STATUTORY INSTRUMENTS

1997 No. 1160

The Hedgerows Regulations 1997

Removal of hedgerows

5.—(1) Subject to the exceptions specified in regulation 6, the removal(**1**) of a hedgerow to which these Regulations apply is prohibited unless—

    (a) the local planning authority in whose area the hedgerow is situated or, where it is situated in the area of more than one such authority, the local planning authority in whose area the greater part of the hedgerow is situated, have received from an owner of the hedgerow (subject to paragraph (10)) notice in the form set out in Schedule 4, or a form substantially to the same effect, of his proposal to remove the hedgerow ("hedgerow removal notice") together with the plan and evidence mentioned in the form set out in Schedule 4; and

    (b)   (i) the authority have given to the person who gave the hedgerow removal notice written notice stating that the hedgerow may be removed; or

        (ii) the period specified in paragraph (6) has expired without the authority having given to that person a hedgerow retention notice stating that the work may not be carried out; and

    (c) the removal is carried out in accordance with the proposal specified in the hedgerow removal notice; and

    (d) the hedgerow is removed within the period of two years beginning with the date of service of the hedgerow removal notice.

(2) A local planning authority which has received a hedgerow removal notice shall, consistently with paragraph (5) and within the period specified in paragraph (6), decide whether or not to give notice to that person stating that the work or, where the hedgerow removal notice refers to more than one hedgerow, so much of the work as may be specified by the authority in their notice, may not be carried out ("hedgerow retention notice").

(3) Where a hedgerow in respect of which the local planning authority has received a hedgerow removal notice is situated in a parish in England for which there is a parish council, or in a community in Wales for which there is a community council, that authority shall consult that council (or, where there is more than one such council, each of them) on the proposal to remove that hedgerow.

(4) The consultation referred to in paragraph (3) shall be completed before the period specified in paragraph (6) expires and before the giving of a notice under paragraph (1)(b)(i) or a hedgerow retention notice.

(5) A local planning authority—

    (a) shall not give a hedgerow retention notice in respect of a hedgerow which is not an "important" hedgerow;

    (b) shall give such a notice, within the period specified in paragraph (6), in respect of an "important" hedgerow unless satisfied, having regard in particular to the reasons given for its proposed removal in the hedgerow removal notice, that there are circumstances which justify the hedgerow's removal.

(**1**) *See* the definition of "remove" in section 97(8) of the Environment Act 1995.

(6) The period referred to in paragraphs (1)(b)(ii), (2), (4) and (5)(b) is that of 42 days beginning with the date on which the hedgerow removal notice is received by the local planning authority or such longer period as may be agreed between the person who gave the notice and the authority.

(7) A hedgerow retention notice shall, except where regulation 8(4) applies, specify each criterion (of those listed in Schedule 1) which applies to the hedgerow to which the notice relates.

(8) A hedgerow retention notice may be withdrawn at any time by the local planning authority by giving written notice of the withdrawal to the person to whom the hedgerow retention notice was given.

(9) Where a hedgerow retention notice has been given stating that work relating to a hedgerow may not be carried out, and that notice has not been withdrawn, removal of the hedgerow consisting of or including any such work is prohibited.

(10) Where a hedgerow is or is to be removed by or on behalf of a relevant utility operator from land of which it is not the owner, paragraph (1)(a) shall apply as though the reference to the owner were instead a reference to the relevant utility operator.