
STATUTORY INSTRUMENTS

2012 No. 605

The Town and Country Planning (Tree Preservation)(England) Regulations 2012

PART 3

PROHIBITED ACTIVITIES AND EXCEPTIONS

Prohibited activities

13. Without prejudice to subsection (7) of section 198(1) (power to make tree preservation orders) or subsection (1) of section 200(2) (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—

- (a) cut down;
- (b) top;
- (c) lop;
- (d) uproot;
- (e) wilfully damage; or
- (f) wilfully destroy,

any tree to which an order relates, or shall cause or permit the carrying out of any of the activities in sub-paragraphs (a) to (f) to such a tree, except with the written consent of the authority and, where such consent is given subject to conditions, in accordance with those conditions.

Exceptions

14.—(1) Nothing in regulation 13 shall prevent—

- (a) the cutting down, topping, lopping or uprooting of a tree—
 - (i) which is dead;
 - (ii) in compliance with any obligation imposed by or under an Act of Parliament or so far as may be necessary for the prevention or abatement of a nuisance;
 - (iii) by or at the request of a statutory undertaker, where the land on which the tree is situated is operational land of the statutory undertaker and the work is necessary—
 - (aa) in the interests of the safe operation of the undertaking;
 - (bb) in connection with the inspection, repair or renewal of any sewers, mains, pipes, cables or other apparatus of the statutory undertaker;

(1) Section 198(7) was amended by section 192(8) of, and paragraphs 7 and 8 of Schedule 8 to, the Planning Act 2008 (c. 29).
(2) Section 200 was substituted by section 85 of the Planning and Compulsory Purchase Act 2004 (c. 5) and subsection (1) was amended by section 192(8) of, and paragraphs 7 and 9 of Schedule 8 to, the Planning Act 2008.

- (cc) to enable the statutory undertaker to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995(3);
 - (iv) where that work is required to enable the implementation of an order made or confirmed under paragraph 8(1) or paragraph 15(1) of Schedule 1 to the Highways Act 1980(4) (procedures for making or confirming certain orders or schemes);
 - (v) where that work is urgently necessary for national security purposes;
 - (vi) where that tree is cultivated for the production of fruit in the course of a business or trade and such work is in the interests of that business or trade;
 - (vii) so far as such work is necessary to implement a planning permission (other than an outline planning permission or, without prejudice to paragraph (iii)(cc), a permission granted by or under the Town and Country Planning (General Permitted Development) Order 1995) granted on an application under Part III of the Town and Country Planning Act 1990 (control over development), or deemed to have been granted (whether for the purposes of that Part or otherwise);
 - (viii) by or at the request of the Environment Agency to enable the Agency to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995; or
 - (ix) by or at the request of a drainage body where that tree interferes, or is likely to interfere, with the exercise of any of the functions of that body in relation to the maintenance, improvement or construction of watercourses or of drainage works, and for this purpose “drainage body” and “drainage” shall have the same meanings as in section 72(1) of the Land Drainage Act 1991(5) (interpretation);
- (b) the removal of dead branches from a living tree;
 - (c) the cutting down, uprooting, topping or lopping of a tree, to the extent that such works are urgently necessary to remove an immediate risk of serious harm, or to such other extent as agreed in writing by the authority prior to the works being undertaken;
 - (d) the pruning, in accordance with good horticultural practice, of any tree cultivated for the production of fruit; or
 - (e) without prejudice to sub-paragraph (a)(ii), the felling or lopping of a tree or the cutting back of its roots by or at the request of, or in accordance with a notice served by, a licence holder under paragraph 9 of Schedule 4 to the Electricity Act 1989(6) (other powers etc of licence holders - felling and lopping of trees etc).
- (2) Where paragraphs (1)(a)(i) or (1)(c) apply, notice in writing of the proposed activities shall be given to the authority—
- (a) in the case of works urgently necessary to remove an immediate risk of serious harm, as soon as practicable after the works become necessary; and
 - (b) in any other case at least five working days prior to the date on which the works are to be commenced.
- (3) In paragraph (1), “statutory undertaker” means any of the following—

(3) S.I. 1995/418; amended by the Utilities Act 2000 (c. 27), section 76(7). Relevant amending instruments are S.I. 1996/528, 2001/1149, 2003/2155 and 2011/2085.

(4) 1980 c. 66.

(5) 1991 c. 59; these definitions were amended by the Environment Act 1995 (c. 25), sections 100(2) and 120, and Schedule 22, paragraphs 191 and 194.

(6) 1989 c. 29.

- (a) a person authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of hydraulic power;
- (b) a relevant airport operator (within the meaning of Part V of the Airports Act 1986(7) (status of certain airport operators as statutory undertakers, etc));
- (c) the holder of a licence under section 6 of the Electricity Act 1989(8) (licences authorising supply, etc);
- (d) a gas transporter;
- (e) an operator to whom the telecommunications code (set out in Schedule 2 to the Telecommunications Act 1984(9)) applies;
- (f) a water or sewerage undertaker;
- (g) the Civil Aviation Authority, a body acting on behalf of that authority or a person who holds a licence under Chapter I of Part I of the Transport Act 2000(10) (air traffic services);
- (h) a universal postal service provider in connection with the provision of a universal postal service.

Trees in conservation areas – exceptions

- 15.**—(1) Section 211(11) (preservation of trees in conservation areas) shall not apply to—
- (a) the cutting down, topping, lopping or uprooting of a tree—
 - (i) in the circumstances mentioned in regulation 14;
 - (ii) by, or on behalf of, the Forestry Commissioners on land placed at their disposal in pursuance of the Forestry Act 1967(12) or otherwise under their management or supervision; or
 - (iii) by, or on behalf of, a local planning authority;
 - (b) the cutting down of a tree in accordance with a felling licence granted by the Forestry Commissioners under Part II of the Forestry Act 1967 (Commissioners’ power to control felling of trees);
 - (c) 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 entered into under section 5 of the Forestry Act 1967(13) (forestry dedication covenants and agreements) or under the conditions of a grant or loan made under section 1 of the Forestry Act 1979(14) (finance for forestry);
 - (d) the cutting down or uprooting—
 - (i) of a tree whose diameter does not exceed 75 millimetres; or
 - (ii) where carried out for the sole purpose of improving the growth of other trees, of a tree whose diameter does not exceed 100 millimetres; or

(7) 1986 c. 31; amended by SI 2011/2491, by the Local Transport Act 2008 (c. 26) sections 77 and paragraph 54 of Part 4 to Schedule 4 and by the Statute Repeals Act 2004 (c. 14).

(8) Section 6 was amended by the Utilities Act 2000, section 30, by the Energy Act 2004 (c. 20) sections 89, 136, 145 and 197(9), Schedule 19, paragraphs 3 and 5, and Schedule 23, Part 1, and by the Climate Change Act 2008 (c. 27), section 79 and Schedule 8, paragraph 2. There are other amendments not relevant to these Regulations.

(9) 1984 c. 12; see section 106 of the Communications Act 2003 (c. 21) (in force in part (see S.I.2003/1900 and 2003/3142) and otherwise coming into force on a date to be appointed).

(10) 2000 c. 38.

(11) Section 211 was amended by section 86 of the Planning and Compulsory Purchase Act 2004 (c. 5) and by sections 36 and 192(8) of, and paragraphs 34 and 36 of Schedule 2 and paragraphs 7 and 14 of Schedule 8 to, the Planning Act 2008 (c. 29).

(12) 1967 c. 10.

(13) Section 5 was amended by S.I. 1999/1747 and S.I. 2009/1307; there are other amendments not relevant to these Regulations.

(14) 1979 c. 21; section 1 was amended by S.I. 2000/746; there are other amendments not relevant to these Regulations.

- (e) the topping or lopping of a tree whose diameter does not exceed 75 millimetres.
- (2) For the purpose of this regulation—
 - (a) where a tree has more than one stem at a point 1.5 metres above the natural ground level its diameter shall be treated for the purposes of paragraph (1)(d)(i) and (e) or paragraph (1)(d)(ii) as exceeding 75 millimetres or 100 millimetres respectively, if any stem when measured over its bark at that point exceeds 75 millimetres or 100 millimetres respectively; and
 - (b) in any other case, the diameter of a tree shall be ascertained by measurement, over the bark of the tree, at a point 1.5 metres above the natural ground level.