

POLICY NOTE

THE TOWN AND COUNTRY PLANNING (TREE PRESERVATION ORDER AND TREES IN CONSERVATION AREAS) (SCOTLAND) AMENDMENT REGULATIONS 2014

SSI 2014/53

1. The above instrument was made by the Scottish Ministers in exercise of the powers conferred by section 173 of the Town and Country Planning (Scotland) Act 1997 and all other powers enabling them to do so. The instrument is subject to negative procedure.

Policy Objectives

2. This instrument forms part of a package of Regulations required to implement the High Hedges (Scotland) Act 2013. The package of instruments are required to bring the Act into force and to change existing legislation to enable the Act to function correctly.

3. The High Hedges (Scotland) Act 2013 provides an effective means of resolving disputes over the effects of a high hedge where the issue cannot be resolved amicably between neighbours. It does so by giving home owners and occupiers a right to apply to a local authority where it is considered a high hedge is affecting the enjoyment of their property, and empowers local authorities to issue a high hedge notice where, having taken all the circumstances into account, it finds that a hedge is having an adverse effect.

4. The Town and Country Planning (Scotland) Act 1997 gives planning authorities a power to make tree preservation orders (TPO) to prohibit the cutting down, topping, lopping uprooting, wilful damage or wilful destruction of a tree without the consent of the authority. Section 172 of the 1997 Act applies this prohibition to all trees in conservation areas, even if they are not protected by a TPO. Section 173 enables Ministers to make Regulations to disapply Section 172.

5. The Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Amendment Regulations 2014 removes the protection afforded by Section 172 of the 1997 Act where works are required by a notice issued under the High Hedge (Scotland) Act 2013 or are authorised by section 22(1) of that Act. This means that if a tree that forms part of a high hedge is in a conservation area, or covered by a TPO, then action in a high hedge notice can be carried out without being subject to a separate consenting regime.

6. Guidance being issued to local authorities will confirm that, when considering whether to issue a high hedge notice, they should consider the cultural and historical significance of any trees that form part of the high hedge.

Consultation

7. The High Hedges (Scotland) Act 2013 was taken forward in the form of a Member's Bill, with the support of the Scottish Government, and was therefore subject to these procedures. Implementation meetings were subsequently held with key stakeholders to consider effective implementation of the Act's provisions.

Impact Assessments

8. The Regulations are about process and ensuring streamlined procedures are in place to consider effective action in relation to high hedge notices. They do not impact on any of the equality groups.

Financial Effects

9. The Minister for Local Government and Planning confirms that a Business Regulatory Impact Assessment is not required since the instrument will not, in itself, impose new regulatory burdens on business, charities or the voluntary sector.

Ian Mitchell
Planning and Architecture Division
25 February 2014