STATUTORY RULES OF NORTHERN IRELAND

2003 No. 444

PLANNING

The Planning (Trees) Regulations (Northern Ireland) 2003

Made - - - -	*9th October 2003*
Coming into operation	*12th November 2003*

The Department of the Environment, in exercise of its powers conferred by Articles 65(2), 66B and 129 of the Planning (Northern Ireland) Order 1991(**1**) and all other powers enabling it in that behalf, hereby makes the following Regulations:

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Planning (Trees) Regulations (Northern Ireland) 2003 and shall come into operation on 12th November 2003.

(2) In these Regulations –

"land affected by the order" includes any land adjoining the land on which the trees, groups of trees or woodlands to which the order relates are situated;

"order" means a tree preservation order;

"person interested", in relation to land affected by an order, means the owner and occupier of the land;

and any reference in these Regulations to a numbered Article is a reference to the Article so numbered in the Planning (Northern Ireland) Order 1991.

(**1**) S.I.1991/1220 (N.I. 11) as amended by Art. 26 (S.I. 2003/430 (N.I.8)). Art. 2(2) contains definitions of "the Department" and "prescribed".

PART II

TREE PRESERVATION ORDERS

Form of tree preservation order

2.—(1) An order shall be in the form set out in the Schedule and –

(a) shall specify the trees, groups of trees or woodlands to which it relates;

(b) where the order relates to a group of trees, shall specify the number of trees in the group; and

(c) shall indicate the position of the trees, groups of trees or woodlands, as the case may be, by reference to a map.

(2) An order shall contain or be accompanied by the map referred to in paragraph (1)(c); and where a map so accompanies an order it shall be treated as part of that order.

(3) The map contained in, or accompanying, an order shall be prepared to a scale sufficient to give a clear indication of the position of the trees, groups of trees or woodlands to which the order relates.

Procedure after making an order

3.—(1) As soon as practicable after making an order, and before confirming it, the Department shall –

(a) serve on the persons interested in the land affected by the order –

(i) a copy of the order; and

(ii) a notice containing the particulars mentioned in paragraph (2); and

(b) make a copy of the order available for public inspection, in accordance with paragraph (3).

(2) The particulars mentioned in this paragraph are –

(a) the reasons for making the order;

(b) a statement that objections or other representations with respect to any trees, groups of trees or woodlands specified in the order may be made to the Department in accordance with regulation 4;

(c) the date, being at least 28 days after the date of the notice, by which any objection or representation must be received by the Department;

(d) a copy of regulation 4; and

(e) where the order contains a direction under Article 65A (provisional tree preservation orders), a statement of the effect of that direction.

(3) Subject to regulations 6(c), 7(c) and 8(1)(c), a copy of the order shall be made available for public inspection in the locality in which the land to which the order relates is situated at all reasonable hours.

Objections and representations

4.—(1) Objections and representations –

(a) shall be made in writing and delivered so as to arrive with the Department not later than the date specified under regulation 3(2)(c);

(b) shall specify the particular trees, groups of trees or woodlands (as the case may be) in respect of which the objections or representations are made; and

(c) in the case of an objection, shall state the reasons for the objection.

Procedure for confirmation of a tree preservation order

5.—(1) Where the Department, after it has considered objections and representations duly made in respect of it and not withdrawn, decides to confirm an order, it may do so with or without modification.

(2) Where an order is confirmed it shall be endorsed to that effect, and the endorsement shall also indicate –

(a) that the order was confirmed with modifications or without modification, as the case may be; and

(b) the date on which it was confirmed.

(3) Where an order is confirmed with modifications, the modifications shall be indicated in the order.

Action after confirmation of tree preservation order

6. As soon as practicable after confirming an order, the Department shall –

(a) notify the persons interested in the land affected by the order –

(i) of the confirmation of the order; and

(ii) of the date on which the order was confirmed;

(b) where the order was confirmed with modifications, send a copy of the order, as confirmed, to those persons; and

(c) make a copy of the order, as confirmed, available for public inspection, in place of the copy made so available in accordance with regulation 3(3).

Action where a tree preservation order is not confirmed

7. Where the Department decides not to confirm an order it shall as soon as practicable –

(a) endorse the order with a statement to that effect and with the date of its decision;

(b) notify the persons interested in the land affected by the order of its decision; and

(c) withdraw from public inspection the copy of the order made available in accordance with regulation 3(3).

Revocation of tree preservation orders

8.—(1) Where the Department revokes an order it shall –

(a) endorse the original order with a statement to the effect that the order has been revoked, specifying the date of the revocation order;

(b) serve a copy of the revocation order on the persons interested in the land affected by the order; and

(c) withdraw from public inspection the copy of the original order made available in accordance with regulation 3(3).

(2) A revocation order shall contain a statement of the date on which it was made.

PART III

TREES IN CONSERVATION AREAS

Trees in conservation areas – exemptions

9.—(1) Article 66A (preservation of trees in conservation areas) shall not apply to -

(a) the cutting down, uprooting, topping or lopping of a tree in the circumstances mentioned in Article 65(3) or in the Third Schedule of the prescribed form of tree preservation order set out in the Schedule;

(b) 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

(c) 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)(b)(i) and (c) or paragraph (1)(b)(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;

(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.

PART IV

REVOCATION AND SAVINGS

Revocation and savings

10.—(1) Subject to paragraph (2), the Planning (Tree Preservation Order) Regulations (Northern Ireland) 1973(**2**) are hereby revoked.

(2) Nothing in paragraph (1) shall affect any order made before the date on which these Regulations come into operation (whether the order is confirmed before that date or not).

Sealed with the Official Seal of the Department of the Environment on 9th October 2003.

I. Maye
A Senior Officer of the
Department of the Environment

(**2**) S.R. 1973 No. 273