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STATUTORY INSTRUMENTS

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**2012 No. 605**

**The Town and Country Planning (Tree Preservation)(England) Regulations 2012**

**PART 2**

**TREE PRESERVATION ORDERS**

**Form of tree preservation order**

**3.—**(1) An order shall be in the form set out in the Schedule to these Regulations or in a form substantially to the same effect and—

- (a) shall specify the trees, groups of trees or woodlands to which it relates;
- (b) where the order relates to a group of trees, shall specify the number of trees of each species in the group;
- (c) shall indicate the position of the trees, groups of trees or woodlands, as the case may be, by reference to a map; and
- (d) shall include information as to—
  - (i) whether or not the order was confirmed;
  - (ii) any variation of the order; and
  - (iii) any revocation of the order.

(2) An order shall contain or have annexed to it the map referred to in paragraph (1)(c) and, where a map is annexed to an order, it shall be treated as part of the order.

(3) The map contained in, or annexed to, an order shall be prepared to a scale sufficient to give a clear indication of the position of the trees, groups of trees or woodlands to which the order relates.

(4) In the case of any discrepancy between the map contained in, or annexed to, an order and the specification contained in the Schedule to that order, the map shall prevail.

**Provisional effect of order**

**4.—**(1) An order shall not take effect (other than provisionally in accordance with paragraph (2)) unless and until confirmed by the authority, and must be confirmed no later than the expiration of the period of six months beginning with the date on which it was made.

(2) Until confirmation an order shall take effect provisionally on the date on which it is made until—

- (a) the expiration of a period of six months beginning with the date on which the order was made;
- (b) the date on which the order is confirmed; or
- (c) the date on which the authority decide not to confirm the order,

whichever first occurs.

### **Procedure after making an order**

5.—(1) As soon as practicable after making an order, and before confirming it, the authority which made it shall—

- (a) serve on the persons interested in the land affected by the order—
    - (i) a copy of the order; and
    - (ii) a notice containing the particulars specified in paragraph (2);
  - (b) make a copy of the order available for public inspection, in accordance with paragraph (3); and
  - (c) in the case of an order made following service of a notice under section 211(3) (preservation of trees in conservation areas), serve on the person who served that notice the information specified in sub-paragraph (a).
- (2) The particulars mentioned in paragraph (1)(a)(ii) are—
- (a) the reasons for making the order;
  - (b) a statement that objections or other representations with respect to any trees, groups of trees or woodlands specified in the order may be made to the authority in accordance with regulation 6;
  - (c) the date, being at least 28 days after the date of the notice, by which any objection or representation must be received by the authority; and
  - (d) a copy of regulation 6.

(3) A copy of the order shall be made available for inspection, free of charge, at all reasonable hours, at the offices of the authority by whom the order was made; and where an order is made on behalf of an authority, it shall be made available for inspection also at the offices of the authority on whose behalf it was made.

### **Objections and representations**

6.—(1) Subject to paragraph (2), objections and representations—

- (a) shall be made in writing and—
  - (i) delivered to the authority not later than the date specified by them under regulation 5(2)(c); or
  - (ii) sent to the authority in a properly addressed and pre-paid letter posted at such time that, in the ordinary course of post, it would be delivered to them not later than that date;
- (b) shall specify the particular trees, groups of trees or woodlands (as the case may be) in respect of which such objections and representations are made; and
- (c) in the case of an objection, shall state the reasons for the objection.

(2) The authority may treat as duly made objections and representations which do not comply with the requirements of paragraph (1) if, in the particular case, they are satisfied that compliance with those requirements could not reasonably have been expected.

### **Procedure for confirmation of a tree preservation order**

7.—(1) The authority shall not confirm an order which they have made unless they have first considered objections and representations duly made in respect of it and not withdrawn.

- (2) An authority may confirm an order with or without modifications.

(3) Where an order is confirmed it shall be endorsed to that effect and the endorsement shall also indicate—

- (a) that the order was confirmed with modifications or without modifications, as the case may be; and
- (b) the date on which it was confirmed.

(4) Where an order is confirmed with modifications, the modifications shall be indicated in the order by distinctive type or other means.

(5) A modification under paragraph (2) may not add to the Schedule to the order (and the map) references to a tree to which the order did not previously apply.

#### **Action after confirmation of tree preservation order**

**8.** As soon as practicable after confirming an order, the authority which confirmed it shall—

- (a) notify the persons interested in the land affected by the order—
  - (i) of the confirmation of the order;
  - (ii) of the date on which the order was confirmed; and
  - (iii) of the time within which an application may be made to the High Court under section 284(1) (validity of development plans and certain orders, decisions and directions), and of the grounds on which such an application may be made;
- (b) where the order was confirmed with modifications, send a copy of the order, as confirmed, to those persons; and
- (c) make a copy of the order, as confirmed, available for public inspection, in place of the copy made so available in accordance with regulation 5, free of charge, at all reasonable hours, at the offices of the authority by whom the order was made; and where an order is made on behalf of an authority, it shall be made available for inspection also at the offices of the authority on whose behalf it was made.

#### **Action where tree preservation order not confirmed**

**9.** Where an authority decide not to confirm an order they shall as soon as practicable—

- (a) endorse the order with a statement to that effect and with the date of their decision;
- (b) notify the persons interested in the land affected by the order of their decision; and
- (c) withdraw from public inspection the copy of the order made available in accordance with regulation 5.

#### **Variation of tree preservation orders**

**10.—(1)** Where an authority vary an order they shall—

- (a) endorse the original order with a statement to the effect that the order has been varied, specifying the date on which the variation order takes effect;
- (b) serve on the persons interested in the land affected by the variation order—
  - (i) a copy of the variation order; and
  - (ii) a statement explaining the effect of the variation order; and
- (c) make a copy of the variation order available for public inspection, in accordance with regulation 5.

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(1) There are amendments to section 284 but none is relevant to this regulation.

(2) Where an authority vary an order so as to add to the Schedule to the order (and the map) references to a tree to which the order did not previously apply, regulations 5(1)(a)(ii) and (2) and 6 to 9 shall apply to the variation order as they applied to the order, subject to the substitution, for references to persons interested, of references to—

- (a) persons who are the owners and occupiers of the land affected by the variation order; and
- (b) every other person whom the authority know to be entitled to cut down, lop or top the trees to which the variation order relates, or to work by surface working any minerals in, on or under that land.

(3) For the purpose of paragraph (1)(a) the date on which the variation order takes effect shall be the date on which the variation order is made, except that, where paragraph (2) applies, the date on which the variation order takes effect shall be the date on which the variation order is confirmed under regulation 7(2).

(4) For the purpose of this regulation, “land affected by the variation order” means the land on which the trees, groups of trees or woodlands to which the variation order relates are situated.

### **Revocation of tree preservation orders**

**11.** Where an authority revoke an order they shall—

- (a) endorse the original order with a statement to the effect that the order has been revoked, specifying the date of the revocation;
- (b) notify the persons interested in the land affected by the order that the order has been revoked; and
- (c) withdraw from public inspection the copy of the original order made available in accordance with regulation 5.

### **Register**

**12.—**(1) Every authority shall keep a register containing the following information with respect to orders made by that authority—

- (a) details of every application under an order and of the authority’s decision (if any) in relation to each such application;
- (b) a statement of the subject-matter of every appeal under an order and of the date and nature of the Secretary of State’s determination of it; and
- (c) details of any conditions with respect to replanting attaching to any consent granted under regulation 17(1).

(2) Every register kept under this regulation shall be available for inspection by the public at all reasonable hours.