
STATUTORY INSTRUMENTS

1997 No. 1160

The Hedgerows Regulations 1997

Interpretation

2.—(1) In these Regulations—

“the 1990 Act” means the Town and Country Planning Act 1990⁽¹⁾;

“the 1995 Act” means the Environment Act 1995;

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purposes of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and “agricultural” shall be construed accordingly;

“agricultural holding” has the same meaning as in the Agricultural Holdings Act 1986⁽²⁾;

“common land” has the same meaning as in the Commons Registration Act 1965⁽³⁾, and references to common land include town or village green within the meaning of that Act;

“farm business tenancy” has the same meaning as in the Agricultural Tenancies Act 1995⁽⁴⁾;

“gap”, in relation to a hedgerow⁽⁵⁾, means any opening (whether or not it is filled);

“hedgerow removal notice” means a notice under regulation 5(1)(a);

“hedgerow retention notice” means a notice referred to in regulation 5(2);

“local planning authority”, except in paragraph 5(b)(ii) of Part II of Schedule 1, means—

- (a) as regards land within a National Park, the National Park Authority for that Park⁽⁶⁾,
- (b) as regards land within the Broads, within the meaning of the Norfolk and Suffolk Broads Act 1988, the Broads Authority⁽⁷⁾,
- (c) as regards the Isles of Scilly, the Council of the Isles of Scilly,
- (d) as regards any other land in England, the district planning authority within the meaning of the 1990 Act,
- (e) as regards any other land in Wales, the county council or county borough council;

“notice” means notice in writing;

“owner”—

(1) 1990 c. 8.

(2) 1986 c. 5; *See* section 1 of that Act.

(3) 1965 c. 64; *See* section 22 of that Act.

(4) 1995 c. 8; *See* sections 1 and 2 of that Act.

(5) Section 97(8) of the Environment Act 1995 defines “hedgerow” as including any stretch of hedgerow.

(6) *See* Part III of the Environment Act 1995, the National Park Authorities (Wales) Order 1995 (S.I. 1995/2803, amended by S.I. 1996/534 and 1996/1224) and the National Park Authorities (England) Order 1996 (S.I. 1996/1243).

(7) 1988 c. 4. *See* section 1(1) and the definition of “the Broads” in section 2(3).

- (a) in relation to a hedgerow growing on any land which comprises part of an agricultural holding or which is subject to a farm business tenancy, means the person who owns the freehold of the land or the tenant;
- (b) in relation to a hedgerow growing on any other land, means the person who owns the freehold of the land,

and “owns the freehold” means is entitled, otherwise than as a mortgagee not in possession, to dispose of the fee simple;

“protected land” means—

- (a) land managed as a nature reserve in pursuance of section 21 (establishment of nature reserves by local authorities) of the National Parks and Access to the Countryside Act 1949⁽⁸⁾,
- (b) land in relation to which a notification under section 28 (areas of special scientific interest) of the Wildlife and Countryside Act 1981⁽⁹⁾ is in force;

“relevant utility operator”, in relation to any hedgerow, means—

- (a) any person who holds a licence granted under section 6 of the Electricity Act 1989⁽¹⁰⁾ (power to grant licences for the generation, transmission or supply of electricity) and who wishes to remove or, as the case may be, removes the hedgerow in question for the purpose of carrying out any activity authorised by that licence;
- (b) any person who holds a licence granted or treated as granted under section 7 of the Gas Act 1986⁽¹¹⁾ (power to grant licences for the conveyance of gas through pipes) and who wishes to remove or, as the case may be, removes the hedgerow in question for the purpose of carrying out any activity authorised by that licence;
- (c) any person who holds a licence granted under section 7 of the Telecommunications Act 1984⁽¹²⁾ (power to licence telecommunications systems) which applies to him the telecommunications code contained in Schedule 2 to that Act and who wishes to remove or, as the case may be, removes the hedgerow in question in pursuance of a right conferred by the telecommunications code and in accordance with the provisions of his licence;
- (d) a sewerage undertaker or a water undertaker which wishes to remove or, as the case may be, removes the hedgerow in question for the purpose of carrying out its functions, within the meaning of the Water Industry Act 1991⁽¹³⁾.

(2) In these Regulations a reference to a numbered regulation or Schedule is to the regulation in, or Schedule to, these Regulations which is so numbered and a reference in a regulation or Schedule to a numbered paragraph, or in a paragraph to a numbered sub-paragraph, is to a paragraph or sub-paragraph of that regulation, Schedule or paragraph.

(3) Part I of Schedule 1 shall have effect for the purposes of interpretation of that Schedule, and Schedules 2 and 3 shall have effect for the purposes of that Part.

⁽⁸⁾ 1949 c. 97. Section 21 was amended by the Local Government Act 1972 (c. 70), Schedule 30, the Local Government (Scotland) Act 1973 (c. 65), Schedule 29 and the Nature Conservancy Council Act 1973 (c. 54), section 1(1)(b) and (7) and Schedule 1, paragraph 1.

⁽⁹⁾ 1981 c. 69. Section 28 was amended by the Wildlife and Countryside (Amendment) Act 1985 (c. 31), section 2, the Norfolk and Suffolk Broads Act 1988 (c. 4), Schedule 3, paragraph 31, and the Wildlife and Countryside (Service of Notices) Act 1985 (c. 59), section 1(2).

⁽¹⁰⁾ 1989 c. 29.

⁽¹¹⁾ 1986 c. 44; section 7 was substituted by section 5 of the Gas Act 1995 (c. 45).

⁽¹²⁾ 1984 c. 12.

⁽¹³⁾ 1991 c. 56. See the definitions of “function” and “relevant undertaker” in section 219(1).