



Town and Country Planning (Scotland) Act 1972

1972 CHAPTER 52

PART IV

ADDITIONAL CONTROL IN SPECIAL CASES

Trees

58 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 district, they may for that purpose make an order (in this Act 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 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 falling within subsection (2) of this section, subject to such adaptations and modifications as may be specified in the order.
- (2) References in this Act to provisions thereof falling within this subsection are references to—
 - (a) the provisions of Part III of this Act relating to planning permission and to applications for planning permission, except sections 22, 23, 24, 25, 26(2) to (6), 31(3), 35, 36, 38 to 41 and 44 to 47 of this Act; and

Status: This is the original version (as it was originally enacted).

- (b) such of the provisions of Part IX of this Act as are therein stated to be provisions falling within this subsection;
 - (c) section 256 of this Act.
- (3) 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 57(a) of this Act, as from the time when those trees are planted.
- (4) Except as provided under subsection (5)(c) of this section and in section 59 of this Act, a tree preservation order shall not take effect until it is confirmed by the Secretary of State, and the Secretary of State may confirm any such order either without modification or subject to such modifications as he considers expedient. As soon as may be after a tree preservation order is so confirmed, it shall be recorded in the appropriate Register of Sasines by the local planning authority.
- (5) Provision may be made by regulations under this Act with respect to the form of tree preservation orders, and the procedure to be followed in connection with the submission and confirmation of such orders; and the regulations may (without prejudice to the generality of this subsection) make provision as follows—
 - (a) that, before a tree preservation order is submitted to the Secretary of State for confirmation, notice of the making of the order shall be given to the owners, lessees and occupiers of land affected by the order and to such other persons, if any, as may be specified in the regulations;
 - (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 Secretary of State ;
 - (c) that, if no objections or representations are so made, or if any so made are withdrawn, the order, instead of requiring the confirmation of the Secretary of State in accordance with subsection (4) of this section, may be confirmed (but without any modification), as an unopposed order, by the authority who made it; and
 - (d) that copies of the order, when confirmed by the Secretary of State or the authority, shall be served on such persons as may be specified in the regulations.
- (6) Without prejudice to any other exemptions for which provision may be made by a tree preservation order, nothing in a tree preservation order shall prohibit the felling or lopping of any tree if such felling or lopping is urgently necessary in the interests of safety, or is necessary for the prevention or abatement of a nuisance, so long as notice in writing of the proposed operations is given to the local planning authority as soon as may be after the necessity for the operations arises, or if such felling or lopping is carried out in compliance with any obligation imposed by or under any Act of Parliament.
- (7) In relation to land in respect of which the Forestry Commissioners have made advances under section 4 of the Forestry Act 1967 or in respect of which there is in force a forestry dedication agreement entered into with the Commissioners under section 5 of that Act, a tree preservation order may be made only if—
 - (a) there is not in force in respect of the land a plan of operations or other working plan approved by the Commissioners under such an agreement; and
 - (b) the Commissioners consent to the making of the order.

- (8) Where a tree preservation order is made in respect of land to which subsection (7) of this section applies, the order shall not have effect so as to prohibit, or to require any consent for, the cutting down of a tree in accordance with a plan of operations or other working plan approved by the Forestry Commissioners, and for the time being in force, under such an agreement as is mentioned in that subsection or under a woodlands scheme made under the powers contained in the said Act of 1967.
- (9) In the preceding provisions of this section references to provisions of the Forestry Act 1967 include references to the corresponding provisions (replaced by that Act) in the Forestry Acts 1919 to 1951.
- (10) The preceding provisions of this section shall have effect subject to the provisions—
 - (a) of section 2(4) of the Opencast Coal Act 1958 (land comprised in an authorisation under that Act which is affected by a tree preservation order); and
 - (b) of section 15 of the Forestry Act 1967 (licences under that Act to fell trees comprised in a tree preservation order).
- (11) Until subsection (5) of this section comes into operation under section 279 of this Act, the provisions of paragraphs 1 and 2 of Schedule 11 to this Act shall have effect; and on the coming into operation of subsection (5) of this section as aforesaid the said provisions shall accordingly cease to have effect.