



## 2011 CHAPTER 21

### *Supplementary*

#### **Service of documents in electronic form**

**14.—**(1) A requirement of this Act—

- (a) to send a copy of a remedial notice to a person, or
- (b) to notify a person under section 3(4) of the reasons for the issue of a remedial notice,

is not capable of being satisfied by transmitting the copy or notification electronically or by making it available on a website.

(2) The delivery of any other document to a person (the “recipient”) may be effected for the purposes of this Act—

- (a) by transmitting it electronically, or
- (b) by making it available on a website,

but only if it is transmitted or made available in accordance with subsection (3) or (5).

(3) A document is transmitted electronically in accordance with this subsection if—

- (a) the recipient has agreed that documents may be delivered to the recipient by being transmitted to an electronic address and in an electronic form specified by the recipient for that purpose; and
- (b) the document is a document to which that agreement applies and is transmitted to that address in that form.

(4) A document which is transmitted in accordance with subsection (3) by means of an electronic communications network shall, unless the contrary

is proved, be treated as having been delivered at 9 a.m. on the working day immediately following the day on which it is transmitted.

(5) A document is made available on a website in accordance with this subsection if—

- (a) the recipient has agreed that documents may be delivered to the recipient by being made available on a website;
- (b) the document is a document to which that agreement applies and is made available on a website;
- (c) the recipient is notified, in a manner agreed by the recipient, of—
  - (i) the presence of the document on the website;
  - (ii) the address of the website; and
  - (iii) the place on the website where the document may be accessed.

(6) A document made available on a website in accordance with subsection (5) shall, unless the contrary is proved, be treated as having been delivered at 9 a.m. on the working day immediately following the day on which the recipient is notified in accordance with subsection (5)(c).

(7) The Department may by regulations amend this section by modifying the circumstances in which, and the conditions subject to which, the delivery of a document for the purposes of this Act may be effected by—

- (a) transmitting the document electronically; or
- (b) making the document available on a website.

(8) The Department may by regulations also amend this section by modifying the day on which and the time at which documents which are transmitted electronically or made available on a website in accordance with that section are to be treated as having been delivered.

(9) Regulations under subsection (7) or (8) may make such consequential amendments of this Act as the Department considers appropriate.

(10) In this section—

“electronic address” includes any number or address used for the purposes of receiving electronic communications;

“electronic communication” means an electronic communication within the meaning of the Electronic Communications Act (Northern Ireland) 2001 (c. 9) the processing of which on receipt is intended to produce writing;

“electronic communications network” means an electronic communications network within the meaning of the Communications Act 2003 (c. 21);

“electronically” means in the form of an electronic communication;

“working day” means a day which is not a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday in Northern Ireland under the Banking and Financial Dealings Act 1971 (c. 80).

### **Statutory charges**

**15.** In Schedule 11 to the Land Registration Act (Northern Ireland) 1970 (c. 18) (statutory charges) at the end add—

“**49.** The following matters under the High Hedges Act (Northern Ireland) 2011—

- (a) a remedial notice which has effect under that Act;
- (b) fees payable under section 4(4) of that Act and expenses recoverable under section 12 of that Act.”.

### **Interpretation**

**16.** In this Act—

- “complaint” shall be construed in accordance with section 1;
- “complainant” has the meaning given by section 1(5);
- “the compliance period”, in relation to a remedial notice, has the meaning given by section 5(6);
- “the council” has the meaning given by section 1(5);
- “the Department” means the Department of the Environment;
- “domestic property” has the meaning given by section 1(6);
- “high hedge” has the meaning given by section 2;
- “the neighbouring land” has the meaning given by section 1(5);
- “occupier”, in relation to any land, means a person entitled to possession of the land by virtue of an estate in it;
- “the operative date”, in relation to a remedial notice, shall be construed in accordance with sections 5(5) and 8(5) and (6);
- “owner”, in relation to any land, means a person (other than a mortgagee not in possession) who, whether in that person’s own right or as trustee for any other person—
  - (a) is entitled to receive the rack rent of the land, or
  - (b) where the land is not let at a rack rent, would be so entitled if it were so let;
- “preventative action” has the meaning given by section 5(9);
- “remedial notice” shall be construed in accordance with section 5(1);
- “remedial action” has the meaning given by section 5(9);

“the Valuation Tribunal” means the Northern Ireland Valuation Tribunal, established by Article 36A of the [Rates \(Northern Ireland\) Order 1977 \(NI 28\)](#).

### **Power to amend sections 1 and 2**

**17.—**(1) The Department may by regulations do one or both of the following—

- (a) amend section 1 for the purpose of extending the scope of complaints relating to high hedges to which this Act applies;
- (b) amend section 2 (definition of “high hedge”).

(2) Regulations under this section may make such consequential amendments of this Act as the Department considers appropriate.

### **Application to the Crown**

**18.—**(1) This Act and any provision made under it binds the Crown to the full extent authorised or permitted by the constitutional laws of Northern Ireland.

(2) This section does not impose criminal liability on the Crown.

(3) Subsection (2) does not affect the criminal liability of persons in the service of the Crown.

### **Regulations and orders**

**19.—**(1) Except as provided by subsection (2), regulations under this Act shall be subject to negative resolution.

(2) No regulations shall be made under section 4(4), 14(7) or (8) or 17 unless a draft of the regulations has been laid before, and approved by resolution of, the Assembly.

(3) Regulations and orders under this Act may contain such incidental, supplementary, transitional and savings provisions as appear to the Department to be necessary or expedient.

### **Commencement**

**20.** The preceding sections of this Act come into operation on such day or days as the Department may by order appoint.

### **Short title**

**21.** This Act may be cited as the High Hedges Act (Northern Ireland) 2011.