



Town and Country Planning Act 1990

1990 CHAPTER 8

PART VIII **E+W**

SPECIAL CONTROLS

CHAPTER I **E+W**

TREES

Tree preservation orders

198 Power to make tree preservation orders. **E+W**

- (1) If it appears to a local planning authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order.
- (2) An order under subsection (1) is in this Act referred to as a “tree preservation order”.
- (3) A tree preservation order may, in particular, make provision—
 - (a) for prohibiting (subject to any exemptions for which provision may be made by the order) the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of trees except with the consent of the local planning authority, and for enabling that authority to give their consent subject to conditions;
 - (b) for securing the replanting, in such manner as may be prescribed by or under the order, of any part of a woodland area which is felled in the course of forestry operations permitted by or under the order;
 - (c) for applying, in relation to any consent under the order, and to applications for such consent, any of the provisions of this Act mentioned in subsection (4), subject to such adaptations and modifications as may be specified in the order.

Status: Point in time view as at 06/08/2004. This version of this cross heading contains provisions that are not valid for this point in time.

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- (4) The provisions referred to in subsection (3)(c) are—
- (a) the provisions of Part III relating to planning permission and to applications for planning permission, except sections 56, 62, 65^{F1} . . . , 69(3) and (4), 71, 72^{F2} . . . , 91 to 96, 100 and 101 and Schedule 8; and
 - (b) sections 137 to 141, 143 and 144 (except so far as they relate to purchase notices served in consequence of such orders as are mentioned in section 137(1)(b) or (c));
 - (c) section 316.
- (5) A tree preservation order may be made so as to apply, in relation to trees to be planted pursuant to any such conditions as are mentioned in section 197(a), as from the time when those trees are planted.
- (6) Without prejudice to any other exemptions for which provision may be made by a tree preservation order, no such order shall apply—
- (a) to the cutting down, uprooting, topping or lopping of trees which are dying or dead or have become dangerous, or
 - (b) to the cutting down, uprooting, topping or lopping of any trees in compliance with any obligations imposed by or under an Act of Parliament or so far as may be necessary for the prevention or abatement of a nuisance.
- (7) This section shall have effect subject to—
- (a) section 39(2) of the^{M1}Housing and Planning Act 1986 (saving for effect of section 2(4) of the^{M2}Opencast Coal Act 1958 on land affected by a tree preservation order despite its repeal); and
 - (b) section 15 of the^{M3}Forestry Act 1967 (licences under that Act to fell trees comprised in a tree preservation order).
- [^{F3}(8) In relation to an application for consent under a tree preservation order the appropriate authority may by regulations make provision as to—
- (a) the form and manner in which the application must be made;
 - (b) particulars of such matters as are to be included in the application;
 - (c) the documents or other materials as are to accompany the application.
- (9) The appropriate authority is—
- (a) the Secretary of State in relation to England;
 - (b) the National Assembly for Wales in relation to Wales,
- and in the case of regulations made by the National Assembly for Wales section 333(3) must be ignored.]

Textual Amendments

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

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Modifications etc. (not altering text)

- C1** S. 198: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(a); S.I. 1993/2762, art. 3
C2 S. 198: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), Sch. 1

Marginal Citations

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

199 Form of and procedure applicable to orders. E+W

- (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.

Modifications etc. (not altering text)

- C3** S. 199: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(a); S.I. 1993/2762, art. 3
C4 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

200 Orders affecting land where Forestry Commissioners interested. E+W

- (1) In relation to land in which the Forestry Commissioners have an interest, a tree preservation order may be made only if—
 - (a) there is not in force in respect of the land a plan of operations or other working plan approved by the Commissioners under a forestry dedication covenant; and
 - (b) the Commissioners consent to the making of the order.
- (2) For the purposes of subsection (1), the Forestry Commissioners are only to be regarded as having an interest in land if—

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- (a) they have made a grant or loan under section 1 of the ^{M4}Forestry Act 1979 in respect of it, or
 - (b) there is a forestry dedication covenant in force in respect of it.
- (3) A tree preservation order in respect of such land shall not have effect so as to prohibit, or to require any consent for, the cutting down of a tree in accordance with a plan of operations or other working plan approved by the Forestry Commissioners, and for the time being in force, under a forestry dedication covenant or under the conditions of a grant or loan made under section 1 of the Forestry Act 1979.
- (4) In this section—
- (a) “a forestry dedication covenant” means a covenant entered into with the Commissioners under section 5 of the ^{M5}Forestry Act 1967; and
 - (b) references to provisions of the Forestry Act 1967 and the Forestry Act 1979 include references to any corresponding provisions replaced by those provisions or by earlier corresponding provisions.

Modifications etc. (not altering text)

C5 S. 200: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(a); S.I. 1993/2762, art. 3

C6 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

Marginal Citations

M4 1979 c. 21.

M5 1967 c. 10.

201 Provisional tree preservation orders. E+W

- (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.

Modifications etc. (not altering text)

C7 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

C8 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. E+W

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

Modifications etc. (not altering text)

C9 S. 202: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(a); S.I. 1993/2762, art. 3

C10 S. 202: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), Sch. 1

VALID FROM 06/04/2012

[^{F4}202A Tree preservation regulations: general E+W

- (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.

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Textual Amendments

F4 Ss. 202A-202G inserted (prosp.) by Planning Act 2008 (c. 29), ss. 192(7), 241 (with s. 226) (as amended (1.6.2009) by S.I. 2009/1307, arts. 5(1)(2), Sch. 1 para. 295)

VALID FROM 06/04/2012

202B Tree preservation regulations: making of tree preservation orders **E+W**

- (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

F4 Ss. 202A-202G inserted (prosp.) by Planning Act 2008 (c. 29), ss. 192(7), 241 (with s. 226) (as amended (1.6.2009) by S.I. 2009/1307, arts. 5(1)(2), Sch. 1 para. 295)

VALID FROM 06/04/2012

202C Tree preservation regulations: prohibited activities **E+W**

- (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.

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- (4) In particular, provision may be made for a prohibition not to apply to things done with consent.
- (5) In this section “tree” means a tree in respect of which a tree preservation order is in force.

Textual Amendments

F4 Ss. 202A-202G inserted (prosp.) by Planning Act 2008 (c. 29), ss. 192(7), 241 (with s. 226) (as amended (1.6.2009) by S.I. 2009/1307, arts. 5(1)(2), Sch. 1 para. 295)

VALID FROM 06/04/2012

202D Tree preservation regulations: consent for prohibited activities **E+W**

- (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.

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- (8) Tree preservation regulations may make provision for appeals—
- (a) against refusal of consent;
 - (b) where there is a failure to decide an application for consent;
 - (c) against conditions subject to which consent is given;
 - (d) against refusal of an approval required by a condition;
 - (e) where there is a failure to decide an application for such an approval.
- (9) Tree preservation regulations may make provision in connection with appeals under provision made under subsection (8), including—
- (a) provision imposing time limits;
 - (b) provision for further appeals;
 - (c) provision in connection with the procedure to be followed on an appeal (or further appeal);
 - (d) provision about who is to decide an appeal (or further appeal);
 - (e) provision imposing duties, or conferring powers, on a person deciding an appeal (or further appeal).

Textual Amendments

- F4** Ss. 202A-202G inserted (prosp.) by Planning Act 2008 (c. 29), ss. 192(7), 241 (with s. 226) (as amended (1.6.2009) by S.I. 2009/1307, arts. 5(1)(2), Sch. 1 para. 295)

VALID FROM 06/04/2012

202E Tree preservation regulations: compensation **E+W**

- (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.

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- (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

- F4** Ss. 202A-202G inserted (prosp.) by Planning Act 2008 (c. 29), ss. 192(7), 241 (with s. 226) (as amended (1.6.2009) by S.I. 2009/1307, arts. 5(1)(2), Sch. 1 para. 295)

VALID FROM 06/04/2012

202F Tree preservation regulations: registers **E+W**

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

Textual Amendments

- F4** Ss. 202A-202G inserted (prosp.) by Planning Act 2008 (c. 29), ss. 192(7), 241 (with s. 226) (as amended (1.6.2009) by S.I. 2009/1307, arts. 5(1)(2), Sch. 1 para. 295)

VALID FROM 06/04/2012

202G Tree preservation regulations: supplementary **E+W**

- (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.]

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Textual Amendments

- F4** Ss. 202A-202G inserted (prosp.) by Planning Act 2008 (c. 29), ss. 192(7), 241 (with s. 226) (as amended (1.6.2009) by S.I. 2009/1307, arts. 5(1)(2), Sch. 1 para. 295)

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