee not to exceed such amount as may be prescribed by the regulations;
  - (b) provide that, where two or more persons are liable to pay the fee, those persons are jointly and severally liable;
  - (c) provide for the fee to be refunded in such circumstances or to such extent as may be prescribed by, or determined in accordance with, the regulations.

#### Commencement Information

- I2** S. 4(1) in operation at 31.1.2012 for specified purposes and at 31.3.2012 in so far as not already in operation by [S.R. 2012/20, art. 2, Sch.](#)
- I3** S. 4(2)(3) in operation at 31.3.2012 by [S.R. 2012/20, art. 2](#)
- I4** S. 4(4) in operation at 31.1.2012 for specified purposes and at 31.3.2012 in so far as not already in operation by [S.R. 2012/20, art. 2, Sch.](#)
- I5** S. 4(5) in operation at 31.3.2012 by [S.R. 2012/20, art. 2](#)

#### Remedial notices

- 5.—(1) For the purposes of this Act a remedial notice is a notice—
- (a) issued by the council in respect of a complaint to which this Act applies; and
  - (b) stating the matters mentioned in subsection (2).
- (2) Those matters are—
- (a) that a complaint has been made to the council under this Act about a high hedge specified in the notice which is situated on land so specified;
  - (b) that the council has decided that the height of that hedge is adversely affecting the complainant's reasonable enjoyment of the domestic property specified in the notice;
  - (c) the initial action that must be taken in relation to that hedge before the end of the compliance period;
  - (d) any preventative action that the council considers must be taken in relation to that hedge at times following the end of that period while the hedge remains on the land; and
  - (e) the consequences under sections 10 and 12 of a failure to comply with the notice.
- (3) The action specified in a remedial notice is not to require or involve—
- (a) a reduction in the height of the hedge to less than two metres above ground level; or
  - (b) the removal of the hedge.

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(4) A remedial notice shall take effect on its operative date.

(5) “The operative date” of a remedial notice is such date (falling at least 28 days after that on which the notice is issued) as is specified in the notice as the date on which it is to take effect.

(6) “The compliance period” in the case of a remedial notice is such reasonable period as is specified in the notice for the purposes of subsection (2) (c) as the period within which the action so specified is to be taken; and that period shall begin with the operative date of the notice.

(7) Subsections (4) to (6) have effect in relation to a remedial notice subject to—

- (a) the exercise of any power of the council under section 6; and
- (b) the operation of sections 7 to 8 in relation to the notice.

(8) While a remedial notice has effect, the notice—

- (a) shall be a statutory charge; and
- (b) shall be binding on every person who is for the time being an owner or occupier of the land specified in the notice as the land where the hedge in question is situated.

(9) In this Act—

“initial action” means remedial action or preventative action, or both;

“remedial action” means action to remedy the adverse effect of the height of the hedge on the complainant's reasonable enjoyment of the domestic property in respect of which the complaint was made; and

“preventative action” means action to prevent the recurrence of the adverse effect.

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**Commencement Information**

**I6** S. 5 in operation at 31.3.2012 by S.R. 2012/20, art. 2

**Withdrawal or relaxation of requirements of remedial notice**

**6.—**(1) The council may—

- (a) withdraw a remedial notice issued by it; or
- (b) waive or relax a requirement of a remedial notice so issued.

(2) The powers conferred by this section are exercisable both before and after a remedial notice has taken effect.

(3) Where the council exercises the powers conferred by this section, it must give notice of what it has done to—

- (a) every complainant; and

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(b) every owner and every occupier of the neighbouring land.

(4) The withdrawal of a remedial notice does not affect the power of the council to issue a further remedial notice in respect of the same hedge.

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**Commencement Information**

**I7** [S. 6](#) in operation at 31.3.2012 by [S.R. 2012/20](#), [art. 2](#)

**Changes to legislation:**

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