



# Anti-social Behaviour Act 2003

## 2003 CHAPTER 38

### PART 8

#### HIGH HEDGES

*Enforcement powers etc.*

#### 75 Offences

(1) Where—

- (a) a remedial notice requires the taking of any action, and
- (b) that action is not taken in accordance with that notice within the compliance period or (as the case may be) by the subsequent time by which it is required to be taken,

every person who, at a relevant time, is an owner or occupier of the neighbouring land is guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(2) In subsection (1) “relevant time”—

- (a) in relation to action required to be taken before the end of the compliance period, means a time after the end of that period and before the action is taken; and
- (b) in relation to any preventative action which is required to be taken after the end of that period, means a time after that at which the action is required to be taken but before it is taken.

(3) In proceedings against a person for an offence under subsection (1) it shall be a defence for him to show that he did everything he could be expected to do to secure compliance with the notice.

(4) In any such proceedings against a person, it shall also be a defence for him to show, in a case in which he—

- (a) is not a person to whom a copy of the remedial notice was sent in accordance with a provision of this Part, and
  - (b) is not assumed under subsection (5) to have had knowledge of the notice at the time of the alleged offence,that he was not aware of the existence of the notice at that time.
- (5) A person shall be assumed to have had knowledge of a remedial notice at any time if at that time—
  - (a) he was an owner of the neighbouring land; and
  - (b) the notice was at that time registered as a local land charge.
- (6) Section 198 of the Law of Property Act 1925 (c. 20) (constructive notice) shall be disregarded for the purposes of this section.
- (7) Where a person is convicted of an offence under subsection (1) and it appears to the court—
  - (a) that a failure to comply with the remedial notice is continuing, and
  - (b) that it is within that person's power to secure compliance with the notice,the court may, in addition to or instead of imposing a punishment, order him to take the steps specified in the order for securing compliance with the notice.
- (8) An order under subsection (7) must require those steps to be taken within such reasonable period as may be fixed by the order.
- (9) Where a person fails without reasonable excuse to comply with an order under subsection (7) he is guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (10) Where a person continues after conviction of an offence under subsection (9) (or of an offence under this subsection) to fail, without reasonable excuse, to take steps which he has been ordered to take under subsection (7), he is guilty of a further offence and shall be liable, on summary conviction, to a fine not exceeding one-twentieth of that level for each day on which the failure has so continued.

## **76 Power to require occupier to permit action to be taken by owner**

Section 289 of the Public Health Act 1936 (c. 49) (power of court to require occupier to permit work to be done by owner) shall apply with any necessary modifications for the purpose of giving an owner of land to which a remedial notice relates the right, as against all other persons interested in the land, to comply with the notice.

## **77 Action by relevant authority**

- (1) This section applies where—
  - (a) a remedial notice requires the taking of any action; and
  - (b) that action is not taken in accordance with that notice within the compliance period or (as the case may be) after the end of that period when it is required to be taken by the notice.
- (2) Where this section applies—
  - (a) a person authorised by the relevant authority may enter the neighbouring land and take the required action; and

- (b) the relevant authority may recover any expenses reasonably incurred by that person in doing so from any person who is an owner or occupier of the land.
- (3) Expenses recoverable under this section shall be a local land charge and binding on successive owners of the land and on successive occupiers of it.
- (4) Where expenses are recoverable under this section from two or more persons, those persons shall be jointly and severally liable for the expenses.
- (5) A person shall not enter land in the exercise of a power conferred by this section unless at least 7 days' notice of the intended entry has been given to every occupier of the land.
- (6) A person authorised under this section to enter land—
  - (a) shall, if so required, produce evidence of his authority before entering; and
  - (b) shall produce such evidence if required to do so at any time while he remains on the land.
- (7) A person who enters land in the exercise of a power conferred by this section may—
  - (a) use a vehicle to enter the land;
  - (b) take with him such other persons as may be necessary;
  - (c) take with him equipment and materials needed for the purpose of taking the required action.
- (8) If, in the exercise of a power conferred by this section, a person enters land which is unoccupied or from which all of the persons occupying the land are temporarily absent, he must on his departure leave it as effectively secured against unauthorised entry as he found it.
- (9) A person who wilfully obstructs a person acting in the exercise of powers under this section to enter land and take action on that land is guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

## **78 Offences committed by bodies corporate**

- (1) Where an offence under this Part committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
  - (a) a director, manager, secretary or other similar officer of the body corporate, or
  - (b) any person who was purporting to act in any such capacity,he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.