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Town and Country Planning Act 1990

1990 CHAPTER 8

PART VIII

SPECIAL CONTROLS

CHAPTER I

TREES

General duty of planning authorities as respects trees

197 Planning permission to include appropriate provision for preservation and planting of trees.

It shall be the duty of the local planning authority—

- (a) to ensure, whenever 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) to make such orders under section 198 as appear to the authority to be necessary in connection with the grant of such permission, whether for giving effect to such conditions or otherwise.

Modifications etc. (not altering text)

- C1** S. 197: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); [S.I. 1993/2762, art. 3](#)
- C2** S. 197: 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](#)

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Tree preservation orders

198 Power to make tree preservation orders.

- (1) If it appears to a local planning authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order.
- (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 local planning authority, and for enabling that authority to give their 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 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 56, 62, 65^{F1} . . . , 69(3) and (4), 71,^{F2} . . . , 91 to 96, 100 and 101 and Schedule 8; and
 - (b) sections 137 to 141, 143 and 144 (except so far as they relate to purchase notices served in consequence of such orders as are mentioned in section 137(1)(b) or (c));
 - (c) section 316.
- (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 197(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, no such order shall apply—
 - (a) to the cutting down, uprooting, topping or lopping of trees which are dying or dead or have become dangerous, or
 - (b) to the cutting down, uprooting, topping or lopping of any trees in compliance with any obligations imposed by or under an Act of Parliament or so far as may be necessary for the prevention or abatement of a nuisance.
- (7) This section shall have effect subject to—
 - (a) section 39(2) of the ^{M1}Housing and Planning Act 1986 (saving for effect of section 2(4) of the ^{M2}Opencast Coal Act 1958 on land affected by a tree preservation order despite its repeal); and
 - (b) section 15 of the ^{M3}Forestry Act 1967 (licences under that Act to fell trees comprised in a tree preservation order).

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- [^{F3}(8) In relation to an application for consent under a tree preservation order the appropriate authority 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) the documents or other materials as are to accompany the application.
- (9) The appropriate authority is—
- (a) the Secretary of State in relation to England;
 - (b) the National Assembly for Wales in relation to Wales,
- and in the case of regulations made by the National Assembly for Wales section 333(3) must be ignored.]

Textual Amendments

- F1** Words in s. 198(4)(a) repealed (17.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), ss. 32, 84(6), Sch. 7 para. 34, **Sch. 19 Pt. I** (with s. 84(5)); S.I. 1992/1491, art. 2, Schs. 1, 2
- F2** Words in s. 198(4)(a) repealed (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), ss. 31, 84(6), Sch. 6 para. 20, **Sch. 19 Pt. II** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)
- F3** S. 198(8)(9) inserted (6.8.2004 for certain purposes and otherwise prosp.) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), ss. 42(3), 121 (with s. 111); S.I. 2004/2097, **art. 2**

Modifications etc. (not altering text)

- C3** S. 198: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); S.I. 1993/2762, **art. 3**
- C4** S. 198: 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**

Marginal Citations

- M1** [1986 c. 63](#).
- M2** [1958 c.69](#).
- M3** [1967 c.10](#).

199 Form of and procedure applicable to orders.

- (1) A tree preservation order shall not take effect until it is confirmed by the local planning authority and the local planning authority may confirm any such order either without modification or subject to such modifications as they consider expedient.
- (2) Provision may be made by regulations under this Act with respect—
 - (a) to the form of tree preservation orders, and
 - (b) to the procedure to be followed in connection with the making and confirmation of such orders.
- (3) Without prejudice to the generality of subsection (2), the regulations may make provision—
 - (a) that, before a tree preservation order is confirmed by the local planning authority, notice of the making of the order shall be given to the owners and occupiers of land affected by the order and to such other persons, if any, as may be specified in the regulations;

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- (b) that objections and representations with respect to the order, if duly made in accordance with the regulations, shall be considered before the order is confirmed by the local planning authority; and
- (c) that copies of the order, when confirmed by the authority, shall be served on such persons as may be specified in the regulations.

Modifications etc. (not altering text)

- C5** S. 199: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); [S.I. 1993/2762, art. 3](#)
- C6** S. 199: 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](#)

[^{F4}200 Tree preservation orders: Forestry Commissioners

- (1) A tree preservation order does not have effect in respect of anything done—
 - (a) by or on behalf of the Forestry Commissioners on land placed at their disposal in pursuance of the Forestry Act 1967 or otherwise under their management or supervision;
 - (b) by or on behalf of any other person in accordance with a relevant plan which is for the time being in force.
- (2) A relevant plan is a plan of operations or other working plan approved by the Forestry Commissioners under—
 - (a) a forestry dedication covenant within the meaning of section 5 of the Forestry Act 1967, or
 - (b) conditions of a grant or loan made under section 1 of the Forestry Act 1979.
- (3) A reference to a provision of the Forestry Act 1967 or the Forestry Act 1979 includes a reference to a corresponding provision replaced by that provision or any earlier corresponding provision.]

Textual Amendments

- F4** S. 200 substituted (7.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), ss. 85, 121](#) (with [s. 111](#)); [S.I. 2006/1281, art. 2](#)

Modifications etc. (not altering text)

- C7** S. 200: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); [S.I. 1993/2762, art. 3](#)
- C8** S. 200: 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](#)

201 Provisional tree preservation orders.

- (1) If it appears to a local planning authority that a tree preservation order proposed to be made by that authority should take effect immediately without previous confirmation, they may include in the order as made by them a direction that this section shall apply to the order.
- (2) Notwithstanding section 199(1), an order which contains such a direction—
 - (a) shall take effect provisionally on such date as may be specified in it, and

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- (b) shall continue in force by virtue of this section until—
- (i) the expiration of a period of six months beginning with the date on which the order was made; or
 - (ii) the date on which the order is confirmed,
- whichever first occurs.

Modifications etc. (not altering text)

- C9** S. 201: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(a); S.I. 1993/2762, art. 3
S. 201 applied (2.8.1999) by S.I. 1999/1892, reg. 2(1), Sch. art. 3
- C10** S. 201: 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

202 Power for Secretary of State to make tree preservation orders.

- (1) If it appears to the Secretary of State, after consultation with the local planning authority, to be expedient that a tree preservation order or an order amending or revoking such an order should be made, he may himself make such an order.
- (2) Any order so made by the Secretary of State shall have the same effect as if it had been made by the local planning authority and confirmed by them under this Chapter.
- (3) The provisions of this Chapter and of any regulations made under it with respect to the procedure to be followed in connection with the making and confirmation of any order to which subsection (1) applies and the service of copies of it as confirmed shall have effect, subject to any necessary modifications—
 - (a) in relation to any proposal by the Secretary of State to make such an order,
 - (b) in relation to the making of it by the Secretary of State, and
 - (c) in relation to the service of copies of it as so made.

Modifications etc. (not altering text)

- C11** S. 202: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(a); S.I. 1993/2762, art. 3
- C12** S. 202: 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

VALID FROM 06/04/2012

[^{F5}202A Tree preservation regulations: general

- (1) The appropriate national authority may by regulations make provision in connection with tree preservation orders.
- (2) Sections 202B to 202G make further provision about what may, in particular, be contained in regulations under subsection (1).
- (3) In this section and those sections “tree preservation order” includes an order under section 202(1).
- (4) In this Act “tree preservation regulations” means regulations under subsection (1).

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- (5) In subsection (1) “the appropriate national authority”—
- (a) in relation to England means the Secretary of State, and
 - (b) in relation to Wales means the Welsh Ministers.
- (6) Section 333(3) does not apply in relation to tree preservation regulations made by the Welsh Ministers.
- (7) Tree preservation regulations made by the Welsh Ministers are subject to annulment in pursuance of a resolution of the National Assembly for Wales.

Textual Amendments

- F5** Ss. 202A-202G inserted (prosp.) by Planning Act 2008 (c. 29), ss. 192(7), 241 (with s. 226) (as amended (1.6.2009) by S.I. 2009/1307, arts. 5(1)(2), Sch. 1 para. 295)

VALID FROM 06/04/2012

202B Tree preservation regulations: making of tree preservation orders

- (1) Tree preservation regulations may make provision about—
- (a) the form of tree preservation orders;
 - (b) the procedure to be followed in connection with the making of tree preservation orders;
 - (c) when a tree preservation order takes effect.
- (2) If tree preservation regulations make provision for tree preservation orders not to take effect until confirmed, tree preservation regulations may—
- (a) make provision for tree preservation orders to take effect provisionally until confirmed;
 - (b) make provision about who is to confirm a tree preservation order;
 - (c) make provision about the procedure to be followed in connection with confirmation of tree preservation orders.

Textual Amendments

- F5** Ss. 202A-202G inserted (prosp.) by Planning Act 2008 (c. 29), ss. 192(7), 241 (with s. 226) (as amended (1.6.2009) by S.I. 2009/1307, arts. 5(1)(2), Sch. 1 para. 295)

VALID FROM 06/04/2012

202C Tree preservation regulations: prohibited activities

- (1) Tree preservation regulations may make provision for prohibiting all or any of the following—
- (a) cutting down of trees;
 - (b) topping of trees;

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- (c) lopping of trees;
 - (d) uprooting of trees;
 - (e) wilful damage of trees;
 - (f) wilful destruction of trees.
- (2) A prohibition imposed on a person may (in particular) relate to things whose doing the person causes or permits (as well as to things the person does).
- (3) A prohibition may be imposed subject to exceptions.
- (4) In particular, provision may be made for a prohibition not to apply to things done with consent.
- (5) In this section “tree” means a tree in respect of which a tree preservation order is in force.

Textual Amendments

F5 Ss. 202A-202G inserted (prosp.) by Planning Act 2008 (c. 29), ss. 192(7), 241 (with s. 226) (as amended (1.6.2009) by S.I. 2009/1307, arts. 5(1)(2), Sch. 1 para. 295)

VALID FROM 06/04/2012

202D Tree preservation regulations: consent for prohibited activities

- (1) This section applies if tree preservation regulations make provision under section 202C(4).
- (2) Tree preservation regulations may make provision—
- (a) about who may give consent;
 - (b) for the giving of consent subject to conditions;
 - (c) about the procedure to be followed in connection with obtaining consent.
- (3) The conditions for which provision may be made under subsection (2)(b) include—
- (a) conditions as to planting of trees;
 - (b) conditions requiring approvals to be obtained from the person giving the consent;
 - (c) conditions limiting the duration of the consent.
- (4) The conditions mentioned in subsection (3)(a) include—
- (a) conditions requiring trees to be planted;
 - (b) conditions about the planting of any trees required to be planted by conditions within paragraph (a), including conditions about how, where or when planting is to be done;
 - (c) conditions requiring things to be done, or installed, for the protection of any trees planted in pursuance of conditions within paragraph (a).
- (5) In relation to any tree planted in pursuance of a condition within subsection (4)(a), tree preservation regulations may make provision —
- (a) for the tree preservation order concerned to apply to the tree;

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- (b) authorising the person imposing the condition to specify that the tree preservation order concerned is not to apply to the tree.
- (6) “The tree preservation order concerned” is the order in force in relation to the tree in respect of which consent is given under tree preservation regulations.
- (7) The provision that may be made under subsection (2)(c) includes provision about applications for consent, including provision as to—
 - (a) the form or manner in which an application is to be made;
 - (b) what is to be in, or is to accompany, an application.
- (8) Tree preservation regulations may make provision for appeals—
 - (a) against refusal of consent;
 - (b) where there is a failure to decide an application for consent;
 - (c) against conditions subject to which consent is given;
 - (d) against refusal of an approval required by a condition;
 - (e) where there is a failure to decide an application for such an approval.
- (9) Tree preservation regulations may make provision in connection with appeals under provision made under subsection (8), including—
 - (a) provision imposing time limits;
 - (b) provision for further appeals;
 - (c) provision in connection with the procedure to be followed on an appeal (or further appeal);
 - (d) provision about who is to decide an appeal (or further appeal);
 - (e) provision imposing duties, or conferring powers, on a person deciding an appeal (or further appeal).

Textual Amendments

F5 Ss. 202A-202G inserted (prosp.) by Planning Act 2008 (c. 29), ss. 192(7), 241 (with s. 226) (as amended (1.6.2009) by S.I. 2009/1307, arts. 5(1)(2), Sch. 1 para. 295)

VALID FROM 06/04/2012

202E Tree preservation regulations: compensation

- (1) Tree preservation regulations may make provision for the payment of compensation—
 - (a) where any consent required under tree preservation regulations is refused;
 - (b) where any such consent is given subject to conditions;
 - (c) where any approval required under such a condition is refused.
- (2) Tree preservation regulations may provide for entitlement conferred under subsection (1) to apply only in, or to apply except in, cases specified in tree preservation regulations.

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- (3) Tree preservation regulations may provide for entitlement conferred by provision under subsection (1) to be subject to conditions, including conditions as to time limits.
- (4) Tree preservation regulations may, in relation to compensation under provision under subsection (1), make provision about—
 - (a) who is to pay the compensation;
 - (b) who is entitled to the compensation;
 - (c) what the compensation is to be paid in respect of;
 - (d) the amount, or calculation of, the compensation.
- (5) Tree preservation regulations may make provision about the procedure to be followed in connection with claiming any entitlement conferred by provision under subsection (1).
- (6) Tree preservation regulations may make provision for the determination of disputes about entitlement conferred by provision under subsection (1), including provision for and in connection with the referral of any such disputes to, and their determination by the First-tier Tribunal or the Upper Tribunal.

Textual Amendments

F5 Ss. 202A-202G inserted (prosp.) by Planning Act 2008 (c. 29), ss. 192(7), 241 (with s. 226) (as amended (1.6.2009) by S.I. 2009/1307, arts. 5(1)(2), Sch. 1 para. 295)

VALID FROM 06/04/2012

202F Tree preservation regulations: registers

Tree preservation regulations may make provision for the keeping of, and public access to, registers containing information related to tree preservation orders.

Textual Amendments

F5 Ss. 202A-202G inserted (prosp.) by Planning Act 2008 (c. 29), ss. 192(7), 241 (with s. 226) (as amended (1.6.2009) by S.I. 2009/1307, arts. 5(1)(2), Sch. 1 para. 295)

VALID FROM 06/04/2012

202G Tree preservation regulations: supplementary

- (1) Tree preservation regulations may provide for the application (with or without modifications) of, or make provision comparable to, any provision of this Act mentioned in subsection (2).

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- (2) The provisions are any provision of Part 3 relating to planning permission or applications for planning permission, except sections 56, 62, 65, 69(3) and (4), 71, 91 to 96, 100 and 101 and Schedule 8.
- (3) Tree preservation regulations may make provision comparable to—
- (a) any provision made by the Town and Country Planning (Tree Preservation Order) Regulations 1969 or the Town and Country Planning (Trees) Regulations 1999;
 - (b) any provision that could have been made under section 199(2) and (3).
- (4) Tree preservation regulations may contain incidental, supplementary, consequential, transitional and transitory provision and savings.]

Textual Amendments

- F5** Ss. 202A-202G inserted (prosp.) by Planning Act 2008 (c. 29), ss. 192(7), 241 (with s. 226) (as amended (1.6.2009) by S.I. 2009/1307, arts. 5(1)(2), Sch. 1 para. 295)

Compensation for loss or damage caused by orders, etc.

203 Compensation in respect of tree preservation orders.

A tree preservation order may make provision for the payment by the local planning authority, subject to such exceptions and conditions as may be specified in the order, of compensation in respect of loss or damage caused or incurred in consequence—

- (a) of the refusal of any consent required under the order, or
- (b) of the grant of any such consent subject to conditions.

Modifications etc. (not altering text)

- C13** S. 203: 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

204 Compensation in respect of requirement as to replanting of trees.

- (1) This section applies where—
- (a) in pursuance of provision made by a tree preservation order, a direction is given by the local planning authority or the Secretary of State for securing the replanting of all or any part of a woodland area which is felled in the course of forestry operations permitted by or under the order; and
 - (b) the Forestry Commissioners decide not to make any grant or loan under section 1 of the ^{M4}Forestry Act 1979 in respect of the replanting by reason that the direction frustrates the use of the woodland area for the growing of timber or other forest products for commercial purposes and in accordance with the rules or practice of good forestry.
- (2) Where this section applies, the local planning authority exercising functions under the tree preservation order shall be liable, on the making of a claim in accordance with

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this section, to pay compensation in respect of such loss or damage, if any, as is caused or incurred in consequence of compliance with the direction.

- (3) The Forestry Commissioners shall, at the request of the person under a duty to comply with such a direction as is mentioned in subsection (1)(a), give a certificate stating—
- (a) whether they have decided not to make such a grant or loan as is mentioned in subsection (1)(b), and
 - (b) if so, the grounds for their decision.
- (4) A claim for compensation under this section must be served on the local planning authority—
- (a) within 12 months from the date on which the direction was given, or
 - (b) where an appeal has been made to the Secretary of State against the decision of the local planning authority, within 12 months from the date of the decision of the Secretary of State on the appeal,

but subject in either case to such extension of that period as the local planning authority may allow.

Modifications etc. (not altering text)

C14 S. 204: 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](#)

Marginal Citations

M4 1979 c. 21.

205 Determination of compensation claims.

- (1) Except in so far as may be otherwise provided by any tree preservation order or any regulations made under this Act, any question of disputed compensation under section 203 or 204 shall be referred to and determined by the Lands Tribunal.
- (2) In relation to the determination of any such question, the provisions of sections 2 and 4 of the ^{M5}Land Compensation Act 1961 shall apply subject to any necessary modifications and to the provisions of any regulations made under this Act.

Modifications etc. (not altering text)

C15 S. 205: 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](#)

Marginal Citations

M5 1961 c.33.

Consequences of tree removal, etc.

206 Replacement of trees.

- (1) If any tree in respect of which a tree preservation order is for the time being in force—
- (a) is removed, uprooted or destroyed in contravention of the order, or

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- (b) except in the case of a tree to which the order applies as part of a woodland, is removed, uprooted or destroyed or dies at a time when its cutting down or uprooting is authorised only by virtue of section 198(6)(a), 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) In respect of trees in a woodland it shall be sufficient for the purposes of this section to replace the trees removed, uprooted or destroyed by planting the same number of trees—
- (a) on or near the land on which the trees removed, uprooted or destroyed stood, or
- (b) on such other land as may be agreed between the local planning authority and the owner of the land,
- and in such places as may be designated by the local planning authority.
- (4) In relation to any tree planted pursuant to this section, the relevant tree preservation order shall apply as it applied to the original tree.
- (5) The duty imposed by subsection (1) on the owner of any land shall attach to the person who is from time to time the owner of the land.

Modifications etc. (not altering text)

C16 S. 206: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(a); S.I. 1993/2762, art. 3

C17 S. 206: 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

207 Enforcement of duties as to replacement of trees.

- (1) If it appears to the local planning authority that—
- (a) the provisions of section 206, or
- (b) any conditions of a consent given under a tree preservation order which require the replacement of trees,
- are not complied with in the case of any tree or trees, that authority may serve on the owner of the land a notice requiring him, within such period as may be specified in the notice, to plant a tree or trees of such size and species as may be so specified.
- (2) A notice under subsection (1) may only be served within four years from the date of the alleged failure to comply with those provisions or conditions.
- [^{F6}(3) A notice under subsection (1) shall specify a period at the end of which it is to take effect.
- ^{F6}(4) The specified period shall be a period of not less than twenty-eight days beginning with the date of service of the notice.]
- (5) The duty imposed by section 206(1) may only be enforced as provided by this section and not otherwise.

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Textual Amendments

F6 S. 207(3)(4) substituted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s. 23\(1\)](#) (with [s. 84\(5\)](#)); [S.I. 1991/2905](#), [art.3](#) (subject to [art. 5](#))

Modifications etc. (not altering text)

C18 S. 207: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); [S.I. 1993/2762](#), [art. 3](#)

C19 S. 207: 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](#)

208 Appeals against s. 207 notices.

(1) A person on whom a notice under section 207(1) is served may appeal to the Secretary of State against the notice on any of the following grounds—

(a) that the provisions of section 206 or, as the case may be, the conditions mentioned in section 207(1)(b) are not applicable or have been complied with;

[^{F7}(aa) that in all the circumstances of the case the duty imposed by section 206(1) should be dispensed with in relation to any tree;]

(b) that the requirements of the notice are unreasonable in respect of the period or the size or species of trees specified in it;

(c) that the planting of a tree or trees in accordance with the notice is not required in the interests of amenity or would be contrary to the practice of good forestry;

(d) that the place on which the tree is or trees are required to be planted is unsuitable for that purpose.

[^{F8}(2) An appeal under subsection (1) shall be made either—

(a) by giving written notice of the appeal to the Secretary of State before the end of the period specified in accordance with section 207(3); or

(b) by sending such notice to him in a properly addressed and pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before the end of that period.]

(4) The notice shall indicate the grounds of the appeal and state the facts on which it is based.

(5) On any such appeal the Secretary of State shall, if either the appellant or the local planning authority so desire, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(6) Where such an appeal is brought, the notice under section 207(1) shall be of no effect pending the final determination or the withdrawal of the appeal.

[^{F9}(7) On such an appeal the Secretary of State may—

(a) correct any defect, error or misdescription in the notice; or

(b) vary any of its requirements,

if he is satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority.

^{F9}(8) Where the Secretary of State determines to allow the appeal, he may quash the notice.

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- ^{F9}(8A) The Secretary of State shall give any directions necessary to give effect to his determination on the appeal.]
- (9) Schedule 6 applies to appeals under this section.
- (10) Where any person has appealed to the Secretary of State under this section against a notice, neither that person nor any other shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.
- [^{F10}(11) Subsection (5) of section 250 of the Local Government Act 1972 (which authorises a Minister holding an inquiry under that section to make orders with respect to the costs of the parties) shall apply in relation to any proceedings before the Secretary of State on an appeal under this section as if those proceedings were an inquiry held by the Secretary of State under section 250.]

Textual Amendments

- F7** S. 208(1)(aa) inserted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s. 23\(2\)](#) (with [s. 84\(5\)](#)); [S.I. 1991/2905](#), [art.3](#) (subject to [art. 5](#))
- F8** S. 208(2) substituted (2.1.1992) for s. 208(2)(3) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s. 23\(3\)](#) (with [s. 84\(5\)](#)); [S.I. 1991/2905](#), [art.3](#) (subject to [art. 5](#))
- F9** S. 208(7)(8)(8A) substituted (2.1.1992) for s. 208(7)(8) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s. 23\(4\)](#) (with [s. 84\(5\)](#)); [S.I. 1991/2905](#), [art.3](#) (subject to [art. 5](#))
- F10** S. 208(11) inserted (temp.) by virtue of [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), [s. 6](#), [Sch. 4 paras. 1, 5](#) (which temp. insertion falls (2.1.1992 and 6.4.2009) for specified purposes only by virtue of [S.I. 1991/2698](#), [art. 3](#) and [S.I. 2009/849](#), [art. 2](#) (with [art. 3](#)))

Modifications etc. (not altering text)

- C20** S. 208: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); [S.I. 1993/2762](#), [art. 3](#)
- C21** S. 208: 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](#)

209 Execution and cost of works required by s. 207 notice.

- (1) If, within the period specified in a notice under section 207(1) for compliance with it, or within such extended period as the local planning authority may allow, any trees which are required to be planted by a notice under that section have not been planted, the local planning authority may—
- enter the land and plant those trees, and
 - recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.
- (2) Where such a notice has been served—
- any expenses incurred by the owner of any land for the purpose of complying with the notice, and
 - any sums paid by the owner of any land under subsection (1) in respect of expenses incurred by the local planning authority in planting trees required by such a notice to be planted,

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shall be deemed to be incurred or paid for the use and at the request of any person, other than the owner, responsible for the cutting down, destruction or removal of the original tree or trees.

- (3) Regulations made under this Act may provide that—
- (a) section 276 of the ^{M6}Public Health Act 1936 (power of local authorities to sell materials removed in executing works under that Act subject to accounting for the proceeds of sale);
 - (b) section 289 of that Act (power to require the occupier of any premises to permit works to be executed by the owner of the premises); or
 - (c) section 294 of that Act (limit on liability of persons holding premises as agents or trustees in respect of the expenses recoverable under that Act),

shall apply, subject to such adaptations and modifications as may be specified in the regulations, in relation to any steps required to be taken by a notice under section 207(1).

- (4) Regulations under subsection (3) applying section 289 of the Public Health Act 1936 may include adaptations and modifications for the purpose of giving the owner of land to which such a notice relates the right, as against all other persons interested in the land, to comply with the requirements of the notice.

- (5) Regulations under subsection (3) may also provide for the charging on the land of any expenses recoverable by a local authority [^{F11}or National Park authority] under subsection (1).

- [^{F12}(6) Any person who wilfully obstructs a person acting in the exercise of the power under subsection (1)(a) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.]

Textual Amendments

- F11** Words in s. 209(5) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(6)** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**); S.I. 1995/2950, **art. 2(1)**
- F12** S. 209(6) substituted (2.1.1992) by **Planning and Compensation Act 1991 (c. 34, SIF 123:1)**, s. **23(5)**(with s. 84(5)); S.I. 1991/2905, **art. 3** (subject to **art. 5**)

Modifications etc. (not altering text)

- C22** S. 209: power to apply conferred (10.11.1993) by 1993 c. 28, s. **171(4)(a)**; S.I. 1993/2762, **art. 3**
- C23** S. 209: 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**
- C24** S. 209(1)(2)(6) applied (with modifications) (1.6.1997) by S.I. 1997/1160, **reg. 8(3)(4)**

Marginal Citations

- M6** 1936 c.49.

210 Penalties for non-compliance with tree preservation order.

- (1) If any person, in contravention of a tree preservation order—
- (a) cuts down, uproots or wilfully destroys a tree, or
 - (b) wilfully damages, tops or lops a tree in such a manner as to be likely to destroy it,

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he shall be guilty of an offence.

(2) A person guilty of an offence under subsection (1) shall be liable—

- [^{F13}(a) on summary conviction to a fine not exceeding £20,000;] or
(b) on conviction on indictment, to a fine.

(3) In determining the amount of any fine to be imposed on a person convicted ^{F14} . . . of an offence under subsection (1), the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.

(4) If any person contravenes the provisions of a tree preservation order otherwise than as mentioned in subsection (1), he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

^{F15}(5)

Textual Amendments

F13 S. 210(2)(a) substituted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s. 23\(6\)\(a\)](#) (with [s. 84\(5\)](#)); [S.I. 1991/2905](#), [art.3](#) (subject to [art. 5](#))

F14 Words in s. 210(3) repealed (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [ss. 23\(6\)\(b\), 84\(6\)](#), [Sch. 19 Pt I](#) (with [s. 84\(5\)](#)); [S.I. 1991/2905](#), [art.3](#), [Sch. 2](#) (subject to [art. 5](#))

F15 S. 210(5) repealed (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [ss. 23\(6\)\(c\), 84\(6\)](#), [Sch. 19 Pt. I](#) (with [s. 84\(5\)](#)); [S.I. 1991/2905](#), [art.3](#), [Sch. 2](#) (subject to [art. 5](#))

Modifications etc. (not altering text)

C25 S. 210: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); [S.I. 1993/2762](#), [art. 3](#)

C26 S. 210: 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](#)

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 198(3)(a) be prohibited by a tree preservation order shall be guilty of an offence.

(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, or

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- (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 a tree preservation order.
- [^{F16}(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.
- (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

F16 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](#)

Modifications etc. (not altering text)

- C27** 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\(1\)](#)
- C28** 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](#)
- C29** S. 211(1) excluded (18.12.1996) by [1996 c. 61, s. 28\(1\)\(b\)](#)
- C30** 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](#))
- C31** 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](#))
S. 211(1) excluded (13.12.2006) by [The Luton Dunstable Translink Order 2006 \(S.I. 2006/3118\), art. 33\(4\)](#)
- C32** S. 211(1) excluded (22.7.2008) by [Crossrail Act 2008 \(c. 18\), s. 19](#)
- C33** S. 211(5) 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;

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- (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.

Modifications etc. (not altering text)

C34 S. 212: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(a); S.I. 1993/2762, art. 3

C35 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 time when its cutting down or uprooting is authorised only by virtue of the provisions of such regulations under subsection (1) of section 212 as are mentioned in subsection (4) of that section,
- 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.

Modifications etc. (not altering text)

C36 S. 213: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(a); S.I. 1993/2762, art. 3

C37 S. 213: 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

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.

Modifications etc. (not altering text)

C38 S. 214: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(a); S.I. 1993/2762, art. 3

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C39 S. 214: 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](#)

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