

High Hedges (Scotland) Act 2013

Frequently Asked Questions

The High Hedges (Scotland) Act 2013 came into force on 1 April 2014. The Scottish Government has published guidance on making a complaint and also on the criteria that councils should use to adjudicate on complaints to ensure that the process is transparent and consistent.

What is the meaning of a "high hedge"?

According to the Act it:

- Is formed wholly or mainly by a row of 2 or more trees or shrubs.
- Rises to a height of more than 2 metres above ground level.
- Forms a barrier to light.

A hedge is not to be regarded as forming a barrier to light if it has gaps which significantly reduce its overall effect as a barrier at heights exceeding 2 metres. In applying the Act in relation to a high hedge, no account is to be taken of its roots

Are all trees covered by the Act?

No. Single trees will not be covered, and it will be for the investigating tree officer to decide whether or not trees planted closely together form a 'hedge'.

Are only hedges made up of certain types of trees covered?

No. All types of hedge, whether they are evergreen, semi-evergreen or deciduous trees, will be covered by the Act. However, the hedge must be over 2 metres tall before it can begin to be considered a 'high hedge'. However, not all hedges over 2 metres will automatically be termed a 'high hedge'. This will only happen if a formal complaint is made via a High Hedge Notice Application and that complaint is upheld by the Council.

Do I need to do anything before submitting an application to the Council?

Yes. Before submitting to the Council an application for a High Hedge Notice, you must have tried to reach a solution with the hedge owner by alternative means, for example, through mediation, and be able to supply evidence to support this.

I have tried to reach an agreement with my neighbour, but haven't been able to. What do I do next?

If you've been unable to reach an agreement about the hedge, you will be able to lodge a 'High Hedge Application' with the local authority. A fee will be payable by the person submitting the High Hedge Notice Application. This is in order to ensure that the council can cover the costs of processing the application. The Act allows the Council to dismiss the application where all reasonable steps taken to resolve the dispute have not been taken or the Local Authority considers that the application is frivolous or vexatious.

What if the hedge in question relates to trees which are covered by a Tree Preservation Order (TPO)?

The existence of a TPO will not prevent action being taken under the Act but the Council must take into account the existence of the TPO when considering any formal complaint about the hedge.

What happens after I've paid the fee and the High Hedge Notice Application has been lodged?

The Council will notify the hedge owner, and or occupier, that an application has been made, and then an officer of the Council will visit the property to assess the hedge and will consider all the relevant circumstances of the case including loss of light to neighbours, representations from the owner and the effect of the hedge on the general amenity of the area including any cultural or historic significance. It should however be noted that if there is no loss of light, then the hedge is not covered by the Act, regardless of what other amenity issues that the applicant may have. Once the case has been assessed, the Council will notify both parties of their decision.

The local authority has said that the hedge is not a 'high hedge', but I disagree. What can I do next?

If you disagree with the decision of the local authority, you will have the right of appeal to the Scottish Ministers through the Directorate of Planning and Environmental Appeals (DPEA).

The Council has determined that the hedge is a high hedge. What happens next?

The hedge owner will be given a deadline by which to meet the terms of the High Hedge Notice which will have been served by the Council. If the owner fails to take the required remedial action on the hedge by the deadline, the Council will arrange for the work to be carried out. They have the legal powers to recover the cost from the hedge owner of any such work carried out. High Hedge Notices are binding not only on the hedge owner at the time when the Notice is issued but also on subsequent owners.

Does the 'high hedge' owner have any right of appeal?

Yes. Both sides have the same right of appeal to the Scottish Ministers. Both parties can only appeal once. An appeal will have the effect of suspending the notice until the appeal is determined.

I live in a house which suffers from lack of light due to a high hedge, but the hedge is not on land immediately adjoining my property. Can I still make a complaint?

Yes. The hedge does not have to be on land immediately adjoining the property of the person making the complaint. It just needs to be a significant barrier to light.

Does the Act cover issues such as problems caused by leaf fall blocking drains or root damage?

No. Where plant life is causing damage to a property, there are existing civil methods which exist to address these issues. This act is designed to deal with the problems resulting specifically from hedges creating a significant barrier to light.

Will the Act be reviewed?

Yes. The Act will be reviewed within five years. This includes a review of the definition, so that changes can be made if required.

Further information

For more information about the 'high hedges' legislation please refer to the Scottish Government Guidance at <http://www.gov.scot/Resource/0044/00445025.pdf> or contact us at:

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