

HIGH HEDGES (SCOTLAND) BILL

POLICY MEMORANDUM

INTRODUCTION

1. This document relates to the High Hedges (Scotland) Bill introduced in the Scottish Parliament on 2 October 2012. It has been prepared by Mark McDonald MSP, with the assistance of the Scottish Government, to satisfy Rule 9.3.3A of the Parliament's Standing Orders. The contents are entirely the responsibility of the member and have not been endorsed by the Parliament. Explanatory Notes and other accompanying documents are published separately as SP Bill 16–EN.

POLICY OBJECTIVES OF THE BILL

2. The objective of this Bill is to provide a solution to the problem of high hedges which interfere with the reasonable enjoyment of domestic property.

3. The Bill defines a high hedge as one which is wholly or mainly formed by a row of two or more evergreen or semi-evergreen trees or shrubs which is over two metres in height and forms a barrier to light.

4. The Bill aims to provide an effective means of resolving disputes over the effects of a high hedge where the issue has not been able to be resolved amicably between neighbours. It does so by giving home owners and occupiers a right to apply to a local authority where it is considered a high hedge is affecting the enjoyment of their property, and empowers local authorities to make and enforce decisions in relation to high hedges.

5. The Bill gives local authorities new powers to decide whether a high hedge adversely affects the reasonable enjoyment of domestic property. It enables a local authority to reject an application if it concludes the applicant has not taken all reasonable steps to resolve the matter before applying, or where the application is frivolous or vexatious.

6. The Bill enables a local authority to issue a high hedge notice where, having taken all the circumstances into account, it finds that a hedge is having an adverse effect. It then has to decide whether any action should be taken. If the local authority considers that action should be taken, it may issue a high hedge notice. A high hedge notice may require a hedge owner to take action to remedy the problem and prevent it recurring.

7. The Bill makes provision for both the applicant and the hedge owner to appeal against a decision to issue a high hedge notice. It provides that an appeal may result in a high hedge notice

being confirmed, varied or quashed. An applicant can also appeal against a decision not to issue a high hedge notice.

8. The Bill also provides local authorities with the power to undertake the work specified in a high hedge notice, if the notice is not complied with by the hedge owner within the time specified. The Bill enables local authorities to recover the costs of any such enforcement from the hedge-owner and to charge a fee for applications for a high hedge notice.

9. The effect of the Bill's provisions is to put in place an effective mechanism for the resolution of disputes relating to high hedges. It provides local authorities with new powers to address these problems and enables them to recover the costs of doing so, ensuring that the costs to the public purse of resolving these private disputes is minimised.

BACKGROUND

Current law

10. There is currently no legislation in Scotland governing the height of a hedge.

11. Most boundary fences or walls do not exceed two metres as planning law generally requires planning permission for the erection of fences or walls exceeding that height¹. However, there is no such restriction on planting trees or shrubs to form a hedge, despite the potential for their height to exceed two metres – in some cases by a considerable margin.

12. It is, therefore, perhaps not surprising that problems can arise with hedges if they are planted in unsuitable locations or suffer from a lack of maintenance. These problems can be aggravated by the availability of low cost and fast growing plants or trees sold as hedging. Some plants used as hedges on property boundaries can grow at a rate of a metre a year, which can increase the problem of effective maintenance over the years, particularly in urban settings. It is clear that unsuitably positioned, inappropriately high and/or badly maintained hedges can have a severe impact on neighbours' enjoyment of their property.

Parliamentary history

13. The prevalence and extent of the problems caused by high hedges is very evident in many MSPs' constituency correspondence and spelled out in the two petitions on high hedges which were submitted to the Parliament on 24 April 2002 (PE497²) and 30 June 2006 (PE984³). It is also clear in the long history of proposed Member's Bills on high hedges in the Scottish Parliament.

14. Scott Barrie MSP first lodged a proposal for a High Hedges (Scotland) Bill as long ago as May 2002⁴, during the first session of the Parliament. He went on to lodge proposals for a high

¹<http://www.scotland.gov.uk/Topics/Built-Environment/planning/National-Planning-Policy/themes/HouseholderPDR/Dwellings/other>

²<http://archive.scottish.parliament.uk/business/petitions/docs/PE497.htm>

³<http://archive.scottish.parliament.uk/business/petitions/docs/PE984.htm>

⁴http://www.scottish.parliament.uk/S1_Bills/Session1MembersProposals.pdf

hedges Bill on two further occasions, in September 2003⁵ and November 2006⁶. While those proposals were not successful, Scott Barrie's efforts in pursuing this issue played an important part in setting the agenda which this Bill takes forward. That history, and the wide range of constituencies represented by the supporters of this Bill, emphasises the breadth of interest in this issue within the Parliament and its importance to people across the length and breadth of Scotland.

Government activity

15. That Parliamentary history both reflects and has in turn stimulated Government interest and activity relating to high hedges. In January 2000, the then Scottish Executive consulted on options for resolving high hedge disputes. It asked whether special measures were required in Scotland because the scale of the problem appeared to be much less extensive than in England and Wales.

16. That followed a UK Government consultation in November 1999 which received 3,062 responses and eventually led to Part 8 of the Anti-social Behaviour Act 2003⁷, which gave local councils in England and Wales the power to deal with complaints about high hedges. Legislation on high hedges has since been introduced in the Isle of Man (2005)⁸ and Northern Ireland (2011)⁹.

17. The Scottish Executive exercise received 90 responses. In addition to this relatively low response, a much lower proportion of local authorities in Scotland favoured a tailor-made statutory remedy compared with councils in England and Wales. Despite this, the Scottish Executive of the day offered its support for legislation, indicating that a Member's Bill would be the most appropriate way to introduce it¹⁰.

18. The most recent consultation undertaken by the Scottish Government was in 2009, and attracted 617 responses, plus 51 additional pieces of correspondence. An analysis¹¹ of the consultation showed that, of the 617 responses, nearly 93% came from private individuals, almost 60% of those private individuals describing themselves as being "neighbours of hedge/tree owners currently involved in a dispute". A summary of the analysis has also been published¹².

19. Nearly 90% of all respondents to the consultation indicated that high hedge disputes should be a matter for Government intervention and a large majority of respondents (68%) suggested that the Scottish Government should replicate or adapt the legislation applying in England and Wales. Nearly half of all private individuals who responded felt that the definition of a high hedge should be set down in legislation, as it is in England and Wales.

⁵ http://www.scottish.parliament.uk/S2_Bills/Session2toNov04MembersProposals.pdf

⁶ <http://www.scottish.parliament.uk/parliamentarybusiness/Bills/18175.aspx>

⁷ <http://www.legislation.gov.uk/ukpga/2003/38/part/8>

⁸ <http://www.gov.im/lib/docs/transport/msd/local/trees/treesandhighhedgesact2005.pdf>

⁹ <http://www.legislation.gov.uk/nia/2011/21/contents>

¹⁰ <http://www.scotland.gov.uk/News/Releases/2001/01/519a42a9-7588-47d1-878f-58b17e72ec0f>

¹¹ <http://www.scotland.gov.uk/Publications/2010/03/25102917/10>

¹² <http://www.scotland.gov.uk/Resource/Doc/307726/0096767.pdf>

20. A significant number of responses to both Scottish consultations came from the campaign group Scothedge, which reports a membership of over 200 members from households throughout Scotland. Scothedge has consistently called for legislation on high hedges in Scotland and has published information¹³ in support of that campaign which is helpful in understanding both the difficulties in defining the problem and in appreciating the impact which high hedges can have.

21. I announced on 8 September 2011 that I would bring forward a Member's Bill on high hedges. The Scottish Government announced that day that it would support the Bill and work with me constructively in taking it forward, with a view to seeing legislation put in place that will ensure everyone with an interest in the issue knows their rights, responsibilities and remedies.

CONSULTATION

22. I submitted a draft proposal¹⁴ for the High Hedges (Scotland) Bill on 21 December 2011. This was accompanied by a statement of reasons¹⁵ outlining why I felt that no further consultation was needed in taking this forward.

23. My statement of reasons outlined the previous consultation in 2009 and the results of it. That consultation contained a number of policy options for the potential resolution of high hedge disputes (and, in the case of the legislative option, four options for delivery). The options were:

- do nothing;
- promote existing remedies such as mediation;
- strengthen and supplement existing remedies with research, guidance and title conditions; or
- provide a legislative solution by:
 - replication or modification of English and Welsh legislation;
 - statutory nuisance;
 - civil action – summary cause, small claims or summary application; or
 - Lands Tribunal for Scotland or the Scottish Land Court.

24. As noted above, nearly 90% of all respondents to the consultation indicated that high hedge disputes should be a matter for Government intervention and a large majority of respondents (68%) suggested that the Scottish Government should replicate or adapt the legislation applying in England and Wales. My proposal, that individuals should be able to apply to a local authority for a high hedge notice, clearly corresponded to the first of the four delivery options set out above, largely replicating the legislation in place in England and Wales, and had, therefore, effectively been consulted on during the 2009 consultation.

¹³ <http://www.scothedge.colwat.com/files/A%20Growing%20Problem%20FINAL.2.pdf>

¹⁴ <http://www.scottish.parliament.uk/parliamentarybusiness/Bills/45607.aspx>

¹⁵ http://www.scottish.parliament.uk/S4_MembersBills/20111221_statement_of_reasons_High_Hedges.pdf

25. The Local Government and Regeneration Committee considered my draft proposal and statement of reasons on 1 February 2012. I set out the history of the issue to the Committee, informed it of the individuals and organisations that I had consulted with at that stage, and outlined my proposals.

26. The Committee's scrutiny of my proposals specifically asked about my proposed definition of a high hedge and I made clear to the Committee that I wanted "a tightly defined Bill that concerns specifically high hedges ... [including] other vegetation, would run the risk of creating unwieldy legislation that was difficult to enforce." I advised the Committee that "I do not intend to include deciduous trees, because there are loopholes to do with whether trees that shed their leaves could be considered to form a constant barrier to light in the same way that evergreens and semi evergreens can."¹⁶

27. The Committee noted the deterrence value in simply having legislation in place and how this could hopefully resolve many of the issues and asked me about a range of other issues, including how local authorities would be able to enforce the provisions; whether or not the Bill would be prescriptive regarding hedge heights; and what the cost implications were for local authorities. Following this discussion, the Local Government and Regeneration Committee agreed with me that no further consultation was required. I subsequently submitted my final proposal and a revised statement of reasons on 22 March 2012¹⁷ and was granted the right to introduce the Bill a month later as the proposal had attracted the support required by Rule 9.14.12 of the Parliament's Standing Orders.

28. The Bill has been informed not only by all of the previous activity on high hedges described above, but by the many people I and those supporting me have met and spoken to as well as those who have written to me about this issue. While I have undertaken no formal, written, consultation on my proposal for a high hedges Bill, both I and the Scottish Government officials supporting me have spoken to and consulted with a broad range of individuals and organisations, including business with an interest in hedges and government departments, directorates and agencies, who have an interest in the provisions of the Bill. These include the parts of the Scottish Government with responsibility for planning, nature conservation, wildlife crime, and strategic environmental assessment.

29. Organisations consulted include:

- Aberdeen City Council
- Clackmannanshire Council
- COSLA
- Directorate for Planning and Environmental Appeals
- Forestry Commission Scotland
- Historic Scotland
- Registers of Scotland

¹⁶ <http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=7142&mode=pdf>

¹⁷ http://www.scottish.parliament.uk/S4_MembersBills/20120322_revised_statement_of_reasons_High_Hedges.pdf

- Royal Botanic Gardens Edinburgh
- RSPB
- Scottish Court Service
- Scottish Natural Heritage
- Scottish Tree Officers Group (local authority tree officers)
- Woodland Trust.

30. Businesses consulted include:

- Alba Trees in East Lothian
- Arbor Vitae in Edinburgh
- Christie Elite Nurseries Ltd in Forres, Moray
- Craigmarloch Nurseries in Kilsyth
- Klondyke Garden Centre in Edinburgh
- Mill Garden Centre in Armadale.

31. Officials supporting me have also written to a number of other businesses about the Bill, providing information on the proposal and seeking their views. The businesses which have been contacted but who have not (so far) responded are: C Arnot & Son Ltd (Forfar); Clatto Community Woodland (Fife); Conifox Nurseries (West Lothian); Dobbies Garden Centre (Edinburgh); Merryhatton (East Lothian); New Hopetoun Garden Centre (West Lothian); Riccarton Garden Centre (Edinburgh); Pentland Plants (Midlothian); Smeaton Nurseries (East Lothian); and Strawberry Corner (East Lothian).

32. Officials supporting me have also contacted a range of organisations elsewhere in the UK in order to draw on their expertise on high hedges and their experience of high hedge legislation in practice. Those organisations include the Communities and Local Government Department (UK Government); the Department of Environment (Northern Ireland); the Planning Inspectorate (England); a number of English councils (see below); the London Tree Officers Association; the National Association of Tree Officers; the Department for Infrastructure on the Isle of Man; and Braddan and Ramsay authorities from the Isle of Man (Douglas, Onchan and Port Erin authorities were also contacted but no reply has been received).

33. Information has been obtained from the following English councils (Barnet and Fylde councils were also contacted, but no reply received):

- Ashford
- Dover
- East Cambridgeshire
- Hartlepool
- Hillingdon

- Medway
- New Forest
- North Somerset
- Royal Borough of Windsor and Maidenhead
- Sandwell
- South Tyneside.

NATURE OF THE BILL

General approach

34. The intent of the Bill's provisions is to put in place an effective mechanism for the resolution of disputes relating to high hedges. It, therefore, provides local authorities with new powers to address these problems and enables them to recover the costs of doing so, ensuring that the costs to the public purse of resolving these private disputes is minimised. The Bill's approach to the processes to be followed in making those decisions aims for transparency and, as far as possible, simplicity in order to minimise the overall costs of the system.

Provision of a formal remedy

35. The experience of the legislation in England and Wales shows that simply creating a formal mechanism for resolving disputes encourages the resolution of most cases, without the need for local authority involvement. The low level of formal complaints, set against the number of enquiries, appears to encourage disputes to be resolved. That experience also indicates that the need for enforcement action to be taken will be rare.

36. The Bill provides that primary responsibility for resolving disputes over high hedges should lie with individuals in the first instance. The Bill requires that applicants for a high hedge notice must have taken all reasonable steps to resolve the issue before making an application to a local authority. It enables local authorities to reject an application where such steps have not been taken. These provisions will help to ensure that Scottish experience should be similar to that in England and Wales, with the majority of disputes apparently being resolved without the need for local authority intervention.

37. The following table gives details of the experience in England and Wales, demonstrating the number of enquiries that were made, the number of formal applications that this generated, and the number of times this resulted in a local authority taking enforcement action.

| Local Authority | Enquiries | Formal Complaints (2005-11) | Remedial Action where Council has had to cut back hedge (not just issue remedial notices advising what action to take) | Fees (£) |
|-----------------------------|-----------|-----------------------------|--|----------|
| New Forest (nr Southampton) | N/K | 14 | Not given | 507 |
| Royal Borough | 300+ | 20 | 0 – Council does not take action | 600 |

| | | | | |
|---------------------------|------|-----|---|-----------------------|
| of Windsor and Maidenhead | | | but prosecutes via courts to recover expenses and has not yet done so | |
| Croydon (London) | 100 | 22 | None stated beyond remedial notices | 300 |
| Hillingdon (London) | 250+ | 13 | None stated beyond remedial notices | 500 |
| Ashford (Kent) | N/K | 11 | 0 | 400 |
| South Tyneside | 100+ | 28 | 1 | 350 |
| Hartlepool | 170 | 7 | 0 | 150 |
| Sandwell (West Midlands) | 300+ | 10 | 0 | No fee for complaints |
| Medway (Kent) | N/K | N/K | 0 | 420 |
| North Somerset | N/K | 22 | 0 | 420 |
| Dover | N/K | 14 | 0 | 350 |

General approach

38. The Bill gives home owners and occupiers a right to apply to local authorities for a high hedge notice to prevent high hedges from interfering with the enjoyment of their property. The Bill gives local authorities powers to:

- deal with applications for a high hedge notice and charge an appropriate fee;
- issue a high hedge notice requiring a hedge-owner to take remedial and/or preventative action where a hedge is found to be having an adverse effect;
- undertake the specified work if there is a failure to comply with a high hedge notice within the specified time, recovering the costs of doing so from the hedge owner.

39. The Bill also gives home owners and occupiers and hedge owners a right to appeal against a local authority's decision on a high hedge notice.

Definition of a high hedge

40. The Bill defines a "high hedge" as one formed wholly or mainly by a row of two or more evergreen or semi-evergreen trees or shrubs, exceeding two metres in height and forming a barrier to light (Section 1: 'Meaning of "high hedge"').

41. This definition is similar to those used in England and Wales and in Northern Ireland and captures the commonly perceived problems of fast-growing conifers in suburban areas. As a hedge consists of a row of two or more trees or shrubs, a single tree is not considered a hedge. Shrubs are typically woody plants smaller than trees, usually having multiple permanent stems branching from or near the ground. The definition of a high hedge takes no account of the roots of a plant. Roots can have a number of adverse effects as they encroach into property but such effects would likely be covered under the common law of encroachment. This Bill does not seek to provide a resolution where one already exists.

42. The high hedge must also form a “barrier to light”. Evergreens and semi-evergreens form a constant barrier to light all year round unless there is a particularly harsh winter where a semi-evergreen hedge may drop some foliage in order to survive, but will otherwise maintain its foliage. Otherwise, semi-evergreens will form as much of a barrier as an evergreen. To form such a barrier implies planting sufficiently close together although conifers planted with gaps between them may form a hedge if the overall effect as a barrier is not significantly reduced by those gaps. Deciduous plants are likely to form a barrier only at certain times of the year. The Bill does not rule out deciduous plants from being part of a high hedge which need only be “wholly or mainly” evergreen or semi-evergreen. This means that a mainly evergreen hedge that contains some deciduous plants would be captured in the definition. A sufficiently large hedge with many deciduous plants could still be captured if there is an even larger number of evergreens and it forms a barrier to light.

43. The Bill is therefore relatively tightly defined in that it concerns predominantly evergreen and semi-evergreen high hedges and excludes single trees. If single trees and other types of plants and vegetation were to be included it would run the risk of creating complex and unwieldy legislation that would be difficult to enforce. The focus on evergreen and semi-evergreen trees and shrubs is intended to ensure that decisions are as straightforward as possible. As the definition is similar to those already used elsewhere, some reassurance can be taken from experience of similar legislation elsewhere in the UK, which provides a reasonable degree of comfort to local authorities who will be carrying out the processing of applications, and any enforcement actions required, that the tasks are achievable.

44. COSLA supports a narrow and focussed Bill as the experience of its implementation elsewhere provides comfort that costs will not be significant and numbers will not be unmanageable. The Royal Society for the Protection of Birds also supports a narrow definition which excludes wholly deciduous hedges as deciduous plants generally have a greater wildlife value than conifers. The Woodland Trust also supports a narrow definition as does the Scottish Tree Officers Group, who are concerned that a wider definition would be more difficult, time-consuming and expensive to administer.

45. Scothedge has indicated that it is generally supportive of the approach taken to high hedges, which addresses the concerns of the majority of its members, but has noted that some of its members have concerns about both single trees and deciduous plants. Deciduous plants are not excluded if they are part of a mainly evergreen or semi-evergreen hedge but widening the Bill further is not considered to be appropriate for the reasons set out above.

46. In my view, the support of many stakeholders for a narrower definition of high hedge derives from a natural, and understandable, caution on the part of COSLA and local authorities in particular about the potential implications of new systems and powers which we do not yet have any experience of in Scotland, as well as potential for a more complex interpretation which is more open to dispute. It is important, however, that we can react to any lessons learned from that experience, once we have it. The Bill, therefore, provides that Scottish Ministers may modify the definition of a “high hedge” and make other appropriate and ancillary changes to legislation (Section 34: ‘Power to modify meaning of “high hedge”’). That will enable changes to the definition of a high hedge to be made in future, in the light of a specifically Scottish experience of the operation in practice of high hedges legislation.

Complaints about high hedges

47. The Bill provides that home owners and occupiers affected by a high hedge can complain to the local authority where the hedge is located where a dispute over the height of a hedge has not been resolved by individuals themselves. This involves making an application to the authority for a high hedge notice (Section 2: ‘Application for high hedge notice’). The application must be accompanied by the fee set by the local authority (Section 4: ‘Fee for application’). It will provide the local authority with information on the hedge’s adverse effect on their property and evidence that they have taken all reasonable steps to resolve matters before making an application.

48. The Bill acknowledges that the individuals involved should have the primary responsibility for resolving disputes over high hedges. While it provides a mechanism for resolving disputes, the Bill sets out ‘Pre-application requirements’ (Section 3: ‘Pre-application requirements’) which applicants must comply with before they apply i.e. they must be able to demonstrate that they have taken all reasonable steps to resolve the matter.

49. The Bill does not specify what action or actions should be taken by individuals to meet this requirement. Individual circumstances will differ and services available to individuals may vary between local authority areas, so it would be unrealistic for the Bill to dictate what action should be taken. It will, therefore, be up to local authorities to decide whether or not the applicant has taken all reasonable steps to resolve the matters in dispute in the light of the facts and circumstances of each individual case.

50. The Bill also enables local authorities to issue guidance on ‘Pre-application requirements’ (Section 31(2): ‘Guidance’) and requires applicants to have regard to that guidance (Section 3(2) ‘Pre-application requirements’). It will, for example, be open to local authorities to require applicants to have attempted to resolve matters through mediation before making an application. The feasibility of such a requirement may however vary between local authorities. The Bill, therefore, neither imposes requirements nor places limitations on what local authorities may specify in such guidance. However, it provides that Scottish Ministers may issue guidance on the operation of the Act (Section 31: ‘Guidance’) and local authorities must have regard to that guidance when carrying out their functions under the Bill, including when issuing their own guidance. The UK Government has issued extensive guidance¹⁸ on the application of high hedges legislation in England and Wales.

51. The Bill provides that local authorities may dismiss an application if the ‘Pre-application requirements’ are not met or if the application is frivolous or vexatious (Section 5: ‘Dismissal of application’). Applications relating to a hedge which does not meet the criteria for a high hedge will also be dismissed. It will be for local authorities to determine whether an application is ‘frivolous or vexatious’ but an example might be repeated applications in respect of a hedge where the local authority has already made a decision not to make a high hedge notice and there has been no change in circumstances.

52. Where an application is dismissed, the applicant must be informed as soon as reasonably practicable, with the local authority giving reasons for its decision. The Bill provides that

¹⁸ http://www.direct.gov.uk/en/HomeAndCommunity/WhereYouLive/NoiseNuisanceAndLitter/DG_10029999

applicants and hedge owners may appeal against a decision by a local authority to issue a high hedge notice (see below) but does not provide for an appeal where an application is dismissed. It is, however, open to applicants to make a fresh application, enabling them to take account of a local authority's reasons for dismissal of a previous application.

Application fees

53. The intention of this Bill is to enable local authorities to recover the costs of exercising their new powers to resolve high hedge disputes. The Bill, therefore, provides that a local authority may charge a fee for applications which can cover the costs that it incurs in the making of a decision and the issuing of a high hedge notice, if it decides to do so (Section 4: 'Fee for application').

54. The Bill does not specify any upper limit or 'cap' on fees but requires that fees must not exceed an amount which the local authority considers represents the reasonable costs of an authority in deciding an application. This is intended to enable local authorities to take account of local facts and circumstances when setting application fees as well as to ensure that fees are not set beyond a level that is reasonable.

55. The Bill also provides that local authorities can also set different fee levels for different applications or types of applications. It also has the power to refund fees in circumstances and to an extent that it can determine.

Decision Process

56. The local authority, once satisfied that efforts have been made by individuals to resolve the dispute, may make an assessment of the situation and must decide whether the height of the high hedge is adversely affecting the reasonable enjoyment of the applicant's property. This involves seeking representations on that application and may include investigations by the local authority.

57. If an application is not dismissed, the local authority must notify the owner(s) and occupier of the land containing the hedge which is the subject of the application (Section 6: 'Consideration of application'). The local authority must send a copy of the application to every owner and occupier of the land containing the hedge (defined in the Bill as "neighbouring land"). The notification by the local authority must also set out its powers in relation to decisions on high hedges, inform recipients that they have 28 days in which to make representations in relation to the application, and make clear that copies of all representations must be passed to the applicant.

58. The local authority must take into account any representations that it receives in relation to an application when it makes a decision on the application. It may also undertake its own investigations. The authority will be able to visit the location, take necessary measurements, and investigate other relevant issues which it may take into consideration.

59. The Bill provides that a person authorised by a local authority may enter the land on which the hedge is situated in order to obtain information required for the purposes of

considering an application (Section 18: ‘Power to enter neighbouring land’). A person who has been authorised in this way may take with them other persons, materials, equipment and vehicles that may be necessary, take samples of any trees or shrubs which form part of the hedge; and may do anything else reasonably required to fulfil the purpose for which entry is taken (Section 19: ‘Supplementary powers’). The Bill requires that written evidence of authorisation must be provided should it be requested.

60. The Bill requires that hedge owners are given fourteen days’ notice prior to an authorised person exercising this power of entry. It also provides that it will be a criminal offence, punishable on summary conviction by a fine not exceeding level 3 on the standard scale (currently £1,000), to prevent or obstruct an authorised person from carrying out their duties (Section 21: ‘Offence’). Where there are reasonable grounds for exercising the power of entry but entry has been refused, is reasonably expected to be refused, or the land is unoccupied, then a warrant may be obtained from a sheriff or justice of the peace authorising entry using reasonable force, although not against an individual (Section 20: ‘Warrant authorising entry’).

61. The Bill explicitly requires that a copy of the application is sent to the hedge owner(s) and that any representations received from hedge owner(s) are sent to the original applicant. This transparency is intended to enable the local authority to be fully informed of the different perspectives on the dispute and, by requiring that views are shared, encourage those involved in the dispute to focus on the issue.

62. The Bill provides that a local authority must decide whether the height of the hedge adversely affects the reasonable enjoyment of the applicant’s property (Section 6(5)(a): ‘Consideration of application’). If the local authority decides that there is no adverse effect it must, as soon as reasonably practicable, inform the parties of its decision and the reasons for it (Section 7(1)(a): ‘Notice of decision where no action to be taken’). If the local authority decides that there is an adverse effect it must then consider what, if any, action requires to be taken in relation to the hedge in order to remedy the adverse effect and prevent it recurring (see 8: ‘High hedge notice’, below).

63. To make a decision on ‘adverse effect’, the authority will consider the application, all representations received, any relevant factors from its own investigations and any relevant local circumstances before assessing each case on its particular merits. It is not intended that the local authority should negotiate between the parties, rather it must make its own assessment before issuing a decision.

64. It is intended that local authorities will act as independent and impartial adjudicators as to whether a hedge is adversely affecting the reasonable enjoyment of an applicant’s property. In doing so, it is intended that local authorities should seek to strike a balance between the competing rights of neighbours to enjoy their respective properties and the rights of the community in general. The Bill, therefore, requires that a local authority must have particular regard to the effect of the hedge on the amenity of the area and consider whether the hedge is of cultural or historical significance (Section 6(7): ‘Consideration of application’).

65. This requirement is intended to ensure that the nature of the hedge in its widest sense as well as the local community context are taken into account alongside the other facts and

circumstances of the case. Local authorities will, therefore, require to have regard to the special characteristics of ancient hedgerows, or hedges of a historic nature such as the Meikleour Beech Hedge¹⁹, planted in 1745 and reaching 30 metres (100 ft) in height and 530 metres (1/3 mile) in length.

Tree preservation orders

66. Where a tree has already been identified as having particular significance, it may be protected by a tree preservation order under section 160 of the Town and Country Planning (Scotland) Act 1997²⁰ (as amended by section 28 of the Planning etc (Scotland) Act 2006²¹). The intention of this Bill is that local authorities should take account of any tree preservation orders when making a decision on a high hedge application (in the light of the same factors to be considered when a tree preservation order is made²²) but should not be unnecessarily constrained by it in deciding what action should be taken in respect of a high hedge.

67. The Bill, therefore, specifies that a tree preservation order which applies to a hedge, or a tree or trees which are included in a high hedge, has no effect in relation to any action specified in a high hedge notice in order to remedy the adverse effect and prevent it recurring (Section 11: ‘Tree preservation orders’). In considering an application, the local authority must have regard to the effect of the high hedge on the amenity of the area and the cultural or historical significance of the high hedge, similar to the way it is required to consider those issues by section 160 of the Town and Country Planning (Scotland) Act 1997 (as amended). This is intended to enable local authorities to take a holistic view of the issues in coming to a decision which strikes an appropriate balance between the potentially competing issues arising from an application for a high hedge notice and the prior issue of a tree preservation order.

Conservation areas

68. A similar issue arises where a hedge is situated in a conservation area as such hedges which include trees not subject to a tree preservation order are afforded similar protection under section 172 of the Town and Country Planning (Scotland) Act 1997²³. I believe that a similar approach to that taken for tree preservation orders should be followed for conservation areas.

69. The legal framework for conservation areas is however different from that regarding tree preservation orders in that a legal power already exists to dis-apply the effects of a conservation area. That power is set out in section 173 of the Town and Country Planning (Scotland) Act 1997 and provides that Scottish Ministers may by regulations direct that section 172 shall not apply in such cases as may be specified in the regulations. Scottish Ministers are considering the use of those powers in relation to this Bill’s provisions.

¹⁹ http://en.wikipedia.org/wiki/Meikleour_Beech_Hedges

²⁰ <http://www.legislation.gov.uk/ukpga/1997/8/part/VII/chapter/I/crossheading/tree-preservation-orders>

²¹ <http://www.legislation.gov.uk/asp/2006/17/section/28>

²² <http://www.scotland.gov.uk/Publications/2011/01/28152314/0>

²³ <http://www.legislation.gov.uk/ukpga/1997/8/part/VII/chapter/I/crossheading/trees-in-conservation-areas>

Other considerations

70. Specific provision has been made in relation to hedges containing a tree subject to a tree preservation order. However, the historic and cultural significance of the hedge and its effect on the amenity of the local area are expressly mentioned (in section 6 of the Bill) as having to be taken into consideration in all decisions. Local authorities would also need to have regard to other legal and local policy restrictions and guidelines which are intended to protect the wider public interest which could be relevant. Examples of these include whether:

- any protected birds, animals or plants are present in the hedge (having regard to the Wildlife and Countryside Act 1981²⁴ and the subsequent amendments found in the Nature Conservation (Scotland) Act 2004²⁵ as well as local Biodiversity Action Plans);
- the hedge is within the boundary of a listed building or historic site;
- there are planning conditions attached to a planning permission which relate to the hedge;
- the hedge is situated in a designated nature conservation site such as a Site of Special Scientific Interest;
- the hedge is situated in a National Scenic Area;
- any licence or consent is required from the Forestry Commission; and
- the hedge is within the boundary of a National Park.

71. There are currently two National Parks in Scotland – Loch Lomond and the Trossachs National Park, and the Cairngorms National Park. The Bill provides for local authorities to make decisions with regards to certain high hedges, and to enforce those decisions. There is a general duty on local authorities, under section 14 of the National Parks (Scotland) Act 2000²⁶, to have regard to National Park Plans (prepared by the National Park authority and approved by the Scottish Ministers) when exercising functions which affect a National Park. We would expect that any local authority considering issuing or enforcing a high hedge notice in its area and which also falls within the boundary of a National Park, would then liaise with that National Park, taking due account of the National Park Plan.

72. The Bill applies to Crown land (Section 36: ‘Crown application’). This means that local authorities are able to consider and determine applications about high hedges on land owned by the Crown. However, the Crown itself is not criminally liable but its employees might be. Further, consent is required in order to exercise the powers of entry under the Bill on Crown land.

High hedge notices

73. If a local authority decides that the height of a hedge adversely affects the reasonable enjoyment of the applicant’s property it must then consider what, if any, action requires to be

²⁴ <http://www.legislation.gov.uk/ukpga/1981/69/contents>

²⁵ <http://www.legislation.gov.uk/asp/2004/6/contents>

²⁶ <http://www.legislation.gov.uk/asp/2000/10/section/14>

taken in relation to the hedge in order to remedy the adverse effect and prevent it recurring (Section 6(6)(b): ‘Consideration of application’).

74. If a local authority decides that no action should be taken in relation to a high hedge it must, as soon as reasonably practicable, inform the parties of its decision and the reasons for it (Section 7(1)(b): ‘Notice of decision where no action to be taken’).

75. If a local authority decides that action should be taken it must, as soon as is reasonably practicable, issue a high hedge notice (Section 8(1): ‘High hedge notice’). It must send a copy of the notice and an explanation of the reasons for the decision to the applicant and every owner and occupier of the land on which the hedge is situated.

76. Section 26 of the Interpretation and Legislative Reform (Scotland) Act 2010²⁷ specifies that such notices may be served in person; by a registered post service; by a recorded delivery postal service; or by using electronic communications. The Bill provides for additional means of serving such notices, including affixing it to an object on the land where reasonable enquiries are unable to determine the name or address in respect of whom a notice relating to land is to be served under the Act (Section 32: ‘Service of documents’).

77. A high hedge notice must specify the hedge it relates to, the action required to be taken to remedy the adverse effect caused by the hedge and the compliance period within which that action must be taken. It may also specify what further action, if any, is required to prevent recurrence of the adverse effect, both within and outwith the compliance period (Section 8(2): ‘High hedge notice’).

78. The owner of the hedge that is the subject of a high hedge notice is required to carry out the works specified at their own expense. The notice will advise the hedge owner of the local authority’s power to enforce the decision, and recover from the hedge owner the costs of doing so, if the hedge owner fails to comply with the requirements of the notice.

79. A high hedge notice is binding not only on whoever is the owner of the land on which the hedge is situated at the time the notice is issued but also on successive owners (Section 9: ‘Effect of high hedge notice’).

80. The Bill provides that a local authority may vary or withdraw a high hedge notice it has issued (Section 10: ‘High hedge notice: withdrawal and variation’). Before doing so it must consider what effect its action would have, having regard to all the circumstances. The withdrawal of a notice does not prevent the issue of a further notice in respect of the same hedge and a notice which has been varied can itself be varied. If a notice is varied or withdrawn, the local authority must inform all owners and occupiers of the domestic property affected by the hedge concerned as well as all owners and occupiers of the property containing the hedge.

²⁷ <http://www.legislation.gov.uk/asp/2010/10/section/26>

Enforcement

81. The Bill provides that local authorities may enforce the decisions specified in a high hedge notice if the hedge owner fails to take the action specified within the compliance period (Section 22: ‘Power to take action’). As noted above, experience in England and Wales is that the need for enforcement is relatively rare and so it is not anticipated that local authorities in Scotland will require to use these powers routinely; rather they are likely to be used only in exceptional cases.

82. The Bill provides that a person authorised by a local authority will be able to enter the hedge owner’s property and carry out the work specified in a high hedge notice if the hedge owner fails to take the action specified within the compliance period. A person who has been authorised in this way may take with them other persons, materials, equipment and vehicles as may be reasonably required and may do anything else reasonably required to fulfil the purpose of the enforcement action. The Bill requires that written evidence of authorisation must be provided should it be requested.

83. The Bill requires that hedge owners are given fourteen days’ notice prior to an authorised person exercising these powers. It also provides that it will be a criminal offence, punishable on summary conviction by a fine not exceeding level 3 on the standard scale (currently £1,000), to prevent or obstruct an authorised person from carrying out their duties (Section 24 ‘Local authority action: offence’). Where there are reasonable grounds for the enforcement action but entry has been refused, is reasonably expected to be refused, or the land is unoccupied, then a warrant may be obtained from a sheriff or justice of the peace authorising entry using reasonable force, although not against an individual (Section 23: ‘Warrant authorising entry by local authority’).

Recovery of enforcement costs

84. The Bill provides that local authorities will be able to recover the costs of enforcement from the hedge owner. As noted above, experience in England and Wales is that the need for enforcement is relatively rare and so it is not anticipated that local authorities in Scotland will require to undertake enforcement action other than in exceptional cases and so the need to recover those costs should also be exceptional.

85. Where a local authority finds it necessary to undertake the works specified in a high hedge notice due to the hedge owner not having done so, the Bill provides that the local authority can recover any expenses, including any administrative expenses, reasonably incurred in undertaking that action and may also charge interest (Section 25: ‘Recovery of expenses from owner of land’).

86. It is anticipated that local authorities will apply their usual debt management procedures to the recovery of enforcement costs relating to high hedge notices although, as noted above, that is likely to be necessary only in exceptional cases. The ability to charge interest should also act as an additional incentive for prompt payment.

87. However, representations from COSLA have indicated that local authorities would welcome a power to formally register such expenses where there may be difficulty in securing repayment in order to facilitate the recovery of such debts. The Bill, therefore, provides that a local authority may apply to register a ‘notice of liability for expenses’ in the Land Register of Scotland or the Register of Sasines, as appropriate against the land on which the hedge is situated. Such notice will specify the expenses of enforcing a high hedge notice, and will specify that interest will be payable (Section 26: ‘Notice of liability for expense of local authority action’).

88. The effect of registering a ‘notice of liability for expenses’ will be that any new owner of the land will also become liable for expenses specified in the notice (Section 27: ‘Recovery of expenses from new owner of land’). The liability can either be discharged by the seller or the buyer at the point of sale. In practice, solicitors acting on behalf of prospective purchasers of such a property are likely to ensure that such notices are brought to their attention. That is likely to result either in the debt being settled by the seller prior to completion of the agreement or a suitable adjustment being made to the purchase price to enable the purchaser to do so.

89. Where such informal arrangements do not result in the settlement of the debt, it will remain open to a local authority to pursue either the seller or the buyer for the full amount, as they are severally liable and a hedge owner remains liable for enforcement expenses even after they have sold the land (Section 28: ‘Continuing liability of former owner’). The Bill also provides that a new owner who pays enforcement expenses for which the previous owner is liable can recover that amount from the previous owner. A new owner maintains the right to recover those costs even if they themselves sell or otherwise dispose of the land.

90. Where enforcement expenses have been recovered, local authorities must apply to register a notice discharging the notice of liability (Section 29: ‘Notice of discharge’). This will give any prospective purchaser of the property reassurance that debts associated with the property with respect to high hedges have been settled.

Appeals

91. The Bill provides that applicants can appeal a local authority’s decision not to issue a high hedge notice and that owners and occupiers of both the land occupied by the high hedge and the property affected by the high hedge may appeal a local authority’s decision to issue, vary or withdraw a high hedge notice (Section 12: ‘Appeals’). Appeals must be made within 28 days of notification by the local authority of its decision on a high hedge notice.

92. Where an appeal is against a decision by a local authority not to issue a high hedge notice (where the local authority concludes that there is no adverse effect or that no action need be taken in relation to a high hedge even though there is an adverse effect), an appeal can either confirm that no notice should be issued or result in the issue of a high hedge notice. Where the appeal is against the issue of a high hedge notice or the withdrawal or variation of a notice, an appeal may confirm, quash or vary the high hedge notice or decision including correcting a defect, error or mis-description in the notice (Section 14: ‘Determination of appeal’).

93. As soon as reasonably practicable after determining the appeal, the outcome must be notified to every owner and occupier of the domestic property identified in the notice and every owner and occupier of neighbouring land, as well as to the local authority in whose area the hedge is situated, together with a copy of any high hedge notice or varied high hedge notice issued as a result of the determination of the appeal (Section 16: 'Notice of determination').

94. The Bill provides that a high hedge notice, or its variation or withdrawal, has no effect while an appeal is underway (Section 13: 'Effect of appeal'). It also provides that appropriate adjustments are made to the time specified within which any action required by a high hedge notice should be undertaken, to take account of the determination of an appeal or its withdrawal or abandonment (Section 17: 'Period for taking initial action following appeal').

95. The Bill provides that appeals are to be made to the Scottish Ministers. In practice, it is intended that appeals will be dealt with by the Directorate for Planning and Environmental Appeals (DPEA) on behalf of Scottish Ministers. The Bill also provides that Scottish Ministers may appoint persons to determine appeals instead of them (Section 15: 'Person appointed to determine appeal'). Appointed persons will have, in relation to appeals, the same powers and duties as the Scottish Ministers have under the Bill and the determination of an appeal by an appointed person is treated as that of Scottish Ministers.

96. This means that DPEA, through one of its inspectors, will be able to undertake its own investigation and make its own assessment with regard to the situation. This could include visiting the property in question. They would then be able to make a decision, whether it is to quash, vary or confirm a high hedge notice. They would also be able to issue a high hedge notice where none had been issued previously and this had been the subject of the appeal.

97. Each owner and occupier of the domestic property identified in the high hedge notice and each owner and occupier of the land on which the high hedge is situated may appeal against the issue of a high hedge notice or the withdrawal or variation of a notice.

ALTERNATIVE APPROACHES

98. The Scottish Government consultation in 2009 asked whether disputes such as those over high hedges were a matter for Government intervention, or best left for individuals to resolve privately. Of those who responded to that question, 95% favoured Government intervention. The Bill takes account of the responses to that consultation and builds on previous Parliamentary proposals and takes account of previous analysis of the consultation.

99. The consultation outlined a number of different approaches to the issue. These were: do nothing; promote existing remedies such as mediation; strengthen and supplement existing remedies with research, guidance and title conditions; and provide a legislative solution by utilising or extending existing provisions or introducing new ones. Under the legislative solution were a number of further options which included replication or modification of English and Welsh legislation; use of statutory nuisance provisions; civil action (through summary cause or small claims; and summary application); and the Lands Tribunal for Scotland. Planning provisions had already been ruled out at this stage.

Court-based solution

100. Over two thirds (68%) of private individuals who responded to the consultation favoured replication or modification of the English and Welsh legislation as the preferred delivery mechanism and this Bill takes that approach. However, consideration was also given to adopting a court-based solution. Work showed that a right could be created to be exercised through the sheriff courts. The court could decide on the basis of the information before it whether that right had been breached and then issue a decree (judgement) outlining what should be done to address the problem caused by the height of the hedge.

101. The owner of the hedge, in failing to take the action detailed in the decree, could be fined or ultimately imprisoned as punishment. However, this would not necessarily deal with the hedge itself and enforcement of the court decree would involve further procedure.

102. This is an untried and untested solution in the context of a high hedge and moves the court option away from being a simple and straightforward solution to something more complex and requiring legal representation. It could also carry the risk of significant costs for individuals. Instructing a solicitor can vary between £130 and £250 per hour and as well as paying their own costs, the person who loses the case may also face paying legal costs of their opponent.

103. Our best estimate of the costs associated with this option (before any work on the hedge is undertaken) would be in the region of £3000 - £5000 with a one day proof. If the cases are taken in the sheriff court then there could be eligibility for legal aid. However, it is difficult to say whether or not legal aid would be paid as there are a number of tests to be met by the applicant. The average case costs in the sheriff court for civil legal aid in 2010-11 was £1,917.

104. Based on a small number of cases, it is considered that the cost implications for the legal aid fund would not be significantly high. However, even where civil legal aid was available, people might still be required to pay a contribution to the costs of their civil legal aid and any publicly-funded advice and assistance received.

105. Over and above these costs identified above, there would remain the costs of any remedial work identified as being necessary.

106. Having considered these issues alongside the alternative proposal for a local authority-based system, I concluded that a local authority would be better placed to make a judgement that balances the respective rights of the hedge owner and the applicant, and the wider public/community interest and that the resulting system would be likely to involve considerably less expense for the parties to the dispute.

England and Wales / Northern Ireland

107. The definition of a high hedge used in this Bill is very similar to that currently in place in England and Wales and Northern Ireland (in section 66 of the Anti-social Behaviour Act 2003²⁸)

²⁸ <http://www.legislation.gov.uk/ukpga/2003/38/part/8>

and section 2 of the High Hedges Act (Northern Ireland) 2011²⁹ respectively). Both of these Acts define a high hedge in terms of forming a barrier to light, greater than two metres high, and consisting wholly or predominantly of a line of two or more evergreens.

108. I have given consideration to whether or not non-compliance with a high hedge notice should be an offence, as is the case in the Anti-social Behaviour Act 2003 which contains the English provisions, but concluded it should not. I consider that the powers of enforcement and cost recovery which this Bill grants to local authorities should be sufficient to encourage compliance and I do not believe that it would be useful to criminalise people for failing to control high hedge growth in the context of trying to resolve problems between neighbours.

Isle of Man

109. The Isle of Man's Trees and High Hedges Act 2005³⁰ covers single trees as well as high hedges. It uses a similar definition to that used in England and Wales and Northern Ireland but defines a high hedge as a row of "two or more trees or shrubs" without requiring that they are wholly or mainly evergreen or semi-evergreen plants. While the Act includes single trees it does not define a tree, nor does it provide any test that a tree would have to meet to be covered by the Act, other than it is affecting a person's reasonable enjoyment of property.

110. My view is that extending legislation to include trees and deciduous hedges increases the complexity and difficulty of decision-making in considering such cases in comparison with evergreen hedges. In my view, those difficulties – and the consequent additional expense for all involved – are demonstrated by the recent appeal case of Boardman versus the Braddan Commissioners³¹ heard by the High Bailiff's Court sitting at Douglas on the Isle of Man which relates to a deciduous hedge. The decision itself extends to 18 pages and the High Bailiff noted that the "amount of paperwork generated by this appeal has been somewhat large". The High Bailiff's decision also refers to the difficulties in noting that "disputes of this kind can result in a certain amount of heat and for landowners, perhaps, to a lack of ability to see a problem from both sides". This Bill does not include trees and adopts a narrower definition of a high hedge to provide a more straightforward decision-making process which will limit costs both to the public purse and to the parties involved in the dispute, who will themselves bear the majority of those costs.

EFFECTS ON EQUAL OPPORTUNITIES, HUMAN RIGHTS, ISLAND COMMUNITIES, LOCAL GOVERNMENT, SUSTAINABLE DEVELOPMENT, ETC.

Equal opportunities

111. The Bill's impact on equal opportunities has been assessed. It does not unlawfully discriminate in any way with respect to any of the protected characteristics (i.e. age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation) either directly or indirectly. The Bill promotes the resolution of disputes by providing a remedy for disputes about high hedges which neighbours cannot

²⁹ <http://www.legislation.gov.uk/nia/2011/21/crossheading/introductory>

³⁰ <http://www.gov.im/lib/docs/transport/msd/local/trees/treesandhighhedgesact2005.pdf>

³¹ <http://www.scotland.gov.uk/Topics/Justice/public-safety/17141/highhedges/bvb>

resolve amicably amongst themselves. By doing so it promotes strong supportive communities for all people – including those with protected characteristics.

112. While the Bill provides a new remedy for such disputes it does not establish any new bodies with responsibility for the functions it creates. Instead the Bill provides that local authorities will have responsibility for delivery and, therefore, from an equalities perspective, places reliance on their tried and tested approach for achieving and promoting equality of opportunity in the delivery of their services. The assessment of the Bill indicates that the main equality issues will arise at local authority level and local authorities will need to ensure that the new regime is as accessible as possible to all protected groups. It is envisaged that will be supported and encouraged through the guidance which the Bill enables the Scottish Government to issue to local authorities.

113. The problem addressed by the Bill – the adverse effect of high hedges on the reasonable enjoyment of domestic property – does not in itself have an equalities dimension, in that there is no available evidence which indicates that the different equalities groups are more or less likely to be involved. However, the impact of such an adverse effect could be more severe in the case of older people or those with disabilities where mobility is affected as, consequently, any adverse effect on the reasonable enjoyment of their domestic property may be a more serious issue. Evidence from Scothedge confirms that analysis. As the Bill provides a remedy in such cases, it promotes equality by addressing the more severe indirect impact of the issue on those equalities groups.

114. The assessment of the Bill's impact on equalities has not identified any other direct or indirect impacts on equalities groups.

Human rights

115. The provisions of the Bill are compatible with the European Convention on Human Rights. Article 6 which gives individuals a right to a fair trial, Article 1 of Protocol 1 which affords individuals the right to peaceful enjoyment of their property and Article 8 which gives individuals the right to respect for private and family life were considered relevant in relation to the provisions. The Bill will enable a high hedge notice to be issued requiring work to be carried out on a person's property. It also allows authorised persons in certain circumstances to enter private property both to examine high hedges and, if necessary, to carry out the work on high hedges. The right of judicial review to an Article 6 compliant tribunal is considered sufficient to render the provisions compliant with Article 6. The rights under Article 1 of Protocol 1 are not absolute and they may be interfered with if this can be justified in the public interest, is proportionate and is in accordance with the law. Although there may be interference with enjoyment of an individual's property, such interference is considered limited in scope, and subject to certain safeguards in pursuit of providing an effective means of resolving disputes over the adverse effects of high hedges. This meets the fair balance test and does not offend Convention rights. The provisions also strike a fair balance between the right to respect for home in Article 8 and the public interest test. The powers do not go beyond what is necessary for the purposes of the legislation and are considered proportionate. Any interference will be in accordance with the law.

Island and rural communities

116. The Bill has no identified differential impact on island and rural communities.

Local government

117. The Bill provides local authorities with new powers to resolve disputes relating to high hedges where those disputes cannot be resolved by the individuals involved and to enforce their decisions where that is necessary. The Bill provides that local authorities may charge an application fee to cover the cost of providing the service of making a decision on the application. It also provides that local authorities may recover the full costs of action taken to enforce a high hedge notice. These impacts are spelled out in detail throughout this Policy Memorandum and the financial impacts are considered in more detail in the accompanying Financial Memorandum.

Sustainable development

118. This Bill will have no negative impact on sustainable development.

Business and Regulatory Impact Assessment

119. A separate Business and Regulatory Impact Assessment will be completed in relation to the Bill.

This document relates to the High Hedges Bill (SP Bill 16) as introduced in the Scottish Parliament on 2 October 2012

HIGH HEDGES BILL

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