



# Town and Country Planning Act 1990

## 1990 CHAPTER 8

### PART VIII

#### SPECIAL CONTROLS

#### CHAPTER I

#### TREES

#### *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—
  - (a) is removed, uprooted or destroyed in contravention of the order, or
  - (b) except in the case of a tree to which the order applies as part of a woodland, is removed, uprooted or destroyed or dies at a time when its cutting down or uprooting is authorised only by virtue of section 198(6)(a),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—
  - (a) on or near the land on which the trees removed, uprooted or destroyed stood, or
  - (b) 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.

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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.

## **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 a tree preservation order which require the replacement of trees,
 are not complied with in the case of any tree or trees, that authority may 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.
- (3) Subject to section 208, a notice under this section shall take effect at the end of such period as may be specified in it.
- (4) The period so specified must not be less than 28 days after the service of the notice.
- (5) The duty imposed by section 206(1) may only be enforced as provided by this section and not otherwise.

## **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;
  - (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.
- (2) An appeal under subsection (1) may be made at any time within the period specified in the notice as the period at the end of which it is to take effect.
- (3) Such an appeal shall be made by notice in writing to the Secretary of State.
- (4) The notice shall indicate the grounds of the appeal and state the facts on which it is based.
- (5) On any such appeal 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.
- (7) On the determination of such an appeal the Secretary of State shall give directions for giving effect to the determination, including, where appropriate, directions for quashing the notice under section 207(1) or for varying its terms.
- (8) On such an appeal the Secretary of State may—
  - (a) correct any informality, defect or error in the notice under section 207(1), or
  - (b) give directions varying the terms,if he is satisfied that the correction or, as the case may be, the variation can be made without injustice to the appellant or the local planning authority.
- (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.

## **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—
  - (a) enter the land and plant those trees, 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 such a notice has been served—
  - (a) any expenses incurred by the owner 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 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 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).

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- (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 under subsection (1).
- (6) Where by virtue of this section any expenses are recoverable by a local planning authority, those expenses shall be recoverable as a simple contract debt in any court of competent jurisdiction.

## **210 Penalties for non-compliance with tree preservation order**

- (1) If any person, in contravention of a tree preservation order—
  - (a) cuts down, uproots or wilfully destroys a tree, or
  - (b) wilfully damages, tops or lops a tree in such a manner as to be likely to destroy it,he shall be guilty of an offence.
- (2) A person guilty of an offence under subsection (1) shall be liable—
  - (a) on summary conviction to a fine not exceeding the statutory maximum or twice the sum which appears to the court to be the value of the tree, whichever is the greater; or
  - (b) on conviction on indictment, to a fine.
- (3) In determining the amount of any fine to be imposed on a person convicted on indictment 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 a tree preservation order 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.
- (5) If, in the case of a continuing offence under this section, the contravention is continued after the conviction, the offender shall be guilty of a further offence and liable on summary conviction to an additional fine not exceeding £5 for each day on which the contravention is so continued.