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SCOTTISH STATUTORY INSTRUMENTS

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**2010 No. 434**

**The Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 2010**

**Trees in conservation areas**

**8.—(1)** Section 172 of the Act (preservation of trees in conservation areas) is not to apply where the act is—

- (a) the cutting down of a tree in accordance with a felling licence granted by The Forestry Commissioners under the Forestry Act 1967<sup>(1)</sup>;
- (b) the cutting down, uprooting, topping or lopping of a tree on land in the occupation of a planning authority when this is done by or with the consent of that authority;
- (c) the cutting down, uprooting, topping or lopping of a tree having a diameter not exceeding 75 millimetres;
- (d) the cutting down or uprooting in a woodland of a tree having a diameter not exceeding 100 millimetres where this is done to improve the growth of other trees;
- (e) the cutting down, uprooting, topping or lopping of a tree by, or on behalf of, The Forestry Commissioners on land placed at their disposal in pursuance of the Forestry Act 1967 or otherwise under their management or supervision;
- (f) the cutting down, topping, lopping or uprooting of a tree by or at the request of a statutory undertaker, where the land on which the tree is situated is operational land<sup>(2)</sup> of the statutory undertaker and the work is necessary—
  - (i) in the interests of the safe operation of the undertaking;
  - (ii) in connection with the inspection, repair or renewal of any sewers, mains, pipes, cables or other apparatus of the statutory undertaker; or
  - (iii) to enable the statutory undertaker to carry out development for which planning permission is granted by the 1992 Order;
- (g) the cutting down, topping, lopping or uprooting of a tree cultivated for the production of fruit in the course of a business or trade where such work is in the interests of that business or trade;
- (h) the pruning, in accordance with good horticultural practice, of any tree cultivated for the production of fruit;
- (i) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable a person to carry out works to implement a planning permission (other than an outline planning permission or planning permission in principle) granted on an application under Part 3 or section 242A of the Act<sup>(3)</sup>, or deemed to have been granted (whether for the purposes of Part 3 of the Act or otherwise);

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(1) 1967 c.10.

(2) See sections 214 and 215 of the Act respectively for the meaning of statutory undertaker and operational land.

(3) Section 242A was inserted by section 92(1) of the Planning and Compulsory Purchase Act 2004 (c.5) and amended by section 54(13) of the Planning etc. (Scotland) Act 2006 (asp 17).

- (j) the cutting down, topping, lopping or uprooting of a tree by, or at the request of, SEPA to enable SEPA to carry out development for which planning permission is granted by the 1992 Order; or
  - (k) the cutting down, topping, lopping or uprooting of a tree if—
    - (i) it is urgently necessary in the interests of safety;
    - (ii) it is necessary for the prevention or abatement of a nuisance; or
    - (iii) it is in compliance with any obligation imposed by or under an enactment.
- (2) In this regulation—
- “the 1992 Order” means the Town and Country Planning (General Permitted Development) (Scotland) Order 1992(4);
  - “the Act” means the Town and Country Planning (Scotland) Act 1997;
  - “diameter” means the diameter measured over the bark, at a point 1.5 metres above ground level;
  - “outline planning permission” has the same meaning as in section 59 of the Act as it applied immediately before section 21 of the Planning etc. (Scotland) Act 2006(5) came into force; and
  - “SEPA” means the Scottish Environment Protection Agency established under section 20 of the Environment Act 1995(6).

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(4) S.I. 1992/223 as amended by S.I. 1992/1078, S.I. 1992/2084, S.I. 1993/1036, S.I. 1994/1442, S.I. 1994/2586, S.I. 1994/3294, S.I. 1996/252, S.I. 1996/1266, S.I. 1996/3032, S.I. 1997/3060, S.I. 1998/1226, S.S.I. 1999/1, S.I. 2000/2040, S.S.I. 2001/266, S.S.I. 2003/341, S.I. 2003/2155, S.S.I. 2004/332, S.S.I. 2006/1157, S.S.I. 2007/209, S.S.I. 2007/135, S.S.I. 2008/74, S.S.I. 2008/203, S.S.I. 2009/34 and S.S.I. 2010/27.

(5) 2006 asp 17. Section 21 came into force on 3rd August 2009.

(6) 1995 c.25.