

Status: Point in time view as at 31/01/2017.

Changes to legislation: Planning Act 2008, SCHEDULE 8 is up to date with all changes known to be in force on or before 26 September 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)

SCHEDULES

SCHEDULE 8

Section 192

TREE PRESERVATION ORDERS: FURTHER AMENDMENTS

Forestry Act 1967 (c. 10)

1 The Forestry Act 1967 is amended as follows.

Commencement Information

II Sch. 8 para. 1 in force at 6.4.2012 for E. by S.I. 2012/601, art. 2(a)

2 (1) Section 15 (trees subject to preservation orders under Planning Acts) is amended as follows.

(2) In subsection (1) for “consent under the order” substitute “relevant consent”.

(3) After subsection (1) insert—

“(1A) In subsection (1) “relevant consent” means—

- (a) in the case of trees in [^{F1}England or Wales], consent under tree preservation regulations;
- (b) in the case of trees in Scotland, consent under the tree preservation order.”

(4) In subsection (5) for the words from “application” to “thereunder” substitute “relevant application shall be entertained”.

(5) After subsection (5) insert—

“(5A) In subsection (5) “relevant application” means—

- (a) in the case of trees in [^{F2}England or Wales], an application under tree preservation regulations for consent under the regulations;
- (b) in the case of trees in Scotland, an application under a tree preservation order for consent under the order.”

Textual Amendments

F1 Words in Sch. 8 para. 2(1A)(a) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), Sch. 2 para. 440 (with Sch. 7)

F2 Words in Sch. 8 para. 2(5A)(a) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), Sch. 2 para. 440 (with Sch. 7)

Commencement Information

I2 Sch. 8 para. 2 in force at 6.4.2012 for E. by S.I. 2012/601, art. 2(a)

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- 3 In section 18 (felling directions), in subsection (5) for the words from “shall” to the end substitute “shall be sufficient authority for the felling, notwithstanding anything in—
- (a) tree preservation regulations, in the case of trees in England or Wales;
 - (b) the tree preservation order, in the case of trees in Scotland.”

Commencement Information

I3 Sch. 8 para. 3 in force at 6.4.2012 for E. by S.I. 2012/601, art. 2(a)

- 4 In section 21 (courses open to person adversely affected by felling direction), in subsection (7), after “a tree preservation order” insert “, or under tree preservation regulations,”.

Commencement Information

I4 Sch. 8 para. 4 in force at 6.4.2012 for E. by S.I. 2012/601, art. 2(a)

- 5 In section 35 (interpretation of Part 2) at the appropriate place insert—
- ““tree preservation regulations” means regulations made under section 202A(1) of the Town and Country Planning Act 1990;”.

Commencement Information

I5 Sch. 8 para. 5 in force at 6.4.2012 for E. by S.I. 2012/601, art. 2(a)

- 6 (1) Schedule 3 (proceedings under Town and Country Planning Acts in relation to tree preservation orders) is amended as follows.
- (2) In paragraph 2—
- (a) for “under the said Acts” substitute “under the Town and Country Planning (Scotland) Act 1997”,
 - (b) omit the words from “section 77” to “(for Scotland)”,
 - (c) for “provisions of the said Acts” substitute “provisions of that Act”, and
 - (d) omit “the said section 77 or (for Scotland)”.
- (3) After paragraph 2 insert—
- “2A (1) Where under section 15(2)(a) an application, on being referred to the appropriate national authority, falls to be dealt with under the Town and Country Planning Act 1990, the appropriate national authority must decide the application as if it were an application for consent for the felling of trees made under tree preservation regulations.
- (2) In this paragraph, “the appropriate national authority” means—
- (a) the Secretary of State in relation to England;
 - (b) the Welsh Ministers in relation to Wales.”.

(4) In paragraph 3—

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- (a) for “the Town and Country Planning Acts” substitute “the Town and Country Planning (Scotland) Act 1997”, and
- (b) for “the Town and Country Planning Act 1990 or (for Scotland) the Town and Country Planning (Scotland) Act 1997” substitute “that Act”.

(5) After paragraph 3 insert—

“3A Where under section 15(3)(a) an application, on being referred to an authority who have made a tree preservation order, falls to be dealt with under the Town and Country Planning Act 1990, the authority must decide the application as if it were an application for consent for the felling of trees made under tree preservation regulations.”.

Commencement Information

I6 Sch. 8 para. 6 in force at 6.4.2012 for E. by S.I. 2012/601, art. 2(a)

Town and Country Planning Act 1990 (c. 8)

7 TCPA 1990 is amended as follows.

Commencement Information

I7 Sch. 8 para. 7 in force at 6.4.2012 for E. by S.I. 2012/601, art. 2(a)

8 In section 198(7) (provisions subject to which section has effect), for “This section” substitute “Tree preservation regulations”.

Commencement Information

I8 Sch. 8 para. 8 in force at 6.4.2012 for E. by S.I. 2012/601, art. 2(a)

9 In section 200(1) (tree preservation orders do not affect things done or approved by Forestry Commissioners), for “A tree preservation order does not” substitute “Tree preservation regulations do not”.

Commencement Information

I9 Sch. 8 para. 9 in force at 6.4.2012 for E. by S.I. 2012/601, art. 2(a)

10 In section 202(2) (effect of order made by Secretary of State or Welsh Ministers), for the words from “have the same effect” to the end substitute “, 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).”

Commencement Information

I10 Sch. 8 para. 10 in force at 6.4.2012 for E. by S.I. 2012/601, art. 2(a)

11 In section 206(1) (duty to plant replacement tree)—

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- (a) in paragraph (a), for “the order” substitute “ tree preservation regulations ”, and
- (b) in paragraph (b), for the words from “at a time” to the end of the paragraph substitute “ at a prescribed time, ”.

Commencement Information

I11 Sch. 8 para. 11 in force at 6.4.2012 for E. by S.I. 2012/601, art. 2(a)

- 12 In section 207(1) (enforcement of duties to replace trees), in paragraph (b), for “a tree preservation order” substitute “ tree preservation regulations ”.

Commencement Information

I12 Sch. 8 para. 12 in force at 6.4.2012 for E. by S.I. 2012/601, art. 2(a)

- 13 (1) Section 210 (penalties for non-compliance with tree preservation order) is amended as follows.
- (2) In subsection (1)—
- (a) for “a tree preservation order” substitute “ tree preservation regulations ”,
 - (b) in paragraph (a) omit the “or” at the end, and
 - (c) after paragraph (b) insert—
 - “or
 - (c) causes or permits the carrying out of any of the activities in paragraph (a) or (b),”.
- (3) In subsection (4), for “a tree preservation order” substitute “ tree preservation regulations ”.
- (4) In the side-note, for “order” substitute “ regulations ”.

Commencement Information

I13 Sch. 8 para. 13 in force at 6.4.2012 for E. by S.I. 2012/601, art. 2(a)

- 14 In section 211 (preservation of trees in conservation areas)—
- (a) in subsection (1), for “which might by virtue of section 198(3)(a) be prohibited by a tree preservation order” substitute “ which might by virtue of section 202C be prohibited by tree preservation regulations ”, and
 - (b) in subsection (4), for “a tree preservation order” substitute “ tree preservation regulations ”.

Commencement Information

I14 Sch. 8 para. 14 in force at 6.4.2012 for E. by S.I. 2012/601, art. 2(a)

- 15 In section 212 (power to disapply section 211) omit subsection (4).

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Commencement Information

I15 Sch. 8 para. 15 in force at 6.4.2012 for E. by S.I. 2012/601, art. 2(a)

- 16 In section 213(1)(b) (duty to plant replacement tree in conservation area), for the words from “at a time” to the end of the paragraph substitute “ at a prescribed time, ”.

Commencement Information

I16 Sch. 8 para. 16 in force at 6.4.2012 for E. by S.I. 2012/601, art. 2(a)

- 17 In section 284(3)(h)(i) (decision relating to an application for consent under a tree preservation order is an action to which the section applies), for “a tree preservation order” substitute “ tree preservation regulations ”.

Commencement Information

I17 Sch. 8 para. 17 in force at 6.4.2012 for E. by S.I. 2012/601, art. 2(a)

- 18 In section 329(3B)(i) (section 329(1)(cc) does not apply to things done in connection with tree preservation orders), for “regulations under section 199” substitute “ tree preservation regulations ”.

Commencement Information

I18 Sch. 8 para. 18 in force at 6.4.2012 for E. by S.I. 2012/601, art. 2(a)

- 19 In section 336(1) (interpretation) at the appropriate place insert—
““tree preservation regulations” means regulations under section 202A(1);”.

Commencement Information

I19 Sch. 8 para. 19 in force at 6.4.2012 for E. by S.I. 2012/601, art. 2(a)

Planning and Compensation Act 1991 (c. 34)

- 20 (1) Part 1 of Schedule 18 to the Planning and Compensation Act 1991 (compensation provisions that do not provide for interest) is amended as follows.
- (2) After the entry for section 186 of the Town and Country Planning Act 1990 (c. 8) insert—

“Section 202E of that Act

Date—

- (a) any consent required by tree preservation regulations is refused,
(b) any such consent is granted subject to conditions, or

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(c) any approval required under such a condition is refused.”

(3) Omit the entries for sections 203 and 204 of the Town and Country Planning Act 1990.

Commencement Information

I20 Sch. 8 para. 20 in force at 6.4.2012 for E. by S.I. 2012/601, art. 2(a)

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