

# **The High Hedges Act (Northern Ireland) 2011**

## **Operational date 31 March 2012**



### **IMPORTANT INFORMATION FOR HEDGE OWNERS AND COMPLAINANTS**

#### **FREQUENTLY ASKED QUESTIONS**

##### **Your responsibilities if you own a hedge**

You are responsible for maintaining your hedges so they don't, for example, damage your neighbour's property or grow too high.

##### **Definition of a high hedge**

A "high hedge" is a line of two or more evergreens or semi-evergreens more than two metres above ground level, with no significant gaps and therefore forming a barrier to light.

##### **Who can complain?**

The owner or occupier of a domestic property can make a complaint about a high hedge.

##### **Who can you contact to complain about a high hedge?**

You can complain to your District Council.

##### **What can you complain about?**

You can say that the reasonable enjoyment of your property is being adversely affected by a high hedge situated on land owned or occupied by another person.

### **Is the Council obliged to accept your complaint?**

No. You will need to have taken all reasonable steps to have resolved the matter with your neighbour before the Council will act upon your complaint. You should discuss the issue with your neighbour before deciding to approach the Council. Councils should be regarded as a last resort, not a first point of contact. Remember to keep a record of what you have done, like copies of letters or a diary.

### **What does it cost to make a complaint to your local Council?**

You may have to pay a fee, which is set by your council but which will be no more than £360. The legislation allows councils the discretion to waive the fee or determine other fees up to the prescribed maximum.

A successful complaint will result in the Council refunding the complaint fee, to you, and charging a fee to the hedge owner.

### **If the Council accepts the complaint as valid, what happens next?**

The Council will investigate the complaint, and decide whether or not it is justified, i.e. whether the height of the hedge specified in the complaint actually is adversely affecting your reasonable enjoyment of your property. The council will follow guidelines when making its decision to ensure a standardised assessment of whether a hedge is too high.

Whether the decision is positive or negative, the Council is obliged to notify its decision to you and to the hedge-owner, and explain the reasons for it.

### **If it is decided that the hedge is too high, what happens next?**

The Council will advise the hedge owner what is required and if necessary issue a "remedial notice", specifying initial action to be taken by them, any preventative action to be taken and the penalties for failing to comply with the notice. The initial action is the action to reduce all or part of the hedge to the height calculated to be reasonable. The preventative action is the action deemed necessary to maintain the hedge at or below the height calculated to be reasonable. This notice is valid as a statutory charge on the deeds of the property, even if the property changes ownership.

### **Can the notice be withdrawn by the Council?**

Yes. The Council issuing the notice may withdraw it, or waive a requirement of the notice at any time, but must notify the complainant that it is doing so.

### **Is there an appeals procedure?**

Yes. The hedge owner or the complainant may appeal against the decision of the Council. All appeals will be conducted in writing and will be administered by the Northern Ireland Valuation Tribunal.

### **How long has the hedge-owner got to carry out the necessary work?**

If a remedial notice is required, its operative date will be at least 28 days after the date of issue and will include a compliance period which is the time considered sufficient for the work to be carried out (taking into account the relevant season for pruning).

### **What happens if the hedge-owner refuses to co-operate with the Council investigation?**

The Council is given legal power of entry into a property in order to investigate a high hedge complaint, and to carry out works which the hedge-owner has failed to do. The cost of such works is recoverable from the hedge-owner. The council can also prosecute the hedge owner for failing to comply with the remedial notice.

### **What about deciduous trees and hedges?**

The legislation is restricted to evergreen and semi-evergreen hedges because, following public consultation, they were identified as the most widespread problem.

### **Can I cut branches overhanging my boundary?**

Yes, as long as you know where your actual boundary is and they must be cut in a way that will not compromise the health of the trees or shrubs. Common law rights entitle neighbours to cut overhanging branches back to the boundary line (unless other legal restrictions, such as a tree preservation order, apply), provided they offer the return of the cut foliage to the owner. These common law rights do not extend to reducing the height of a hedge without the owner's agreement.

**If I cut back branches overhanging my boundary can I put the cuttings over my neighbour's fence?**

You must offer the cuttings to your neighbour although they are not obliged to take them or remove them or pay for their removal.

**Can I complain if the hedge is less than 2 metres tall?**

No.

**Does "high hedge" include the roots?**

No. As regards trees causing damage to property this can be tackled by taking civil action through the Courts - you may therefore wish to contact your Solicitor.

**If the hedge-owner is a company, not an individual, does the Law still apply in the same way?**

Yes. A complaint can be made about a hedge owned by a "body corporate" as long as it is affecting domestic property.

**Can the hedge-owner be ordered to remove it completely?**

No, nor can they be ordered to reduce it below 2 metres in height.

**What can be done about hedges causing an obstruction on footpaths and roads?**

The Department for Regional Development, Roads Service, has powers under Article 50 of the Roads (Northern Ireland) Order 1993 to serve a notice on the owner/occupier, requiring them to remove or cut back the hedge so as to remove the danger of obstruction.

**A FULL RANGE OF DETAILED GUIDANCE IS AVAILABLE FROM YOUR COUNCIL**