



Town and Country Amenities Act 1974

1974 CHAPTER 32

Trees and gardens

8 Protection of trees in conservation areas in England and Wales

After section 61 of the Town and Country Planning Act 1971 there shall be inserted the following section:—

“61A Trees in conservation areas.

- (1) Subject to the provisions of this section, any person who, in relation to a tree to which this section applies, does any act which might by virtue of section 60(1) (a) above be prohibited by a tree preservation order shall be guilty of an offence.
- (2) Subject to the provisions of this section, this section applies to any tree in a conservation area but in respect of which no tree preservation order is for the time being in force.
- (3) It shall be a defence for a person charged with an offence under subsection (1) above to prove—
 - (a) that he served notice of his intention to do the act in question, with sufficient particulars to identify the tree, on the council of the district or London borough in whose area the tree is or was situated; and
 - (b) that he did the act in question—
 - (i) with the consent of the local planning authority in whose area the tree is or was situated, or
 - (ii) after the expiry of the period of six weeks from the date of the notice but before the expiry of the period of two years from that date.
- (4) The Secretary of State may by regulations direct that this section shall not apply in such cases as may be specified in the regulations.

Status: This is the original version (as it was originally enacted).

- (5) Without prejudice to the generality of subsection (4) above, the regulations may be framed so as to exempt from the application of this section cases defined by reference to all or any of the following matters, namely—
- (a) acts of such descriptions or done in such circumstances or subject to such conditions as may be specified in the regulations;
 - (b) trees in such conservation areas as may be so specified;
 - (c) trees of a size or species so specified; or
 - (d) trees belonging to persons or bodies of a description so specified;
- and the regulations may, in relation to any matter by reference to which an exemption is conferred by them, make different provision for different circumstances.
- (6) Regulations under subsection (4) above may in particular, but without prejudice to the generality of that subsection, exempt from the application of this section cases exempted from section 60 above by subsection (6) of that section.
- (7) It shall be the duty of the council of a district or a London borough to compile and keep available for public inspection free of charge at all reasonable hours and at a convenient place a register, containing such particulars as the Secretary of State may determine of notices under this section affecting trees in their area.
- (8) If any tree to which this section applies is removed, uprooted or destroyed in contravention of this section or is removed, uprooted or destroyed or dies at a time when its cutting down or uprooting is authorised only by virtue of the provisions of such regulations under subsection (4) above as are mentioned in subsection (6) above, it shall be the duty of the owner of the land, unless on his application the local planning authority dispense with this requirement, to plant another tree of an appropriate size and species at the same place as soon as he reasonably can.
- (9) The duty imposed by subsection (8) above on the owner of any land shall attach to the person who is from time to time the owner of the land and may be enforced as provided by section 103 of this Act and not otherwise.”.

9 Protection of trees in conservation areas in Scotland

After section 59 of the Town and Country Planning (Scotland) Act 1972 there shall be inserted the following section:—

“59A Trees in conservation areas.

- (1) Subject to the provisions of this section, any person who, in relation to a tree to which this section applies, does any act which might by virtue of section 58(1) (a) above be prohibited by a tree preservation order shall be guilty of an offence.
- (2) Subject to the provisions of this section, this section applies to any tree in a conservation area but in respect of which no tree preservation order is for the time being in force.
- (3) It shall be a defence for a person charged with an offence under subsection (1) above to prove—

- (a) that he served notice of his intention to do the act in question, with sufficient particulars to identify the tree, on the planning authority in whose district the tree is or was situated; and
 - (b) that he did the act in question—
 - (i) with the consent of the said planning authority, or
 - (ii) after the expiry of the period of six weeks from the date of the notice but before the expiry of the period of two years from that date.
- (4) The Secretary of State may by regulations direct that this section shall not apply in such cases as may be specified in the regulations.
- (5) Without prejudice to the generality of subsection (4) above, the regulations may be framed so as to exempt from the application of this section cases defined by reference to all or any of the following matters, namely—
- (a) acts of such descriptions or done in such circumstances or subject to such conditions as may be specified in the regulations;
 - (b) trees in such conservation areas as may be so specified;
 - (c) trees of a size or species so specified; or
 - (d) trees belonging to persons or bodies of a description so specified ;
- and the regulations may, in relation to any matter by reference to which an exemption is conferred by them, make different provision for different circumstances.
- (6) Regulations under subsection (4) above may in particular, but without prejudice to the generality of that subsection, exempt from the application of this section cases exempted from the application of section 58 above by subsection (6) of that section.
- (7) It shall be the duty of every planning authority to compile and keep available for public inspection free of charge at all reasonable hours and at a convenient place a list, containing such particulars as the Secretary of State may determine of notices under this section affecting trees in their district.
- (8) If any tree to which this section applies is removed, uprooted or destroyed in contravention of this section or is removed, uprooted or destroyed or dies at a time when its uprooting or felling is authorised only by virtue of the provisions of such regulations under subsection (4) above as are mentioned in subsection (6) above, it shall be the duty of the owner of the land, unless on his application the planning authority dispense with this requirement, to plant another tree of an appropriate size and species at the same place as soon as he reasonably can.
- (9) The duty imposed by subsection (8) above on the owner of any land shall attach to the person who is from time to time the owner of the land and may be enforced as provided by section 99 of this Act and not otherwise.”.

10 Offences relating to trees in England and Wales

- (1) In subsection (1) of section 60 of the Town and Country Planning Act 1971 (tree preservation orders) in paragraph (a), after the word " lopping " there shall be inserted the words " uprooting, wilful damage, ".
- (2) Accordingly—

Status: This is the original version (as it was originally enacted).

- (a) in subsection (6) of that section, after the words " cutting down,", in both places where they occur, there shall be inserted the word " uprooting "; and
 - (b) in section 62(1) of the said Act, after the word " removed ", in both places where it occurs, there shall be inserted the word " uprooted ", and after the words " cutting down " there shall be inserted the words " or uprooting ".
- (3) For section 102(1) of the said Act there shall be substituted the following subsection:
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- “(1) If any person, in contravention of a tree preservation order, cuts down, uproots or wilfully destroys a tree, or 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 and shall be liable—
- (a) 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
 - (b) on conviction on indictment, to a fine,
- and, in determining the amount of any fine to be imposed on a person convicted on indictment, 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) In subsection (2) of that section, for " £50 " substitute " £200 ".
- (5) In subsection (3) of that section, for " £2 " substitute " £5 ".
- (6) After that subsection add—
- “(4) This section shall apply to an offence under section 61A above as it applies to a contravention of a tree preservation order.”.
- (7) Nothing in this section shall render any person liable to a greater penalty in respect of an offence committed before this section comes into force than that to which he would have been liable but for this section.

11 Offences relating to trees in Scotland

- (1) In subsection (1) of section 58 of the Town and Country Planning (Scotland) Act 1972 (tree preservation orders), in paragraph (a), after the word " lopping" there shall be inserted the words " uprooting, wilful damage ".
- (2) Accordingly—
- (a) in subsection (6) of that section, before the word " felling ", in each place where it occurs, there shall be inserted the word " uprooting, "; and
 - (b) in section 60(1) of the said Act, after the word " removed ", in both places where it occurs, there shall be inserted the word " uprooted ", and before the word " felling ", in both places where it occurs, there shall be inserted the words " uprooting or ".
- (3) For section 98(1) of the said Act there shall be substituted the following subsection:—
- “(1) If any person, in contravention of a tree preservation order, cuts down, uproots or wilfully destroys a tree, or 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 and shall be liable—

- (a) 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
 - (b) on conviction on indictment, to a fine,^r
and, in determining the amount of any fine to be imposed on a person convicted on indictment, 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) In subsection (2) of that section, for " £50 " substitute " £200 ".
- (5) In subsection (3) of that section, for " £2" substitute " £5 ".
- (6) After that subsection add—
- “(4) This section shall apply to an offence under section 59A above as it applies to a contravention of a tree preservation order.”.
- (7) Nothing in this section shall render any person liable to a greater penalty in respect of an offence committed before this section comes into force than that to which he would have been liable but for this section.

12 Grants for historic gardens, etc.

At the end of section 4(1) of the Historic Buildings and Ancient Monuments Act 1953 (grants for preservation of historic buildings, their contents and adjoining land) there shall be added " or in the upkeep of a garden or other land which appears to the Secretary of State to be of outstanding historic interest but which is not contiguous or adjacent to a building which appears to him to be of outstanding historic or architectural interest ".