



# Town and Country Planning Act 1971

## 1971 CHAPTER 78

### PART IV

#### ADDITIONAL CONTROL IN SPECIAL CASES

##### *Trees*

#### **59 Planning permission to include appropriate provision for preservation and planting of trees**

It shall be the duty of the local planning authority—

- (a) to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made, by the imposition of conditions, for the preservation or planting of trees; and
- (b) to make such orders under section 60 of this Act as appear to the authority to be necessary in connection with the grant of such permission, whether for giving effect to such conditions or otherwise.

#### **60 Tree preservation orders**

(1) If it appears to a local planning authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an order (in this Act referred to as a " tree preservation order ") with respect to such trees, groups of trees or woodlands as may be specified in the order; and, in particular, provision may be made by any such order—

- (a) for prohibiting (subject to any exemptions for which provision may be made by the order) the cutting down, topping, lopping or wilful destruction of trees except with the consent of the local planning authority, and for enabling that authority to give their consent subject to conditions;
- (b) for securing the replanting, in such manner as may be prescribed by or under the order, of any part of a woodland area which is felled in the course of forestry operations permitted by or under the order;

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- (c) for applying, in relation to any consent under the order, and to applications for such consent, any of the provisions of this Act falling within subsection (2) of this section, subject to such adaptations and modifications as may be specified in the order.
- (2) References in this Act to provisions thereof falling within this subsection are references to—
- (a) the provisions of Part III of this Act relating to planning permission and to applications for planning permission, except sections 25, 26, 27, 28, 29(2) to (6), 34(2), 38, 39, 41 to 44 and 47 to 49 of this Act; and
  - (b) such of the provisions of Part IX of this Act as are therein stated to be provisions falling within this subsection;
  - (c) section 270 of this Act.
- (3) A tree preservation order may be made so as to apply, in relation to trees to be planted pursuant to any such conditions as are mentioned in section 59(a) of this Act, as from the time when those trees are planted.
- (4) Except as provided under subsection (5)(c) of this section and in section 61 of this Act, a tree preservation order shall not take effect until it is confirmed by the Secretary of State, and the Secretary of State may confirm any such order either without modification or subject to such modifications as he considers expedient.
- (5) Provision may be made by regulations under this Act with respect to the form of tree preservation orders, and the procedure to be followed in connection with the submission and confirmation of such orders; and the regulations may (without prejudice to the generality of this subsection) make provision as follows—
- (a) that, before a tree preservation order is submitted to the Secretary of State for confirmation, notice of the making of the order shall be given to the owners and occupiers of land affected by the order and to such other persons, if any, as may be specified in the regulations;
  - (b) that objections and representations with respect to the order, if duly made in accordance with the regulations, shall be considered before the order is confirmed by the Secretary of State ;
  - (c) that, if no objections or representations are so made, or if any so made are withdrawn, the order, instead of requiring the confirmation of the Secretary of State in accordance with subsection (4) of this section, may be confirmed (but without any modification), as an unopposed order, by the authority who made it; and
  - (d) that copies of the order, when confirmed by the Secretary of State or the authority, shall be served on such persons as may be specified in the regulations.
- (6) Without prejudice to any other exemptions for which provision may be made by a tree preservation order, no such order shall apply to the cutting down, topping or lopping of trees which are dying or dead or have become dangerous, or the cutting down, topping or lopping of any trees in compliance with any obligations imposed by or under an Act of Parliament or so far as may be necessary for the prevention or abatement of a nuisance.
- (7) In relation to land in respect of which the Forestry Commissioners have made advances under section 4 of the Forestry Act 1967 or in respect of which there is in force a

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forestry dedication covenant entered into with the Commissioners under section 5 of that Act, a tree preservation order may be made only if—

- (a) there is not in force in respect of the land a plan of operations or other working plan approved by the Commissioners under such a covenant; and
  - (b) the Commissioners consent to the making of the order.
- (8) Where a tree preservation order is made in respect of land to which subsection (7) of this section applies, the order shall not have effect so as to prohibit, or to require any consent for, the cutting down of a tree in accordance with a plan of operations or other working plan approved by the Forestry Commissioner and for the time being in force, under such a covenant as is mentioned in that subsection or under a woodlands scheme made under the powers contained in the said Act of 1967.
- (9) In the preceding provisions of this section references to provisions of the Forestry Act 1967 include references to the corresponding provisions (replaced by that Act) in the Forestry Acts 1919 to 1951.
- (10) The preceding provisions of this section shall have effect subject to the provisions—
- (a) of section 2(4) of the Opencast Coal Act 1958 (land comprised in an authorisation under that Act which is affected by a tree preservation order); and
  - (b) of section 15 of the Forestry Act 1967 (licences under that Act to fell trees comprised in a tree preservation order).

## **61 Provisional tree preservation orders**

- (1) If it appears to a local planning authority that a tree preservation order proposed to be made by that authority should take effect immediately without previous confirmation, they may include in the order as made by them a direction that this section shall apply to the order.
- (2) Notwithstanding section 60(4) of this Act, an order which contains such a direction shall take effect provisionally on such date as may be specified therein and shall continue in force by virtue of this section until—
  - (a) the expiration of a period of six months beginning with the date on which the order was made; or
  - (b) the date on which the order is confirmed or, in the case of an order which can be confirmed only by the Secretary of State, on which he notifies the authority who made the order that he does not propose to confirm it,whichever first occurs.
- (3) Provision shall be made by regulations under this Act for securing—
  - (a) that the notices to be given of the making of a tree preservation order containing a direction under this section shall include a statement of the effect of the direction; and
  - (b) that where the Secretary of State, in the case of an order which can be confirmed only by him, within the period of six months referred to in subsection (2) of this section, notifies the authority that he does not propose to confirm the order, copies of that notice shall be served on the owners and occupiers of the land to which the order related.

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## **62 Replacement of trees**

- (1) If any tree in respect of which a tree preservation order is for the time being in force, other than a tree to which the order applies as part of a woodland, is removed or destroyed in contravention of the order or is removed or destroyed or dies at a time when its cutting down is authorised only by virtue of the provisions of section 60(6) of this Act relating to trees which are dying or dead or have become dangerous, it shall be the duty of the owner of the land, unless on his application the local planning authority dispense with this requirement, to plant another tree of an appropriate size and species at the same place as soon as he reasonably can.
- (2) In relation to any tree planted pursuant to this section, the relevant tree preservation order shall apply as it applied to the original tree.
- (3) The duty imposed by subsection (1) of this section on the owner of any land shall attach to the person who is from time to time the owner of the land and may be enforced as provided by section 103 of this Act and not otherwise.