



# Town and Country Planning Act 1990

## 1990 CHAPTER 8

### PART VIII

#### SPECIAL CONTROLS

##### Modifications etc. (not altering text)

- C1** Pt. VIII (ss. 197-225) except s. 223 applied (with modifications) (17.7.1992) by [S.I. 1992/1492, reg. 2\(1\)\(b\)](#)  
Pt. VIII (ss. 197-225) applied (with modifications) (17.7.1992) by [S.I. 1992/1492, reg. 2\(2\)](#)  
Pt. VIII (ss. 197-225) modified (1.4.1996) by [1994 c. 19, s. 20\(3\), Sch. 5 Pt. III paras. 15\(1\), 20](#) (with [ss. 54\(5\)\(7\), 55\(5\), Sch. 17 paras. 22\(1\), 23\(2\)](#)); [S.I. 1995/3198, art. 4, Sch. 2](#)

#### 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.

[<sup>F1</sup>Nothing in this section applies in relation to neighbourhood development orders.]

*Status: Point in time view as at 12/08/2012.*

*Changes to legislation: Town and Country Planning Act 1990, Part VIII is up to date with all changes known to be in force on or before 03 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Textual Amendments

- F1** Words in s. 197 inserted (15.11.2011 for specified purposes, 15.1.2012 for specified purposes, 6.4.2012 for specified purposes, 3.8.2012 for specified purposes, 6.4.2013 in so far as not already in force) by [Localism Act 2011 \(c. 20\)](#), s. 240(5)(j), **Sch. 12 para. 18**; [S.I. 2012/57](#), art. 4(1)(h) (with arts. 6, 7, 9-11); [S.I. 2012/628](#), art. 8(a) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by [S.I. 2012/2029](#), arts. 2, 4); [S.I. 2012/2029](#), arts. 2, 3(a) (with art. 5) (as amended (6.4.2013) by [S.I. 2013/797](#), art. 4); [S.I. 2013/797](#), arts. 1(2), 2

### Modifications etc. (not altering text)

- C2** S. 197: power to apply conferred (10.11.1993) by [1993 c. 28](#), s. 171(4)(a); [S.I. 1993/2762](#), art. 3
- C3** 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**

## *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) [<sup>F2</sup>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) [<sup>F2</sup>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 <sup>F3</sup>. . . , 69(3) and (4), 71, <sup>F4</sup>. . . , 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.

*Status: Point in time view as at 12/08/2012.*

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- (6) <sup>F5</sup>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) <sup>F6</sup>This section][<sup>F6</sup>Tree preservation regulations] shall have effect subject to—
- (a) section 39(2) of the <sup>M1</sup>Housing and Planning Act 1986 (saving for effect of section 2(4) of the <sup>M2</sup>Opencast Coal Act 1958 on land affected by a tree preservation order despite its repeal); and
  - (b) section 15 of the <sup>M3</sup>Forestry Act 1967 (licences under that Act to fell trees comprised in a tree preservation order).
- <sup>F7</sup>(8) <sup>F8</sup>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) <sup>F8</sup>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

- F2** S. 198(3)(4) repealed (6.4.2012 for E.) by [Planning Act 2008 \(c. 29\)](#), ss. 192(2)(a), 241(3)(4), [Sch. 13](#) (with s. 226); [S.I. 2012/601](#), art. 2(a)(c), [Sch.](#)
- F3** 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](#)
- F4** 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)
- F5** S. 198(6) repealed (6.4.2012 for E.) by [Planning Act 2008 \(c. 29\)](#), ss. 192(2)(b), 241(3)(4), [Sch. 13](#) (with s. 226); [S.I. 2012/601](#), art. 2(a)(c), [Sch.](#)
- F6** Words in s. 198(7) substituted (6.4.2012 for E.) by [Planning Act 2008 \(c. 29\)](#), s. 241(3)(4), [Sch. 8 para. 8](#) (with s. 226); [S.I. 2012/601](#), art. 2(a)
- F7** 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](#)
- F8** S. 198(8)(9) repealed (6.4.2012 for E.) by [Planning Act 2008 \(c. 29\)](#), ss. 192(2)(c), 241(3)(4), [Sch. 13](#) (with s. 226); [S.I. 2012/601](#), art. 2(a)(c), [Sch.](#)

#### Modifications etc. (not altering text)

- C4** S. 198: power to apply conferred (10.11.1993) by [1993 c. 28](#), s. 171(4)(a); [S.I. 1993/2762](#), [art. 3](#)
- C5** 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](#)

*Status: Point in time view as at 12/08/2012.*

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### Marginal Citations

- M1** 1986 c. 63.  
**M2** 1958 c.69.  
**M3** 1967 c.10.

## 199 Form of and procedure applicable to orders.

- [<sup>F9</sup>(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;
  - (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.]

### Textual Amendments

- F9** S. 199 repealed (6.4.2012 for E.) by [Planning Act 2008 \(c. 29\)](#), ss. 192(3), 241(3)(4), [Sch. 13](#) (with s. 226); [S.I. 2012/601](#), art. 2(a)(c), [Sch.](#)

### Modifications etc. (not altering text)

- C6** S. 199: power to apply conferred (10.11.1993) by [1993 c. 28](#), s. 171(4)(a); [S.I. 1993/2762](#), [art. 3](#)
- C7** 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](#)

## [<sup>F10</sup>200 Tree preservation orders: Forestry Commissioners

- (1) [<sup>F11</sup>A tree preservation order does not][<sup>F11</sup>Tree preservation regulations do 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—

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- (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

- F10** 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**
- F11** Words in s. 200(1) substituted (6.4.2012 for E.) by [Planning Act 2008 \(c. 29\)](#), [s. 241\(3\)\(4\)](#), **Sch. 8 para. 9** (with [s. 226](#)); [S.I. 2012/601](#), **art. 2(a)**

#### Modifications etc. (not altering text)

- C8** S. 200: power to apply conferred (10.11.1993) by [1993 c. 28](#), **s. 171(4)(a)**; [S.I. 1993/2762](#), **art. 3**
- C9** 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.

- [<sup>F12</sup>(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
  - (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.]

#### Textual Amendments

- F12** S. 201 repealed (6.4.2012 for E.) by [Planning Act 2008 \(c. 29\)](#), **ss. 192(4)**, [241\(3\)\(4\)](#), **Sch. 13** (with [s. 226](#)); [S.I. 2012/601](#), **art. 2(a)(c)**, **Sch.**

#### Modifications etc. (not altering text)

- C10** 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**
- C11** 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**

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## 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 <sup>[F13]</sup>have the same effect as if it had been made by the local planning authority and confirmed by them under this Chapter. <sup>[F13]</sup>, once it has taken effect in accordance with tree preservation regulations, have the same effect as if it had been made by the local planning authority under section 198(1).]
- (3) <sup>[F14]</sup>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.]

### Textual Amendments

**F13** Words in s. 202(2) substituted (6.4.2012 for E.) by [Planning Act 2008 \(c. 29\)](#), s. 241(3)(4), [Sch. 8 para. 10](#) (with [s. 226](#)); [S.I. 2012/601](#), art. 2(a)

**F14** S. 202(3) repealed (6.4.2012 for E.) by [Planning Act 2008 \(c. 29\)](#), ss. 192(5), 241(3)(4), [Sch. 13](#) (with [s. 226](#)); [S.I. 2012/601](#), art. 2(a)(c), [Sch.](#)

### Modifications etc. (not altering text)

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

**C13** 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](#)

## <sup>[F15]</sup>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).
- (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.

*Status: Point in time view as at 12/08/2012.*

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#### Textual Amendments

**F15** Ss. 202A-202G inserted (6.4.2012 for E.) by [Planning Act 2008 \(c. 29\)](#), **ss. 192(7)**, 241(3)(4) (with s. 226) (as amended (1.6.2009) by [S.I. 2009/1307](#), art. 5(1)(2), Sch. 1 para. 295); [S.I. 2012/601](#), art. 2(a)

### 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

**F15** Ss. 202A-202G inserted (6.4.2012 for E.) by [Planning Act 2008 \(c. 29\)](#), **ss. 192(7)**, 241(3)(4) (with s. 226) (as amended (1.6.2009) by [S.I. 2009/1307](#), art. 5(1)(2), Sch. 1 para. 295); [S.I. 2012/601](#), art. 2(a)

### 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;
  - (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.

*Status: Point in time view as at 12/08/2012.*

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### Textual Amendments

**F15** Ss. 202A-202G inserted (6.4.2012 for E.) by [Planning Act 2008 \(c. 29\)](#), [ss. 192\(7\)](#), [241\(3\)\(4\)](#) (with [s. 226](#)) (as amended (1.6.2009) by [S.I. 2009/1307](#), art. 5(1)(2), Sch. 1 para. 295); [S.I. 2012/601](#), art. 2(a)

## 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;
  - (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.



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- (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

**F15** Ss. 202A-202G inserted (6.4.2012 for E.) by [Planning Act 2008 \(c. 29\)](#), **ss. 192(7)**, 241(3)(4) (with [s. 226](#)) (as amended (1.6.2009) by [S.I. 2009/1307](#), art. 5(1)(2), Sch. 1 para. 295); [S.I. 2012/601](#), art. 2(a)

### 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.
- (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

**F15** Ss. 202A-202G inserted (6.4.2012 for E.) by [Planning Act 2008 \(c. 29\)](#), **ss. 192(7)**, 241(3)(4) (with [s. 226](#)) (as amended (1.6.2009) by [S.I. 2009/1307](#), art. 5(1)(2), Sch. 1 para. 295); [S.I. 2012/601](#), art. 2(a)

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## 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

**F15** Ss. 202A-202G inserted (6.4.2012 for E.) by [Planning Act 2008 \(c. 29\)](#), **ss. 192(7)**, 241(3)(4) (with s. 226) (as amended (1.6.2009) by [S.I. 2009/1307](#), art. 5(1)(2), Sch. 1 para. 295); [S.I. 2012/601](#), art. 2(a)

## 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).
- (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

**F15** Ss. 202A-202G inserted (6.4.2012 for E.) by [Planning Act 2008 \(c. 29\)](#), **ss. 192(7)**, 241(3)(4) (with s. 226) (as amended (1.6.2009) by [S.I. 2009/1307](#), art. 5(1)(2), Sch. 1 para. 295); [S.I. 2012/601](#), art. 2(a)

*Compensation for loss or damage caused by orders, etc.*

## 203 Compensation in respect of tree preservation orders.

[<sup>F16</sup>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.]

### Textual Amendments

**F16** Ss. 203-205 repealed (6.4.2012 for E.) by [Planning Act 2008 \(c. 29\)](#), **ss. 192(6)**, 241(3)(4), **Sch. 13** (with s. 226); [S.I. 2012/601](#), art. 2(a)(c), Sch.

*Status: Point in time view as at 12/08/2012.*

*Changes to legislation: Town and Country Planning Act 1990, Part VIII is up to date with all changes known to be in force on or before 03 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Modifications etc. (not altering text)**

**C14** 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.**

[<sup>F16</sup>(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 <sup>M4</sup>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 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.]

**Textual Amendments**

**F16** Ss. 203-205 repealed (6.4.2012 for E.) by [Planning Act 2008 \(c. 29\)](#), ss. 192(6), 241(3)(4), [Sch. 13](#) (with s. 226); [S.I. 2012/601](#), art. 2(a)(c), [Sch.](#)

**Modifications etc. (not altering text)**

**C15** 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.

*Status: Point in time view as at 12/08/2012.*

*Changes to legislation: Town and Country Planning Act 1990, Part VIII is up to date with all changes known to be in force on or before 03 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## 205 Determination of compensation claims.

- [<sup>F16</sup>(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 [<sup>F17</sup>Upper Tribunal].
- (2) In relation to the determination of any such question, the provisions of [<sup>F18</sup>section] 4 of the <sup>M5</sup>Land Compensation Act 1961 shall apply subject to any necessary modifications and to the provisions of any regulations made under this Act.]

### Textual Amendments

- F16** Ss. 203-205 repealed (6.4.2012 for E.) by [Planning Act 2008 \(c. 29\)](#), ss. 192(6), 241(3)(4), [Sch. 13](#) (with s. 226); [S.I. 2012/601](#), art. 2(a)(c), [Sch.](#)
- F17** Words in s. 205(1) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 5(1)(2), [Sch. 1 para. 207\(a\)](#)
- F18** Word in s. 205(2) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 5(1)(2), [Sch. 1 para. 207\(b\)](#)

### Modifications etc. (not altering text)

- C16** 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—
- is removed, uprooted or destroyed in contravention of [<sup>F19</sup>the order][<sup>F19</sup>tree preservation regulations] , or
  - except in the case of a tree to which the order applies as part of a woodland, is removed, uprooted or destroyed or dies [<sup>F20</sup>at a time when its cutting down or uprooting is authorised only by virtue of section 198(6)(a).][<sup>F20</sup>at a prescribed time,]

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—
- on or near the land on which the trees removed, uprooted or destroyed stood, or
  - 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.

*Status: Point in time view as at 12/08/2012.*

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- (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.

#### Textual Amendments

- F19** Words in s. 206(1)(a) substituted (6.4.2012 for E.) by [Planning Act 2008 \(c. 29\), s. 241\(3\)\(4\), Sch. 8 para. 11\(a\)](#) (with s. 226); S.I. 2012/601, art. 2(a)
- F20** Words in s. 206(1)(b) substituted (6.4.2012 for E.) by [Planning Act 2008 \(c. 29\), s. 241\(3\)\(4\), Sch. 8 para. 11\(b\)](#) (with s. 226); S.I. 2012/601, art. 2(a)

#### Modifications etc. (not altering text)

- C17** S. 206: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); S.I. 1993/2762, art. 3
- C18** 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 [<sup>F21</sup>a tree preservation order][<sup>F21</sup>tree preservation regulations] 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.
- <sup>F22</sup>(3) A notice under subsection (1) shall specify a period at the end of which it is to take effect.
- <sup>F22</sup>(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.

#### Textual Amendments

- F21** Words in s. 207(1)(b) substituted (6.4.2012 for E.) by [Planning Act 2008 \(c. 29\), s. 241\(3\)\(4\), Sch. 8 para. 12](#) (with s. 226); S.I. 2012/601, art. 2(a)
- F22** 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)

- C19** S. 207: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); S.I. 1993/2762, art. 3
- C20** 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](#)

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## 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;
  - <sup>F23</sup>[(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.
- <sup>F24</sup>[(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.]

<sup>F25</sup>(4) The notice shall—

    - (a) indicate the grounds of the appeal,
    - (b) state the facts on which the appeal is based, and
    - (c) be accompanied by such information as may be prescribed.

(4A) The power to make regulations under subsection (4)(c) is exercisable by—

    - (a) the Secretary of State, in relation to England;
    - (b) the Welsh Ministers, in relation to Wales.

(4B) Section 333(3) does not apply in relation to regulations under subsection (4)(c) made by the Welsh Ministers.

(4C) Regulations under subsection (4)(c) made by the Welsh Ministers are subject to annulment in pursuance of a resolution of the National Assembly for Wales.]

(5) On <sup>F26</sup>[an appeal under subsection (1)] 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.

<sup>F27</sup>[(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.

<sup>F27</sup>(8) Where the Secretary of State determines to allow the appeal, he may quash the notice.

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- <sup>F27</sup>(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.
- <sup>F28</sup>[(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

- F23** 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](#))
- F24** 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](#))
- F25** S. 208(4)-(4C) substituted for s. 208(4) (6.4.2009 for E., 30.4.2012 for W.) by [Planning Act 2008 \(c. 29\)](#), [s. 241\(3\)\(4\)](#), [Sch. 11 para. 4\(2\)](#) (with [s. 226](#)); [S.I. 2009/400](#), [art. 5\(d\)](#); [S.I. 2012/802](#), [art. 2\(b\)](#)
- F26** Words in s. 208(5) substituted (6.4.2009 for E., 30.4.2012 for W.) by [Planning Act 2008 \(c. 29\)](#), [s. 241\(3\)\(4\)](#), [Sch. 11 para. 4\(3\)](#) (with [s. 226](#)); [S.I. 2009/400](#), [art. 5\(d\)](#); [S.I. 2012/802](#), [art. 2\(b\)](#)
- F27** 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](#))
- F28** 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)

- C21** S. 208: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); [S.I. 1993/2762](#), [art. 3](#)
- C22** 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

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- (b) 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,
- 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 <sup>M6</sup>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 [<sup>F29</sup>or National Park authority] under subsection (1).
- <sup>F30</sup>[(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

**F29** 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)**

**F30** 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)

**C23** S. 209: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

**C24** 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**

**C25** 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 [<sup>F31</sup>order][<sup>F31</sup>regulations] .

- (1) If any person, in contravention of [<sup>F32</sup>a tree preservation order][<sup>F32</sup>tree preservation regulations] —



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- (a) cuts down, uproots or wilfully destroys a tree, [<sup>F33</sup>or]
- (b) wilfully damages, tops or lops a tree in such a manner as to be likely to destroy it, [<sup>F34</sup>or
- (c) causes or permits the carrying out of any of the activities in paragraph (a) or (b),]

he shall be guilty of an offence.

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

- <sup>F35</sup>(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 <sup>F36</sup> . . . 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 [<sup>F37</sup>a tree preservation order][<sup>F37</sup>tree preservation regulations] 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.

<sup>F38</sup>(4A) Proceedings for an offence under subsection (4) may be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings came to the prosecutor's knowledge.

(4B) Subsection (4A) does not authorise the commencement of proceedings for an offence more than 3 years after the date on which the offence was committed.

(4C) For the purposes of subsection (4A), a certificate—

- (a) signed by or on behalf of the prosecutor, and
- (b) stating the date on which evidence sufficient in the prosecutor's opinion to justify the proceedings came to the prosecutor's knowledge,

is conclusive evidence of that fact.

(4D) A certificate stating that matter and purporting to be so signed is to be deemed to be so signed unless the contrary is proved.

(4E) Subsection (4A) does not apply in relation to an offence in respect of a tree in Wales.]

<sup>F39</sup>(5) . . . . .

#### Textual Amendments

- F31** Word in s. 210 side-note substituted (6.4.2012 for E.) by [Planning Act 2008 \(c. 29\), s. 241\(3\)\(4\)](#), [Sch. 8 para. 13\(4\)](#) (with [s. 226](#)); [S.I. 2012/601, art. 2\(a\)](#)
- F32** Words in s. 210(1) substituted (6.4.2012 for E.) by [Planning Act 2008 \(c. 29\), s. 241\(3\)\(4\)](#), [Sch. 8 para. 13\(2\)\(a\)](#) (with [s. 226](#)); [S.I. 2012/601, art. 2\(a\)](#)
- F33** Word in s. 210(1)(a) omitted (6.4.2012 for E.) by virtue of [Planning Act 2008 \(c. 29\), s. 241\(3\)\(4\)](#), [Sch. 8 para. 13\(2\)\(b\)](#) (with [s. 226](#)); [S.I. 2012/601, art. 2\(a\)](#)
- F34** S. 210(1)(c) and word inserted (6.4.2012 for E.) by [Planning Act 2008 \(c. 29\), s. 241\(3\)\(4\)](#), [Sch. 8 para. 13\(2\)\(c\)](#) (with [s. 226](#)); [S.I. 2012/601, art. 2\(a\)](#)
- F35** 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](#))

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- F36** 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)
- F37** Words in s. 210(4) substituted (6.4.2012 for E.) by [Planning Act 2008 \(c. 29\)](#), s. 241(3)(4), [Sch. 8 para. 13\(3\)](#) (with s. 226); S.I. 2012/601, art. 2(a)
- F38** S. 210(4A)-(4E) inserted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), [ss. 126\(3\), 240\(2\)](#) (with [ss. 126\(5\), 144](#)); S.I. 2012/628, art. 8(b) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by S.I. 2012/2029, arts. 2, 4)
- F39** 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)**

- C26** S. 210: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); S.I. 1993/2762, [art. 3](#)
- C27** 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 [<sup>F40</sup>which might by virtue of section 198(3)(a) be prohibited by a tree preservation order][<sup>F40</sup>which might by virtue of section 202C be prohibited by tree preservation regulations] shall be guilty of an offence.
- [<sup>F41</sup>(1A) Subsection (1) does not apply so far as the act in question is authorised by an order granting development consent.]
- (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—
- 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
  - that he did the act in question—
    - with the consent of the local planning authority in whose area the tree is or was situated, or
    - 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 [<sup>F42</sup>a tree preservation order][<sup>F42</sup>tree preservation regulations] .
- [<sup>F43</sup>(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—
- the first condition is satisfied, and
  - either the second or third condition is satisfied.
- [ Subsection (5) does not apply so far as the act in question is authorised by an order
- [<sup>F44</sup>(5A) granting development consent.]

*Status: Point in time view as at 12/08/2012.*

*Changes to legislation: Town and Country Planning Act 1990, Part VIII is up to date with all changes known to be in force on or before 03 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (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

- F40** Words in s. 211(1) substituted (6.4.2012 for E.) by [Planning Act 2008 \(c. 29\), s. 241\(3\)\(4\), Sch. 8 para. 14\(a\)](#) (with s. 226); [S.I. 2012/601, art. 2\(a\)](#)
- F41** S. 211(1A) inserted (1.3.2010) by [Planning Act 2008 \(c. 29\), ss. 36, 241, Sch. 2 para. 36\(2\)](#) (with s. 226); [S.I. 2010/101, art. 2](#) (with art. 6)
- F42** Words in s. 211(4) substituted (6.4.2012 for E.) by [Planning Act 2008 \(c. 29\), s. 241\(3\)\(4\), Sch. 8 para. 14\(b\)](#) (with s. 226); [S.I. 2012/601, art. 2\(a\)](#)
- F43** 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](#)
- F44** S. 211(5A) inserted (1.3.2010) by [Planning Act 2008 \(c. 29\), ss. 36, 241, Sch. 2 para. 36\(3\)](#) (with s. 226); [S.I. 2010/101, art. 2](#) (with art. 6)

#### Modifications etc. (not altering text)

- C28** 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\(1\)](#)
- C29** 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](#)
- C30** S. 211 excluded (E.) (6.4.2012) by [The Town and Country Planning \(Tree Preservation\)\(England\) Regulations 2012 \(S.I. 2012/605\), regs. 1\(1\), 15](#)
- C31** S. 211(1) excluded (18.12.1996) by [1996 c. 61, s. 28\(1\)\(b\)](#)
- C32** 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)
- C33** 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\(4\)](#)
- C34** S. 211(1) excluded (22.7.2008) by [Crossrail Act 2008 \(c. 18\), s. 19](#)
- C35** 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) <sup>F45</sup>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.]

#### Textual Amendments

**F45** S. 212(4) repealed (6.4.2012 for E.) by [Planning Act 2008 \(c. 29\)](#), s. 241(3)(4), [Sch. 8 para. 15](#), [Sch. 13](#) (with s. 226); [S.I. 2012/601](#), art. 2(a)(c), [Sch.](#)

#### Modifications etc. (not altering text)

**C36** S. 212: power to apply conferred (10.11.1993) by [1993 c. 28](#), s. [171\(4\)\(a\)](#); [S.I. 1993/2762](#), [art. 3](#)

**C37** 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 <sup>F46</sup>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, <sup>F46</sup>at a prescribed time,]
- 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.

#### Textual Amendments

**F46** Words in s. 213(1)(b) substituted (6.4.2012 for E.) by [Planning Act 2008 \(c. 29\)](#), s. 241(3)(4), [Sch. 8 para. 16](#) (with s. 226); [S.I. 2012/601](#), art. 2(a)

#### Modifications etc. (not altering text)

**C38** S. 213: power to apply conferred (10.11.1993) by [1993 c. 28](#), s. [171\(4\)\(a\)](#); [S.I. 1993/2762](#), [art. 3](#)

**C39** [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](#)

**C40** [S. 213\(1\)](#) restricted (24.9.2014) by [The Thames Water Utilities Limited \(Thames Tideway Tunnel\) Order 2014 \(S.I. 2014/2384\)](#), [arts. 1, 27\(5\)\(b\)](#)

*Status: Point in time view as at 12/08/2012.*

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## 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)

- C41** S. 214: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(a); S.I. 1993/2762, art. 3
- C42** 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

### <sup>F47</sup>[Injunctions]

### Textual Amendments

- F47** S. 214A and cross heading inserted (25.11.1991 for certain purposes so far as it relates to s. 214A(2) and otherwise 2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 23(7) (with s. 84(5)); S.I. 1991/2728, art.2; S.I. 1991/2905, art.3 (subject to art. 5)

## <sup>F48</sup>214A Injunctions.

- (1) Where a local planning authority consider it necessary or expedient for an actual or apprehended offence under section 210 or 211 to be restrained by injunction, they may apply to the court for an injunction, whether or not they have exercised or are proposing to exercise any of their other powers under this Chapter.
- (2) Subsections (2) to (4) of section 187B apply to an application under this section as they apply to an application under that section.]

### Textual Amendments

- F48** S. 214A inserted (25.11.1991 for certain purposes so far as it relates to s. 214A(2) and otherwise 2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 23(7) (with s. 84(5)); S.I. 1991/2728, art. 2; S.I. 1991/2905, art.3 (subject to art. 5)

### Modifications etc. (not altering text)

- C43** S. 214A: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(a); S.I. 1993/2762, art. 3
- C44** S. 214A: 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

### <sup>F49</sup>[Rights of entry]

### Textual Amendments

- F49** Crossheading inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 23(7) (with s. 84(5)); S.I. 1991/2905, art. 3 (subject to art. 5)

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## 214B [F50 Rights to enter without warrant.]

- (1) Any person duly authorised in writing by a local planning authority may enter any land for the purpose of—
  - (a) surveying it in connection with making or confirming a tree preservation order with respect to the land;
  - (b) ascertaining whether an offence under section 210 or 211 has been committed on the land; or
  - (c) determining whether a notice under section 207 should be served on the owner of the land,
 if there are reasonable grounds for entering for the purpose in question.
- (2) Any person duly authorised in writing by the Secretary of State may enter any land for the purpose of surveying it in connection with making, amending or revoking a tree preservation order with respect to the land, if there are reasonable grounds for entering for that purpose.
- (3) Any person who is duly authorised in writing by a local planning authority may enter any land in connection with the exercise of any functions conferred on the authority by or under this Chapter.
- (4) Any person who is an officer of the Valuation Office may enter any land for the purpose of surveying it, or estimating its value, in connection with a claim for compensation in respect of any land which is payable by the local planning authority under this Chapter (other than section 204).
- (5) Any person who is duly authorised in writing by the Secretary of State may enter any land in connection with the exercise of any functions conferred on the Secretary of State by or under this Chapter.
- (6) The Secretary of State shall not authorise any person as mentioned in subsection (2) without consulting the local planning authority.
- (7) Admission shall not be demanded as of right—
  - (a) by virtue of subsection (1) or (2) to any building used as a dwellinghouse; or
  - (b) by virtue of subsection (3), (4) or (5) to any land which is occupied,
 unless twenty-four hours' notice of the intended entry has been given to the occupier.
- (8) Any right to enter by virtue of this section shall be exercised at a reasonable hour.

### Textual Amendments

**F50** S. 214B inserted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s. 23\(7\)](#) (with [s. 84\(5\)](#)); [S.I. 1991/2905](#), [art.3](#) (subject to [art. 5](#))

### Modifications etc. (not altering text)

**C45** S. 214B: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); [S.I. 1993/2762](#), [art. 3](#)

**C46** S. 214B: 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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### [<sup>F51</sup>214C] **Right to enter under warrant.**

- (1) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—
  - (a) that there are reasonable grounds for entering any land for any of the purposes mentioned in section 214B(1) or (2); and
  - (b) that—
    - (i) admission to the land has been refused, or a refusal is reasonably apprehended; or
    - (ii) the case is one of urgency,the justice may issue a warrant authorising any person duly authorised in writing by a local planning authority or, as the case may be, the Secretary of State to enter the land.
- (2) For the purposes of subsection (1)(b)(i) admission to land shall be regarded as having been refused if no reply is received to a request for admission within a reasonable period.
- (3) A warrant authorises entry on one occasion only and that entry must be—
  - (a) within one month from the date of the issue of the warrant; and
  - (b) at a reasonable hour, unless the case is one of urgency.]

#### **Textual Amendments**

**F51** S. 214C inserted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s. 23\(7\)](#) (with [s. 84\(5\)](#)); [S.I. 1991/2905](#), [art.3](#) (subject to [art. 5](#))

#### **Modifications etc. (not altering text)**

**C47** S. 214C: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); [S.I. 1993/2762](#), [art. 3](#)  
**C48** S. 214C: 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](#)

### [<sup>F52</sup>214D] **Rights of entry: supplementary provisions.**

- (1) Any power conferred under or by virtue of section 214B or 214C to enter land (referred to in this section as “a right of entry”) shall be construed as including power to take samples from any tree and samples of the soil.
- (2) A person authorised to enter land in the exercise of a right of entry—
  - (a) shall, if so required, produce evidence of his authority and state the purpose of his entry before so entering;
  - (b) may take with him such other persons as may be necessary; and
  - (c) on leaving the land shall, if the owner or occupier is not then present, leave it as effectively secured against trespassers as he found it.
- (3) Any person who wilfully obstructs a person acting in the exercise of a right of entry shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) If any damage is caused to land or chattels in the exercise of a right of entry, compensation may be recovered by any person suffering the damage from the authority who gave the written authority for the entry or, as the case may be, the Secretary of State.

*Status: Point in time view as at 12/08/2012.*

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- (5) The provisions of section 118 shall apply in relation to compensation under subsection (4) as they apply in relation to compensation under Part IV.]

#### Textual Amendments

**F52** S. 214D inserted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), **s. 23**(7 (with s. 84(5)); [S.I. 1991/2905](#), **art. 3** (subject to **art. 5**))

#### Modifications etc. (not altering text)

**C49** S. 214D: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); [S.I. 1993/2762](#), **art. 3**

**C50** S. 214D: 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**

## CHAPTER II

### LAND ADVERSELY AFFECTING AMENITY OF NEIGHBOURHOOD

#### 215 Power to require proper maintenance of land.

- (1) If it appears to the local planning authority that the amenity of a part of their area, or of an adjoining area, is adversely affected by the condition of land in their area, they may serve on the owner and occupier of the land a notice under this section.
- (2) The notice shall require such steps for remedying the condition of the land as may be specified in the notice to be taken within such period as may be so specified.
- (3) Subject to the following provisions of this Chapter, the notice shall take effect at the end of such period as may be specified in the notice.
- (4) That period shall not be less than 28 days after the service of the notice.

#### Modifications etc. (not altering text)

**C51** S. 215: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); [S.I. 1993/2762](#), **art. 3**

**C52** S. 215 modified (19.9.2007) by [London Local Authorities Act 2007 \(c. ii\)](#), **ss. 1(3)**, **32(1)**

**C53** S. 215(1): 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**

#### 216 Penalty for non-compliance with s. 215 notice.

- (1) The provisions of this section shall have effect where a notice has been served under section 215.
- (2) If any owner or occupier of the land on whom the notice was served fails to take steps required by the notice within the period specified in it for compliance with it, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) Where proceedings have been brought under subsection (2) against a person as the owner of the land and he has, at some time before the end of the compliance period, ceased to be the owner of the land, if he—



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- (a) duly lays information to that effect, and
  - (b) gives the prosecution not less than three clear days' notice of his intention,
- he shall be entitled to have the person who then became the owner of the land brought before the court in the proceedings.
- (4) Where proceedings have been brought under subsection (2) against a person as the occupier of the land and he has, at some time before the end of the compliance period, ceased to be the occupier of the land, if he—
- (a) duly lays information to that effect, and
  - (b) gives the prosecution not less than three clear days' notice of his intention,
- he shall be entitled to have brought before the court in the proceedings the person who then became the occupier of the land or, if nobody then became the occupier, the person who is the owner at the date of the notice.
- (5) Where in such proceedings—
- (a) it has been proved that any steps required by the notice under section 215 have not been taken within the compliance period, and
  - (b) the original defendant proves that the failure to take those steps was attributable, in whole or in part, to the default of a person specified in a notice under subsection (3) or (4),
- then—
- (i) that person may be convicted of the offence; and
  - (ii) if the original defendant also proves that he took all reasonable steps to ensure compliance with the notice, he shall be acquitted of the offence.
- (6) If, after a person has been convicted under the previous provisions of this section, he does not as soon as practicable do everything in his power to secure compliance with the notice, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding [<sup>F53</sup>one-tenth of level 3 on the standard scale] for each day following his first conviction on which any of the requirements of the notice remain unfulfilled.
- (7) Any reference in this section to the compliance period, in relation to a notice, is a reference to the period specified in the notice for compliance with it or such extended period as the local planning authority who served the notice may allow for compliance.

#### Textual Amendments

**F53** Words in s. 216(6) substituted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 32, [Sch. 7 para.35](#) (with s. 84(5)); S.I. 1991/2905, [art.3](#) (subject to [art. 5](#))

#### Modifications etc. (not altering text)

**C54** S. 216: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); S.I. 1993/2762, [art. 3](#)  
S. 216 restricted (E.) (13.4.2001) by [S.I. 2001/1478, reg. 3\(a\)](#)

## 217 Appeal to magistrates' court against s. 215 notice.

- (1) A person on whom a notice under section 215 is served, or any other person having an interest in the land to which the notice relates, 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 against the notice on any of the following grounds—

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- (a) that the condition of the land to which the notice relates does not adversely affect the amenity of any part of the area of the local planning authority who served the notice, or of any adjoining area;
  - (b) that the condition of the land to which the notice relates is attributable to, and such as results in the ordinary course of events from, the carrying on of operations or a use of land which is not in contravention of Part III;
  - (c) that the requirements of the notice exceed what is necessary for preventing the condition of the land from adversely affecting the amenity of any part of the area of the local planning authority who served the notice, or of any adjoining area;
  - (d) that the period specified in the notice as the period within which any steps required by the notice are to be taken falls short of what should reasonably be allowed.
- (2) Any appeal under this section shall be made to a magistrates' court <sup>F54</sup> . . .
  - (3) Where such an appeal is brought, the notice to which it relates shall be of no effect pending the final determination or withdrawal of the appeal.
  - (4) On such an appeal the magistrates' court may correct any informality, defect or error in the notice if satisfied that the informality, defect or error is not material.
  - (5) On the determination of such an appeal the magistrates' court shall give directions for giving effect to their determination, including, where appropriate, directions for quashing the notice or for varying the terms of the notice in favour of the appellant.
  - (6) Where any person has appealed to a magistrates' court 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.

#### Textual Amendments

**F54** Words in s. 217(2) repealed (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), ss. 109(1)(3), 110, Sch. 8 para. 343, [Sch. 10](#); [S.I. 2005/910](#), [art. 3\(y\)\(aa\)](#)

#### Modifications etc. (not altering text)

**C55** S. 217: power to apply conferred (10.11.1993) by [1993 c. 28](#), [s. 171\(4\)\(a\)](#); [S.I. 1993/2762](#), [art. 3](#)

**C56** S. 217(1)(b) restricted (19.9.2007) by [London Local Authorities Act 2007 \(c. ii\)](#), ss. 1(3), [32\(2\)](#)

## 218 Further appeal to the Crown Court.

Where an appeal has been brought under section 217, an appeal against the decision of the magistrates' court on that appeal may be brought to the Crown Court by the appellant or by the local planning authority who served the notice in question under section 215.

#### Modifications etc. (not altering text)

**C57** S. 218: power to apply conferred (10.11.1993) by [1993 c. 28](#), [s. 171\(4\)\(a\)](#); [S.I. 1993/2762](#), [art. 3](#)

*Status: Point in time view as at 12/08/2012.*

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## 219 Execution and cost of works required by s. 215 notice.

- (1) If, within the period specified in a notice under section 215 in accordance with subsection (2) of that section, or within such extended period as the local planning authority who served the notice may allow, any steps required by the notice to be taken have not been taken, the local planning authority who served the notice may—
- (a) enter the land and take those steps, and
  - (b) recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.
- (2) Where a notice has been served under section 215—
- (a) any expenses incurred by the owner or occupier of any land for the purpose of complying with the notice, and
  - (b) any sums paid by the owner of any land under subsection (1) in respect of expenses incurred by the local planning authority in taking steps required by such a notice,
- shall be deemed to be incurred or paid for the use and at the request of the person who caused or permitted the land to come to be in the condition in which it was when the notice was served.
- (3) Regulations made under this Act may provide that—
- (a) section 276 of the <sup>M7</sup>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 215.
- (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 a notice under section 215 relates the right, as against all other persons interested in the land, to comply with the requirements of the enforcement notice.
- (5) Regulations under subsection (3) may also provide for the charging on the land of any expenses recoverable by a local authority under subsection (1).

<sup>F55</sup>(6) .....

### Textual Amendments

**F55** S. 219(6) repealed (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), ss. 32, 84(6), Sch. 7 para. 36, [Sch. 19 Pt.1](#); S.I. 1991/2067, [art.3](#) (subject to art. 4)

### Modifications etc. (not altering text)

**C58** S. 219: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); S.I. 1993/2762, [art. 3](#)

### Marginal Citations

**M7** [1936 c.49](#).

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*Status: Point in time view as at 12/08/2012.*

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## CHAPTER III

### ADVERTISEMENTS

#### *Advertisement regulations*

#### **220 Regulations controlling display of advertisements.**

(1) Regulations under this Act shall make provision for restricting or regulating the display of advertisements so far as appears to the Secretary of State to be expedient in the interests of amenity or public safety.

(2) Without prejudice to the generality of subsection (1), any such regulations may provide—

- (a) for regulating the dimensions, appearance and position of advertisements which may be displayed, the sites on which advertisements may be displayed and the manner in which they are to be affixed to the land;
- (b) for requiring the consent of the local planning authority to be obtained for the display of advertisements, or of advertisements of any class specified in the regulations;
- (c) for applying, in relation to any such consent and to applications for such consent, any of the provisions mentioned in subsection (3), subject to such adaptations and modifications as may be specified in the regulations;
- (d) for the constitution, for the purposes of the regulations, of such advisory committees as may be prescribed by the regulations, and for determining the manner in which the expenses of any such committee are to be defrayed.

[<sup>F56</sup>(2A) The regulations may also make provision as to—

- (a) the form and manner in which an application for consent must be made;
- (b) particulars of such matters as are to be included in the application;
- (c) any documents or other materials which must accompany the application.]

(3) The provisions referred to in subsection (2)(c) are—

- (a) the provisions of Part III relating to planning permission and to applications for planning permission, except sections 56, [<sup>F57</sup>62], 65 <sup>F58</sup> . . . , 69(3) and (4), 71, <sup>F59</sup> . . . , 91 to 96, 100 and 101 and Schedule 8;
- (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.

(4) Without prejudice to the generality of the powers conferred by this section, regulations made for the purposes of this section may provide that any appeal from the decision of the local planning authority, on an application for their consent under the regulations, shall be to an independent tribunal constituted in accordance with the regulations, instead of being an appeal to the Secretary of State.

(5) If any tribunal is so constituted, the Secretary of State may pay to the chairman and members of the tribunal such remuneration, whether by way of salaries or by way of fees, and such reasonable allowances in respect of expenses properly incurred in the performance of their duties, as he may with the consent of the Treasury determine.

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#### Textual Amendments

- F56** S. 220(2A) inserted (6.8.2004 for certain purposes and prosp. otherwise) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), [ss. 42\(4\)](#), 121 (with s. 111); S.I. 2004/2097, [art. 2](#)
- F57** Words in s. 220(3) repealed (6.8.2004 for certain purposes and prosp. otherwise) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), [ss. 120](#), 121, [Sch. 9](#) (with s. 111); S.I. 2004/2097, [art. 2](#)
- F58** Words in s. 220(3)(a) repealed (17.7.1992) by [Planning and Compensation Act 1991 \(c. 34\)](#), SIF 123:1), [ss. 32](#), 84(6), [Sch. 7 para. 37](#), [Sch. 19 Pt. I](#) (with s. 84(5)); S.I. 1992/1491, [art. 2](#), [Schs. 1](#), [2](#)
- F59** Words in s. 220(3)(a) repealed (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34\)](#), SIF 123:1), [ss. 31\(4\)](#), 84(6), [Sch. 6 para. 21](#), [Sch. 19 Pt. II](#) (with s. 84(5)); S.I. 1991/2067, [art. 3](#) (subject to [art. 4](#))

#### Modifications etc. (not altering text)

- C59** S. 220: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); S.I. 1993/2762, [art. 3](#)
- C60** S. 220: 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](#)

### 221 Power to make different advertisement regulations for different areas.

- (1) Regulations made for the purposes of section 220 may make different provision with respect to different areas, and in particular may make special provision—
- with respect to conservation areas;
  - with respect to areas defined for the purposes of the regulations as experimental areas, and
  - with respect to areas defined for the purposes of the regulations as areas of special control.
- (2) An area may be defined as an experimental area for a prescribed period for the purpose of assessing the effect on amenity or public safety of advertisements of a prescribed description.
- (3) An area may be defined as an area of special control if it is—
- a rural area, or
  - an area which appears to the Secretary of State to require special protection on grounds of amenity.
- (4) Without prejudice to the generality of subsection (1), the regulations may prohibit the display in an area of special control of all advertisements except advertisements of such classes (if any) as may be prescribed.
- (5) Areas of special control for the purposes of regulations under this section may be defined by means of orders made or approved by the Secretary of State in accordance with the provisions of the regulations.
- (6) Where the Secretary of State is authorised by the regulations to make or approve any such order as is mentioned in subsection (5), the regulations shall provide—
- for the publication of notice of the proposed order in such manner as may be prescribed,
  - for the consideration of objections duly made to it, and
  - for the holding of such inquiries or other hearings as may be prescribed, before the order is made or approved.

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- (7) Subject to subsection (8), regulations made under section 220 may be made so as to apply—
- (a) to advertisements which are being displayed on the date on which the regulations come into force, or
  - (b) to the use for the display of the advertisements of any site which was being used for that purpose on that date.
- (8) Any regulations made in accordance with subsection (7) shall provide for exempting from them—
- (a) the continued display of any such advertisements as there mentioned; and
  - (b) the continued use for the display of advertisements of any such site as there mentioned,
- during such period as may be prescribed.
- (9) Different periods may be prescribed under subsection (8) for the purposes of different provisions of the regulations.

**Modifications etc. (not altering text)**

C61 S. 221: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(a); S.I. 1993/2762, art. 3

**222 Planning permission not needed for advertisements complying with regulations.**

Where the display of advertisements in accordance with regulations made under section 220 involves development of land—

- (a) planning permission for that development shall be deemed to be granted by virtue of this section, and
- (b) no application shall be necessary for that development under Part III.

**Modifications etc. (not altering text)**

C62 S. 222: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(a); S.I. 1993/2762, art. 3

*Repayment of expense of removing prohibited advertisements*

**223 Repayment of expense of removing prohibited advertisements.**

- (1) Where, for the purpose of complying with any regulations made under section 220, works are carried out by any person—
- (a) for removing an advertisement which was being displayed on 1st August 1948; or
  - (b) for discontinuing the use for the display of advertisements of a site used for that purpose on that date,
- that person shall, on a claim made to the local planning authority within such time and in such manner as may be prescribed, be entitled to recover from that authority compensation in respect of any expenses reasonably incurred by him in carrying out those works.

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- (2) Except in so far as may be otherwise provided by any regulations made under this Act, any question of disputed compensation under this section shall be referred to and determined by the <sup>F60</sup>Upper Tribunal].
- (3) In relation to the determination of any such question, the provisions of <sup>F61</sup>section] 4 of the <sup>M8</sup>Land Compensation Act 1961 shall apply subject to any necessary modifications and to the provisions of any regulations made under this Act.

#### Textual Amendments

**F60** Words in s. 223(2) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 5(1)(2), **Sch. 1 para. 208(a)**

**F61** Word in s. 223(3) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 5(1)(2), **Sch. 1 para. 208(b)**

#### Marginal Citations

**M8** 1961 c.33.

### *Enforcement of control over advertisements*

#### **224 Enforcement of control as to advertisements.**

- (1) Regulations under section 220 may make provision for enabling the local planning authority to require—
  - (a) the removal of any advertisement which is displayed in contravention of the regulations, or
  - (b) the discontinuance of the use for the display of advertisements of any site which is being so used in contravention of the regulations.
- (2) For that purpose the regulations may apply any of the provisions of Part VII with respect to enforcement notices or the provisions of section 186, subject to such adaptations and modifications as may be specified in the regulations.
- (3) Without prejudice to any provisions included in such regulations by virtue of subsection (1) or (2), if any person displays an advertisement in contravention of the regulations he shall be guilty of an offence and liable on summary conviction to a fine of such amount as may be prescribed, not exceeding <sup>F62</sup>level 4] on the standard scale and, in the case of a continuing offence, <sup>F63</sup>one-tenth of <sup>F62</sup>level 4] on the standard scale] for each day during which the offence continues after conviction.
- (4) Without prejudice to the generality of subsection (3), a person shall be deemed to display an advertisement for the purposes of that subsection if—
  - (a) he is the owner or occupier of the land on which the advertisement is displayed; or
  - (b) the advertisement gives publicity to his goods, trade, business or other concerns.
- (5) A person shall not be guilty of an offence under subsection (3) by reason only—
  - (a) of his being the owner or occupier of the land on which an advertisement is displayed, or

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- (b) of his goods, trade, business or other concerns being given publicity by the advertisement,  
if he proves [<sup>F64</sup>either of the matters specified in subsection (6)] .
- [<sup>F65</sup>(6) The matters are that—
- (a) the advertisement was displayed without his knowledge; or
  - (b) he took all reasonable steps to prevent the display or, after the advertisement had been displayed, to secure its removal.]
- [<sup>F66</sup>(7) Proceedings for an offence under subsection (3) may be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings came to the prosecutor's knowledge.
- (8) Subsection (7) does not authorise the commencement of proceedings for an offence more than 3 years after the date on which the offence was committed.
- (9) For the purposes of subsection (7), a certificate—
- (a) signed by or on behalf of the prosecutor, and
  - (b) stating the date on which evidence sufficient in the prosecutor's opinion to justify the proceedings came to the prosecutor's knowledge,
- is conclusive evidence of that fact.
- (10) A certificate stating that matter and purporting to be so signed is to be deemed to be so signed unless the contrary is proved.
- (11) Subsection (7) does not apply in relation to an offence in respect of an advertisement in Wales.]

#### Textual Amendments

- F62** Words in s. 224(3) substituted (20.1.2004) by Anti-social Behaviour Act 2003 (c. 38), s. 53; S.I. 2003/3300, art. 2(d)
- F63** Words in s. 224(3) substituted (6.4.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, Sch. 7 para.38 (with s. 84(5)); S.I. 1992/665, art. 2
- F64** Words in s. 224(5) substituted (7.6.2005) by Clean Neighbourhoods and Environment Act 2005 (c. 16), ss. 33(2), 108 (with s. 33(4))
- F65** S. 224(6) inserted (7.6.2005) by Clean Neighbourhoods and Environment Act 2005 (c. 16), ss. 33(3), 108 (with s. 33(4))
- F66** S. 224(7)-(11) inserted (6.4.2012) by Localism Act 2011 (c. 20), ss. 126(4), 240(2) (with ss. 126(5), 144); S.I. 2012/628, art. 8(b) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by S.I. 2012/2029, arts. 2, 4)

#### Modifications etc. (not altering text)

- C63** S. 224: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(a); S.I. 1993/2762, art. 3
- C64** S. 224 applied (with modifications) (13.7.2004) by London Local Authorities Act 2004 (c. i), ss. 1, 25
- C65** S. 224(3) restricted (19.9.2007) by London Local Authorities Act 2007 (c. ii), ss. 1(3)-(5), 8(3)
- C66** S. 224(3) applied (with modifications) (19.9.2007) by London Local Authorities Act 2007 (c. ii), ss. 1(3)-(5), 31, Sch. 2 Pt. 1



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## **225 Power to remove or obliterate placards and posters.**

- (1) Subject to subsections (2) and (3), the local planning authority may remove or obliterate any placard or poster—
  - (a) which is displayed in their area; and
  - (b) which in their opinion is so displayed in contravention of regulations made under section 220.
- (2) Subsection (1) does not authorise the removal or obliteration of a placard or poster displayed within a building to which there is no public right of access.
- (3) Subject to subsection (4), where a placard or poster identifies the person who displayed it or caused it to be displayed, the local planning authority shall not exercise any power conferred by subsection (1) unless they have first given him notice in writing—
  - (a) that in their opinion it is displayed in contravention of regulations made under section 220; and
  - (b) that they intend to remove or obliterate it on the expiry of a period specified in the notice <sup>[F67]</sup>and recover from him the costs they may reasonably incur in doing so].
- (4) Subsection (3) does not apply if—
  - (a) the placard or poster does not give his address, and
  - (b) the authority do not know it and are unable to ascertain it after reasonable inquiry.
- (5) The period specified in a notice under subsection (3) must be not less than two days from the date of service of the notice.
- <sup>[F68]</sup>(6) Where—
  - (a) a local planning authority serve a notice on a person under subsection (3) in relation to a placard or poster, and
  - (b) the person fails to remove or obliterate it within the period specified in the notice,the authority may recover from that person the costs they may reasonably incur in exercising their power under subsection (1).]
- <sup>[F69]</sup>(7) This subsection applies in relation to a placard or poster where—
  - (a) the placard or poster does not identify the person who displayed it or caused it to be displayed, or
  - (b) it does do so, but subsection (3) does not apply by reason of subsection (4), and the placard or poster publicises the goods, services or concerns of an identifiable person.
- (8) Where subsection (7) applies, subsections (3) to (6) have effect as if the reference in subsection (3) to the person who displayed the placard or poster or caused it to be displayed were a reference to the person whose goods, services or concerns are publicised.]
- <sup>[F70]</sup>(9) Where any damage is caused to land or chattels in the exercise of the power under subsection (1) in relation to a placard or poster, compensation may be recovered by any person suffering the damage from the local planning authority exercising the power.
- (10) Subsection (9) does not permit the recovery of compensation by the person who displayed the placard or poster or caused it to be displayed.

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- (11) The provisions of section 118 apply in relation to compensation under subsection (9) as they apply in relation to compensation under Part 4.]

#### Textual Amendments

- F67** Words in s. 225(3)(b) inserted (6.4.2006 for E. and 27.10.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), [ss. 34\(2\)](#), 108; S.I. 2006/795, [art. 2\(3\)](#), Sch. 2; S.I. 2006/2797, [art. 2\(g\)](#)
- F68** S. 225(6) inserted (6.4.2006 for E. and 27.10.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), [ss. 34\(3\)](#), 108; S.I. 2006/795, [art. 2\(3\)](#), Sch. 2; S.I. 2006/2797, [art. 2\(g\)](#)
- F69** S. 225(7)(8) inserted (6.4.2006 for E. and 27.10.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), [ss. 34\(4\)](#), 108; S.I. 2006/795, [art. 2\(3\)](#), Sch. 2; S.I. 2006/2797, [art. 2\(g\)](#)
- F70** S. 225(9)(10)(11) inserted (6.4.2006 for E. and 27.10.2006 for W.) by [Clean Neighbourhoods and Environment Act 2005 \(c. 16\)](#), [ss. 34\(5\)](#), 108; S.I. 2006/795, [art. 2\(3\)](#), Sch. 2; S.I. 2006/2797, [art. 2\(g\)](#)

#### Modifications etc. (not altering text)

- C67** S. 225: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); S.I. 1993/2762, [art. 3](#)  
 S. 225 modified (8.1.1996) by [1995 c. x, s. 10](#)

#### [<sup>F71</sup> 225A Power to remove structures used for unauthorised display

- (1) Subject to subsections (2), (3) and (5) and the right of appeal under section 225B, the local planning authority for an area in England may remove, and then dispose of, any display structure—
- (a) which is in their area; and
  - (b) which, in the local planning authority's opinion, is used for the display of advertisements in contravention of regulations under section 220.
- (2) Subsection (1) does not authorise the removal of a display structure in a building to which there is no public right of access.
- (3) The local planning authority may not under subsection (1) remove a display structure unless the local planning authority have first served a removal notice on a person who appears to the local planning authority to be responsible for the erection or maintenance of the display structure.
- (4) Subsection (3) applies only if there is a person—
- (a) who appears to the local planning authority to be responsible for the erection or maintenance of the display structure; and
  - (b) whose name and address are either known by the local planning authority or could be ascertained by the local planning authority after reasonable enquiry.
- (5) If subsection (3) does not apply, the local planning authority may not under subsection (1) remove a display structure unless the local planning authority have first—
- (a) fixed a removal notice to the display structure or exhibited a removal notice in the vicinity of the display structure; and
  - (b) served a copy of that notice on the occupier of the land on which the display structure is situated.
- (6) Subsection (5)(b) applies only if the local planning authority know who the occupier is or could identify the occupier after reasonable enquiry.

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- (7) Where—
- (a) the local planning authority has served a removal notice in accordance with subsection (3) or (5)(b), and
  - (b) the display structure is not removed by the time specified in the removal notice,
- the local planning authority may recover, from any person on whom the removal notice has been served under subsection (3) or (5)(b), expenses reasonably incurred by the local planning authority in exercising the local planning authority's power under subsection (1).
- (8) Expenses are not recoverable under subsection (7) from a person if the person satisfies the local planning authority that the person was not responsible for the erection of the display structure and is not responsible for its maintenance.
- (9) Where in the exercise of power under subsection (1) any damage is caused to land or chattels, compensation may be recovered by any person suffering the damage from the local planning authority exercising the power, but compensation is not recoverable under this subsection or section 325(6)—
- (a) for damage caused to the display structure; or
  - (b) for damage reasonably caused in removing the display structure.
- (10) The provisions of section 118 apply in relation to compensation under subsection (9) as they apply in relation to compensation under Part 4.
- (11) In this section “removal notice”, in relation to a display structure, means notice—
- (a) stating that in the local planning authority's opinion the display structure is used for the display of advertisements in contravention of regulations under section 220;
  - (b) stating that the local planning authority intend after a time specified in the notice to remove the display structure; and
  - (c) stating the effect of subsections (7) and (8).
- (12) A time specified under subsection (11)(b) may not be earlier than the end of 22 days beginning with the date of the notice.
- (13) In this section “display structure” means (subject to subsection (14))—
- (a) a hoarding or similar structure used, or designed or adapted for use, for the display of advertisements;
  - (b) anything (other than a hoarding or similar structure) principally used, or designed or adapted principally for use, for the display of advertisements;
  - (c) a structure that is itself an advertisement; or
  - (d) fitments used to support anything within any of paragraphs (a) to (c).
- (14) Something is a “display structure” for the purpose of this section only if—
- (a) its use for the display of advertisement requires consent under this Chapter, and
  - (b) that consent has not been granted and is not deemed to have been granted.
- (15) In subsection (13) “structure” includes movable structure.

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### Textual Amendments

**F71** Ss. 225A-225E inserted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 127(1), 240(2)** (with s. 144); [S.I. 2012/628, art. 8\(b\)](#) (with [arts. 9, 12, 13, 16, 18-20](#)) (as amended (3.8.2012) by [S.I. 2012/2029, arts. 2, 4](#))

## 225B Appeal against notice under section 225A

- (1) A person on whom a removal notice has been served in accordance with section 225A(3) or (5)(b) may appeal to a magistrates' court on any of the following grounds—
  - (a) that the display structure concerned is not used for the display of advertisements in contravention of regulations under section 220;
  - (b) that there has been some informality, defect or error in, or in connection with, the notice;
  - (c) that the period between the date of the notice and the time specified in the notice is not reasonably sufficient for the removal of the display structure;
  - (d) that the notice should have been served on another person.
- (2) For the purposes of subsection (3), a person is a “permitted appellant” in relation to a removal notice if—
  - (a) the removal notice has been fixed or exhibited in accordance with section 225A(5)(a);
  - (b) the person is an owner or occupier of the land on which the display structure concerned is situated; and
  - (c) no copy of the removal notice has been served on the person in accordance with section 225A(5)(b).
- (3) A person who is a permitted appellant in relation to a removal notice may appeal to a magistrates' court on any of the following grounds—
  - (a) that the display structure concerned is not used for the display of advertisements in contravention of regulations under section 220;
  - (b) that there has been some informality, defect or error in, or in connection with, the notice;
  - (c) that the period between the date of the notice and the time specified in the notice is not reasonably sufficient for the removal of the display structure.
- (4) So far as an appeal under this section is based on the ground mentioned in subsection (1)(b) or (3)(b), the court must dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (5) If an appeal under subsection (1) is based on the ground mentioned in subsection (1)(d), the appellant must serve a copy of the notice of appeal on each person who the appellant considers is a person on whom the removal notice should have been served in accordance with section 225A(3) or (5)(b).
- (6) If—
  - (a) a removal notice is served on a person in accordance with section 225A(3) or (5)(b), and
  - (b) the local planning authority bring proceedings against the person for the recovery under section 225A(7) of any expenses,

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it is not open to the person to raise in the proceedings any question which the person could have raised in an appeal under subsection (1).

- (7) In this section “removal notice” and “display structure” have the same meaning as in section 225A.

#### Textual Amendments

**F71** Ss. 225A-225E inserted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), ss. [127\(1\)](#), [240\(2\)](#) (with s. [144](#)); [S.I. 2012/628](#), art. [8\(b\)](#) (with arts. [9](#), [12](#), [13](#), [16](#), [18-20](#)) (as amended (3.8.2012) by [S.I. 2012/2029](#), arts. [2](#), [4](#))

### 225C Remedying persistent problems with unauthorised advertisements

- (1) Subsections (2) and (3) apply if the local planning authority for an area in England have reason to believe that there is a persistent problem with the display of unauthorised advertisements on a surface of—
- (a) any building, wall, fence or other structure or erection; or
  - (b) any apparatus or plant.
- (2) The local planning authority may serve an action notice on the owner or occupier of the land in or on which the surface is situated.
- (3) If after reasonable enquiry the local planning authority—
- (a) are unable to ascertain the name and address of the owner, and
  - (b) are unable to ascertain the name and address of the occupier,
- the local planning authority may fix an action notice to the surface.
- (4) For the purposes of this section “an action notice”, in relation to a surface, is a notice requiring the owner or occupier of the land in or on which the surface is situated to carry out the measures specified in the notice by a time specified in the notice.
- (5) A time may be specified in an action notice if it is a reasonable time not earlier than the end of 28 days beginning with the date of the notice.
- (6) Measures may be specified in an action notice if they are reasonable measures to prevent or reduce the frequency of the display of unauthorised advertisements on the surface concerned.
- (7) The time by which an owner or occupier must comply with an action notice may be postponed by the local planning authority.
- (8) This section has effect subject to—
- (a) the other provisions of the enactments relating to town and country planning;
  - (b) the provisions of the enactments relating to historic buildings and ancient monuments; and
  - (c) Part 2 of the Food and Environmental Protection Act 1985 (which relates to deposits in the sea).
- (9) Subsection (10) applies if—
- (a) an action notice is served under subsection (2) or fixed under subsection (3); and

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- (b) the measures specified in the notice are not carried out by the time specified in the notice.
- (10) The local planning authority may—
- (a) carry out the measures; and
  - (b) recover expenses reasonably incurred by the local planning authority in doing that from the person required by the action notice to do it.
- (11) Power under subsection (10)(a) is subject to the right of appeal under section 225D.
- (12) Where in the exercise of power under subsection (10)(a) any damage is caused to land or chattels, compensation may be recovered by any person suffering the damage from the local planning authority exercising the power, but compensation is not recoverable under this subsection for damage reasonably caused in carrying out the measures.
- (13) The provisions of section 118 apply in relation to compensation under subsection (12) as they apply in relation to compensation under Part 4.
- (14) The local planning authority may not recover expenses under subsection (10)(b) in respect of a surface that—
- (a) forms part of a flat or a dwellinghouse;
  - (b) is within the curtilage of a dwellinghouse; or
  - (c) forms part of the boundary of the curtilage of a dwellinghouse.
- (15) Each of sections 275 and 291 of the Public Health Act 1936 (provision for authority to agree to take the required measures at expense of owner or occupier, and provision for expenses to be recoverable also from owner's successor or from occupier and to be charged on premises concerned) applies as if the reference in that section to that Act included a reference to this section.
- (16) In this section—
- “dwellinghouse” does not include a building containing one or more flats, or a flat contained within such a building;
- “flat” means a separate and self-contained set of premises constructed or adapted for use as a dwelling and forming part of a building from some other part of which it is divided horizontally;
- “unauthorised advertisement” means an advertisement in respect of which an offence—
- (a) under section 224(3), or
  - (b) under section 132 of the Highways Act 1980 (unauthorised marks on highway),
- is committed after the coming into force of this section.

#### Textual Amendments

- F71** Ss. 225A-225E inserted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 127(1), 240(2)** (with s. 144); [S.I. 2012/628](#), **art. 8(b)** (with **arts. 9, 12, 13, 16, 18-20**) (as amended (3.8.2012) by [S.I. 2012/2029](#), **arts. 2, 4**)

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## **225D Right to appeal against notice under section 225C**

- (1) A person on whom notice has been served under section 225C(2) may appeal to a magistrates' court on any of the following grounds—
  - (a) that there is no problem with the display of unauthorised advertisements on the surface concerned or any such problem is not a persistent one;
  - (b) that there has been some informality, defect or error in, or in connection with, the notice;
  - (c) that the time within which the measures specified in the notice are to be carried out is not reasonably sufficient for the purpose;
  - (d) that the notice should have been served on another person.
- (2) The occupier or owner of premises which include a surface to which a notice has been fixed under section 225C(3) may appeal to a magistrates' court on any of the following grounds—
  - (a) that there is no problem with the display of unauthorised advertisements on the surface concerned or any such problem is not a persistent one;
  - (b) that there has been some informality, defect or error in, or in connection with, the notice;
  - (c) that the time within which the measures specified in the notice are to be carried out is not reasonably sufficient for the purpose.
- (3) So far as an appeal under this section is based on the ground mentioned in subsection (1)(b) or (2)(b), the court must dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (4) If an appeal under subsection (1) is based on the ground mentioned in subsection (1)(d), the appellant must serve a copy of the notice of appeal on each person who the appellant considers is a person on whom the notice under section 225C(2) should have been served.
- (5) If—
  - (a) notice under section 225C(2) is served on a person, and
  - (b) the local planning authority bring proceedings against the person for the recovery under section 225C(10)(b) of any expenses,it is not open to the person to raise in the proceedings any question which the person could have raised in an appeal under subsection (1).

### **Textual Amendments**

- F71** Ss. 225A-225E inserted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), [ss. 127\(1\), 240\(2\)](#) (with [s. 144](#)); [S.I. 2012/628](#), [art. 8\(b\)](#) (with [arts. 9, 12, 13, 16, 18-20](#)) (as amended (3.8.2012) by [S.I. 2012/2029](#), [arts. 2, 4](#))

## **225E Applying section 225C to statutory undertakers' operational land**

- (1) Subsection (2) and (3) apply where the local planning authority serves a notice under section 225C(2) requiring a statutory undertaker to carry out measures in respect of the display of unauthorised advertisements on a surface on its operational land.
- (2) The statutory undertaker may, within 28 days beginning with the date of service of the notice, serve a counter-notice on the local planning authority specifying alternative

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measures which will in the statutory undertaker's reasonable opinion have the effect of preventing or reducing the frequency of the display of unauthorised advertisements on the surface to at least the same extent as the measures specified in the notice.

- (3) Where a counter-notice is served under subsection (2), the notice under section 225C(2) is to be treated—
- (a) as requiring the alternative measures specified in the counter-notice to be carried out (instead of the measures actually required by the notice under section 225C(2)); and
  - (b) as having been served on the date on which the counter-notice is served.
- (4) The time by which a statutory undertaker must carry out the measures specified in a counter-notice served under subsection (2) may be postponed by the local planning authority.]

#### Textual Amendments

**F71** Ss. 225A-225E inserted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 127(1), 240(2)** (with s. 144); [S.I. 2012/628, art. 8\(b\)](#) (with [arts. 9, 12, 13, 16, 18-20](#)) (as amended (3.8.2012) by [S.I. 2012/2029, arts. 2, 4](#))

## [<sup>F72</sup>CHAPTER 4

### REMEDYING DEFACEMENT OF PREMISES

#### Textual Amendments

**F72** Pt. 8 Chs. 4, 5 inserted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 127(2), 240(2)** (with s. 144); [S.I. 2012/628, art. 8\(b\)](#) (with [arts. 9, 12, 13, 16, 18-20](#)) (as amended (3.8.2012) by [S.I. 2012/2029, arts. 2, 4](#))

#### **225F Power to remedy defacement of premises**

- (1) Subsections (2) and (3) apply if—
- (a) premises in England include a surface that is readily visible from a place to which the public have access;
  - (b) either—
    - (i) the surface does not form part of the operational land of a statutory undertaker, or
    - (ii) the surface forms part of the operational land of a statutory undertaker and subsection (11) applies to the surface;
  - (c) there is a sign on the surface; and
  - (d) the local planning authority consider the sign to be detrimental to the amenity of the area or offensive.
- (2) The local planning authority may serve on the occupier of the premises a notice requiring the occupier to remove or obliterate the sign by a time specified in the notice.



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- (3) If it appears to the local planning authority that there is no occupier of the premises, the local planning authority may fix to the surface a notice requiring the owner or occupier of the premises to remove or obliterate the sign by a time specified in the notice.
- (4) A time specified under subsection (2) or (3) may not be earlier than the end of 15 days beginning the date of service or fixing of the notice.
- (5) Subsection (6) applies if—
  - (a) a notice is served under subsection (2) or fixed under subsection (3); and
  - (b) the sign is neither removed nor obliterated by the time specified in the notice.
- (6) The local planning authority may—
  - (a) remove or obliterate the sign; and
  - (b) recover expenses reasonably incurred by the local planning authority in doing that from the person required by the notice to do it.
- (7) Power under subsection (6)(a) is subject to the right of appeal under section 225I.
- (8) Expenses may not be recovered under subsection (6)(b) if the surface—
  - (a) forms part of a flat or a dwellinghouse;
  - (b) is within the curtilage of a dwellinghouse; or
  - (c) forms part of the boundary of the curtilage of a dwellinghouse.
- (9) Section 291 of the Public Health Act 1936 (provision for expenses to be recoverable also from owner's successor or from occupier and to be charged on premises concerned) applies as if the reference in that section to that Act included a reference to this section.
- (10) For the purposes of this section, a universal postal service provider is treated as being the occupier of any plant or apparatus that consists of a universal postal service letter box or a universal postal service pouch-box belonging to it.
- (11) This subsection applies to a surface if the surface abuts on, or is one to which access is given directly from, either—
  - (a) a street; or
  - (b) any place, other than a street, to which the public have access as of right.
- (12) In this section—
  - “dwellinghouse” does not include a building containing one or more flats, or a flat contained within such a building;
  - “flat” means a separate and self-contained set of premises constructed or adapted for use as a dwelling and forming part of a building from some other part of which it is divided horizontally;
  - “premises” means building, wall, fence or other structure or erection, or apparatus or plant;
  - “sign”—
    - (a) includes any writing, letter, picture, device or representation, but
    - (b) does not include an advertisement;
  - “statutory undertaker” does not include a relevant airport operator (within the meaning of Part 5 of the Airports Act 1986);

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“street” includes any highway, any bridge carrying a highway and any road, lane, mews, footway, square, court, alley or passage, whether a thoroughfare or not;

“universal postal service letter box” has the meaning given in section 86(4) of the Postal Services Act 2000;

“universal postal service pouch-box” has the meaning given in paragraph 1(10) of Schedule 6 to that Act.

### **225G Notices under section 225F in respect of post boxes**

(1) The local planning authority may serve a notice under section 225F(2) on a universal postal service provider in respect of a universal postal service letter box, or universal postal service pouch-box, belonging to the provider only if—

- (a) the authority has served on the provider written notice of the authority's intention to do so; and
- (b) the period of 28 days beginning with the date of service of that notice has ended.

(2) In this section—

“universal postal service letter box” has the meaning given in section 86(4) of the Postal Services Act 2000;

“universal postal service pouch-box” has the meaning given in paragraph 1(10) of Schedule 6 to that Act.

### **225H Section 225F powers as respects bus shelters and other street furniture**

(1) The local planning authority may exercise the power conferred by section 225F(6) (a) to remove or obliterate a sign from any surface on a bus shelter, or other street furniture, of a statutory undertaker that is not situated on operational land of the statutory undertaker only if—

- (a) the authority has served on the statutory undertaker notice of the authority's intention to do so;
- (b) the notice specified the bus shelter, or other street furniture, concerned; and
- (c) the period of 28 days beginning with the date of service of the notice has ended.

(2) In this section “statutory undertaker” does not include an airport operator (within the meaning of Part 5 of the Airports Act 1986).

### **225I Right to appeal against notice under section 225F**

(1) A person on whom notice has been served under section 225F(2) may appeal to a magistrates' court on any of the following grounds—

- (a) that the sign concerned is neither detrimental to the amenity of the area nor offensive;
- (b) that there has been some informality, defect or error in, or in connection with, the notice;
- (c) that the time within which the sign concerned is to be removed or obliterated is not reasonably sufficient for the purpose;
- (d) that the notice should have been served on another person.

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- (2) The occupier or owner of premises which include a surface to which a notice has been fixed under section 225F(3) may appeal to a magistrates' court on any of the following grounds—
  - (a) that the sign concerned is neither detrimental to the amenity of the area nor offensive;
  - (b) that there has been some informality, defect or error in, or in connection with, the notice;
  - (c) that the time within which the sign concerned is to be removed or obliterated is not reasonably sufficient for the purpose.
- (3) So far as an appeal under this section is based on the ground mentioned in subsection (1)(b) or (2)(b), the court must dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (4) If an appeal under subsection (1) is based on the ground mentioned in subsection (1)(d), the appellant must serve a copy of the notice of appeal on each person who the appellant considers is a person on whom the notice under section 225F(2) should have been served.
- (5) If—
  - (a) notice under section 225F(2) is served on a person, and
  - (b) the local planning authority bring proceedings against the person for the recovery under section 225F(6)(b) of any expenses,it is not open to the person to raise in the proceedings any question which the person could have raised in an appeal under subsection (1).

## **225J Remedying defacement at owner or occupier's request**

- (1) Subsection (2) applies if—
  - (a) premises in England include a surface that is readily visible from a place to which the public have access;
  - (b) there is a sign on the surface; and
  - (c) the owner or occupier of the premises asks the local planning authority to remove or obliterate the sign.
- (2) The local planning authority may—
  - (a) remove or obliterate the sign; and
  - (b) recover expenses reasonably incurred by the local planning authority in doing that from the person who asked the local planning authority to do it.
- (3) In this section “premises” means building, wall, fence or other structure or erection, or apparatus or plant.
- (4) In this section “sign”—
  - (a) includes—
    - (i) any writing, letter, picture, device or representation, and
    - (ii) any advertisement, but
  - (b) does not include an advertisement for the display of which deemed or express consent has been granted under Chapter 3.

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## CHAPTER 5

### APPLICATION OF PROVISIONS OF CHAPTERS 3 AND 4 TO STATUTORY UNDERTAKERS

#### **225K Action under sections 225A, 225C and 225F: operational land**

- (1) This section applies in relation to the exercise by the local planning authority of—
- (a) power conferred by section 225A(1), or section 324(3) so far as applying for the purposes of section 225A(1), to—
    - (i) enter on any operational land of a statutory undertaker, or
    - (ii) remove a display structure situated on operational land of a statutory undertaker;
  - (b) power conferred by section 225C(10)(a), or section 324(3) so far as applying for the purposes of section 225C(10)(a), to—
    - (i) enter on any operational land of a statutory undertaker, or
    - (ii) carry out any measures to prevent or reduce the frequency of the display of unauthorised advertisements on a surface on operational land of a statutory undertaker; or
  - (c) power conferred by section 225F(6)(a), or section 324(3) so far as applying for the purposes of section 225F(6)(a), to—
    - (i) enter on any operational land of a statutory undertaker, or
    - (ii) remove or obliterate a sign on a surface of premises that are, or are on, operational land of a statutory undertaker.
- (2) The authority may exercise the power only if—
- (a) the authority has served on the statutory undertaker notice of the authority's intention to do so;
  - (b) the notice specified the display structure, surface or sign concerned and its location; and
  - (c) the period of 28 days beginning with the date of service of the notice has ended.
- (3) If—
- (a) a notice under subsection (2) is served on a statutory undertaker, and
  - (b) within 28 days beginning with the date the notice is served, the statutory undertaker serves a counter-notice on the local planning authority specifying conditions subject to which the power is to be exercised,
- the power may only be exercised subject to, and in accordance with, the conditions specified in the counter-notice.
- (4) The conditions which may be specified in a counter-notice under subsection (3) are conditions which are—
- (a) necessary or expedient in the interests of safety or the efficient and economic operation of the undertaking concerned; or
  - (b) for the protection of any works, apparatus or other property not vested in the statutory undertaker which are lawfully present on, in, under or over the land upon which entry is proposed to be made.
- (5) If—
- (a) a notice under subsection (2) is served on a statutory undertaker, and

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- (b) within 28 days beginning with the date the notice is served, the statutory undertaker serves a counter-notice on the local planning authority requiring the local planning authority to refrain from exercising the power, the power may not be exercised.
- (6) A counter-notice under subsection (5) may be served only if the statutory undertaker has reasonable grounds to believe, for reasons connected with the operation of its undertaking, that the power cannot be exercised under the circumstances in question—
  - (a) without risk to the safety of any person; or
  - (b) without unreasonable risk to the efficient and economic operation of the statutory undertaker's undertaking.
- (7) In this section “statutory undertaker” does not include an airport operator (within the meaning of Part 5 of the Airports Act 1986).]

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