The Hedgerows Regulations 1997

A Guide to the Law and Good Practice

Department for Environment, Food and Rural Affairs

PREFACE

The Hedgerows Regulations 1997 were made under section 97 of the Environment Act 1995 and came into force on 1 June 1997. They introduced new arrangements for local planning authorities in England and Wales to protect important hedgerows in the countryside, by controlling their removal through a system of notification.

THE LAW

This Guide explains, and gives advice on, the provisions of the Hedgerows Regulations 1997, as amended by the Hedgerows (Amendment) (England) Regulations 2002. It concerns the application of the law in England only. Anyone relying on it should bear in mind that it is advice only and has no legal force. It should always, therefore, be read alongside the 1995 Act and the Hedgerows Regulations.

GOOD PRACTICE

The Guide also suggests ways in which local planning authorities can administer the hedgerow protection system in accordance with good practice.

The overall aim of the Hedgerows Regulations - to secure the retention of important countryside hedgerows - is most likely to be met by adopting a common sense approach, based on co-operation rather than confrontation.

The Guide has been written primarily for local planning authorities, but it is also a useful point of reference for others interested in, or whose interests are likely to be affected by, the Regulations.

FURTHER INFORMATION

Any queries about this Guide should be addressed to Conservation Management Division, Department for Environment, Food and Rural Affairs, Ergon House, 17 Smith Square, London SW1P 3JR, telephone 020 7238 5667, e-mail farmland.conservation@defra.gsi.gov.uk.
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1. HEDGEROW PROTECTION SYSTEM – IN BRIEF

COVERAGE

1.1 The system applies to most countryside hedgerows in England and Wales. In particular it affects hedgerows which are 20 metres or more long, or which meet another hedgerow at each end. All these hedgerows must be on, or adjoining, land used for agriculture or forestry, the breeding or keeping of horses, ponies or donkeys; common land, village greens; Sites of Special Scientific Interest or Local Nature Reserves.

[Note: The consultation paper invites views on the case for protection of hedgerows (a) which form the boundary of a private garden but which would otherwise be important for historical or archaeological reasons; and (b) growing in or adjacent to land used as a golf course, racecourse or aerodrome.]

REMOVAL

1.2 The system is concerned with the removal of these hedgerows, either in whole or in part. ‘Removal’ includes not only grubbing up, but also other acts which result in the destruction of a hedgerow.

NOTIFICATION SYSTEM

1.3 The procedure in the Regulations is triggered only when land managers (the freehold owner and, in the case of agricultural holdings or farm business tenancies, the tenant) or utility operators want to remove a hedgerow. They must first notify the local planning authority, setting out their reasons for wanting to remove the hedgerow.

1.4 Certain removals, such as to allow necessary access, do not have to be notified.

1.5 The local planning authority generally has 56 calendar days from receipt of notification in which to give or refuse consent to the notified work, taking account not only of whether the hedgerow is important but also of the reasons given for removing it. If the authority does not respond within this period, the hedgerow may be removed, subject to any other legal constraints which apply.

1.6 The purpose is to enable protection of important hedgerows. The local planning authority cannot refuse consent if the hedgerow is not important.

IMPORTANT HEDGEROWS

1.7 The Regulations set out the criteria that must be used by the local planning authority in determining which hedgerows are important. The criteria relate to the value of hedgerows
from an archaeological, historical, landscape, amenity or wildlife perspective. They exclude hedgerows that are less than 30 years old. If a hedgerow is at least 30 years old and qualifies under any one of the criteria, then it is important.

**APPEAL RIGHTS**

1.8 Applicants who have been refused consent to remove a hedgerow by the local planning authority have a right of appeal to the Secretary of State for Environment, Food and Rural Affairs.

**ENFORCEMENT**

1.9 Removal of a hedgerow in contravention of the Regulations is a criminal offence, punishable in some cases in the Magistrates’ Court by a fine of up to £5,000. For anyone convicted on indictment in the Crown Court, the fine is unlimited.

1.10 The local planning authority may require replacement of a hedgerow removed in contravention of the Regulations. An appeal may be made against this.
2. INTRODUCTION TO THE HEDGEROWS REGULATIONS

VALUE OF HEDGEROWS

2.1 Hedgerows are distinctive features of the countryside. As the most traditional type of field boundary in many areas, hedgerows, and the field banks on which they often run, are of considerable historic interest. Many date back to the first enclosure of the land and may incorporate other historic features such as ancient earthworks, parish or old property boundaries. They thus contribute positively to the character and interest of the landscape.

2.2 Hedgerows, particularly older hedgerows, often provide shelter and/or food for a great diversity of plant and wildlife species. Their role in conserving and enhancing biological diversity is recognised in the UK Biodiversity Action Plan\(^1\), which includes a costed habitat action plan for ancient and/or species rich hedgerows.

2.3 There are many types of hedgerow. In some parts of the country, they are important elements of the local landscape. Their local-distinctiveness, landscape and amenity value may add to the local sense of community and provide important economic opportunities through tourism.

HEDGEROW LOSS

2.4 Many hedgerows were lost from the countryside landscape up to the early 1990s and widespread removal remains a cause for concern. But more recent evidence is encouraging, with the results of Countryside Survey 2000\(^2\) indicating that by 1998 the declines in length of hedges and walls reported for the 1980s had been halted. In the case of hedges in England and Wales, the Survey noted that there was some evidence that losses in the early 1990s had been reversed.

2.5 The Government’s approach to hedgerow protection involves both incentive schemes and the use of regulation. On the one hand, financial incentives are available for managing, restoring and planting hedges under various agri-environmental schemes, the main one in England being the Countryside Stewardship Scheme, administered by the Department for Environment Food and Rural Affairs. On the other hand, section 97 of the Environment Act 1995 (“the 1995 Act”) empowers Ministers to introduce regulations to protect important hedgerows from removal.

THE HEDGEROWS REGULATIONS 1997


2.6 The Hedgerows Regulations 1997, as amended by The Hedgerows (England)(Amendment) Regulations 2002, contain the detailed arrangements for a system to protect important hedgerows.

2.7 Local planning authorities administers the hedgerow protection system set out in the Regulations.
3. SCOPE OF THE REGULATIONS

APPLICATION TESTS

3.1 There are a number of tests that should be undertaken to determine whether the hedgerow itself, and the works to be carried out on it, are subject to the requirement to notify the local planning authority. The person who would be submitting any notice should initially undertake these tests.

3.2 Early discussion with the local planning authority, before any notice is sent, may help to clear up any doubts about whether the Regulations apply. The authority should provide, if requested, a written explanation of informal advice. In particular, this should make clear what action is necessary and why.

WHAT IS A HEDGEROW

3.3 The term “hedgerow” is not separately defined in section 97 of the Environment Act 1995 or in the Regulations. In the absence of a statutory definition, the courts are likely to give the word its ordinary, natural meaning - such as that found in a good dictionary. The Oxford English Dictionary definition (2nd edition, 1989) may therefore be used as a guide; “a row of bushes forming a hedge, with the trees etc growing in it; a line of hedge.”

3.4 For the purposes of the Regulations, the hedgerow does not have to contain trees, but any trees growing in it form part of the hedgerow. Where a former hedgerow has not been actively managed and has grown into a line of trees, it is not covered by the Regulations. However, trees in hedges may be protected by separate felling controls or by Tree Preservation Orders. The essential feature of a hedgerow is a row of bushes.

3.5 Stone walls and earth banks are not covered by the Regulations unless, as for example is common in the south west of England, they support a hedgerow growing along the top.

COUNTRYSIDE HEDGEROWS

3.6 The Regulations are aimed primarily at countryside hedgerows. Countryside hedgerows are defined as those on or adjoining, common land, village greens, Sites of Special Scientific Interest (which include National Nature Reserves, Special Protection Areas under the Birds Directive and Special Areas of Conservation under the Habitats Directive), Local Nature Reserves, or land used for agriculture, forestry or the breeding or keeping of horses, ponies or donkeys.

3.7 They do not apply, however, to garden hedges. These are defined as hedgerows within, or marking a boundary of, the curtilage of a dwelling. Hedgerows that mark the boundary of the curtilage of a dwelling are not covered by the Regulations even though the land on the other side of the hedgerow may be used for one of the purposes set out in
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paragraph 3.6. For example, where the hedgerow marks the boundary line between agricultural and residential land, such as on the edge of a town, the Regulations do not apply.

[Note: The consultation paper invites views on the case for protection of hedgerows (a) which form the boundary of a private garden but which would otherwise be important for historical or archaeological reasons; and (b) growing in or adjacent to land used as a golf course, racecourse or aerodrome.]

3.8 Although the land use descriptions in paragraph 3.6 encompass relatively few hedgerows in urban areas, this is not intended to imply that such hedgerows are unimportant and unworthy of protection. A major threat to urban hedgerows arises from pressures of development. Existing planning legislation provides a measure of protection for such hedgerows by allowing local planning authorities to impose conditions when granting permission to develop land, such as requiring the retention of hedgerows on the site.

LENGTH OF HEDGEROW

3.9 The Regulations apply to hedgerows of certain lengths, as follows:

- hedgerows that are 20 metres or more long; or

- hedgerows that are less than 20 metres long, if they are connected at each end to another hedgerow - thereby forming a continuous network of hedges. The length of the adjoining hedgerows is immaterial; the significant factor is the connection; and

- any stretch within one of these hedgerows.

3.10 Regulation 3 explains how to determine whether a hedgerow is or exceeds 20 metres in length. In particular, it stipulates that each hedgerow is to be regarded as starting and/or ending at the point where it forms a junction or intersection with another hedgerow.

3.11 It also includes provision for gaps in the vegetation of 20 metres or less, or any gap resulting from a contravention of the Regulations, to be counted as part of the hedgerow. A gap is defined in regulation 2(1) as any opening, whether or not it is filled. It may be a hole or it may be filled by a gate or other means of access. The shrubby cover does not, therefore, have to be unbroken in order for the hedgerow to qualify. Nor is it necessary for adjoining hedgerows physically to meet.

3.12 The practical effect of these provisions is illustrated are Annex A.

CROWN LAND
3.13 Hedgerows, which satisfy the requirements of regulation 3 that are on land that is in the ownership of the Crown are covered by the Regulations.

REMOVAL

3.14 Having established whether the hedgerow itself is one to which the Regulations apply, the next test is whether the work to be carried out to the hedgerow constitutes removal and so should be notified.

3.15 The term “remove” is defined in section 97(8) of the 1995 Act as “uproot or otherwise destroy”. It includes therefore not only deliberate grubbing out of hedgerows but also other acts that result in the destruction of the hedgerow. These acts may not necessarily be carried out on the hedgerow itself. They may, for instance, be undertaken on nearby land, or on a bank supporting the hedgerow, or by some other indirect means. But, if the hedgerow is thereby destroyed, it has been “removed” for the purposes of the Regulations.

3.16 A judgement on whether the proposed work or other activity constitutes “removal” will have to be made according to the circumstances of the individual case. However, taking out selected individual woody species, turning an important hedgerow into an unimportant one, may amount to removal of a stretch of hedgerow. On the other hand, it is unlikely that insertion into the hedgerow of a pole, to carry overhead electricity distribution or telecommunications lines, or a fence post, would involve taking out or destroying a portion of the hedgerow and so should not be regarded as removal. Nor should earthworks near hedgerows, such as trenching for the installation of underground cables or pipes, usually lead to their removal or destruction - provided that care is taken not to damage roots, especially those with a diameter larger than 20 millimetres and clumps of smaller roots.

3.17 The local planning authority should stand ready to offer advice at an early stage if there are uncertainties as to whether proposed work or activity would constitute removal. The authority should provide, if requested, a written explanation of its informal advice.
4. EXEMPTIONS FROM THE NEED TO NOTIFY

CATEGORIES

4.1 Certain activities involving removal of a hedgerow or a portion of hedgerow, set out in regulation 6(1) and explained below, may proceed without prior notification to the local planning authority. They broadly fall into three categories:

- small-scale works;
- works approved under other procedures which ensure careful assessment and consideration of the impact on the local environment;
- works authorised under other legislation which justify the removal of a hedgerow without first establishing its importance.

4.2 The local planning authority should stand ready to offer advice at an early stage if there are any uncertainties as to whether the operation involved falls into one of these exemptions, and thus whether a proposal to remove a hedgerow needs to be notified. The authority should provide, if requested, a written explanation of informal advice. In particular, this should make clear what action is necessary and why. It should also indicate that no more of the hedgerow should be removed than is necessary for the purposes set out in regulation 6(1).

EXEMPTIONS

4.3 A number of exemptions relate to the need for access to land. In all cases, access to land includes not only the land on either side of a hedgerow but also the land on which it is planted. Land includes anything in, on or over it, such as cables or other utility apparatus. It also includes land covered by water, such as a ditch, pond or stream.

To make a new opening in substitution for an existing opening which gives access to land

4.4 Where such a removal is undertaken, the person responsible must fill the original opening by planting a hedge, within 8 months of the making of the new opening. Failure to comply with this condition is an offence. This exemption only applies to new openings of up to 9 metres in length.

To widen an existing opening which gives access to land

4.5 This exemption allows an existing opening necessary to gain access to land to be widened to no more than 9 metres.
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For obtaining access to land where another means of access is not available or is available only at disproportionate cost

4.6 This exemption includes instances where it is necessary for a land manager or utility company to gain access to land which is entirely enclosed by, or covered by, a hedgerow. For example, a farm woodland may be surrounded by a hedgerow, requiring removal of a portion in order to enter and manage the wood. It might also include instances where a farmer acquires new land to which there is no entry from his farm, or where a utility operator requires to carry out work on an underground or overhead system which necessitates the removal of a stretch of hedgerow. The exemption may only be used in cases where alternative access, at reasonable cost, is not available. In cases where temporary access is all that is needed, the newly created opening should be closed by new planting as soon as possible after the work has been carried out. This exemption allows new openings of up to 9 metres in length.

For obtaining temporary access to any land in order to give assistance in an emergency

4.7 A judgement will need to be made as to whether an emergency exists and whether removal of a hedgerow is necessary and justifiable in the particular circumstances. For example, prior notification would not be required where the removal of a stretch of hedgerow was necessary to allow access for an ambulance, in the event of immediate medical assistance being required, or to enable rescuers to assist a person in difficulties. Removal of a hedgerow in order to restore power to a community might also fall within this exemption.

For the purposes of national defence

4.8 Hedgerows are an essential element of the Ministry of Defence’s training areas. Whilst the Ministry endeavours to protect hedgerows on its estate, a national security plan or project could be compromised as a result of the need to obtain prior approval for the removal of one or more hedgerows.

For carrying out development for which planning permission has been granted, or is deemed to have been granted, except development for which permission is granted by article 3 of the Town and Country Planning General Permitted Development Order 1995 in respect of development of any of the descriptions contained in Schedule 2 to that Order other than Parts 11 (development under local or private Acts or orders) and 30 (toll road facilities)

4.9 Hedgerow removal in the course of carrying out development for which planning permission has been, or is deemed to have been, granted may normally proceed without prior notification under these Regulations.

4.10 However, the exemption expressly excludes most permitted development rights. No prior notification is necessary for hedgerows removed in the course of development for
which planning permission is granted under Parts 11 (development under local or private Acts or orders) and 30 (toll road facilities) of Schedule 2 to the Town and Country Planning General Permitted Development Order. However, hedgerow removal, in the course of other permitted development described in Schedule 2 to the Order, is subject to prior notification to the local planning authority - provided, of course, that the hedgerow and works are within the scope of the Regulations, and do not fall within any of the other exemptions set out in regulation 6(1).

For carrying out, pursuant to, or under, the Land Drainage Act 1991, the Water Resources Act 1991 or the Environment Act 1995, work for the purpose of flood defence or land drainage

4.11 The Land Drainage Act 1991, the Water Resources Act 1991 and the Environment Act 1995 empower operating authorities (Internal Drainage Boards, local authorities and the Environment Agency) to carry out flood defence and land drainage work. The bodies concerned are required to have regard to their statutory environmental duties when undertaking any work affecting hedgerows. Such work may include the removal of trees or shrubs to prevent the possibility of obstructing or impeding water flow leading to flooding.

For preventing the spread of, or ensuring the eradication of a plant or tree pest

4.12 Under articles 22 and 23 of the Plant Health (Great Britain) Order 1993, and articles 21 and 22 of the Plant Health (Forestry)(Great Britain) Order 1993, authorised inspectors can require, and can themselves take, specified measures to prevent the spread of, or to eradicate, certain plant or tree pests. The measures may include the removal and disposal of specified plants or trees from hedgerows or a requirement to treat them in some way. The exemption does not permit the removal of a hedgerow except in cases where this action is expressly permitted by an authorised inspector in order to deal with a specific plant health threat.

For the carrying out by the Secretary of State of his functions in respect of any highway for which he is the highway authority or in relation to which he has the same powers as the local highway authority

4.13 This exemption covers the functions carried out by the Highways Agency, such as building new all-purpose trunk roads and motorways or improving existing ones, where an environmental assessment is undertaken as a standard procedure.

For carrying out any felling, lopping or cutting back to prevent obstruction of, or interference with, electric lines and plant, or to prevent danger under the Electricity Act 1989

4.14 Paragraph 9 of Schedule 4 to the Electricity Act 1989 (Felling and lopping of trees etc) enables a relevant licence holder to give notice to an occupier of land requiring him to fell, or lop a tree, or cut back its roots in order to prevent obstruction of, or interference with, electric lines and plant or to prevent danger. Hedgerow removal undertaken in compliance
with such a notice is not subject to the prior notification procedure. If the owner or occupier does not comply with the paragraph 9 order and does not serve a counter-notice (see paragraph 4.19 below), the licence holder may enter the land and carry out the works itself. Once again, in such a case any hedgerow removal would not be subject to notification under the Regulations.

4.15 A notice under paragraph 9 may be referred to the Secretary of State for Trade and Industry if the owner or occupier objects to the works covered by the notice and, within 21 days of the giving of the notice, serves a counter-notice. In such instances the Secretary of State for Trade and Industry may in due course make an order empowering the licence holder to carry out the works notwithstanding the objection. Works carried out under such an order are also exempt.

For the proper management of a hedgerow

4.16 This provision has been included to make clear that appropriate hedgerow management techniques, which may necessitate the hedgerow being cut back to near ground level, are exempt. Cutting back a hedgerow, in a manner that does not result in its destruction would not constitute “removal”. Such works do not need to be notified to the local planning authority.

4.17 This exemption would also allow, if necessary, the removal of dead or diseased shrubs from a hedgerow, or of elder bushes as part of restoration works (e.g. coppicing and gapping), without prior notification.

4.18 A judgement on whether the proposed work or other activity constitutes “removal” must be made according to the circumstances of the individual case. Acceptable management activities intended to revitalise hedges and reflecting local practice would not fall foul of the Regulations. However, local planning authorities should be on their guard for potential abuse of this provision. For example, repeated coppicing at too frequent intervals, or the taking out of selected individual woody species in order to turn an important hedgerow into an unimportant one, are actions that may constitute removal or destruction, contrary to the Regulations.

4.19 The local planning authority should stand ready to offer advice at an early stage if there are any uncertainties as to whether proposed work or activity would constitute removal. The authority should provide, if requested, a written explanation of informal advice.
5. NOTIFICATION OF INTENDED HEDGEROW REMOVAL

PRE-NOTIFICATION

5.1 A person who wishes to remove, either entirely or in part, one or several hedgerows, which fulfil the description set out in regulation 3, must first notify the local planning authority. Any such person is subsequently referred to in this guidance as “the applicant”. There is no fee for submitting a hedgerow removal notice to the local planning authority.

5.2 Before submitting a formal notice, it may be advisable for the applicant to discuss his proposal informally with the local planning authority. Early discussion and possibly a visit to the site may save time later.

5.3 In particular:

- it will help the local planning authority to form a clearer picture of the operations proposed and the hedgerows affected;
- this will enable it to explain whether the hedgerow and the work are covered by the Regulations, and if so whether there is a need to submit a formal removal notice;
- the local planning authority may be able to advise on whether other consents are required or whether an application should be made under a Tree Preservation Order;
- the authority can also guide the applicant generally through the hedgerow notification procedure.

5.4 The local planning authority should provide, if requested, a written explanation of informal advice. In particular, this should make clear what action is necessary and why.

HEDGEROW REMOVAL NOTICE

5.5 The prescribed form of the removal notice is set out at Annex B and in Schedule 4 to the Regulations. Regulation 5(1)(a) makes it clear that the notice does not have to follow this precisely, provided that it is in a form substantially to the same effect.

5.6 Presentation of information in a consistent way will help the local planning authority to adopt a consistent approach to notices they receive and to reach consistent decisions. The local planning authority may have their own forms of notice printed for this purpose. The authority should not, however, reject a Hedgerow Removal Notice because its own form of notice has not been used or because the notice is not in the form set out in
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Schedule 4. In such a case, the authority should accept the notice, provided that the substance of what is supplied satisfies the requirements of regulation 5(1)(a).

5.7 The form of notice in the Regulations is intended to provide the local planning authority with sufficient information to enable it to consider the proposed hedgerow removal, without placing an unreasonable burden on the applicant. The applicant is not obliged to provide additional information.

5.8 In particular, the form of notice in Schedule 4 indicates that:

- any notification must be made in writing;
- the hedgerow(s) in question should be clearly identified, preferably on large-scale (1:2,500) plan. As part of the evaluation process, the local planning authority may need to visit the site and to survey the hedgerow(s). It is important, therefore, that there is no confusion over where they should go and which hedgerow(s) they should be looking at. The plan must be sufficient to enable an officer of the authority to locate the site and the specific hedgerow(s);
- the applicant must state what reasons there are for removing the hedgerow(s). It is up to the applicant to decide what details should be provided to support the case being made. However, applicants are urged to submit full details at the outset, and thus to help the local planning authority reach an informed decision;
- evidence should be provided to back up any claim that a hedgerow has existed for less than 30 years and so is not important (see paragraph 5.11 below);
- the status of the applicant must be made clear.

5.9 Receipt by the local planning authority of a Hedgerow Removal Notice starts the 56-day period (or such longer period as may be agreed between the authority and the applicant), in which the authority must decide the matter. The notice is invalid if it is incomplete. In these circumstances, the local planning authority should advise the applicant what further information is required. The 56 days will not start until the local planning authority receives this.

5.10 As noted above, the local planning authority is not entitled to require more information than is set out in the prescribed form of notice in Schedule 4 to the Regulations, or to ask for multiple copies of notices to be provided. A single notice may be submitted even if it is proposed to remove more than one hedgerow. However, applicants are encouraged to submit separate notices for different sites, rather than one notice covering all proposed hedgerow removal on a single land holding.

5.11 An applicant is required to provide evidence of the date of planting if he/she wishes to claim that a hedgerow is less than 30 years old. Such evidence might include:
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• if the hedgerow was planted with financial assistance from a public body (Government or its agencies, local government etc.), a copy of the relevant grant approval. The approval would need to make clear that new planting was involved, rather than repairs to an existing hedgerow;

• an invoice or other commercial documents relating to the planting of a hedgerow and which identifies its location;

• a photograph of the area taken within the last 30 years. The location where the hedgerow now stands would need to be clear, as would the age of the photograph;

• a sworn affidavit or statutory declaration from a third party, with no interest in the retention or removal of the hedgerow.

5.12 This list is illustrative rather than exhaustive. Early discussion with the local planning authority will help to establish what other evidence might be acceptable and what aerial photographs and maps of the area might be available.

5.13 If, in the local planning authority’s view, the evidence supplied does not, on the balance of probabilities, show that the hedgerow is less than 30 years old, the applicant should be advised accordingly and informed that the hedgerow will be assessed against the criteria in Schedule 1 to the Regulations. If further evidence is subsequently supplied, the local planning authority should inform the applicant that the 56 days would re-start from the date of its receipt.

WHO CAN NOTIFY

5.14 The Regulations specify that the following persons may submit a hedgerow removal notice:

• the owner of the freehold of the land; or

• the tenant if the land is part of an agricultural holding; or

• the tenant if the land is subject to a farm business tenancy; or

• certain utility operators, who need to remove a hedgerow in order to carry out their functions. These are electricity, public gas transporters, telecommunications, water and sewerage operators.

[Note: Other persons would need to be empowered to submit a Hedgerow Removal Notice should the Government decide to extend the application of the Regulations – for example to hedgerows which form the boundary of a private garden, or those growing in or adjacent to land used as a golf course, racecourse or aerodrome.]
5.15 The form of notice in Schedule 4 requires the applicant to indicate into which of these categories they fall.

5.16 Where the applicant is not also the owner of the land, it is good practice for that person to inform the owner of the intended removal. It is suggested that they copy any removal notice to the owner at the time when the notice is submitted to the authority (if not before), and tell the authority that this has been done. Some applicants may be obliged (e.g. under a tenancy agreement) to seek the owner’s consent. The local planning authorities would not be held responsible for actions in contravention of any separate legal agreement, regardless of whether such actions are approved by the authority in the context of the application of the Hedgerows Regulations 1997.

**WHO THE HEDGEROW REMOVAL NOTICE SHOULD BE SENT TO**

5.17 Hedgerow Removal Notices should be sent to the local planning authority in whose area the hedgerow, which is the subject of the notice, is situated. If the hedgerow crosses the boundary of two local planning authority areas, the notice should go to the authority in which the greater part of the hedgerow is situated.

**SERVING THE NOTICE**

5.18 Regulation 16(2) applies certain provisions of section 329 of the Town and Country Planning Act 1990, which stipulate how notices should be given or served. This relates to all notices under the Regulations, including hedgerow removal notices.

5.19 The methods to be used are:

- by delivering the documents to the local planning authority. This may be through the normal post;
- by leaving them at the usual address or principal office of the authority;
- by pre-paid registered letter or recorded delivery to that address.

5.20 As noted in paragraph 5.9 above, it is the receipt of a properly completed notice by the local planning authority that triggers the start of the 56 day period (or such longer period as may be agreed) in which the authority must decide the matter. It cannot necessarily be assumed that the 56 days will begin, say, two days after posting.

5.21 Although it is not obliged to do so, the local planning authority should acknowledge receipt of a hedgerow removal notice, making it clear when the 56-day period (or such longer period as has been agreed) begins and ends.

**INTERACTION WITH OTHER CONSENT REGIMES**
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5.22 There are requirements, under other legislation, to notify or obtain the consent of certain bodies before removing a hedgerow, or a hedgerow tree. These may overlap with the requirements to notify under the Hedgerows Regulations, but should be viewed as entirely separate. Different considerations are taken into account, and different timescales apply. In the circumstances listed below, therefore, the requirements to notify or obtain consent may need to be observed, as well as the requirement to notify and obtain consent under these Regulations.

Tree Felling Consent

5.23 In cases where a local planning authority receives an application to remove a length of hedgerow containing trees which normally require a felling licence, the authority must consult with the Forestry Commission to ensure any felling licence requirements are met.

Tree Preservation Orders

5.24 If permission is granted under these Regulations to remove a hedgerow, the local planning authority’s consent may also be required before cutting down, topping or lopping any tree in the hedgerow which is protected by a Tree Preservation Order made under section 198 of the Town and Country Planning Act 1990. Furthermore, if a hedgerow tree is not protected by a Tree Preservation Order, but is located in a conservation area designated under section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990, 6 weeks’ notice of any cutting down, topping or lopping must generally be given to the local planning authority.

Sites of Special Scientific Interest (SSSI)

5.25 Section 28 of the Wildlife and Countryside Act 1981 requires English Nature to provide the owner or occupier of an SSSI with a list of operations likely to damage the special interest of the site. The owner or occupier is required to obtain English Nature’s consent before they carry out any of the listed operations.

Scheduled Monument Consent

5.26 Works affecting scheduled ancient monuments require the prior written consent of the Secretary of State for Culture, Media and Sport. Such works would include ground disturbance caused by the uprooting of hedgerows.

Listed Building Consent

5.27 Listed building consent is required for any works which affect the historic character of a listed building. Applications for listed building consent are made to the local planning authority. Listed building controls might apply, for example, where there are protected milestones or boundary markers within a hedgerow, for which consent would be required if they were going to be moved as a result of the hedgerow removal.
OTHER OBLIGATIONS

5.28 The Regulations do not override legal obligations under private agreements or other statutory provisions. For example, consent given under the Regulations to remove a hedgerow would not override any obligations arising under Inclosure Acts and Awards which may still be enforceable, nor would it override any contractual obligations, such as between landlord and tenant, or under grant schemes where there may be a requirement to retain all hedges on a farm.
6. CONSIDERING A HEDGEROW REMOVAL NOTICE

CHECKING THE NOTICE

6.1 On receipt of a hedgerow removal notice, the local planning authority should check that the hedgerow itself, and the works to be carried out on it, are covered by the terms of the Regulations and thus should be notified to the authority. If not, the applicant should be informed immediately. In doing so, the local planning authority should explain that requirements to notify or obtain consent, under other legislation or private agreements, must still be observed.

6.2 The authority should also establish whether the notice contains the information required by regulation 5(1)(a) of, and Schedule 4 to, the Regulations. If not, the local planning authority should seek clarification from the applicant. In particular, the authority should advise them what further information is required, and that the 56-day period (or any such longer period as may be agreed) will not start until it is supplied.

ACKNOWLEDGING RECEIPT

6.3 The local planning authority is not required to acknowledge receipt of a hedgerow removal notice but it is good practice to do so in writing. Given that the proposed removal can go ahead if the authority does not respond within the specified period, it is important that all parties are clear when this expires.

6.4 The acknowledgement should, therefore, specify when the 56-day period begins and ends. The latter may need to be qualified to indicate that it will be subject to change in the event of any extension being agreed. It should be noted this is 56 calendar days - not 56 working days. The letter should also contain the name and telephone number of the officer dealing with the notice. If possible, it should give an indication of when the officer is likely to visit the site in order to survey the hedgerow, as part of the evaluation process.

CONSULTATION AND PUBLICITY

6.5 Under regulation 5(3), the local planning authority is required to consult the relevant parish council on hedgerow removal notices. The consultation must be completed within the 56-day period, or such longer period as may be agreed between the local planning authority and the person giving the notice.

6.6 Although the time available to parish councils to comment on proposals will be limited because of the timescale within which the local planning authority must work, sufficient time for consultation must be allowed. What is sufficient will depend on the circumstances, but time must be allowed for the parish council to consider the proposal and make its views known, and for the local planning authority to consider those views. Parish councils should, therefore, be consulted at the earliest opportunity, to give them maximum
time to comment. However, parish and community councils should not expect the consultation to fit within their regular cycle of meetings.

6.7 Parish and community councils may have important local knowledge that may help the local planning authority in considering hedgerow removal notices. These local councils may have views on the merits of a particular proposal, and they may be able to refer the local planning authority to local research to assist in the evaluation of the importance of hedgerows.

6.8 In addition, parish councils have a role in helping the local planning authority to enforce the Regulations. On the basis of their knowledge of hedgerow removal proposals being considered by the local planning authority, they are well placed to alert the authority to any unauthorised removal in their area.

6.9 The local planning authority are required to keep a register available for public inspection, containing a copy of all hedgerow removal notices amongst other items. This provides a means of publicising proposals, with a view to stimulating consultation. It is not, however, a replacement for proper consultation with local councils. Although there is no express provision for third party comment, the authority may seek the views of other parties and take these into account.

SITE SURVEY

6.10 The local planning authority may visit the site and survey the hedgerow, as part of the evaluation to establish whether it is an important hedgerow according to the criteria in Schedule 1 to the Regulations. The authority may also need to instigate searches of the relevant documentary records.

6.11 Site visits and surveys should be undertaken by suitably qualified individuals. For example, persons with appropriate botanical knowledge should normally carry out identification of woody species.

6.12 If it appears to the officer who visits the site that the hedgerow is one to which the Regulations do not apply, or the works proposed are ones which do not need to be notified to the local planning authority, the position should be confirmed in writing on return to the office. The letter should explain that requirements to notify or obtain consent under other legislation or private agreements may still apply.

6.13 If the hedgerow is covered by the Regulations and the works are not exempt, the local planning authority should normally carry out a survey of the hedgerow to identify which, if any, criteria determining importance are met. A site survey may not be needed if the authority is able to determine that a hedgerow is important and it decides to issue a Hedgerow Retention Notice, regardless of any other criteria that may be met. However, a decision by a local planning authority not to issue a hedgerow retention notice should only be taken following a site survey and a full check of the relevant documentary records.
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6.14 A site survey may involve examination of the hedgerow and associated features from land on either side of the hedgerow, which may require access to adjoining land in different ownership.

6.15 During the survey, the following information should be collected:

- total hedgerow length;
- number and location of 30 metre hedgerow sections to be surveyed for woody species;
- number of different woody species present within the 30 metre sections, using the list in Schedule 3 to the Regulations;
- whether the hedgerow marks the boundary, or part of a boundary, of a public right of way or public road;
- the presence of any Biodiversity Action Plan priority species (since the list is long, the surveyor may wish to record all plant and animal species which are identifiable at the time of the visit, in order to check these against the priority species list on return to the office);

6.16 If there are problems in identifying woody species, samples of hedgerow material may be taken away for further investigation.

ENTRY TO LAND

6.17 Under regulation 12, any person duly authorised in writing by the local planning authority may enter any land at a reasonable hour for the purpose of surveying it in connection with a hedgerow removal notice, provided there are reasonable grounds for entering for that purpose.

6.18 The local planning authority must give at least 24 hours’ notice of intended entry to:

- the occupier of land which adjoins that on which the hedgerow is situated and which is in different ownership;
- where a utility operator has submitted the Hedgerow Removal Notice, the occupier of the land to which the notice relates.

6.19 There is no requirement for the local planning authority to give the person who submitted the Hedgerow Removal Notice advance warning of their visit and of their intended entry to land. It is, nevertheless, good practice to give 24 hours’ notice. If the applicant or occupier is available at the time fixed by the local planning authority for a site visit and wishes to be present, this should be permitted.
6.20 These requirements apply whether it is an officer of the local planning authority visiting the site, or another person with the necessary written authority. For example, specialists, such as ecologists, may need to be present to assist in evaluating the hedgerow’s importance.

6.21 Where trunk road or motorway land is concerned, notice of intended entry should be given to the local Highways Agency office, or the managing agent responsible. The officer of the local planning authority conducting the survey should comply with any reasonable safety requirements, especially when entering land crossed by roads, motorways or railways.

6.22 Under regulation 13, a magistrate can issue a warrant enabling a person duly authorised by the local planning authority to enter land if it is shown to his satisfaction, on sworn information in writing, that:

- there are reasonable grounds for entering the land, for any of the purposes mentioned in regulation 12(1); and
- admission to the land has been refused, or no reply is received to a request for admission within a reasonable period; or
- the case is one of urgency.

6.23 A warrant authorises entry once at a reasonable hour (unless the case is one of urgency). The inspection must be completed within one calendar month of the issue of the warrant.

6.24 The site visit and survey may involve more than a visual inspection. Under regulation 14, any person exercising a right of entry may take with him other persons as may be necessary, and may take away hedgerow and soil samples.

6.25 Any person who wilfully obstructs a person exercising a right of entry is guilty of an offence.
7. IMPORTANT HEDGEROWS

INTRODUCTION

7.1 Subject to regulation 8(4), hedgerows are important for the purposes of the Regulations if they:

- have been in existence for 30 years or more; and
- satisfy at least one of the criteria set out in Part II of Schedule 1 to the Regulations.

7.2 The evidence necessary to support a claim that a hedgerow is less than 30 years old is outlined in chapter 5. If that evidence is not considered to be acceptable by the local planning authority, that authority should assess the hedgerow against the criteria in Schedule 1 to the Regulations.

7.3 The criteria in Part II of Schedule 1 identify hedgerows that are locally distinctive, species-rich, or of significant amenity, historic, archaeological, or wildlife value.

7.4 Evaluation may consist of both an on-site survey, largely to establish the wildlife and landscape value of the hedgerow (see ‘site survey’ section in chapter 6), and reference to appropriate documentation, largely to establish its historical value.

DOCUMENTATION (GENERAL)

7.5 The historical and archaeological criteria in Schedule 1 to the Regulations depend primarily on reference to published and publicly available records. The ecological criteria, which recognise the importance of UK Biodiversity Action Plan priority species, will also require reference to documentary evidence held at a local authority biological record centre (though the presence of such species may be established at the time of the on-site survey).

7.6 Many of the criteria refer to records held at the ‘relevant date’ – that is the date on which the latest version of the Regulations (i.e. the latest amendments) were made.

SOURCES OF DOCUMENTATION FOR ASSESSING HISTORICAL AND ARCHAEOLOGICAL VALUE

7.7 The main historical records that might usefully be consulted to establish whether a hedgerow is important are:

- the schedule of monuments compiled under section 1 of the Ancient Monuments and Archaeological Areas Act 1979;
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- the Sites and Monuments Records (SMRs), which often incorporate records of Scheduled Ancient Monuments and details of other archaeological fields and sites;

- other documents held at a Record Office - The Royal Commission on Historical Manuscripts (web site http://www.hmc.gov.uk) provides useful reference information on these offices. They include the Public Record Office, the British Library, and other national and local record offices and libraries.

7.8 The most fruitful and accessible source of information is likely to be the County Record Offices. As with the SMRs, records relating specifically to hedgerows, apart from maps, are likely to be few and scattered. However, there are likely to be more references to features such as manor or other estate boundaries within the parish records.

7.9 Relevant documents may include:

- **Estate Maps:** large scale estate maps are rare before the last 20 years of the sixteenth century, but from then onwards they become more common and form a useful source of information on field boundaries and hedgerows. Many such maps have been given to, or deposited in, the County Record Offices and are readily accessible. Maps held in places other than a Record Office (as defined in Schedule 1 to the Regulations) are not acceptable for the purposes of hedgerow evaluation under these Regulations.

- **Tithe Maps and Awards:** mostly made in the 1840s, the tithe map shows historical parish boundaries, although not all parishes will have such maps. The Tithe Commutation Act of 1836 converted the obligation of tithe in kind into a money charge. However, where Parliamentary enclosure occurred before 1836, tithes were extinguished as part of the enclosure process so tithe maps and awards were unnecessary. Tithe maps and awards are, therefore, more common in areas where Parliamentary enclosure occurred after 1836, or did not occur because the land had not been in the open field system.

- **Enclosure Maps:** Parliamentary enclosure of open fields was usually on a whole parish basis so the enclosure maps will provide useful evidence of the historic parish boundary. Maps of pre-1836 enclosure will be particularly useful, as parishes where this occurred will not have tithe awards and maps.

- **Charters:** these can provide the earliest written evidence on the location of hedgerows. They are legal conveyances of land, some of which have “perambulations” appended that define the land by describing the boundaries. The distribution of charters is very uneven, as is the mention of hedges.

- **Manorial Records:** as with charters, these, while having useful information, may require translation into modern language. Those undertaking hedgerow
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evaluation are unlikely to have the necessary skills or time to undertake this. However, some documents may already have been researched and translated.

7.10 The County Record Offices may also contain useful published research into the history of hedgerows or parishes.

7.11 Ordnance Survey Maps may also be useful. The first editions of the 6-inch Ordnance Survey maps were produced between 1853 and 1893. The first edition of the OS 1 inch maps was not of a scale to show field boundaries, but the surveyors recorded field boundaries on a larger scale in their field-books which are now held in the British Museum. The survey was carried out between 1795 and 1873. Pre-1830 maps and survey books, covering approximately one third of the country may be less reliable than those produced subsequently.

SOURCES OF DOCUMENTATION FOR ASSESSING ECOLOGICAL VALUE

7.12 Information on the presence or breeding in a hedgerow of any the 391 UK Biodiversity Action Plan priority species may be found at biological record centres maintained by local authorities. Such centres hold information gathered from various sources, including local authority surveys and information gathered by voluntary groups such as the Wildlife Trusts. However, coverage across the country is not universal.

CRITERIA FOR DETERMINING IMPORTANT HEDGEROWS

A locally distinctive hedgerow

7.13 These are specific types of hedgerow which are of significant local value. The localities within which they are important are defined in the Regulations in terms of local authority boundaries. In some cases, these may be as small as parish councils.

A hedgerow marking the boundary of a highway, as defined in the Highways Act 1980

7.14 This includes trunk and local roads, footpaths, bridleways and other public rights of way. In order to meet the criterion, the hedgerow must run alongside one of the above.

A hedgerow marking the boundary, or part of the boundary, of a historic land unit

7.15 Historic land unit means:

- a pre-1850 parish, township, hundred, wapentake, cantref or maerdref; or
- a pre-1600 manorial estate, ecclesiastical estate or the outer limits of field systems, parks, woods or common land.
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7.16 Tithe and enclosure maps should help when applying this criterion. Estate maps may also show parish boundaries, and the first edition six-inch Ordnance Survey map may help in interpreting information in earlier maps. A number of documents considered together with the physical features on the site may provide the necessary evidence.

A hedgerow incorporating, or associated with, an archaeological feature or site which is:

(a) included in the schedule of monuments compiled by the Secretary of State under section 1 (schedule of monuments) of the Ancient Monuments and Archaeological Areas Act 1979; or

(b) recorded at the relevant date in a Sites and Monuments Record.

7.17 The hedgerow might mark the outline of a feature e.g. along the ramparts of a fort or incorporate other features, such as burial mounds and milestones. A record of an artifact found along a hedgerow would not be sufficient to qualify it under this criterion. The “relevant date” is the date at which the Regulations were last amended.

7.18 The version of the Sites and Monuments Record used must be the one as at the relevant date. Any new or updated information or entries made after the relevant date cannot be taken into account.

A hedgerow that forms an integral part of a pre-1845 field system, or a pre-1870 enclosure field system

7.19 There are two tests that need to be met by this criterion:

• firstly, that the field system dates from before 1845 or 1870;

• second, that the hedgerow is actually an integral part of what survives of that system, rather than just an associated feature.

7.20 The second test is a matter of professional judgement based on what the field pattern is now, rather than that recorded in a document.

A hedgerow in which a species listed as a priority species in the UK Biodiversity Action Plan is, or has been within the relevant period, resident or breeding in the hedgerow

7.21 Since the publication in 1995 of Biodiversity: The UK Steering Group Report - Meeting the Rio Challenge, the UK Biodiversity Action Plan has been the main focus for conservation action in the UK. The Steering Group Report contained action plans to conserve 116 species and 14 habitats together with recommendations for future biodiversity action plans. There are now 436 biodiversity action plans - 391 species action plans and 45 habitat action plans.
7.22 The “relevant period” is, in the case of animals, five years before the date of issue of a hedgerow removal notice. In the case of plants the relevant period is ten years.

**A hedgerow that includes at least:**

(a) five woody species listed in Schedule 3 to the Regulations; or

(b) four woody species listed in Schedule 3 to the Regulations if it is situated wholly or partly in the City of Kingston upon Hull, Cumbria, Darlington, Durham, East Riding of Yorkshire, Hartlepool, Lancashire, Middlesbrough, North East Lincolnshire, North Lincolnshire, Northumberland, North Yorkshire, Redcar and Cleveland, Stockton-on-Tees, Tyne and Wear, West Yorkshire, York

7.23 Woody species not mentioned in Schedule 3 do not count for these purposes, unless they are hybrids. Where the list in Schedule 3 refers to a group of species (such as Elm, Rose, Whitebeam or Willow), different varieties of these groups only count as a single woody species. Thus a hedgerow containing Hawthorn, Dog Rose, Field Rose, Goat Willow, White Willow and Elder would be assessed, under the Regulations, as containing 4 woody species.

7.24 To calculate the number of woody species, the hedgerow must be surveyed in accordance with the instructions set out in paragraph 6(2) of Schedule 1 to the Regulations, which means:

- where the length of the hedgerow does not exceed 30 metres, count the number of woody species present in the hedgerow;
- where the length of the hedgerow exceeds 30 metres, but does not exceed 100 metres, count the number of woody species present in the central stretch of 30 metres;
- where the length of the hedgerow exceeds 100 metres, but does not exceed 200 metres, count the number of woody species present in the central stretch of 30 metres within each half of the hedgerow and divide the aggregate by two;
- where the length of the hedgerow exceeds 200 metres, count the number of woody species present in the central stretch of 30 metres within each third of the hedgerow and divide the aggregate by three;
- for the purposes of calculating a stretch of 30 metres, any gap in the hedgerow including a gateway, shall not be treated as part of the hedgerow, so that the stretch of hedgerow surveyed consists of 30 metres of vegetation.
Worked Example: How to Count the Woody Species in a Hedgerow Measuring More Than 100 Metres

The hedgerow measures 180 metres. It is divided into two. The central stretch of 30 metres within the first half contains hawthorn, dog rose, field rose, goat willow, white willow and elder (total of 4 woody species), and the central stretch of 30 metres within the second half contains hawthorn, dog rose, field rose, goat willow, white willow, elder, cherry and juniper (total of six woody species). The aggregate is ten (4+6); the average is 5 (10 divided by 2).

Where the aggregate does not equal a whole number it should not be rounded up or down, e.g. where the aggregate is 4.5 it remains as this figure and does not amount to “at least 5 woody species.”
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8. DECISIONS

POWERS AND TIME LIMITS

8.1 A local planning authority has 56 days (unless this period is extended by agreement with the applicant) from receipt of a hedgerow removal notice to make its decision. If it does not issue a hedgerow retention notice before the 56 days are up, the hedgerow may be removed (subject to any other legal or contractual obligations).

8.2 It is good practice for a local planning authority to respond to a hedgerow removal notice. It may do so by:

- issuing a written notice stating that the hedgerow may be removed; or
- issuing a hedgerow retention notice - under regulation 5(2). In the case of a removal notice that covers more than one hedgerow, the retention notice must specify any work that may not be carried out.

INTERNAL PROCEDURES

8.3 The local planning authority may wish to distinguish between classes of cases which may be decided by officers of the authority under delegated powers (such as, where the hedgerow is not important) and those to be decided by members (such as, where the hedgerow is important and a detailed case has been provided as to why its removal should be allowed).

NOTICE THAT THE HEDGEROW MAY BE REMOVED

8.4 If a hedgerow does not meet any of the criteria for determining important hedgerows, the local planning authority may not prevent its removal. As soon as it is apparent that the hedgerow is not an important one, the local planning authority should inform the applicant in writing that the proposed removal may proceed. The authority should not wait for the 56 day period (or such longer period as may have been agreed) to expire.

8.5 Where the hedgerow removal notice covers more than one hedgerow, the local planning authority should ensure that it is clear what is being authorised and what, if any, decisions remain to be determined. The local planning authority should also advise the applicant to ensure that any other requirements to notify or obtain consent under other legislation or private agreements are observed.

8.6 The hedgerow removal must be carried out in accordance with the proposal specified in the removal notice. It should take place within a period of two years, beginning on the date on which the removal notice was received by the authority. If, for example, it is intended to remove a larger portion of the hedgerow than was proposed in the original
removal notice, a new one must be submitted to the local planning authority. A new notice would also be required if the applicant wishes to remove the hedgerow more than two years after receipt of the original removal notice by the local planning authority.

HEDGEROW RETENTION NOTICE

8.7 Under regulation 5(5)(a), the local planning authority may not issue a hedgerow retention notice in respect of a hedgerow that is not important. The authority must issue a retention notice in respect of an important hedgerow unless, having regard in particular to the reasons given for the proposal, there are circumstances which justify its removal.

8.8 A retention notice should be sent as soon as the decision to do so has been made. It must be received by the applicant before the expiry of the 56-day period (unless a longer period has been agreed), beginning with the date on which the removal notice was received by the local planning authority.

8.9 A hedgerow retention notice should state specifically that removal of the hedgerow consisting of, or including, work specified in the removal notice in relation to that hedgerow, is prohibited.

8.10 It should also make clear that the hedgerow retention notice, and thus the prohibition, is not time limited. They last until such time as:

- the hedgerow retention notice is withdrawn, under regulation 5(8);
- the hedgerow retention notice is quashed, under regulation 9(3)(b), as a result of a successful appeal;
- a fresh removal notice has been considered by the local planning authority in accordance with these procedures. A fresh removal notice may be given at any time.

8.11 Except where the hedgerow was planted in place of an illegally removed hedgerow and regulation 8(4) applies, the retention notice must specify which criterion, or criteria, in Schedule 1 to the Regulations applies to the hedgerow in question. In addition, local planning authorities should include in their decision notice:

- a statement that the authority has taken into account the reasons for the hedgerow removal put forward by the applicant but is not satisfied that there are circumstances which justify the hedgerow’s removal;
- an explanation of the applicant’s right of appeal to the Planning Inspectorate. Information should be provided on how, where and within what period an appeal may be made (see Chapter 9). It should be made clear that the hedgerow retention notice stands while any appeal is being considered;
• details of where advice on hedgerow management, and availability of grants, in the area may be obtained.

IMPORTANT HEDGEROWS AND REASONS FOR REMOVAL

8.12 In deciding whether to issue a Hedgerow Retention Notice, the presumption is in favour of protecting and retaining important hedgerows. This is made clear by regulation 5(5)(b), which places a requirement on the local planning authority to issue a hedgerow retention notice unless satisfied that the circumstances justify removal of an important hedgerow.

8.13 The Regulations require the local planning authority, in each case, to consider whether removal of an important hedgerow is justified, taking into account the information provided by the applicant and the views of the parish or community council. Local planning authorities are not required to consult more widely, though they may wish to do so in order to consider the views of any third party. The local planning authority should also take account of their own development plan objectives and policies for countryside protection or enhancing countryside character.

8.14 In deciding whether to issue a hedgerow retention notice, the presumption is in favour of protecting and retaining “important” hedgerows. This is made clear by regulation 5(5)(b), which places a requirement on the local planning authority to issue a hedgerow retention notice unless satisfied that the circumstances justify removal of an “important” hedgerow.

8.15 Although the presumption is clear, the Regulations require the local planning authority, in each case, to make a judgement whether – even though it is an “important” hedgerow – its removal is justified, bearing in mind the reasons given on the form of notice and taking account of any comments made by the parish or community council during the consultation. The authority is not required to consult other parties, but there is nothing to prevent the views of other parties being taken into account. In reaching a decision the authority should also take account of development plan objectives and policies for countryside protection or enhancing countryside character.

8.16 The circumstances in which removal of an “important” hedgerow is allowed to proceed are likely to be limited. But the local planning authority might consider that the wider public interest was best served by removal of the hedgerow. There may, for example, be overriding arguments of public safety why an “important” hedgerow should go, such as to make essential improvements to a local road which is an accident black spot and where there is no other solution to the problem.

8.17 The wider environmental impact of alternatives to the proposed works might also justify removal of an “important” hedgerow. Utilities might have strong grounds for needing to remove a section of a hedgerow rather than re-route a planned cable or pipeline. For example, to lay underground power or communications lines in areas valued for their landscape, or to avoid crossing even more environmentally valuable land.
8.18 Cases involving individual business efficiencies or economies will not normally justify removal unless those efficiencies or economies are considered to be important to the businesses financial viability and the hedgerow removal is an essential part of the overall plan to deliver them. The case for allowing removal for these reasons may be improved where the owner or manager of the business undertakes to carry out works to conserve or enhance the landscape, biodiversity or historical or archaeological interest elsewhere.

8.19 Change of ownership of land would not usually be enough to justify removal of an “important” hedgerow. The register of retention notices held by the local authority serves to inform potential buyers of any existing restrictions.

WITHDRAWING A HEDGEROW RETENTION NOTICE

8.20 Under regulation 5(8) a hedgerow retention notice may be withdrawn at any time by the local planning authority, by giving notice in writing to the person to whom the original retention notice was given.

8.21 The circumstances in which an authority might consider withdrawing a hedgerow retention notice include where new evidence shows that the hedgerow was wrongly determined as important when the notice was served.

SERVING NOTICES

8.22 Regulation 16(2) applies certain provisions of section 329 of the Town and Country Planning Act 1990 to notices under the Hedgerows Regulations. They set out how the local planning authority should serve either a notice that the proposed removal may proceed or a hedgerow retention notice. The methods to be used are:

- by delivering the documents into the hands of the applicant;
- by leaving them at the address given in the hedgerow removal notice;
- by pre-paid registered letter or recorded delivery to that address.

8.23 The process of getting the notice to the person who submitted the Hedgerow Removal Notice must be completed before the expiry of the 56-day period (or such longer period as may have been agreed).

LOCAL AUTHORITY APPLICATIONS

8.24 Under regulation 15, a local planning authority may consider a hedgerow removal notice that it has itself submitted in respect of a hedgerow on its own land (owned either alone or jointly with others). However, the authority should ensure that in reaching a decision there is no conflict of interests.
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8.25 However, a notice may not be considered by:

- the committee or sub-committee of the local planning authority responsible for the management of the land on which the hedgerow in question is situated;

- an officer whose responsibilities include any aspect of the management of such land.

8.26 The relevant parish or community council should be consulted on the hedgerow removal notice, as required by regulation 5(3). The local planning authority should also consider wider consultation on their own proposals for hedgerow removal.

8.27 The provisions of regulation 8 (replacement of hedgerows) and regulation 9 (appeals) do not apply in cases where the local planning authority is the owner of the hedgerow.

8.28 Regulation 15 applies only where the local planning authority is the owner or joint owner of the land. Where the local highway authority owns the land on which the hedgerow is situated, and it is not also the local planning authority for the area, the local highway authority must submit a Hedgerow Removal Notice to the local planning authority, in accordance with regulation 5(1)(a). In such cases, the rights of appeal to the Secretary of State apply, as do all the other provisions of the Regulations.
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9. APPEALS AGAINST HEDGEROW RETENTION NOTICES

RIGHT OF APPEAL

9.1 Regulation 9 provides that a person to whom a hedgerow retention notice has been given may appeal to the Secretary of State.

9.2 Appeals against hedgerow replacement notices, served by the local planning authority under regulation 8(1), are dealt with in Chapter 12.

HOW TO APPEAL

9.3 The Secretary of State has delegated the power to decide appeals under these Regulations to the Planning Inspectorate. The Planning Inspectorate handles appeals from receipt through to decision.

9.4 An appeal must be made in writing to the Inspectorate within 28 days from the date that the hedgerow retention notice is given to the person, though a longer period may be allowed. The notice of appeal submitted by the appellant must state the grounds for the appeal and a copy of it must be sent to the local planning authority. An appeal may be made on any reasonable grounds. These are not specified in the Regulations. Appellants should also indicate if they wish the appeal to be dealt with by written representations, or at a hearing or public local inquiry.

9.5 Where a hedgerow retention notice is sent by post, it is assumed - unless the contrary is proved - that it will have been received at the time at which it would be delivered in the ordinary course of post. The 28-day window for appeals commences on that date of receipt.

9.6 There is no fee for lodging an appeal, but they are costly and time-consuming for all concerned. The parties are advised, therefore, not to rule out further discussion after an appeal has been made. Difficulties or misunderstandings can sometimes be resolved even at this stage, leading to eventual withdrawal of the appeal.

PROCEDURES

9.7 In acknowledging receipt of the appeal, the Planning Inspectorate will provide the name and telephone number of the case officer, who will be the normal point of contact. There are no statutory time limits for dealing with appeals under the Hedgerows Regulations. However, the Inspectorate will aim to deal with them as speedily as possible and to provide the parties with a provisional timetable, including reasonable targets for receipt of representations. All parties are requested to submit their statements or representations within these targets. Delays are counter-productive to all concerned.
9.8 Either party may have the appeal dealt with at a hearing or public local inquiry if they wish, but in practice most cases can be dealt with satisfactorily by an exchange of written representations and a site visit.

WRITTEN REPRESENTATIONS

9.9 The written method of dealing with appeals should be a quicker, simpler and cheaper alternative to the hearing or public inquiry method. On receipt of a notice of appeal, the Planning Inspectorate will ask the local planning authority to provide a statement and relevant background information. The authority will also be asked to provide a location plan to the nearest “A” road, for the benefit of the Inspector who will carry out the site visit. Written representation appeals are dealt with in accordance with the spirit of the Town and Country Planning (Appeals)(Written Representations Procedure)(England) Regulations 2000.

THE LOCAL PLANNING AUTHORITY STATEMENT

9.10 The local planning authority is not required to submit its statement in any particular form. However, the focus should be on the particular issues raised by the appellant. Background documents to the local planning authority’s decision may often be sufficient to support their case. Additional information should be presented as concisely as possible.

9.11 Relevant background documents include:

- a copy of the Hedgerow Removal Notice, including a plan of the site showing the hedgerow which is the subject of the appeal;

- a copy of the local planning authority officer’s evaluation of the hedgerow, appraisal of any reasons given for its removal and recommendation (where applicable);

- a copy of any record or document relied upon in establishing the importance of the hedgerow;

- a copy of the Hedgerow Retention Notice;

- copies of any comments from the parish or community council or others.

9.12 A copy of the local planning authority’s statement is sent to the appellant so that he/she has an opportunity to comment on any new issues arising. There is no obligation on the appellant to submit additional comments and few (if any) new points should arise at this stage. The sooner the appellant notifies the Inspectorate that they have no additional comments, the sooner the final decision on the appeal is likely to be made.

9.13 Similarly, the local planning authority should not normally need to reply to any further representations from the appellant. Repeated exchanges of representations are
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discouraged. Whether intended to reinforce points by repetition, to have the last word, or to save the best argument to the end, such tactics confer no advantage and only prolong the appeal process.

SITE VISIT

9.14 After the exchange of written representations, the Planning Inspectorate arranges for an Inspector to visit the site of the hedgerow. The Inspector, who is impartial, is responsible for determining the case.

9.15 Unaccompanied site visits may be arranged with the consent of both parties, provided that the Inspector can gain access to the site and has sufficient information to assess all aspects of the case.

9.16 However, it is normal practice for the Inspector to be accompanied by representatives of both parties to the appeal. The presence of the appellant may be useful to gain access to the site, identify the hedgerow that is the subject of the appeal and clarify the proposed removal. Where the appellant is a utility operator, the owner of the land may also need to be present. No discussion of the merits of the appeal is allowed. The Inspector will restrict any questions to matters of fact.

9.17 Under regulation 12, the Inspector has the same rights to enter land as the local planning authority officer who carries out the site survey. The Inspector is also subject to the same obligations in respect of prior notice (see paragraph 6.22 above).

HEARINGS AND PUBLIC LOCAL INQUIRIES

9.18 If either party exercises their right to a hearing or a local inquiry, the Planning Inspectorate will arrange for an Inspector to hear and determine the case. The parties will be advised, in advance, of the procedure to be followed at hearings. Hearings are conducted in accordance with the spirit of the Town and Country Planning (Hearing Procedure)(England) Rules 2000.

THE DECISION

9.19 Under regulation 9(3), the Secretary of State - and thus the Inspector - may allow or dismiss the appeal, either in whole or in part. The Inspector must give any directions necessary to give effect to the decision, including directions for quashing or modifying any notice. This will be in the form of a reasoned decision letter.

9.20 Decision letters are sent to the appellant and copied to the local planning authority.

COSTS

9.21 The parties must meet their own expenses if an appeal is dealt with by written representations. In the case of appeals dealt with by hearing or inquiry, application for an
award of costs may be made by one party on the grounds of the other party’s “unreasonable behaviour”, which causes unnecessary expense. An application should be made to the Inspector at the hearing or inquiry.

9.22 An application for costs may be submitted to the Planning Inspectorate if a hearing or inquiry is cancelled as a result of one party’s withdrawal.
10. PENALTIES

OFFENCES

10.1 A person is guilty of an offence if he:

- intentionally or recklessly removes, or causes or permits another person to remove, a hedgerow, in contravention of regulation 5(1); or
- intentionally or recklessly removes, or causes or permits another person to remove, a hedgerow which is the subject of a hedgerow retention notice, in contravention of regulation 5(9).

10.2 Anyone found guilty of such an offence is liable on summary conviction to a fine up to the statutory maximum. The offence is also triable on indictment so that, in serious cases, a person may be committed for trial to the Crown Court and be liable on conviction to an unlimited fine.

10.3 A person is also guilty of an offence if he fails to plant a hedge to fill a former opening, for which a new one has been substituted, in contravention of regulation 6(2). The penalty for this offence is a fine not exceeding level 3 on the standard scale.

10.4 In determining the amount of any fine to be imposed on a person convicted of any of these offences, the Court is expressly required to have regard to any financial benefit which has accrued, or appears likely to accrue, to him in consequence of the offence.

10.5 It is also an offence wilfully to obstruct a person who is acting in the exercise of a right of entry to land, under regulations 12 or 13. The penalty for this offence is a fine not exceeding level 3 on the standard scale.

PROSECUTIONS

10.6 The local planning authority may be advised that hedgerow removal has taken place, or is about to take place, in contravention of the Regulations, from a variety of sources such as members of the public, tree wardens or local councillors. On receiving any such news, the local planning authority will wish to investigate the matter. The authority should first check its records to see whether a hedgerow removal notice has been submitted. They may also wish to visit the site, to verify information and to assemble any evidence that the requirements of the Regulations have, in fact, been contravened. Any person who has notified the local planning authority of a contravention should usually be kept informed of the outcome of the investigation.
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10.7 While it is open to anyone to bring a prosecution against someone who has contravened the Regulations, most cases are likely to be brought by the local planning authority, using their general powers under section 222 of the Local Government Act 1972. In order to bring a successful prosecution, the local planning authority should have sufficient evidence to show beyond reasonable doubt that:

- work has been carried out which has led to the removal or destruction of a hedgerow to which the Regulations apply;
- that the defendant carried out the works of removal himself, or caused or permitted another person to carry them out. For example, the works may have been undertaken by contractors on the defendant’s orders;
- the works were carried out in contravention of regulation 5(1) or (9). For example, without notifying the local planning authority beforehand, or more than two years after the service of the hedgerow removal notice, or despite the hedgerow being subject to a hedgerow retention notice.

A separate action may be brought for each hedgerow removed or destroyed in contravention of the Regulations.

10.8 The defendant may wish to claim that the Regulations have not been contravened on the grounds that the work was permitted by virtue of one of the exemptions in regulation 6, or that the hedgerow is not one to which the Regulations apply. If so, the burden of proof is placed on the defendant to show, on the balance of probabilities, that the work fell within the terms of the exemption, or that the hedgerow itself was not one to which the Regulations apply.

ENTRY TO LAND

10.9 Under regulation 12, a person duly authorised by the local planning authority has rights to enter any land to ascertain whether an offence has been committed. Prior notice is not required.

10.10 Under regulation 13, a magistrate can issue a warrant enabling a person duly authorised by the local planning authority to enter land if it is shown to his satisfaction, on sworn information in writing, that:

- there are reasonable grounds for entering the land, for any of the purposes mentioned in regulation 12(1); and
- admission to the land has been refused, or no reply is received to a request for admission within a reasonable period, or a refusal is apprehended; or
- the case is one of urgency.
10.11 A warrant authorises entry once at a reasonable hour (unless the case is one of urgency). The inspection must be completed within one calendar month of the issue of the warrant.

10.12 The site visit and survey may involve more than a visual inspection. Under regulation 14, any person exercising a right of entry may take with him other persons as may be necessary, and may take away hedgerow and soil samples.
11. HEDGEROW REPLACEMENT

POWER TO ISSUE A HEDGEROW REPLACEMENT NOTICE

11.1 Under regulation 8, where it appears to the local planning authority that a hedgerow has been removed in contravention of regulation 5(1) or (9), the authority may (whether or not criminal proceedings are instituted) give a notice requiring the owner to plant another hedgerow. Where the land is part of an agricultural holding or subject to a farm business tenancy, the notice is given to the tenant. Where the hedgerow has been removed by or on behalf of a relevant utility operator, the notice should be given to the operator.

[Note: Other persons may be required to plant a replacement hedgerow should the Government decide to extend the application of the Regulations – for example to hedgerows which form the boundary of a private garden, or those growing in or adjacent to land used as a golf course, racecourse or aerodrome.]

11.2 The power applies whether the hedgerow that has been illegally removed was important or not. However, any hedgerow which is planted in compliance with a hedgerow replacement notice, by virtue of regulation 8(4), is to be treated for a period of 30 years after the planting is substantially complete as if it were an important hedgerow. The effect, therefore, is that the replacement hedgerow is automatically regarded as important and must be retained - unless a hedgerow removal notice is given and the local planning authority consider the circumstances justify its removal. Only after a period of 30 years will a hedgerow removal notice be assessed against the criteria in Schedule 1 to the Regulations, in the normal way.

DECIDING WHETHER TO ISSUE A HEDGEROW REPLACEMENT NOTICE

11.3 The local planning authority’s power to give a hedgerow replacement notice is discretionary. In the first instance, the authority might attempt to persuade the owner, tenant or utility operator to plant a substitute voluntarily. The local planning authority will, however, wish to bear in mind that such a hedgerow will not enjoy the protection afforded by regulation 8(4). If its removal is subsequently notified to the authority under regulation 5(1)(a), therefore, they will be unable to secure its retention for a period of at least 30 years.

11.4 When considering whether they are minded to give a hedgerow replacement notice, the authority will wish to take into account the benefits of replanting including the “deterrent effect.”

11.5 Before issuing a hedgerow replacement notice, the local planning authority should advise the owner, tenant or utility operator that they are considering requiring them to plant another hedgerow and give an explanation why they consider this necessary. The owner, tenant or utility operator should be invited to make representations within 14 days of the date of the letter.
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11.6 In deciding whether to issue a hedgerow replacement notice, the local planning authority should consider whether it would be reasonable to do so, bearing in mind the particular circumstances of the case and any representations received from the owner, tenant or utility operator.

CONTENTS OF THE NOTICE

11.7 A hedgerow replacement notice should explain to the owner, tenant or utility operator why the local planning authority have issued the notice and what they must do to comply with it.

11.8 Under regulation 8, the notice must:

- require the owner, tenant or utility operator to plant shrubs, or trees and shrubs;
- specify the species and number of the shrubs, or trees and shrubs to be planted;
- specify the position in which they are to be planted;
- specify the period within which the planting is to be carried out. This period may be extended by the local planning authority (for example to take into account the planting season), who should advise the owner, tenant or utility operator accordingly. Such an extension cannot, of course, be granted after the expiry of the original period specified.

11.9 A Hedgerow Replacement Notice takes effect as soon as it is given to the owner, tenant or utility operator.

11.10 It is also an implicit requirement that the notice should state what contravention of the Regulations appears to the local planning authority to have taken place and to have given rise to the notice.

11.11 The local planning authority are also advised to include in, or attach to, the notice:

- an explanation of the owner, tenant or utility operator’s rights of appeal to the Planning Inspectorate against the notice. Information should be provided on how, where and within what period an appeal may be made;
- an explanation of what may happen if the owner or utility operator fails to comply with the notice;
- details of where advice on hedgerow planting and management may be obtained.

11.12 Regulation 16(2) applies certain provisions of section 329 of the Town and Country Planning Act 1990 to notices under the Hedgerows Regulations. They set out how the local
planning authority should serve a hedgerow replacement notice. The methods to be used are:

- by delivering the documents into the hands of the owner or tenant or to the registered or principal office of the utility operator;
- by leaving them at the usual or last known place of abode of the owner or tenant;
- by pre-paid registered letter or recorded delivery to that address or to the registered or principal office of the utility operator.

**FAILURE TO COMPLY WITH A NOTICE**

11.13 Failure to comply with a Hedgerow Replacement Notice is not an offence. However, if the shrubs, or trees and shrubs, have not been planted within the specified period (which may be extended by the local planning authority), do not consist of the species specified by the notice, or have not been planted in the specified position, the authority may enter the land, plant the shrubs or trees and shrubs, and recover from the owner any reasonable expenses incurred.

11.14 The local planning authority are advised to remind the owner, tenant or the utility operator, before the period for planting runs out, that the authority will exercise their default powers if the terms of the notice are not observed.
12. APPEALS AGAINST HEDGEROW REPLACEMENT NOTICES

RIGHT OF APPEAL

12.1 Regulation 9 provides that a person to whom a notice under regulation 8(1) (Hedgerow Replacement Notice) has been given may appeal to the Secretary of State.

12.2 The Secretary of State has delegated the power to decide appeals under these Regulations to the Planning Inspectorate. The Inspectorate, therefore, handles appeals from receipt through to decision.

12.3 An appeal against a Hedgerow Replacement Notice may be made on any reasonable grounds. These are not specified in the Regulations but may deal not only with the planting requirements but also with the alleged contravention of the Regulations.

HOW TO APPEAL

12.4 An appeal must be made in writing to the Planning Inspectorate within 28 days from the date that the hedgerow replacement notice is given to the person, though a longer period may be allowed.

12.5 Where a hedgerow retention notice is sent by post, it is assumed - unless the contrary is proved - that it will have been received at the time at which it would be delivered in the ordinary course of post. The 28-day window for appeals commences on that date of receipt.

12.6 The notice of appeal submitted by the appellant must state the grounds for the appeal and a copy of it must be sent to the local planning authority. The appellant should also indicate if they wish the appeal to be dealt with by written representations, or at a hearing or public local inquiry. There is no fee for considering appeals.

PROCEDURES

12.7 Appeals against hedgerow replacement notices are handled in much the same way as appeals against hedgerow retention notices (see Chapter 9). They are administered by the Planning Inspectorate. Both parties have the right to a hearing or public inquiry, but it will usually be appropriate for the appeal to be dealt with by exchange of written representations.

12.8 When an appeal has been lodged, the local planning authority provide their written statement, which should respond to each ground of appeal pleaded by the appellant. When all the written statements have been made, a site visit is arranged. The Inspectorate issues
the decision on the Secretary of State’s behalf. If the appeal is allowed, the notice may be quashed or modified.

COSTS

12.9 The parties must meet their own expenses if an appeal is dealt with by written representations. In the case of appeals dealt with by hearing or inquiry, application for an award of costs may be made by one party on the grounds of the other party’s “unreasonable behaviour”, which causes unnecessary expense. An application should be made to the Inspector at the hearing or inquiry.

12.10 An application for costs may be submitted to the Planning Inspectorate if a hearing or inquiry is cancelled as a result of one party’s withdrawal.
13. INJUNCTIONS

POWER TO APPLY FOR AN INJUNCTION

13.1 Regulation 11 enables the local planning authority, where they consider it necessary or expedient, to apply to the High Court or county court for an injunction to restrain an actual or apprehended offence.

DECIDING WHETHER TO APPLY

13.2 The local planning authority may apply for an injunction whether or not they have used, or propose to use, any of their other powers under the Regulations.

13.3 It is for the local planning authority to decide whether to apply for an injunction. However, they are advised to consider whether or not their existing remedies offer an adequate solution to the problems they face. In addition, they should assess the seriousness of the offence (whether actual or apprehended) and the particular circumstances of the person or persons against whom the proceedings are contemplated.

13.4 The local planning authority should bear in mind that, if an interlocutory injunction is granted, the Court may expect them to give an undertaking in damages to the persons named in the Court’s order (which means that the authority may have to pay damages if they lose at the case).

13.5 The local planning authority may apply for an injunction against a person whose identity is not known but they will have to describe the defendant sufficiently to enable service to be effected on him. The local planning authority must also provide the Court with affidavit evidence of their inability to identify the person within the time reasonably available, and the steps they have taken in attempting to do so.

13.6 In applying for an injunction on tenanted land, the local planning authority should take care to distinguish between the owner and the tenant. On tenanted land, owners will normally be able to remove a hedgerow only with the agreement of the tenant. Moreover, unless there is an express provision within the lease, an owner will not be in a position to refuse consent for a tenant to remove a hedgerow on tenanted land. A Court would be most unlikely to grant an injunction against a person who was not themselves proposing to take out a hedgerow, nor in a position to prevent this by refusing consent.
14. PUBLIC REGISTERS

14.1 Under regulation 10, the local planning authority are required to keep available, for public inspection at all reasonable times and free of charge, a record containing a copy of:

- every hedgerow removal notice received by them;
- every notice given by them, under regulation 5(1)(b)(i), stating that a hedgerow may be removed;
- every hedgerow retention notice issued by them;
- every appeal determination notified to them under regulation 9(3).

14.2 The register provides a means of publicising proposals with a view to stimulating consultation. The authorities should, therefore, arrange for hedgerow removal notices to be placed on record immediately on receipt.

14.3 So that the register provides full information on what has happened to each hedgerow removal notice, authorities are advised to annotate the notice, or provide an additional sheet, to show where the 56 day period (or such longer period as may have been agreed) has expired without the local planning authority giving either written notice that the work set out in the hedgerow removal notice may be carried out or issuing a hedgerow retention notice.
ANNEX A

HEDGEROW MEASUREMENT

1. For the purposes of measurement, the ends of any hedgerow are:

(a) **points of hedgerow junction or intersection**

The intersections/junctions mark the ends of each hedgerow.

(b) **free-standing ends**

A hedgerow ends where a gap of more than 20 metres exists between it and another hedgerow on the same line.

A short gap in a line of hedgerow is not considered to be the end of that hedgerow. That is to say, any gap, or gaps, of less than 20 metres in a line of hedge should be **included** in **any measurement of the length** of that hedgerow, **even when the gap occurs at the end of the hedge line** ie. at a hedgerow junction. For these purposes, a gap is any opening in the hedgerow, whether or not it is filled - for example, by a gate. Changes in the structure (height, width) of a hedgerow or in the species of which the hedgerow is composed are **not**
treated as being the end-point, other than where those changes correspond with a
hedgerow junction or intersection.

All parts of A form one hedgerow

3. Notification will not be required where the hedgerow, as measured, is less than 20
metres long and one or both of its ends are free-standing (as defined above).

Hedgerow A and B may each be removed without notification since they are each
less than 20 metres long and a gap of more than 20 metres exists between them

4. Hedgerows which form part of a continuous network are recognised as having
particular value. Therefore, if both ends of the hedgerow are hedgerow junctions or
hedgerow intersections notification is always required, irrespective of the length of the
hedgerow.

Though hedgerow A is less than 20 metres in length, both ends are hedgerow
junctions. Notification would be required before hedgerow A was removed.
Each part of hedgerow A would be regarded as extending to the other part of hedgerow A since the gap between them is less than 20 metres. Though the full length of hedgerow A (i.e. including the gap) is also less than 20 metres in length, both ends are hedgerow junctions. Notification would be required before hedgerow A was removed.
FORM OF HEDGEROW REMOVAL NOTICE

The Environment Act 1995
The Hedgerows Regulations 1997
The Hedgerows (Amendment) (England) Regulations 20XX

To: (Name and address of local planning authority)

From: (Name and address of person giving the notice)

1. I give you notice under regulation 5(1)(a) of the above Regulations that I propose to remove the [stretch(es) of] hedgerow(s) indicated on the attached plan. “(The plan must show clearly the location and length of the hedgerow(s) that you wish to remove – ideally, a scale of 1:2500 should be used).”

2. The reasons why I propose to remove it/them are the following:

3. I am/We are the owner(s) of the freehold of the land concerned*. 
OR
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I am/We are the tenant(s) of the agricultural holding concerned*.
OR
I am/We are the tenant(s) under the farm business tenancy concerned*
OR
I am/act for the utility operator concerned*.

* - delete as appropriate

(Signature of person giving notice) .................................................................

(Date) .../.../.......


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CONSENT TO HEDGEROW REMOVAL

The Environment Act 1995
The Hedgerows Regulations 1997
The Hedgerows (Amendment) (England) Regulations 20XX

Name and address of local planning authority

............................................................................................................................... ..................
............................................................................................................................... ..................
............................................................................................................................... ..................

Date Notification Received: ......../......../........ Application No: ......................

Name and address of applicant/agent

............................................................................................................................... ..................
............................................................................................................................... ..................
............................................................................................................................... ..................

Proposed removal of hedgerow(s) at (location):...................................................

............................................................................................................................... ..................

The local planning authority CONSENTS to the removal of the hedgerow(s) described above, subject to the following conditions:

1. You must take out only as much hedge as is shown on the Hedgerow Removal Notice. If you want to take out more, you must submit a new Hedgerow Removal Notice.

2. You must carry out these works within two years of the date of service of the Hedgerow Removal Notice. If you wish to carry out the removal after this date you must submit a new Hedgerow Removal Notice.
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HEDGEROW RETENTION NOTICE

The Environment Act 1995
The Hedgerows Regulations 1997
The Hedgerows (Amendment) (England) Regulations 20XX

Name and address of local planning authority

Date Notification Received: ....../....../........

Date Registered: ....../....../........

Application No.: .................

Date of this Retention Notice: ....../....../........

Name and address of agent

Date Notification Received: ....../....../........

Date Registered: ....../....../........

Application No.: .................

Date of this Retention Notice: ....../....../........

Name and address of person giving notice

Proposed removal of hedgerow(s) at (location): .................................................................
The Council, as local planning authority, hereby give notice that the removal of the hedgerow(s) described above is not permitted on the grounds that:

(a) it/they has/have existed for 30 years or more; and
(b) it/they satisfies/satisfy one or more of the criteria laid down in Part II of Schedule 1 to the Hedgerows Regulations 1997, as amended by the Hedgerows (Amendment) (England) Regulations 20XX; and
(c) there are no circumstances which, in the opinion of the local planning authority, justify the proposed removal.

It is an offence to contravene this notice, or causes or permits another person to contravene this notice.

You may appeal against this Retention Notice by writing, within 28 days of the receipt of this notice, to the Planning Inspectorate.

Signed: ................................................. Date: ......../......../........
on behalf of ........................................... (local planning authority)
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HEDGEROW REPLACEMENT NOTICE

The Environment Act 1995
The Hedgerows Regulations 1997
The Hedgerows (Amendment) (England) Regulations 20XX

Name and address of local planning authority

...........................................................................................................................................
...........................................................................................................................................
...........................................................................................................................................

Date of Replacement Notice: ......../......../........

To (owner): .............................................................................................................................

This notice is issued in accordance with Regulation 8 of the Hedgerows Regulations 1997,
as amended by the Hedgerows (Amendment) (England) Regulations 20XX, on the basis of
information concerning the removal of a hedgerow.

Location of affected hedgerow (if possible, refer to enclosed plan)

...........................................................................................................................................
...........................................................................................................................................
...........................................................................................................................................

According to information received by the local planning authority:

*Failure to submit a removal notice: Illegal removal of a hedgerow has taken place, in
contravention of Regulation 5(1) of the Hedgerows Regulations 1997, as amended by the

OR

*Removal in contravention of a Hedgerow Retention Notice: Removal has taken place of (a)
hedgerow(s) for which a Hedgerow Retention Notice dated ......./......./........ has been
issued (include copy of Retention Notice).

* - delete as appropriate
You are required to replace the illegally removed hedgerow according to the following instructions:

............................................................................................................................... ..................
............................................................................................................................... ..................
............................................................................................................................... ..................

(include species and position of shrubs, or trees and shrubs, to be planted and the period within which the planting is to be carried out).

If these instructions are not carried out the authority may enter the land, plant the shrubs or trees and shrubs, and recover any reasonable expenses incurred.

This notice has effect on receipt.

You may appeal against this Replacement Notice by writing, within 28 days of the receipt of this notice, to the Planning Inspectorate.

Signed: ................................................. Date: ....../....../........

on behalf of  ......................................... (local planning authority)