

## **THE HEDGEROWS REGULATIONS**

1997

These Regulations were made by the Secretary of State for the Environment and the Minister of Agriculture, Fisheries and Food on 24th March 1997. They come into force on 1st June 1997. In summary, the Regulations make provision for the protection of important hedgerows in England and Wales. The Regulations require the owner of a hedgerow to apply to the local planning authority if he or she wishes to remove it. The Regulations do not apply to hedgerows within the curtilage of, or marking the boundary of the curtilage of, a dwelling house.

Whilst the Regulations apply to all hedgerows (with the exception mentioned above), they only have effect in relation to important hedgerows. The word "important" has a particular meaning in the

Regulations. The hedgerow must have existed for thirty years or more. It must also mark the boundary of a parish; or incorporate an archaeological feature; or be situated in an archaeological site; or be documented in some way in documents relating to historical features or artefacts.

Upon receipt of an owner's request to remove a hedgerow, the local planning authority must decide whether or not the hedgerow is "important" and whether it is growing in or adjacent to any common land, land managed as a nature reserve or land used for agriculture. The Regulations aim to protect important hedgerows in these locations.

If the hedgerow is not one to which the Regulations apply then the local planning authority cannot, under the regulations, require its retention. If the hedgerow is one to which the Regulations apply then the local authority must either issue a hedgerow removal notice or a hedgerow retention notice. If a hedgerow retention notice is issued, the owner has a right of appeal to the Secretary of State (or a person appointed by him).

The Regulations contain provisions relating to permitted work to important hedgerows; to offences; to replacement of hedgerows; to record keeping by the local planning authority; and to hedgerows owned by the local planning authority. In these cases, the Committee or Sub-Committee of the local authority which is responsible for the management of the land in which the hedgerow is situated cannot itself reach a decision on the issuing of notices under the Regulations.

Contact : William Reed on (25)2230

## Highways Act 1980

### Cutting or felling etc. trees etc. that overhang or are a danger to roads or footpaths

154. - (1) Where a hedge, tree or shrub overhangs a highway or any other road or footpath to which the public has access so as to endanger or obstruct the passage of vehicles or pedestrians, or obstructs or interferes with the view of drivers of vehicles or the light from a public lamp, a competent authority may, by notice either to the owner of the hedge, tree or shrub or to the occupier of the land on which it is growing, require him within 14 days from the date of service of the notice so to lop or cut it as to remove the cause of the danger, obstruction or interference.

For the purpose of this section the following are competent authorities -

- (a) in relation to a highway for which the Minister is the highway authority and which is in a district or London borough, the Minister and also the council of the district or, as the case may be, borough;
- (b) in relation to a highway for which a local highway authority are the highway authority, that authority and also (outside Greater London) the council of the district in which the highway is situated;
- (c) in relation to a road or footpath that is not a highway, the local authority in whose area the road or footpath is situated;

and "hedge, tree or shrub" includes vegetation of any description.

(2) Where it appears to a competent authority for any highway,

or for any other road or footpath to which the public has access -

- (a) that any hedge, tree or shrub is dead, diseased, damaged or insecurely rooted, and
- (b) that by reason of its condition it, or part of it, is likely to cause danger by falling on the highway, road or footpath,

the authority may, by notice either to the owner of the hedge, tree or shrub or to the occupier of the land on which it is situated, require him within 14 days from the date of service of the notice so to cut or fell it as to remove the likelihood of danger.

- (3) A person aggrieved by a requirement under subsection (1) or (2) above may appear to a magistrates' court.
- (4) Subject to any other made on appeal, if a person on whom a notice is service under subsection (1) or (2) above fails to comply with it within the period specified in those subsections, the authority who served the notice may carry out the work required by the notice and recover the expenses reasonably incurred by them in so doing from the person in default.

Dear Resident

The Parish Council's attention has been drawn to the overgrown hedge/shrubs/tree fronting your property which begins to obstruct the footway. Frontagers do not always appreciate the inconvenience this can cause to pedestrians using paths, especially for mothers with young children, the disabled and those who have impaired vision.

The Council has asked me to write to you to request that you have a look at the matter and as a good neighbour do something about it at the first opportunity. If you feel that you would like to discuss this letter, please do not hesitate to write to the above address or telephone me on (.....) ..... when I would arrange for a parish councillor(s) to meet you to discuss the matter informally.

Not everyone is aware of their responsibilities or what the legal position is. I have enclosed a copy of Section 154 of the Highways Act 1980 which has been provided by the Oxfordshire County Council. You will see that a Parish Council does not have the power to enforce the legislation, but the County Council does. However, this Council feels that you might appreciate an informal approach requesting that you take steps to remove any obstructions before it becomes an issue, rather than it be reported to the County Council without reference to you.

Yours sincerely