

EXECUTIVE SUMMARY OF THE ELECTRICITY (HAZARDS FROM TREES) REGULATIONS

Purpose

The regulations provide for the control of trees adjacent to electricity lines. The purpose of the regulations is to protect the security of the supply of electricity and the safety of the public.

General information notice to consumers

In order to ensure that land owners are aware of their responsibilities and liabilities under the regulation, line owners are required to issue to electricity consumers, at least annually, an information notice outlining the dangers of contact between trees and live power lines and the operation of the regulations.

Hazard warning notice

When a line owner becomes aware of a tree growing within the specified separation distance of a power line, the line owner may give a hazard warning notice to the tree owner. The purpose of a hazard warning notice is to warn a tree owner that a tree encroaches a notice zone and must not encroach a growth limit zone. The regulations prescribe the content of the hazard warning notice.

Cut or trim notice

If a line owner becomes aware of a tree encroaching the growth limit zone 18 months or more after promulgation of the regulations, it must issue a cut or trim notice. If this occurs less than 18 months after promulgation, the line owner may issue the notice. The purpose of a cut or trim notice is to notify a tree owner that a tree encroaches a growth limit zone and must be trimmed.

The regulations prescribe the content of the cut or trim notice. Once a cut or trim notice has been issued, the tree owner must, within prescribed time limits, have the tree cut or trimmed so that it does not encroach on the notice zone.

Line owner to meet costs of first cut or trim in certain cases

Following the initial cut or trim notice issued by a line owner to a tree owner under the regulations, the line owner must meet the cost of the first cut or trim. In these circumstances, the line owner may perform the cut itself, provided any application for dispensation/arbitration has been settled and permission to enter the land has been obtained.

Debris

If a tree owner is required to have a tree cut or trimmed, the tree owner must remove or tidy any resulting debris in such a way that it does not affect the use or enjoyment of any adjoining land by its owner or occupier.

A line owner is required to remove debris caused by any cutting or trimming that it undertakes.

Underground line safety

To permit the safe repair or operation of an underground line, a line owner may sever and remove any tree roots that are within 0.5 metres of that line.

Obligation to remove danger to persons or property from trees damaging lines

A line owner must, without delay, undertake any necessary work on a tree (including the roots) if the line owner becomes aware that there is immediate danger to persons or property from a line. For the purposes of removing danger to persons or property, a line owner may cut or trim the tree to the extent necessary to remove the danger. However if the line owner wishes to cut or trim the tree so that it no longer encroaches on the notice zone, it must obtain the consent of the tree owner.

Liability for costs

When a line owner undertakes any work to remove a source of immediate danger, the tree owner is liable for the direct costs of that work if the tree owner has failed to abide by the regulations.

A line owner may claim direct costs from the tree owner where damage to a line arises (directly or indirectly) from a tree owner's failure to comply with the requirements of these regulations or with the conditions of an order made by an arbitrator. The costs may be recovered as a debt due.

A line owner is liable for any costs of remedying any damage caused to a line if the line owner fails to comply with the requirements of these regulations, such as the requirement to issue a cut or trim notice when a tree encroaches the growth limit zone.

“No interest” tree notices

An owner or occupier of any land on which a tree is growing adjacent to a line before the commencement of regulations may give a “no interest” tree notice to a line owner. A “no interest” tree notice may be given whether or not the owner or occupier has received a hazard warning notice or a cut or trim notice.

The purpose of a “no interest” tree notice is to notify a line owner that the owner or occupier of the land on which the tree is growing has no interest in the tree. The line owner is then entitled to have the tree removed or trimmed, if it first obtains permission to enter the land on which the tree is growing.

If a line owner receives a “no interest” tree notice and fails to remove the tree within 20 working days of receiving the notice, and the tree subsequently causes damage to any line, the owner who gave the notice is not liable for the costs of the damage.

Where a tree is owned by a local authority and is subject to pruning restrictions in a district plan, the “no interest” notice is of no effect.

The regulations will not affect the maintenance of power lines crossing land managed by the Department of Conservation, including reserves, national parks and conservation areas, or reserves managed by local authorities or other administering bodies. This preserves the existing practice whereby line owners are responsible for trimming work, with an appropriate permit from the administering body.

Rescinding of “no interest” notices

A declaration of “no interest” can be rescinded at any time by informing the line owner in writing and the status of the tree will revert to its status prior to the “no interest” notice being given.

If a line owner receives a “no interest” tree notice, and the owner or occupier who gave the notice refuses to allow the line owner to enter the land to remove the tree, the “no interest” tree notice is immediately rescinded.

Dispensations

A tree owner who receives a hazard warning notice or a cut or trim notice may apply to the line owner for a dispensation from cutting or trimming that tree so that it does not encroach the notice zone. A dispensation permits the tree owner to allow the tree to encroach the notice zone, but not the growth limit zone.

An application for a dispensation may be made at any time, but if the tree owner is given a cut or trim notice, the application must be made no later than 5 working days after the date on which the tree owner received that notice. The application for a dispensation must be in writing.

If a line owner receives an application for a dispensation, the line owner must decide whether to grant the dispensation and if so, its duration and any caveats attached. A dispensation must be granted if the line owner is satisfied that the tree is unlikely to come into contact with a line.

Arbitration

The Minister may appoint suitable persons as to act as arbitrators for the purposes of these regulations. Arbitrators determine disputes between tree owners and line owners concerning the decision to grant, and the conditions of, an application for dispensation. The regulations prescribe the orders that the arbitrator may make and the time limits for applying to an arbitrator.

Offences

A tree owner who is given a cut or trim notice relating to a tree and fails to have the tree cut or trimmed, or fails to advise the line owner of the time and location of the cutting or trimming of the tree, commits an offence. The maximum fine is \$10,000 and, if the offence is a continuing one, a further fine will apply of up to \$500 for every day or part of a day during which the offence has continued.

A line owner commits an offence if: it fails to give the information notice to its electricity consumers; or it becomes aware of a tree encroaching a growth limit zone in respect of a line belonging to it and fails, without reasonable excuse, to give a cut or trim notice to the tree owner in respect of that tree.

It is proposed that a summary conviction would result in a fine not exceeding \$10,000 and, if the offence is a continuing one, a further fine not exceeding \$500 for every day or part of a day during which the offence has continued.

Miscellaneous provisions

Certain rights and obligations remain unaffected by these regulations:

- the right to compensation under s 58 of the Electricity Act for removal of trees existing before the construction of a line;
- the requirement to comply with certain safety obligations under the Electricity Regulations 1997;
- any claims that a line owner may have against a tree owner in respect of any damage caused to a line by a tree owner.

The regulations do not affect the operation of any agreement between a line owner and a tree owner provided it does not alter minimum distances from line as specified in the schedule to the regulations.

Revocations

The Trees (Electric Lines) Regulations 1986 are to be revoked.