



# Planning etc. (Scotland) Act 2006

## 2006 asp 17

### PART 5

#### TREES

#### 28 Tree preservation orders

- (1) In section 159 of the principal Act (general duties of planning authority as respects trees)—
- (a) the words “ of the planning authority ” are repealed,
  - (b) at the beginning of paragraph (a), insert “ of the Scottish Ministers and the planning authority ”,
  - (c) at the beginning of paragraph (b), insert “ of the planning authority ”, and
  - (d) at the end add “, and
    - (c) of the planning authority from time to time to review any order made in exercise of their powers under that section and to consider whether it is requisite to vary or revoke the order in question.”.
- (2) In section 160 of that Act (power to make tree preservation orders)—
- (a) for subsection (1) substitute—

“(1) A planning authority may, if it appears to them that the requirements of subsection (1A) are met, make an order specifying any trees, groups of trees or woodlands in their district and providing for their preservation.

(1A) Those requirements are (either or both)—

    - (a) that it is expedient in the interests of amenity to make that provision,
    - (b) that the trees, groups of trees or woodlands are of cultural or historical significance.”,
  - (b) in subsection (6), the words “ , where paragraph (a) or (b) applies, ” are repealed, and
  - (c) after subsection (7) insert—

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*Changes to legislation: There are currently no known outstanding effects for the Planning etc. (Scotland) Act 2006, Part 5. (See end of Document for details)*

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- “(8) In relation to an application for consent under a tree preservation order the Scottish Ministers may by regulations make provision as to—
- (a) the form and manner in which the application must be made,
  - (b) particulars of such matters as are to be included in the application,
  - (c) any documents or other materials which are to accompany the application.”.
- (3) In section 161 of that Act (form of, and procedure applicable to, tree preservation orders), for subsection (1) substitute—
- “(1) Subject to section 249, a tree preservation order—
- (a) takes effect on such date as may be specified in the order, but
  - (b) expires 6 months after it is made unless it has, within that period, been confirmed by the planning authority.
- (1A) An order may be confirmed under subsection (1)(b) without modification or subject to such modifications as the planning authority consider expedient.”.
- (4) After section 161 insert—

**“161A Imminent danger to trees: entry to affix copy of tree preservation order**

- (1) If it appears to a planning authority that a tree, group of trees or woodlands—
- (a) on land in their district, and
  - (b) in respect of which they have made a tree preservation order,
- may be in imminent danger of being cut down, topped, lopped, uprooted, wilfully damaged or wilfully destroyed and accordingly that it is expedient that a copy of the order should be affixed conspicuously to the tree, group of trees or woodlands in question, a person duly authorised in writing by them may enter the land and so affix such a copy.
- (2) Subsection (1) is without prejudice to any provision made by virtue of section 161(3)(b) and (4) as respects notice of the making of the order.”.
- (5) In section 164(2) of that Act (effect of tree preservation order made by Scottish Ministers), after the word “and” insert “timeously”.
- (6) In section 168 of that Act (enforcement of duties as to replacement of trees), after subsection (3) insert—
- “(3A) In relation to any tree planted by virtue of a requirement such as is mentioned in subsection (1)(b), the relevant tree preservation order shall apply as it applied to the original trees.”.

**Commencement Information**

- I1** S. 28(1)(a)(b)(c) in force at 1.4.2007 by [S.S.I. 2007/130](#), [art. 2\(2\)\(3\)](#), [Sch.](#)
- I2** S. 28(1)(d)(2)(a)(b)(3)-(6) in force at 1.2.2011 by [S.S.I. 2010/400](#), [art. 3](#), [Sch.](#)
- I3** S. 28(2)(c) in force at 26.11.2010 by [S.S.I. 2010/400](#), [art. 2\(1\)\(2\)\(a\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Planning etc. (Scotland) Act 2006, Part 5.