

1975 No. 148

**TOWN AND COUNTRY PLANNING,
ENGLAND AND WALES**
**The Town and Country Planning (Tree Preservation Order)
(Amendment) and (Trees in Conservation Areas) (Exempted Cases)
Regulations 1975**

Made - - - - 11th February 1975

Laid before Parliament 19th February 1975

Coming into Operation 12th March 1975

The Secretary of State for the Environment, in relation to England, and the Secretary of State for Wales, in relation to Wales, in exercise of their powers under sections 60, 61A and 287 of the Town and Country Planning Act 1971^(a) and of all other powers enabling them in that behalf, hereby make the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Town and Country Planning (Tree Preservation Order) (Amendment) and (Trees in Conservation Areas) (Exempted Cases) Regulations 1975 and shall come into operation on 12th March 1975.

(2) The Interpretation Act 1889^(b) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

Amendment of the 1969 Regulations

2. In the Town and Country Planning (Tree Preservation Order) Regulations 1969^(c)—

- (i) in paragraph 2 of the Form of Tree Preservation Order contained in the Schedule to the said regulations after the word “lop” there shall be inserted the words “uproot, wilfully damage” and after the word “lopping” there shall be inserted the words “uprooting, wilful damage”;
- (ii) for the existing Note at the end of paragraph 13 of the said Form there shall be substituted the following:—

^(a) 1971 c. 78.

^(b) 1889 c. 63.

^(c) S.I. 1969/17 (1969 I, p. 7).

“NOTE: Any person contravening the provisions of this Order by cutting down, uprooting or wilfully destroying a tree, or by wilfully damaging, topping or lopping a tree in such a manner as to be likely to destroy it is guilty of an offence and liable on summary conviction to a fine not exceeding £400 or twice the sum which appears to the court to be the value of the tree, whichever is the greater, or on indictment to a fine. The penalty for any other contravention of this Order is a fine not exceeding £200 on summary conviction and, in the case of a continuing offence when the contravention is continued after conviction, a person is liable on summary conviction to an additional fine not exceeding £5 for every day on which the contravention is so continued.

If a tree other than one to which an Order applies as part of a woodland is removed, uprooted or destroyed in contravention of an Order or is removed, uprooted or destroyed or dies at a time when its cutting down or uprooting is authorised only by section 60(6) of the Town and Country Planning Act 1971 relating to trees which are dying or dead or have become dangerous, it is the duty of the owner of the land, unless on his application the local planning authority dispense with the requirement, to plant another tree of appropriate size and species at the same place as soon as he reasonably can. Except in emergency, not less than 5 days previous notice of the removal, etc., should be given to the authority to enable the latter to decide whether or not to dispense with the requirement.”

- (iii) for paragraphs (2) and (3) of, the Note to paragraph (3) and the words “(4) the cutting down, topping or lopping of a tree” in, the Second Schedule to the said Form of Tree Preservation Order there shall be substituted the following—

“(2) the cutting down of any tree which is in accordance with a plan of operations approved by the Forestry Commission under the approved woodlands scheme or other grant scheme under section 4 of the Forestry Act 1967(a) except a scheme which applies to a forestry dedication covenant;

(3) the cutting down, uprooting, topping or lopping of a tree”.

Trees in conservation areas—exempted cases

3. Section 61A of the Town and Country Planning Act 1971 shall not apply where the act is—

- (i) the cutting down, uprooting, topping or lopping of a tree in the circumstances mentioned in sub-section (6) of section 60 of that Act;
- (ii) the cutting down of a tree in the circumstances mentioned in paragraph (1) or (2), or the cutting down, uprooting, topping or lopping of a tree in the circumstances mentioned in paragraph (3), of the Second Schedule to the Form of Tree Preservation Order contained in the Schedule to the Town and Country Planning (Tree Preservation Order) Regulations 1969 (as amended by these regulations);
- (iii) the cutting down of a tree in accordance with a felling licence granted by the Forestry Commissioners;

- (iv) the cutting down, uprooting, topping or lopping of a tree on land in the occupation of a local planning authority and the act is done by or with the consent of that authority;
- (v) the cutting down, uprooting, topping or lopping of a tree having a diameter not exceeding 75 millimetres, or the cutting down or uprooting of a tree having a diameter not exceeding 100 millimetres where the act is carried out to improve the growth of other trees, the reference to "diameter" herein being construed as a reference to the diameter, measured over the bark, at a point 1.5 metres above the ground level.

24th January 1975.

Anthony Crosland,
Secretary of State for the Environment.

11th February 1975.

John Morris,
Secretary of State for Wales.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

Section 10 of the Town and Country Amenities Act 1974 (c.32) increased the number of offences for which a tree preservation order may provide and the size of the penalties for offences so provided. These Regulations make consequential amendments to the prescribed form of tree preservation order contained in the Town and Country Planning (Tree Preservation Order) Regulations 1969. They also add to the prescribed form of order a further circumstance in which consent under the order is not required prior to the cutting down of a tree.

Section 8 of the said Act of 1974 added a new section 61A to the Town and Country Planning Act 1971 whereby further provision is made for the protection of trees in conservation areas. These Regulations also contain the exempted cases in which the protection given by the said section 61A is not to apply.

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