

**PLANNING AMENDMENT
(NORTHERN IRELAND) ORDER 2003**

S.I. 2003 No. 430 (N.I. 8)

EXPLANATORY MEMORANDUM

COMMENTARY ON ARTICLES

Control over particular matters

Article 26 – Trees

Together with Article 14, which deals with enforcement of duties in relation to the replacement of trees, this Article provides a major overhaul of the Department's powers in relation to the protection of trees and tree preservation orders (TPOs) as follows:

- a new duty to replace trees subject to a TPO that are removed. The existing TPO automatically applies to the new trees planted as it did to the original trees, thereby providing that the removal of trees in itself does not automatically render the land suitable for development ;
- higher penalties for breaches of TPOs. This involves an increase from £5,000 to £30,000 in the maximum level that can be imposed on summary conviction by a court. There is no limit to a fine that can be imposed on conviction on indictment. The courts when determining either level of fine shall, in particular, have regard to any financial benefit, which has accrued or appears likely to be accrued, in consequence of the offence;
- a new provision in respect of the protection of trees in a conservation area; and
- a new provision in respect of compensation payable where consent to fell trees is refused.

This allows restrictions to be imposed on compensation payable, in each TPO made under the new provision.