



Local Government (Miscellaneous Provisions) Act 1976

1976 CHAPTER 57

PART I **E+W**

GENERAL

Dangerous trees and excavations

23 Power of local authorities to deal with dangerous trees. **E+W**

(1) Where a district council, a London borough council or the Common Council [F1, or a county or county borough council in Wales]—

- (a) receives from a person appearing to the council to be an owner or occupier of any land in the area of the council on which a tree is situated a notice requesting the council to make the tree safe; and
- (b) considers that the tree is in such a condition that there is imminent danger of its causing damage to persons or property,

the council may take such steps on the land, whether by felling the tree or otherwise, as it thinks are appropriate for the purpose of making the tree safe and may recover the expenses reasonably incurred in doing so from the person who gave the notice.

(2) Where such a council—

- (a) receives from a person appearing to the council to be an owner or occupier of land a notice requesting the council to make safe a tree on other land which is in its area and which appears to the council not to be owned or occupied by that person; and
- (b) considers that the tree is in such a condition that it is likely to cause damage to persons or property on the first-mentioned land; and
- (c) knows the name and address of no person appearing to the council to be an owner or occupier of the other land and either—

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- (i) has made reasonable but unsuccessful enquiries for the purpose of ascertaining the name and address of such a person, or
- (ii) considers that in view of the imminence of the danger of such damage from the tree the delay involved in making enquiries or further enquiries about the name and address of such a person is unwarranted,

the council may take such steps on the other land as are mentioned in the preceding subsection and may recover the expenses reasonably incurred in doing so from any person who was an owner or occupier of the other land when the council took those steps.

(3) Where such a council—

- (a) receives from a person appearing to the council to be an owner or occupier of land a notice requesting the council to make safe a tree on other land which is in its area and which appears to the council not to be owned or occupied by that person; and
- (b) considers that the tree is in such condition that it is likely to cause damage to persons or property on the first-mentioned land; and
- (c) knows the name and address of a person appearing to the council to be an owner or occupier of the other land,

the council may serve on such a person as is mentioned in paragraph (c) of this subsection a notice requiring him to take on the other land, within a reasonable period specified in the notice (which must not expire before the expiration of 21 days beginning with the date of service of the notice), such steps for making the tree safe as are so specified.

(4) Where it appears to such a council that a tree on land in the area of the council which is not owned or occupied by the council is in such a condition that it is likely to cause damage to persons or property on other land in that area which is owned or occupied by the council, subsection (2) (except paragraph (b)) of this section, or as the case may require subsection (3) (except paragraph (b)) of this section, shall apply as if the other land were occupied by another person and he had duly given notice to the council in pursuance of that subsection in respect of the tree.

(5) A person on whom a notice is served by a council in pursuance of subsection (3) of this section may, within 21 days beginning with the date of service of the notice, appeal to the county court against the notice on one or more of the following grounds, namely—

- (a) that he is neither an owner nor an occupier of the land on which the tree is situated;
- (b) that the tree is not in such condition as is mentioned in paragraph (b) of that subsection;
- (c) that less expensive steps than those specified in the notice would suffice for the purpose of making the tree safe;
- (d) that it would have been fairer to serve the notice on another person who is an owner or occupier of the land aforesaid;

and any other person who is an owner or occupier of the land to which the notice relates may within the period aforesaid appeal to the county court against the notice on one or both of the grounds mentioned in paragraphs (b) and (c) of this subsection.

(6) Subsections (2) to (6) of section 21 of this Act shall apply to an appeal in pursuance of the preceding subsection as they apply to an appeal in pursuance of subsection (1) of that section as if for the references in subsections (2) and (3) of that section to paragraph (b) of subsection (1) of that section there were substituted references to

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paragraph (d) of the preceding subsection, for the references in subsections (3) and (5) of that section to the relevant place there were substituted references to the land on which the tree is situated and for the reference in subsection (4) of that section to section 20 of this Act and the reference in subsection (6) of that section to section 20(1) (a) of this Act there were substituted a reference to subsection (3) of this section.

- (7) If a person on whom a notice is served by a council in pursuance of subsection (3) of this section fails to comply with the notice, the council may take the steps specified in the notice and recover from that person the expenses reasonably incurred in doing so.

Textual Amendments

F1 Words in s. 23(1) inserted (1.7.1997) by S.I. 1996/3071, art. 2, Sch.

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