
EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 8 of the Anti-social Behaviour Act 2003 (“the Act”) gives local authorities power to deal with complaints about high hedges which are having an adverse effect on a neighbour’s enjoyment of his or her domestic property.

A complaint may be made by the owner or occupier of a domestic property (“the complainant”) on the grounds that his or her reasonable enjoyment of the property is being adversely affected by the height of the hedge situated on land owned or occupied by another person. A complaint must be made to the local authority in whose area the land on which the hedge is situated lies and the complaint must be accompanied by such fee, if any, as is determined by the local authority.

Section 71 of the Act sets out the rights of appeal against a local authority’s decisions under section 68 (procedure for dealing with complaints) and section 70 (withdrawal, waiver or relaxation of remedial notices) of the Act and against any remedial notices issued by the local authority under section 69. Any appeals in relation to hedges in England must be made to the Secretary of State. The Secretary of State may appoint under section 72 a person to hear and determine the appeal on his behalf. This appointment may also be revoked under regulation 6.

These Regulations deal with the procedure for appeals under section 71 of the Act. Regulation 3 sets out grounds of appeal against the issue of a remedial notice. Regulation 4 sets out the grounds of appeal against the withdrawal, waiver or relaxation of a remedial notice. Regulation 5 sets out the grounds of appeal against decisions by the local authority under section 68(3) of the Act that are unfavourable to the complainant.

Regulations 7 to 11 set out the procedure for making an appeal and for the conduct of the appeal. Regulation 12 allows the Secretary of State or, where a person has been appointed to hear and determine the appeal, the appointed person, to ignore any further information which has been supplied to him under regulation 11 and is out of time where a time limit has been specified. Regulation 13 requires reasons to be given for decisions on appeals. Regulation 14 provides for a decision on an appeal under section 71 of the Act to be binding on the appellant and every other person who is a complainant or an owner or occupier of the land where the high hedge is situated.

A regulatory impact assessment of the effect that this instrument will have on the costs of business is available on the internet at www.odpm.gov.uk. Copies can be obtained by post from the Office of the Deputy Prime Minister, 3/C5, Eland House, Bressenden Place, London SW1E 5DU, or by phoning 0207 944 2847.