



# Town and Country Planning (Scotland) Act 1997

## 1997 CHAPTER 8

### PART VII

#### SPECIAL CONTROLS

#### CHAPTER I

#### TREES

#### *Tree preservation orders*

#### **160 Power to make tree preservation orders.**

[<sup>F1</sup>(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.]

(2) An order under subsection (1) is in this Act referred to as a “tree preservation order”.

(3) A tree preservation order may, in particular, make provision—

- (a) for prohibiting (subject to any exemptions for which provision may be made by the order) the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of trees except with the consent of the planning authority, and for enabling that authority to give their consent subject to conditions;

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- (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 this Act mentioned in subsection (4), subject to such adaptations and modifications as may be specified in the order.
- (4) The provisions referred to in subsection (3)(c) are—
- (a) the provisions of Part III relating to planning permission and to applications for planning permission, except sections 32, 34, 35, 36(2) and (3), 38, 58 to 62, 69 and 70 and Schedules 6 and 7, and section 65 of the <sup>M1</sup>Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997,
  - (b) sections 88 to 92, 94 and 95 (except so far as they relate to purchase notices served in consequence of such orders as are mentioned in section 88(1)(b) or (c)), and
  - (c) section 263.
- (5) A tree preservation order may be made so as to apply, in relation to trees to be planted pursuant to any such conditions as are mentioned in section 159(a), as from the time when those trees are planted.
- (6) Without prejudice to any other exemptions for which provision may be made by a tree preservation order, nothing in such an order shall prohibit the uprooting, felling or lopping of trees if—
- (a) it is urgently necessary in the interests of safety,
  - (b) it is necessary for the prevention or abatement of a nuisance, or
  - [<sup>F2</sup>(ba) it is authorised by an order granting development consent,]
  - (c) it is in compliance with any obligation imposed by or under an Act of Parliament [<sup>F3</sup>or an Act of the Scottish Parliament],
- so long as <sup>F4</sup>... notice in writing of the proposed operations is given to the planning authority as soon as practicable after the operations become necessary.
- (7) This section shall have effect subject to—
- (a) section 39(2) of the <sup>M2</sup>Housing and Planning Act 1986 (saving for effect of section 2(4) of the <sup>M3</sup>Opencast Coal Act 1958 on land affected by a tree preservation order despite its repeal), and
  - [<sup>F5</sup>(b) section 33 of the Forestry and Land Management (Scotland) Act 2018 (felling of trees subject to tree preservation orders).]
- [<sup>F6</sup>(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.]

#### Textual Amendments

**F1** S. 160(1)(1A) substituted for s. 160(1) (1.2.2011) by **Planning etc. (Scotland) Act 2006 (asp 17), ss. 28(2)(a), 59(2); S.S.I. 2010/400, art. 3, sch.**

**F2** S. 160(6)(ba) inserted (1.3.2010) by **Planning Act 2008 (c. 29), s. 241(8), Sch. 2 para. 56** (with s. 226); **S.I. 2010/101, art. 2** (with art. 6)

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- F3** Words in s. 160(6)(c) added (3.8.2009) by Planning etc. (Scotland) Act 2006 (asp 17), **ss. 54(9)**, 59(2); S.S.I. 2009/219, art. 2, sch.
- F4** Words in s. 160(6) repealed (1.2.2011) by Planning etc. (Scotland) Act 2006 (asp 17), **ss. 28(2)(b)**, 59(2); S.S.I. 2010/400, art. 3, sch.
- F5** S. 160(7)(b) substituted (1.4.2019) by Forestry and Land Management (Scotland) Act 2018 (asp 8), s. 85(2), **sch. 1 para. 2** (with s. 83); S.S.I. 2019/47, reg. 2 (with regs. 3-22)
- F6** S. 160(8) inserted (26.11.2010) by Planning etc. (Scotland) Act 2006 (asp 17), **ss. 28(2)(c)**, 59(2); S.S.I. 2010/400, art. 2(1)(2)(a)
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#### **Marginal Citations**

- M1** 1997 c. 9.
- M2** 1986 c. 63.
- M3** 1958 c. 69.

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied by [S.S.I. 2008/189 art. 53\(3\)](#)
- Act power to apply (with or without modifications) conferred by [2021 asp 9 s. 45\(3\)\(b\)\(c\)](#)

**Whole provisions yet to be inserted into this Act (including any effects on those provisions):**

- Pt. 11A inserted by [2006 asp 17 s. 29](#)
- Pt. 12A inserted by [2006 asp 17 s. 30](#)
- Pt. 12A inserted by [2019 asp 13 s. 46\(2\)](#)
- s. 3CD inserted by [2019 asp 13 s. 4\(2\)](#)
- s. 20AA(4)(a)(iii) inserted by [2019 asp 13 s. 14\(6\)](#)
- s. 29(1)(ca) inserted by [2019 asp 13 Sch. 2 para. 5\(3\)\(b\)](#)
- s. 36(1)(ca) inserted by [2019 asp 13 Sch. 2 para. 5\(4\)\(b\)](#)
- s. 36(5)(6) inserted by [2019 asp 13 s. 36\(2\)](#)
- s. 40A inserted by [2019 asp 13 s. 19\(2\)](#)
- s. 43A-43AD substituted for s. 43A by [2019 asp 13 s. 28\(2\)](#)
- s. 47(2)(aa) inserted by [2019 asp 13 s. 28\(3\)\(a\)](#)
- s. 47(2A) inserted by [2019 asp 13 s. 28\(3\)\(b\)](#)
- s. 47(6) inserted by [2019 asp 13 s. 31\(2\)\(c\)](#)
- s. 54A-54F and cross-heading inserted by [2019 asp 13 s. 15\(2\)](#)
- s. 57(2C)(2D) inserted by [2021 asp 9 s. 44\(2\)](#)
- s. 58(4)(fa) inserted by [2019 asp 13 Sch. 2 para. 5\(5\)\(b\)](#)
- s. 61(1)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(6\)\(b\)](#)
- s. 75(4A) inserted by [2019 asp 13 s. 35\(2\)](#)
- s. 75A(5A) inserted by [2019 asp 13 s. 35\(3\)](#)
- s. 77A inserted by [2019 asp 13 s. 39\(2\)](#)
- s. 135(4A) inserted by [2019 asp 13 s. 43\(2\)\(c\)](#)
- s. 154(1)(c) and word inserted by [2019 asp 13 s. 28\(4\)\(a\)\(ii\)](#)
- s. 154(1A) inserted by [2019 asp 13 s. 28\(4\)\(b\)](#)
- s. 158A(1A) inserted by [2019 asp 13 s. 44\(2\)](#)
- s. 158B-158F and cross-heading inserted by [2019 asp 13 s. 43\(3\)](#)
- s. 183(1)(c) inserted by [2019 asp 13 Sch. 2 para. 5\(7\)\(b\)](#)
- s. 237(1)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(8\)](#)
- s. 238(3)(a)-(c) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(a\)\(ii\)](#)
- s. 238(5)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(b\)](#)
- s. 238(7) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(c\)](#)