

ORDINANCE OF THE STATES OF DELIBERATION

ENTITLED

The Cutting of Hedges Ordinance, 1953 *

[CONSOLIDATED TEXT]

NOTE

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* Recueil d'Ordonnances Tome X, p. 373; as amended by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); the Cutting of Hedges (Amendment) Ordinance, 1989 (Recueil d'Ordonnances Tome XXV, p. 76); the Parochial Administration Ordinance, 2013 (No. XL of 2013); the Cutting of Hedges (Amendment) Ordinance, 2017 (No. ** of 2017). See also the Ordonnance ayant rapport à la Construction de Maisons, Salles Publiques et Bâtiments, et au Tracement de Routes et Chemins, 1931 (Recueil d'Ordonnances Tome VIII, p. 123).

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ARRANGEMENT OF SECTIONS

1. Cutting of hedges in June and September.
- 1A. Warning Notices.
- 1B. Appeals.
- 1C. Service of documents.
2. Constables to report.
3. Failure to report.
4. Repeals.

(Made on 23rd May, 1953.)

The Cutting of Hedges Ordinance, 1953

THE STATES LEGISLATION COMMITTEE, under and by virtue of the powers conferred upon them by paragraph (3) of Article sixty-six of the Reform (Guernsey) Law, 1948, and on the representations of the States Committee for Agriculture and Fisheries, hereby order: –

Cutting of hedges in June and September.

1. (1) [Every owner of land bordering a public road] shall between the 1st day and the 15th day of June and between the 15th day and the 30th day of September in each year, cut away such parts of all hedges as overhang such public road –

- (a) up to a height of twelve feet from the road surface where that road is ordinarily used by vehicular traffic, and
- (b) up to a height of eight feet from the road surface where that road is not ordinarily used by vehicular traffic

and shall immediately thereafter remove from such public road all material cut from such hedges.

[(1A) [Every owner of land bordering the corner of a public road] shall ensure that no hedge overhangs that corner so as to obstruct the view over or around that corner.]

(2) For the purposes of this section hedges shall be deemed to include trees and branches of trees and all kinds of growth overhanging a public road at a height less than that specified in this section.

(3) ...

NOTES

In section 1,

first, the words in square brackets in subsection (1) and, second, the words in square brackets within subsection (1A) were substituted by the Cutting of Hedges (Amendment) Ordinance, 2017, section 1, respectively paragraph (a) and paragraph (b), with effect from 1st January, 2018;

subsection (1A) was inserted by the Parochial Administration Ordinance, 2013, section 4(a), with effect from 1st September, 2015;

subsection (3) was repealed by the Parochial Administration Ordinance, 2013, section 4(b), with effect from 1st September, 2015, subject to the transitional provisions in section 10 of the 2013 Ordinance.¹

Warning Notices.

1A. (1) The Constables of each Parish may serve a notice (a "**warning notice**") signed by two or more Constables or Douzeniers, on a person who in their opinion is infringing any of the provisions of section 1, or who has otherwise not removed from a public road material he has cut from hedges.

(2) A warning notice must –

- (a) contain an explanation of why it has been served, including the precise nature of any alleged infringement of section 1,
- (b) explain that the person has, from the date of service of the warning notice,
 - (i) seven days to remedy the infringement, or
 - (ii) if the warning notice relates to material cut from hedges left on the public road, 24 hours to remove the material,

before the person becomes liable to pay a civil penalty and, thereafter, an ongoing daily penalty, pursuant to subsection (3) or (4) (as the case may be), and the amounts of those penalties, and

- (c) set out the person's right to appeal under section 1B against the service of the notice and against any penalty subsequently imposed.

(3) Subject to subsection (4), a person who has been served with a warning notice and who continues to infringe section 1 shall be liable, on the eighth day after service of the warning notice, to a civil penalty of £50; and he shall in addition be liable to a further ongoing penalty of £5 for every day after the date of the imposition of the original penalty, during which the infringement continues.

(4) A person who has been served with a warning notice relating to material cut from hedges left on the public road and who has not removed that material shall be liable, 24 hours after service of the warning notice, to a civil penalty of £50; and he shall in addition be liable to a further ongoing penalty of £5 for every day after the date of the imposition of the original penalty, during which he does not remove the material.

(5) A penalty imposed under this section shall be collected by the Constables of the relevant Parish, and on collection shall form part of the general funds of that Parish.

(6) In default of payment of a penalty under this section, the Constables may proceed to enforce payment as if the amount due were a civil debt.]

NOTE

Section 1A was inserted by the Parochial Administration Ordinance, 2013, section 4(c), with effect from 1st September, 2015.

[Appeals.

1B. (1) A person aggrieved by the decision to serve a warning notice, or to impose under section 1A a civil penalty, including an ongoing daily penalty, may appeal to the Parochial Appeals Tribunal established under the Parochial Administration Ordinance, 2013, by way of service of a notice of appeal on the President of that Tribunal.

(2) For the avoidance of doubt, the making of an appeal under subsection (1) does not affect the validity of the penalty or notice in question, save that an ongoing daily penalty shall stop accruing from the date of the service of a notice of appeal under subsection (1).]

NOTE

Section 1B was inserted by the Parochial Administration Ordinance, 2013, section 4(c), with effect from 1st September, 2015.

[Service of documents.

1C. (1) A warning notice required to be served under this Ordinance on a person may be served by [–

- (a) being delivered to, or being left at, or sent by post to –
 - (i) the usual or last known place of abode of the owner of the property to which the warning notice relates,
 - (ii) the principal or last known place of business or office (as the case may be) of the owner of the property to which the warning notice relates, or
 - (iii) the address notified to the States of Guernsey Policy & Resources Committee by the owner of the property to which the warning notice relates for the purposes of section 48(2) of the Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007, or
- (b) being delivered to, or being left at, or sent by post, or being fixed to some conspicuous part of or about the property to which the warning notice relates.]

(2) A notice of appeal under section 1B may be served on the Tribunal by being delivered to, or being left at, or sent by post to the Tribunal's published address for service.

(3) Subsections (1) and (2) are without prejudice to any other lawful method of service.

(4) In subsections (1) and (2) the expression "**by post**" means by registered post, recorded delivery service or ordinary letter post.

(5) A document sent by post is, unless the contrary is shown, deemed for the purposes of this Ordinance to have been received on the third day after the day of posting, excluding any day which is not a working day.

(6) Service of a document sent by post shall be proved by showing the date of posting, the address thereon and the fact of prepayment.]

NOTES

Section 1C was inserted by the Parochial Administration Ordinance, 2013, section 4(c), with effect from 1st September, 2015.

In section 1C, the words in square brackets in subsection (1) were substituted by the Cutting of Hedges (Amendment) Ordinance, 2017, section 1(c), with effect from 1st January, 2018.

In accordance with the provisions of the Ordonnance ayant rapport à la Construction de Maisons, Salles Publiques et Bâtiments, et au Tracé de Routes et Chemins, 1931,² Article 36(3), with effect from 1st September, 2015, subsections (2) to (6) of this Article shall apply to the service of a notice of appeal under that Ordinance as they apply to the service of a notice of appeal under this Article.

Constables to report.

2. The Constables of each Parish shall, between the 1st day and the 15th day of October in each year, furnish to the Law Officers of the Crown a report in writing under the hand of either of them, showing how far, in that Parish, the provisions of subsections (1) and (2) of the last preceding section have been complied with.

Failure to report.

3. If in the case of any Parish the requirements of the last preceding section are not fulfilled, the Constables of that Parish shall, if so required by the said Law Officers, appear before the Royal Court at such time as the Law Officers may direct, in order to give such explanation or information as the Royal Court shall require.

Repeals.

4. The Ordinance relating to the Cutting of Hedges (1947) and the Cutting of Hedges Ordinance, 1950, are hereby repealed.

NOTE

The Ordinance was made and came into operation on 23rd May, 1953.

¹ Prior to its repeal, subsection (3) was amended by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989; the Cutting of Hedges (Amendment) Ordinance, 1989, section 1, with effect from 30th November, 1989.

² Recueil d'Ordonnances Tome VIII, p. 123; the Ordinance was made on the 25th April, 1931 and, in accordance with the provisions of the Construction of Buildings and Roads (Regulations) Ordinance, 1948, Article 3, with effect from 10th July, 1948, may be cited as the "Construction of Buildings and Roads (Regulations) Ordinance, 1931".