STATUTORY RULES OF NORTHERN IRELAND

2012 No. 122

RATES

HIGH HEDGES

The Valuation Tribunal (Amendment) Rules (Northern Ireland) 2012

Made - - - -	*12th March 2012*
Coming into operation	*16th April 2012*

The Department of Justice makes the following Rules in exercise of the powers conferred by section 7(7) of the High Hedges Act (Northern Ireland) 2011(**1**) and Article 36A(3) of, and paragraphs 7 to 13 of Schedule 9B to, the Rates (Northern Ireland) Order 1977(**2**).

Citation and commencement

1. These Rules may be cited as the Valuation Tribunal (Amendment) Rules (Northern Ireland) 2012 and shall come into operation on 16th April 2012.

Amendment to the Valuation Tribunal Rules (Northern Ireland) 2007

2. The Valuation Tribunal Rules (Northern Ireland) 2007(**3**) are amended in accordance with rules 3 to 9.

3. In rule 2(1) (*interpretation*)—

(a) after the definition of "the 2010 (Low-Carbon Homes Scheme) Regulations" insert—

(**1**) 2011 c.21
.

(**2**) S.I. 1977 No. 2157 (N.I. 28)
; Article 36A was inserted by Article 29(1) of the Rates (Amendment) (Northern Ireland) Order 2006 (
S.I. 2006 No. 2954 (N.I. 18)
) and Schedule 9B was inserted by Article 29(2) of, and Schedule 1 to, that Order. These powers were transferred from the Lord Chancellor to the Department of Justice by Article 15(1) of, and paragraph 30 of Schedule 17 to, the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (
S.I. 2010 No. 976
).

(**3**) S.R. 2007 No. 182
as amended by
S.R. 2008 No. 153
and
S.R. 2010 No. 104
.

""the 2011 Act" means the High Hedges Act (Northern Ireland) 2011; ";

(b) in the definition of "appeal"—

(i) in paragraph (d) omit "or"; and

(ii) after paragraph (e) insert—

"or

(f) section 7(1) or (3) of the 2011 Act;";

(c) after the definition of "appeal" insert—

""credit card" means a card which —

(i) may be used on its own to pay for goods or services or to withdraw cash; and

(ii) enables the holder to make purchases and to draw cash up to a prearranged limit;

"debit card" means a card which may be used as a means of payment under arrangements which do not provide for the extension of credit to the cardholder, but provide for amounts paid by means of the card to be debited to a specified account in a person's name (or in their name jointly with one or more others);";

(d) after the definition of "hearing" insert—

""hedge owner" means every person falling within section 7(2)(b) of the 2011 Act;";

(e) after the definition of "ordinary member" insert—

""payment instrument" means a cheque or payable order;"; and

(f) in the definition of "respondent"—

(i) in paragraph (b) omit "and"; and

(ii) after paragraph (c) insert—

"and

(d) in relation to an appeal under section 7(1) or (3) of the 2011 Act, means the council and every person falling within section 7(2) if not the appellant;".

4. In rule 4 (composition of tribunals)—

(a) in paragraph (1) for the words "paragraph (3)" substitute "paragraphs (3) and (4)";

(b) in paragraph (3) for the words "paragraphs (1) and (2)" substitute "paragraph (2) and either paragraph (1) or, as the case may be, paragraph (4)"; and

(c) after paragraph (3) insert—

"(4) In relation to an appeal under section 7(1) or (3) of the 2011 Act, rule 4(1)(c) does not apply.".

5. In rule 5 (*notice of appeal*) after paragraph (g) insert—

"(h) an appeal under section 7(1) or (3) of the 2011 Act shall be instituted by delivering to the Secretary a notice of appeal in accordance with Form 8 within 28 days beginning with the relevant date."

6. After rule 5 (*notice of appeal*) insert the following new rules—

"**High hedges fee**

5A.—(1) An appeal under section 7(1) or (3) of the 2011 Act shall be accompanied by a fee as specified in regulation 17(1) of the Planning (Fees) Regulations (Northern Ireland) 1995(**4**) as if it were an appeal under Article 127(2)(b) of the Planning (Northern Ireland) Order 1991(**5**).

(2) The fee shall be taken—

(a) in cash;

(b) by credit card payment;

(c) by debit card payment; or

(d) by payment instrument.

High hedges grounds of appeal - Issue of a remedial notice

5B. An appeal under section 7(1) of the 2011 Act against the issue of a remedial notice may be made on any of the following grounds—

(a) that the height of the high hedge specified in the remedial notice is not adversely affecting the complainant's reasonable enjoyment of the domestic property so specified;

(b) that the initial action specified in the remedial notice is insufficient to remedy the adverse effect;

(c) that the initial action specified in the remedial notice exceeds what is necessary or appropriate to remedy the adverse effect; and

(d) that the period specified in the remedial notice for taking the initial action so specified is not what should reasonably be allowed.

High hedges grounds of appeal - Withdrawal etc of remedial notice

5C.—(1) Where—

(a) a remedial notice is withdrawn without the agreement of the complainant; and

(b) the council has not issued a further remedial notice in respect of the same high hedge,

an appeal under section 7(1) of the 2011 Act against the withdrawal of the notice may be made on the ground that there has been no material change in circumstances since the remedial notice was issued that justifies withdrawal of the notice.

(2) Where the council has waived or relaxed the requirements of a remedial notice without the agreement of the complainant or the owner or occupier of the neighbouring land (as the case may be), an appeal under section 7(1) of the 2011 Act against the waiver or relaxation may be made on any of the following grounds—

(a) that there has been no material change in circumstances since the notice was issued that justifies the waiver or relaxation of its requirements;

(b) that the requirements of the remedial notice, as waived or relaxed, are insufficient to remedy the adverse effect of the high hedge on the complainant's reasonable

(**4**) S.R. 1995 No. 78
(**5**) S.R.1991 No. 1220 (N.I. 11)
; Article 127 was substituted by section 16 of the Planning Reform (Northern Ireland) Order 2006 (S.I. 2006 No. 1252 (N.I. 7)
).

enjoyment of the domestic property specified in the notice or to prevent its recurrence; and

(c) that the requirements of the remedial notice, as waived or relaxed, exceed what is necessary or appropriate to remedy the adverse effect of the high hedge or to prevent its recurrence.

High hedges grounds of appeal - Unfavourable decisions

5D. An appeal under section 7(3) of the 2011 Act (where the council decides otherwise than in the complainant's favour), may be made on either of the following grounds—

(a) that the council could not reasonably conclude that the height of the high hedge specified in the complaint is not adversely affecting the complainant's reasonable enjoyment of the domestic property so specified; or

(b) that, having concluded that the height of the high hedge specified in the complaint is adversely affecting the complainant's reasonable enjoyment of the domestic property so specified, the council could not reasonably conclude that no action should be taken with a view to remedying that adverse effect or preventing its recurrence.".

7. In rule 11 (*disposal by written representations*) paragraph (1) for the words "An appeal" substitute "Subject to rule 11A, an appeal".

8. After rule 11 (*disposal by written representations*) insert the following new rule—

"**Special procedure for high hedge appeals**

11A.—(1) Subject to paragraph (2) an appeal under section 7(1) or (3) of the 2011 Act shall be disposed of on the basis of written representations.

(2) Where an appeal is to be disposed of under paragraph (1) the remaining provisions of these Rules shall, with any necessary modifications, apply to that appeal as if it were an appeal under rule 11(1).".

9. In the Schedule after Form 7 insert the form set out in the Schedule to these Rules.

Sealed with the Official Seal of the Department of Justice on 12th March 2012

L.S.

David Ford
Minister of Justice

SCHEDULE Rule 9

Form 8

Rule 5(h)

RATES (NORTHERN IRELAND) ORDER 1977
HIGH HEDGES ACT (NORTHERN IRELAND) 2011

Notice of appeal against remedial notices and other decisions of a district council in relation to a complaint under the High Hedges Act (Northern Ireland) 2011

To: The Secretary
Northern Ireland Valuation Tribunal

Before completing please read the notes below

1. I/We.....of……
…….. being dissatisfied with the decision of……Council made in respect of the complaint about a high hedge under the High Hedges Act (Northern Ireland) 2011 give notice of appeal pursuant to section 7(1) or, as the case may be, section 7(3) of that Act and rule 5(h) of the Valuation Tribunal Rules (Northern Ireland) 2007.

2. You may only appeal if:
(1) you are the person by whom the complaint was made to the Council in relation to the complaint by reference to which this notice is given;
(2) every person who made the complaint ceases to be an owner or occupier of the domestic property specified in the complaint and you are any other person who is for the time being an owner or occupier of that property; or
(3) you are a person who is an owner or occupier of the land on which the hedge is situated.

Please tick the appropriate box ✓

The person by whom the complaint was made	☐	Owner of land where hedge is situated	☐
Any other person who is for the time being an owner or occupier of the domestic property.	☐	Occupier of land where hedge is situated	☐