



# Town and Country Planning (Scotland) Act 1972

## 1972 CHAPTER 52

### PART V

#### ENFORCEMENT OF CONTROL UNDER PARTS III AND IV

##### *Trees*

#### **99 Enforcement of duties as to replacement of trees**

- (1) If it appears to the local planning authority that the provisions of section 60 of this Act, or 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, at any time within two years from the date on which the failure to comply with the said provisions or conditions came to their knowledge, 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) Subject to the following provisions of this section, a notice under this section shall take effect at the end of such period, not being less than twenty-eight days after the service of the notice, as may be specified in the notice.
- (3) A person on whom a notice under this section is served may, at any time within the period specified in the notice as the period at the end of which it is to take effect, appeal to the Secretary of State against the notice on any of the following grounds—
  - (a) that the provisions of the said section 60 or the conditions aforesaid are not applicable or have been complied with;
  - (b) that the requirements of the notice are unreasonable in respect of the period or the size or species of trees specified therein;
  - (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;

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*Status: This is the original version (as it was originally enacted).*

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- (d) that the place on which the tree is or trees are required to be planted is unsuitable for that purpose ;
- and the provisions of section 85(2), (3) and (4)(a) of this Act, and of so much of section 85(5) of this Act as enables the Secretary of State to give directions, shall apply in relation to any such appeal as they apply in relation to an appeal against an enforcement notice.
- (4) Subject to section 279 of this Act, Schedule 7 to this Act applies to appeals under subsection (3) of this section.
- (5) In section 88 of this Act, and in regulations in force under that section, references to an enforcement notice and an enforcement notice served in respect of any breach of planning control shall include references to a notice under this section; and in relation to such a notice the reference in subsection (2) of that section to the person by whom the breach of planning control was committed shall be construed as a reference to any person, other than the owner, responsible for the cutting down, destruction or removal of the original tree or trees.