



## High Hedges (Scotland) Bill

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Bill Number:	SP Bill 16
Introduced on:	2 October 2012
Introduced by:	Mark McDonald MSP
Passed:	28 March 2013
Royal Assent:	2 May 2013

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### Passage of the Bill

On 21 December 2011, Mark McDonald MSP lodged a draft proposal for a Members' Bill on high hedges. In light of a previous consultation undertaken by the Scottish Government in 2009, Mr McDonald also lodged a statement of reasons as to why, in his opinion, there was no need for further consultation on his draft proposal.

At its meeting on 1 February 2012, the Local Government and Regeneration Committee concluded that it was satisfied with the reasons given by the Member for not consulting further on the draft proposal. Mark McDonald MSP lodged his final proposal and a revised statement of reasons on 22 March 2012.

Subsequently, the [High Hedges \(Scotland\) Bill](#) was introduced (as a Members' Bill) into the Scottish Parliament on 2 October 2012. The Scottish Government announced that it would support Mr McDonald and that officials would work with him on all aspects of the Bill.

The Local Government and Regeneration Committee ("the Committee") was designated as lead Committee for the Bill and issued a call for evidence on 5 October 2012. The call for evidence closed on 29 November and the Committee received 90 submissions in response.

The Committee commenced taking oral evidence on the general principles of the Bill at Stage 1 on 5 December 2012 and published its Stage 1 Report on 28 January 2013. The [Stage 1 debate](#) took place on 5 February 2013 and the Bill was passed following the Stage 3 debate on 28 March 2013.

## **Purpose and objectives of the Bill**

The Bill seeks to provide a solution to the problem of high hedges which interfere with the reasonable enjoyment of domestic property.

## **Provisions of the Bill**

For the purposes of the Bill as introduced, a high hedge is one which: is formed wholly or mainly by a row of 2 or more evergreen or semi-evergreen trees or shrubs; rises to a height of more than 2 metres above ground level; and forms a barrier to light.

The Bill provides that where a hedge has been defined as a high hedge, an owner or occupier of a domestic property may apply to the relevant local authority for a high hedge notice. It provides local authorities with new powers to issue high hedge notices to owners of hedges specifying the work, if any, to be carried out to remedy problems and prevent their re-occurrence; and also to carry out any work where owners fail to do so.

Local authorities will set fees which must also accompany any application for a high hedge notice. The Bill does not set any upper limit on the fees to be charged but requires that fees must not exceed an amount which the local authority considers represents the reasonable costs that it incurs in coming to a decision on the application and issuing of a high hedge notice.

## **Parliamentary consideration**

The definition of a high hedge as provided in the Bill, as introduced, was undoubtedly the key issue raised by witnesses who gave evidence to the Committee at stage 1. As outlined above, the Bill as introduced, defined a high hedge as one which:

- is formed wholly or mainly by a row of 2 or more evergreen or semi-evergreen trees or shrubs;
- rises to a height of more than 2 metres above ground level; and
- forms a barrier to light

Most of the written and oral evidence received by the Committee commented on that part of the definition which limited a high hedge to one consisting of “evergreen or semi-evergreen trees or shrubs”. Opinion varied between those witnesses who believed that the definition should be expanded to include other forms of vegetation, such as single and deciduous trees, while others favoured retaining the definition as set out in the Bill. Other witnesses believed that the definition should be narrowed even further to provide protection to various types of evergreen or semi-evergreen species (e.g. yew or juniper).

A number of amendments were lodged at stage 2 with regard to the definition and meaning of a high hedge as outlined in the Bill as introduced.

Anne McTaggart MSP, stated that she was concerned that the exclusion of the word 'deciduous' from the definition of a high hedge would potentially leave many long-standing disputes over high hedges without a resolution. Ms McTaggart also put forward the argument that where vindictive intent or bullying is involved, a deciduous species could simply replace one which came within the scope of the definition in the Bill and lodged an amendment to include the word 'deciduous' in the definition of a high hedge.

Responding on behalf of the Scottish Government, the Minister for Local Government and Planning, Derek Mackay MSP, said that while the Government was willing to listen to arguments seeking to amend the definition of a high hedge, any substantial change to the definition would only be considered once local authorities had been consulted on the matter. To that end, and in light of the amendments put forward, he had written to local authorities to seek their views on the potential impact of widening the definition with a view to revisiting the issue at Stage 3 consideration of the Bill. Anne McTaggart agreed not to move her amendment following reassurances that the issue would be considered prior to Stage 3.

At Stage 3, Anne McTaggart MSP lodged a similar amendment to the one which she lodged at Stage 2, seeking to change the definition of a high hedge. Her amendment at Stage 3 sought to expand the definition of a high hedge to include deciduous species and to achieve this by changing the definition of a high hedge to simply "a row of two or more trees or shrubs".

Derek Mackay MSP confirmed that, following consultation with local authorities, the Scottish Government would support Ms McTaggart's amendment, and would seek to ensure that when producing guidance on the legislation, local authorities would engage constructively with those stakeholders who had expressed concerns over the widening of the definition.