



# High Hedges (Scotland) Act 2013

## 2013 asp 6

### *Powers of entry*

#### **18 Power to enter neighbouring land**

- (1) A person authorised by a relevant local authority may enter the neighbouring land for the purpose of—
  - (a) obtaining information required by that authority to carry out the authority's functions under section 6 or 10,
  - (b) determining whether initial action or preventative action set out in a high hedge notice has been carried out.
- (2) A person may enter the neighbouring land for the purpose of obtaining information required to determine an appeal under section 14 if—
  - (a) the person is authorised to do so by the Scottish Ministers,
  - (b) the person is appointed under section 15(1), or
  - (c) the person is authorised to do so by a person appointed under section 15(1).
- (3) A person authorised to enter land by virtue of this section may enter a building which is for the time being occupied as a residence only if there is no other reasonably practicable means of access to the high hedge.

#### **19 Supplementary powers**

- (1) A person authorised to enter land by virtue of section 18 (referred to in this section as an "authorised person") may—
  - (a) take onto the land such other persons and such materials and equipment (including vehicles) as may be reasonably required for the purposes of assisting the authorised person to fulfil the purpose for which entry is taken,
  - (b) take samples of any trees or shrubs that appear to the authorised person to form part of the high hedge,
  - (c) do anything else which is reasonably required in order to fulfil the purpose for which entry is taken.
- (2) A person mentioned in subsection (3) must give every owner and occupier of the land at least 14 days' notice of the intended entry by the authorised person.

- (3) Those persons are—
- (a) in the case of a person authorised by virtue of section 18(1), the relevant local authority,
  - (b) in the case of a person authorised by virtue of section 18(2)(a), the Scottish Ministers,
  - (c) in any other case, the person appointed under section 15(1).
- (4) An authorised person must on request produce written evidence of the authorisation.
- (5) On leaving neighbouring land which is unoccupied or from which all of the occupiers are temporarily absent, an authorised person must ensure that the land is as effectively secured against unauthorised entry as it was when the person entered it.

## **20 Warrant authorising entry**

- (1) The sheriff or a justice of the peace may by warrant authorise any person entitled to enter the neighbouring land under section 18 to enter the land and if necessary to use reasonable force in doing so.
- (2) A warrant may be granted only if the sheriff or justice is satisfied, by evidence on oath—
- (a) that there are reasonable grounds for entering the land concerned,
  - (b) that—
    - (i) entry to the land has been refused,
    - (ii) such a refusal is reasonably expected, or
    - (iii) the land is unoccupied, and
  - (c) that the relevant local authority has or, as the case may be, the Scottish Ministers have complied with the notice requirements imposed by section 19(2).
- (3) A warrant must not authorise—
- (a) entry to a building which is for the time being occupied as a residence unless there is no other reasonably practicable means of access to the high hedge,
  - (b) the use of force against an individual.
- (4) A warrant expires—
- (a) when it is no longer required for the purpose for which it is granted, or
  - (b) on the expiry of such period as may be specified in it.

## **21 Offence**

- (1) It is an offence intentionally to prevent or obstruct a person authorised to enter land under section 18 from doing anything which that person is authorised to do by virtue of this Act.
- (2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.