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STATUTORY RULES OF NORTHERN IRELAND

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**2012 No. 122**

**RATES**

**HIGH HEDGES**

**The Valuation Tribunal (Amendment)  
Rules (Northern Ireland) 2012**

*Made* - - - - *12th March 2012*

*Coming into operation* *16th April 2012*

The Department of Justice makes the following Rules in exercise of the powers conferred by section 7(7) of the High Hedges Act (Northern Ireland) 2011<sup>(1)</sup> and Article 36A(3) of, and paragraphs 7 to 13 of Schedule 9B to, the Rates (Northern Ireland) Order 1977<sup>(2)</sup>.

**Citation and commencement**

1. These Rules may be cited as the Valuation Tribunal (Amendment) Rules (Northern Ireland) 2012 and shall come into operation on 16th April 2012.

**Amendment to the Valuation Tribunal Rules (Northern Ireland) 2007**

2. The Valuation Tribunal Rules (Northern Ireland) 2007<sup>(3)</sup> are amended in accordance with rules 3 to 9.

3. In rule 2(1) (*interpretation*)—

(a) after the definition of “the 2010 (Low-Carbon Homes Scheme) Regulations” insert—

““the 2011 Act” means the High Hedges Act (Northern Ireland) 2011;”;

(b) in the definition of “appeal”—

(i) in paragraph (d) omit “or”; and

(ii) after paragraph (e) insert—

“or

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(1) 2011 c.21.

(2) S.I. 1977 No. 2157 (N.I. 28); Article 36A was inserted by Article 29(1) of the Rates (Amendment) (Northern Ireland) Order 2006 (S.I. 2006 No. 2954 (N.I. 18)) and Schedule 9B was inserted by Article 29(2) of, and Schedule 1 to, that Order. These powers were transferred from the Lord Chancellor to the Department of Justice by Article 15(1) of, and paragraph 30 of Schedule 17 to, the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010 No. 976).

(3) S.R. 2007 No. 182 as amended by S.R. 2008 No. 153 and S.R. 2010 No. 104.

- (f) section 7(1) or (3) of the 2011 Act;”;
- (c) after the definition of “appeal” insert—
- “credit card” means a card which —
- (i) may be used on its own to pay for goods or services or to withdraw cash; and
- (ii) enables the holder to make purchases and to draw cash up to a prearranged limit;
- “debit card” means a card which may be used as a means of payment under arrangements which do not provide for the extension of credit to the cardholder, but provide for amounts paid by means of the card to be debited to a specified account in a person’s name (or in their name jointly with one or more others);”;
- (d) after the definition of “hearing” insert—
- “hedge owner” means every person falling within section 7(2)(b) of the 2011 Act;”;
- (e) after the definition of “ordinary member” insert—
- “payment instrument” means a cheque or payable order;”;
- (f) in the definition of “respondent”—
- (i) in paragraph (b) omit “and”; and
- (ii) after paragraph (c) insert—
- “and
- (d) in relation to an appeal under section 7(1) or (3) of the 2011 Act, means the council and every person falling within section 7(2) if not the appellant;”.
4. In rule 4 (composition of tribunals)—
- (a) in paragraph (1) for the words “paragraph (3)” substitute “paragraphs (3) and (4)”;
- (b) in paragraph (3) for the words “paragraphs (1) and (2)” substitute “paragraph (2) and either paragraph (1) or, as the case may be, paragraph (4)”;
- (c) after paragraph (3) insert—
- “(4) In relation to an appeal under section 7(1) or (3) of the 2011 Act, rule 4(1)(c) does not apply.”.
5. In rule 5 (*notice of appeal*) after paragraph (g) insert—
- “(h) an appeal under section 7(1) or (3) of the 2011 Act shall be instituted by delivering to the Secretary a notice of appeal in accordance with Form 8 within 28 days beginning with the relevant date.”
6. After rule 5 (*notice of appeal*) insert the following new rules—
- “**High hedges fee**
- 5A.**—(1) An appeal under section 7(1) or (3) of the 2011 Act shall be accompanied by a fee as specified in regulation 17(1) of the Planning (Fees) Regulations (Northern Ireland) 1995(4) as if it were an appeal under Article 127(2)(b) of the Planning (Northern Ireland) Order 1991(5).
- (2) The fee shall be taken—

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(4) S.R. 1995 No. 78

(5) S.R. 1991 No. 1220 (N.I. 11); Article 127 was substituted by section 16 of the Planning Reform (Northern Ireland) Order 2006 (S.I. 2006 No. 1252 (N.I. 7)).

- (a) in cash;
- (b) by credit card payment;
- (c) by debit card payment; or
- (d) by payment instrument.

#### **High hedges grounds of appeal - Issue of a remedial notice**

**5B.** An appeal under section 7(1) of the 2011 Act against the issue of a remedial notice may be made on any of the following grounds—

- (a) that the height of the high hedge specified in the remedial notice is not adversely affecting the complainant's reasonable enjoyment of the domestic property so specified;
- (b) that the initial action specified in the remedial notice is insufficient to remedy the adverse effect;
- (c) that the initial action specified in the remedial notice exceeds what is necessary or appropriate to remedy the adverse effect; and
- (d) that the period specified in the remedial notice for taking the initial action so specified is not what should reasonably be allowed.

#### **High hedges grounds of appeal - Withdrawal etc of remedial notice**

**5C.—(1)** Where—

- (a) a remedial notice is withdrawn without the agreement of the complainant; and
- (b) the council has not issued a further remedial notice in respect of the same high hedge,

an appeal under section 7(1) of the 2011 Act against the withdrawal of the notice may be made on the ground that there has been no material change in circumstances since the remedial notice was issued that justifies withdrawal of the notice.

(2) Where the council has waived or relaxed the requirements of a remedial notice without the agreement of the complainant or the owner or occupier of the neighbouring land (as the case may be), an appeal under section 7(1) of the 2011 Act against the waiver or relaxation may be made on any of the following grounds—

- (a) that there has been no material change in circumstances since the notice was issued that justifies the waiver or relaxation of its requirements;
- (b) that the requirements of the remedial notice, as waived or relaxed, are insufficient to remedy the adverse effect of the high hedge on the complainant's reasonable enjoyment of the domestic property specified in the notice or to prevent its recurrence; and
- (c) that the requirements of the remedial notice, as waived or relaxed, exceed what is necessary or appropriate to remedy the adverse effect of the high hedge or to prevent its recurrence.

#### **High hedges grounds of appeal - Unfavourable decisions**

**5D.** An appeal under section 7(3) of the 2011 Act (where the council decides otherwise than in the complainant's favour), may be made on either of the following grounds—

- (a) that the council could not reasonably conclude that the height of the high hedge specified in the complaint is not adversely affecting the complainant’s reasonable enjoyment of the domestic property so specified; or
- (b) that, having concluded that the height of the high hedge specified in the complaint is adversely affecting the complainant’s reasonable enjoyment of the domestic property so specified, the council could not reasonably conclude that no action should be taken with a view to remedying that adverse effect or preventing its recurrence.”.

7. In rule 11 (*disposal by written representations*) paragraph (1) for the words “An appeal” substitute “Subject to rule 11A, an appeal”.

8. After rule 11 (*disposal by written representations*) insert the following new rule—

**“Special procedure for high hedge appeals**

**11A.**—(1) Subject to paragraph (2) an appeal under section 7(1) or (3) of the 2011 Act shall be disposed of on the basis of written representations.

(2) Where an appeal is to be disposed of under paragraph (1) the remaining provisions of these Rules shall, with any necessary modifications, apply to that appeal as if it were an appeal under rule 11(1).”.

9. In the Schedule after Form 7 insert the form set out in the Schedule to these Rules.

Sealed with the Official Seal of the Department of Justice on 12th March 2012



*David Ford*  
Minister of Justice

SCHEDULE

Rule 9

Form 8

Rule 5(h)

RATES (NORTHERN IRELAND) ORDER 1977  
HIGH HEDGES ACT (NORTHERN IRELAND) 2011

Notice of appeal against remedial notices and other decisions of a district council in relation to a complaint under the High Hedges Act (Northern Ireland) 2011

To: The Secretary  
Northern Ireland Valuation Tribunal

Before completing please  
read the notes below

1. I/We.....of.....  
..... being dissatisfied with the decision  
of..... Council made in  
respect of the complaint about a high hedge under the High Hedges Act (Northern Ireland) 2011 give  
notice of appeal pursuant to section 7(1) or, as the case may be, section 7(3) of that Act and rule 5(h)  
of the Valuation Tribunal Rules (Northern Ireland) 2007.

2. You may only appeal if:

- (1) you are the person by whom the complaint was made to the Council in relation to the complaint by reference to which this notice is given;
- (2) every person who made the complaint ceases to be an owner or occupier of the domestic property specified in the complaint and you are any other person who is for the time being an owner or occupier of that property; or
- (3) you are a person who is an owner or occupier of the land on which the hedge is situated.

Please tick the appropriate box ✓

The person by whom the complaint was made  Owner of land where hedge is situated

Any other person who is for the time being an owner or occupier of the domestic property.  Occupier of land where hedge is situated

**Status:** This is the original version (as it was originally made).

**3. Council Decision**

Council Reference .....  
Date of complaint (where applicable) .....

Date of decision/remedial notice .....

**4. Location and Dimensions of Hedge**

Address and site of hedge.....  
.....  
Postcode.....

Height of hedge (in metres)..... Length of hedge (in metres).....

**5. Basis of Appeal**

Please tick one box only. I am/we are appealing against:

The issue of a remedial notice

A decision otherwise than in the complainant's favour

The withdrawal of a remedial notice

The waiving or relaxing of the requirements of a remedial notice

**6. The grounds of appeal are:**

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*Status: This is the original version (as it was originally made).*

**7. Supporting Documents**

In support of your appeal form, you must send a copy of the Council’s decision, and any remedial notice issued. We may refuse to accept your appeal if we do not receive a copy of that decision before the end of the period of 28 days:

in the case of an appeal against the issue of a remedial notice, beginning with the date on which the notice was issued; and

in the case of any other appeal, beginning with the date of the notification given by the Council under section 3 or 5, as the case may be, of the High Hedges Act (Northern Ireland) 2011 of the decisions in question.

Please tick the boxes to show which documents you are enclosing and list any other documents you are submitting in the space below. Please be mindful of the fact that there is no need to submit any background papers with your appeal. The Council will send copies of the documents held on its file to us and these will be used by the Valuation Tribunal members while determining your appeal. The Council will also send to us, and to you and the other main parties to the appeal, a list of the documents it sends to us.

A copy of the Council’s decision

A copy of the Council’s remedial notice (where applicable)

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**8. I can also be contacted by:**

Telephone.....

Home

.....

Business

Mobile.....

Email.....

Dated..... Signed.....(Appellant)

*Status: This is the original version (as it was originally made).*

## **Notes**

AT 1. Insert your name and postal address in full.

AT 2. Please tick the box that applies to your position with regards to the high hedge.

AT 3. Insert the council reference and date that the original complaint was made.

AT 4. Please insert the address of the land on which the high hedge is situated in respect of which the appeal is being made. Please also insert the height and length of the hedge in metres.

AT 5. Please tick the box which describes the action or decision of the council which applies in relation to your appeal. Decisions otherwise than in a complainant's favour are restricted to decisions on either or both of the issues specified in section 3(3) of the High Hedges Act (Northern Ireland) 2011.

AT 6. Please state briefly why you are dissatisfied with the action or decision of the council. If there is insufficient space on the form please use a separate sheet and attach securely to the form. Please note that the grounds of appeal are restricted to those specified in rules 5B to 5D of the Valuation Tribunal Rules (Northern Ireland) 2007.

AT 7. Please tick the relevant checkbox(es) to confirm that you have submitted a copy of the council's decision with your appeal form and (if applicable) a copy of the remedial notice issued by the council. Please also list any other relevant documents you are submitting with your appeal form.

AT 8. Please insert your telephone number and/or email address on which we can contact you in relation to your appeal.

## **General**

This notice of appeal should be delivered to the Secretary of the Northern Ireland Valuation Tribunal within 28 days of council giving notice of its decision.

An application for the extension of the time limits imposed by section 7(4) of the High Hedges Act (Northern Ireland) 2011 for delivering a notice of appeal pursuant to rule 5(h) of the Valuation Tribunal Rules (Northern Ireland) 2007 or taking any steps in connection with any proceedings may be made to the Secretary to the Northern Ireland Valuation Tribunal in accordance with rule 9(7) of those Rules.

## **EXPLANATORY NOTE**

*(This note is not part of the Rules)*

The Valuation Tribunal Rules (Northern Ireland) 2007 ([S.R. 2007 No.182](#)) (“the principal Rules”) regulate the exercise of rights of appeal to the Northern Ireland Valuation Tribunal (“the Tribunal”) and prescribe the practice and procedure in relation to proceedings before the Tribunal.

These Rules amend the principal Rules in consequence of the introduction of a right of appeal to the Tribunal against the issue, withdrawal, waiver or relaxation of the requirements of a remedial notice or certain decisions of a district council under the High Hedges Act (Northern Ireland) 2011.