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## Introduction

As spring arrives and vegetation enters its peak growth phase, landowners with trees growing near powerlines should monitor how close their trees are getting to powerlines on their property.

In New Zealand, this issue is dealt with by the Electricity (Hazards from Trees) Regulations 2003 (the **Regulations**), which set the rules for safe distances between trees and powerlines and who is responsible for keeping the trees trimmed. The default position is that landowners are responsible for keeping trees and other plants on their land away from powerlines. Failing to do so can lead to significant fines for an unsuspecting landowner and the community losing power if any vegetation comes into contact with the powerline. Therefore, in order to keep the lights on, it's important that landowners understand their obligations for managing vegetation in relation to powerlines

## The Regulations

Lines Companies are required to regularly inspect their powerlines to make sure that no trees are growing too close. This is measured by whether a tree has entered the "growth limit zone," which varies based on the voltage of the powerline.

If a Lines Company finds that a tree is growing within a growth limit zone, they are required to give you a Notice to cut/trim your tree (the **Notice**). The Notice will set out which tree needs to be trimmed, by how much, and how long you have to do this. It will also set out your rights under the Regulations, including any claims that you don't have an interest in the tree, discussed below.

Failure to comply with a Notice without a reasonable excuse is an offence and can result in fines of up to \$10,000, plus further daily fines of up to \$500 for each day of non-compliance. Further, if you fail to comply with a Notice and the tree ends up damaging the powerlines, the Lines Company can recover the costs of repairing that damage from you. Depending on the powerlines on your property, that could come at a considerable cost

## Who pays?

The cost for trimming a tree the first time it enters the growth limit zone is generally carried out by the Lines Company. The Lines Company will contact you about the need to cut the tree, organise a time to carry out the works, and clean up all the cuttings.

After this “first cut”, every subsequent trim will be your responsibility and at your cost, unless you declare you have “no interest” in the tree.

If you'd rather avoid this hassle and trim your trees yourself, you don't have to wait for the Lines Company to provide you a Notice and can cut and trim your trees however you like to keep them away from nearby powerlines. This allows you to manage how the tree is trimmed, which may be important if the tree forms part of a hedge or is important for your amenity.

If you don't care what happens to the tree, you have the option of providing the Lines Company with a “no-interest notice” (a **NIN**), which pushes the cost of dealing with the tree back onto the Lines Company. However, NINs cannot be provided in all cases, and there are evidentiary requirements that should be satisfied before you can provide one.

You may be eligible to provide a NIN if:

- (a) The tree was naturally sown; or
- (b) If the tree was planted, the person who planted it must have reasonably believed at the time that the tree, when fully grown, would not encroach upon or interfere with the powerline.

Meeting the second criteria may prove difficult if you didn't plant the tree. The Regulations don't provide any guidance on this scenario, so you may need to infer the reasonable grounds based on the species of plant, its proximity to the line, and its age.

NINs should be provided in writing in the form prescribed by the Regulations. Check your local Lines Company website to see if they have a template form.

If the Lines Company accepts the NIN, then you will no longer be responsible for trimming that tree, and the cost of any trimming will be passed on to the Lines Company. Be aware that the Lines Company is able to trim the tree however they see fit, including by clear felling the tree entirely

## **Other Considerations**

The Regulations are not a complete code for what you can or cannot do with trees in proximity to powerlines, and there may be other obligations you need to consider. For example, if your property is subject to a resource consent that controls planting, that consent may need to be varied. District Councils also impose rules around vegetation clearance and limiting the total volume that can be carried out in a given year.

## **Conclusion**

The management of trees near powerlines is a complex and heavily fact-dependent area. We encourage landowners with trees growing near powerlines to seek professional advice to ensure compliance with the law as it applies to their unique situation. If you are unsure about these rules, in the first instance, we recommend you

seek advice from your Lines Company (in respect of the notices) and District Council (in respect of other considerations).

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