
STATUTORY INSTRUMENTS

1991 No. 1220

The Planning(Northern Ireland) Order 1991

PART V

ADDITIONAL PLANNING CONTROL

Trees

Duty of Department in relation to trees

64. The Department shall—

- (a) ensure wherever it is appropriate, that in granting planning permission for any development adequate provision is made, by the imposition of conditions, for the preservation or planting of trees; and
- (b) make such orders under Article 65 as appear to the Department to be necessary in connection with the grant of such permission, whether for giving effect to such conditions or otherwise.

Tree preservation orders

65.—(1) Where it appears to the Department that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in any area, it may for that purpose make an order (in this Order referred to as a “tree preservation order”) with respect to such trees, groups of trees or woodlands as may be specified in the order; and in particular, provision may be made by any such order—

- (a) for prohibiting (subject to any exemptions for which provision may be made by the order) the cutting down, topping, lopping or wilful destruction of trees except with the consent of the Department, and for enabling the Department to give its consent subject to conditions;
- (b) for securing the replanting, in such manner as may be prescribed by or under the order, of any part of a woodland area which is felled in the course of forestry operations permitted by or under the order;
- (c) for applying, in relation to any consent under the order and to applications for such consent, any of the provisions of Part IV, subject to such adaptations and modifications as may be specified in the order.

(2) The Department may make regulations as to the form of tree preservation orders and the procedure to be followed in connection with such orders; and the regulations may (without prejudice to the generality of this paragraph) make provision as follows—

- (a) that the Department may make a provisional tree preservation order, which shall take effect immediately, and notice of its making shall be given to the owners and occupiers of the land affected and to such other persons, if any, as may be specified in the regulations;
- (b) that objections and representations with respect to the provisional order may be made within 28 days of the giving of the notice;

- (c) that if within that period any person on whom the notice is served so desires the Department shall afford to him an opportunity of appearing before and being heard by the planning appeals commission;
- (d) that—
 - (i) after considering any objections and representations received within that period and, where a hearing is held, the report of the planning appeals commission; or
 - (ii) where no objections or representations are received within that period;

the Department may confirm the provisional tree preservation order, withdraw it or modify it, and shall give notice of the confirmation, withdrawal or modification to the persons on whom notice of the provisional tree preservation order was served.

(3) Without prejudice to any other exemptions for which provision may be made by a tree preservation order, no such order shall apply to the cutting down, topping or lopping of trees which are dying or dead or have become dangerous or the cutting down, topping or lopping of any trees in compliance with any obligations imposed by or under any statutory provision or so far as may be necessary for the prevention or abatement of a nuisance.

Penalties for contravention of tree preservation orders

66.—(1) If any person, in contravention of a tree preservation order, cuts down or wilfully destroys a tree, or tops or lops a tree in such a manner as to be likely to destroy it, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) If any person contravenes a tree preservation order otherwise than as mentioned in paragraph (1), he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) If in the case of a continuing offence under this Article, the contravention is continued after the conviction, the offender shall be guilty of a further offence and liable on summary conviction to an additional fine not exceeding one-tenth of level 1 on the standard scale for each day on which the contravention is continued.