Town and Country Planning Act 1990

1990 CHAPTER 8

PART VIII

SPECIAL CONTROLS

CHAPTER I

TREES

Trees in conservation areas

211 Preservation of trees in conservation areas.

(1) Subject to the provisions of this section and section 212, any person who, in relation to a tree to which this section applies, does any act which might by virtue of section 202C be prohibited by tree preservation regulations shall be guilty of an offence.

(1A) Subsection (1) does not apply so far as the act in question is authorised by an order granting development consent.

(2) Subject to section 212, this section applies to any tree in a conservation area in respect of which no tree preservation order is for the time being in force.

(3) It shall be a defence for a person charged with an offence under subsection (1) to prove—

(a) that he served notice of his intention to do the act in question (with sufficient particulars to identify the tree) on the local planning authority in whose area the tree is or was situated; and

(b) that he did the act in question—

(i) with the consent of the local planning authority in whose area the tree is or was situated,
(ii) after the expiry of the period of six weeks from the date of the notice but before the expiry of the period of two years from that date.

(4) Section 210 shall apply to an offence under this section as it applies to a contravention of [F3 tree preservation regulations].

[F4 (5) An emanation of the Crown must not, in relation to a tree to which this section applies, do an act mentioned in subsection (1) above unless—

(a) the first condition is satisfied, and

(b) either the second or third condition is satisfied.

[ Subsection (5) does not apply so far as the act in question is authorised by an order granting development consent.]

(6) The first condition is that the emanation serves notice of an intention to do the act (with sufficient particulars to identify the tree) on the local planning authority in whose area the tree is situated.

(7) The second condition is that the act is done with the consent of the authority.

(8) The third condition is that the act is done—

(a) after the end of the period of six weeks starting with the date of the notice, and

(b) before the end of the period of two years starting with that date.]

Textual Amendments

F1 Words in s. 211(1) substituted (6.4.2012 for E.) by Planning Act 2008 (c. 29), s. 241(3)(4), Sch. 8 para. 14(a) (with s. 226); S.I. 2012/601, art. 2(a)

F2 S. 211(1A) inserted (1.3.2010) by Planning Act 2008 (c. 29), ss. 36, 241, Sch. 2 para. 36(2) (with s. 226); S.I. 2010/101, art. 2 (with art. 6)

F3 Words in s. 211(4) substituted (6.4.2012 for E.) by Planning Act 2008 (c. 29), s. 241(3)(4), Sch. 8 para. 14(b) (with s. 226); S.I. 2012/601, art. 2(a)

F4 S. 211(5)-(8) inserted (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 86, 121 (with s. 111); S.I. 2006/1281, art. 2

F5 S. 211(5A) inserted (1.3.2010) by Planning Act 2008 (c. 29), ss. 36, 241, Sch. 2 para. 36(3) (with s. 226); S.I. 2010/101, art. 2 (with art. 6)

Modifications etc. (not altering text)

C1 S. 211: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(a); S.I. 1993/2762, art. 3

S. 211 excluded (2.8.1999) by S.I. 1999/1892, reg. 10(1)

C2 S. 211: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), Sch. 1


C4 S. 211(1) excluded (18.12.1996) by 1996 c. 61, s. 28(1)(b)

C5 S. 211(1) excluded (14.3.2002) by The Chester Guided Busway Order 2002 (S.I. 2002/412), art. 28(4)(b) (with art. 38)

C6 S. 211(1) excluded (22.3.2005) by The Midland Metro (Wednesbury to Brierley Hill and Miscellaneous Amendments) Order 2005 (S.I. 2005/927), art. 45 (with art. 51)

S. 211(1) excluded (11.1.2006) by The Cambridgeshire Guided Busway Order 2005 (S.I. 2005/3523), art. 43(4) (with art. 52)


C7 S. 211(1) excluded (22.7.2008) by Crossrail Act 2008 (c. 18), s. 19
212 Power to disapply s. 211.

(1) The Secretary of State may by regulations direct that section 211 shall not apply in such cases as may be specified in the regulations.

(2) Without prejudice to the generality of subsection (1), the regulations may be framed so as to exempt from the application of that section cases defined by reference to all or any of the following matters—
   (a) acts of such descriptions or done in such circumstances or subject to such conditions as may be specified in the regulations;
   (b) trees in such conservation areas as may be so specified;
   (c) trees of a size or species so specified; or
   (d) trees belonging to persons or bodies of a description so specified.

(3) The regulations may, in relation to any matter by reference to which an exemption is conferred by them, make different provision for different circumstances.

(4) Regulations under subsection (1) may in particular, but without prejudice to the generality of that subsection, exempt from the application of section 211 cases exempted from section 198 by subsection (6) of that section.

Textual Amendments

F6 S. 212(4) repealed (6.4.2012 for E.) by Planning Act 2008 (c. 29), s. 241(3)(4), Sch. 8 para. 15, Sch. 13 (with s. 226); S.I. 2012/601, art. 2(a)(c), Sch.

Modifications etc. (not altering text)

C9 S. 212: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(a); S.I. 1993/2762, art. 3

C10 S. 212: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), Sch. 1

213 Enforcement of controls as respects trees in conservation areas.

(1) If any tree to which section 211 applies—
   (a) is removed, uprooted or destroyed in contravention of that section; or
   (b) is removed, uprooted or destroyed or dies at a prescribed time,
   it shall be the duty of the owner of the land to plant another tree of an appropriate size and species at the same place as soon as he reasonably can.

(2) The duty imposed by subsection (1) does not apply to an owner if on application by him the local planning authority dispense with it.

(3) The duty imposed by subsection (1) on the owner of any land attaches to the person who is from time to time the owner of the land and may be enforced as provided by section 207 and not otherwise.
214 Registers of s. 211 notices.

It shall be the duty of a local planning authority to compile and keep available for public inspection free of charge at all reasonable hours and at a convenient place a register containing such particulars as the Secretary of State may determine of notices under section 211 affecting trees in their area.
Changes to legislation:
There are outstanding changes not yet made by the legislation.gov.uk editorial team to Town and Country Planning Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations.

View outstanding changes

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
- Act applied in part by 2017 c. 7 s. 22(7)(a) 22(8)(5)(6)(7)
- Act applied in part (with modifications) by S.I. 2019/882 Sch. 4 para. 1
- Act construed as one with S.I. 2017/1012, Pt. 6 Ch. 2 (except regs. 84, 85) by S.I. 2017/1012 reg. 86
- Act modified by S.I. 2017/1012 reg. 78(3)(a)
- Act modified by S.I. 2017/1214 Sch. 7 para. 1

Whole provisions yet to be inserted into this Act (including any effects on those provisions):
- Pt. 9 applied by S.I. 2017/126 art. 21(4)
- Pt. 9 applied by S.I. 2017/430 art. 9(2)
- s. 59A(4)(a)(b) excluded by S.I. 2017/402 art. 5
- s. 61F(8A)(8B) inserted by 2017 c. 20 s. 5(2)
- s. 61G(6A)-(6D) inserted by 2017 c. 20 s. 5(3)
- s. 61G(6D) applied (with modifications) by 2004 c. 5, s. 38C(5A) (as inserted) by 2017 c. 20 s. 5(8)
- s. 61J(5A) inserted by 2017 c. 20 s. 5(4)
- s. 61M(4A) inserted by 2017 c. 20 s. 4(2)
- s. 69(1)(cza) inserted by 2015 c. 7 Sch. 4 para. 8(2)
- s. 69A inserted by 2017 c. 20 s. 17
- s. 70(2)(azza) inserted by 2017 c. 20 s. 1(2)
- s. 70(3A) inserted by 2017 c. 20 Sch. 3 para. 2
- s. 70(3B)-(3F) inserted by 2017 c. 20 s. 1(3)
- s. 72(6) inserted by 2017 c. 20 Sch. 3 para. 3
- s. 73(2A) inserted by 2017 c. 20 Sch. 3 para. 4
- s. 75ZA and cross-heading inserted by 2016 c. 22 s. 155
- s. 83(1A)-(1C) amendment to earlier affecting provision 2004 c. 5, s. 45(2) by 2011 c. 20 Sch. 8 para. 14(4)(5) Sch. 25 Pt. 16
- s. 83(1A)-(1C) inserted by 2004 c. 5 s. 45(2)
- s. 83(2)-(2B) amendment to earlier affecting provision 2004 c. 5, s. 45(3) by 2011 c. 20 Sch. 8 para. 14(4)(5) Sch. 25 Pt. 16
- s. 83(2)-(2B) substituted for s. 83(2) by 2004 c. 5 s. 45(3)
- s. 83(4) inserted by 2004 c. 5 s. 45(4)
- s. 85(1A) inserted by 2004 c. 5 s. 45(6)
- s. 90(2ZA) words inserted by 2017 c. 20 s. 39(13)
- s. 93(5)(6) inserted by 2017 c. 20 Sch. 3 para. 6
- s. 100ZA and cross-heading inserted by 2017 c. 20 s. 14(1)
- s. 106ZA inserted by 2016 c. 22 s. 158(1)
- s. 106ZB inserted by 2016 c. 22 s. 159(1)
- s. 108(1A)(1B) inserted by 2015 c. 7 Sch. 4 para. 15(4)
- s. 108(3A) inserted by 2004 c. 5 Sch. 6 para. 6
- s. 108(3B)(ba) inserted by 2015 c. 7 Sch. 4 para. 15(6)
- s. 108(3DA) inserted by 2015 c. 7 Sch. 4 para. 15(7)
- s. 141(6) inserted by 2017 c. 20 Sch. 3 para. 7
- s. 153(4A) excluded by S.I. 2017/1150 art. 22(3)
- s. 153(4A) excluded by S.I. 2017/1202 art. 29(3)(c)
- s. 153(4A) excluded by S.I. 2017/1214 art. 30(3)(c)
- s. 153(4A) excluded by S.I. 2018/446 arts. 21(4) 22(3)
- s. 153(4A) excluded by S.I. 2018/574 art. 27(4)(c)
- s. 153(4A) excluded by S.I. 2018/923 art. 22(3)(c)
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