

2017 No. 548 (W. 125)

**TOWN AND COUNTRY
PLANNING, WALES**

**The Town and Country Planning
(Trees) (Amendment) (Wales)
Regulations 2017**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Town and Country Planning (Trees) Regulations 1999 (“the 1999 Regulations”).

Regulation 2 of the 1999 Regulations provides that a Tree Preservation Order must be in the form set out in the Schedule to those Regulations, or in a form substantially to the same effect.

Article 7 of the form of Tree Preservation Order set out in the Schedule to the 1999 Regulations (“the Order”) applies provisions of the Town and Country Planning Act 1990, including sections 78 and 79 of that Act, to consents under the Order and applications for such consent, subject to the adaptations and modifications mentioned in Part 1 of Schedule 2 to the Order. The provisions as so adapted and modified are set out in Part 2 of Schedule 2 to the Order.

These Regulations amend provisions in Part 1 and remove Part 2 of Schedule 2 to the Order.

The effect of the amendments is to require—

- (a) a notice of appeal to be accompanied by a full statement of case comprised of a written statement containing full particulars of the appellant’s case and copies of supporting documents; and
- (b) the appellant to send a copy of both the notice of appeal and full statement of case to the authority which made the tree preservation order as soon as reasonably practicable.

There are transitional and saving provisions.

The Regulatory Impact Assessment applicable to these Regulations is obtainable from the Welsh Government at: Cathays Park, Cardiff, CF10 3NQ and on the Welsh Government website at www.gov.wales

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**The Town and Country Planning
(Trees) (Amendment) (Wales)
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Made 5 April 2017

Laid before the National Assembly for Wales
11 April 2017

Coming into force 5 May 2017

The Welsh Ministers, in exercise of the powers conferred on the Secretary of State by sections 199 and 333 of the Town and Country Planning Act 1990(1), and now exercisable by them(2) make the following Regulations:

Title, commencement, application and interpretation

1.—(1) The title of these Regulations is the Town and Country Planning (Trees) (Amendment) (Wales) Regulations 2017 and they come into force on 5 May 2017.

(2) These Regulations apply in relation to Wales.

(3) In these Regulations—

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- (1) 1990 c. 8. There are amendments to section 333 but none are relevant to these Regulations. *See* section 198(3) and (4) of the Town and Country Planning Act 1990 in relation to provision which may be made in a tree preservation order. Section 198(4) was amended by sections 31, 32 and 84 of, and paragraph 20 of Schedule 6, paragraph 34 of Schedule 7 and Parts 1 and 2 of Schedule 19 to, the Planning and Compensation Act 1991 (c. 34).
- (2) The functions of the Secretary for State, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). *See* appropriate entry in Schedule 1. The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

“the Planning Act” (“*y Ddeddf Gynllunio*”) means the Town and Country Planning Act 1990;

“the 1999 Regulations” (“*Rheoliadau 1999*”) means the Town and Country Planning (Trees) Regulations 1999⁽¹⁾.

Amendment to the 1999 Regulations

2.—(1) The 1999 Regulations are amended as follows.

(2) The Schedule (Form of Tree Preservation Order) is amended as follows—

- (a) in article 7, omit paragraph (2);
- (b) in Part 1 of Schedule 2, the adaptations and modifications to section 78(2) of the Planning Act mentioned in column (2) of Part 1 of Schedule 2 are amended as follows—
 - (i) in paragraph (a) after “In subsection (1)” insert “omit paragraph (aa) and”;
 - (ii) after paragraph (c) insert—
 - “(ca) After subsection (3) insert—
 - “(3A) The notice mentioned in subsection (3) must be accompanied by a full statement of case.”;
 - (iii) in paragraph (d) for the substituted subsection (4) substitute—
 - “(4) The appellant must serve on the authority, as soon as reasonably practicable, a copy of—
 - (a) the notice mentioned in subsection (3); and
 - (b) the full statement of case.”;
 - (iv) after paragraph (d) insert—
 - “(da) Omit subsections (4A) to (4BB).”;
 - (v) in paragraph (e) in the substituted subsection (5) after “the application of section 79(1)” insert “and section 319B(7)”;
 - (vi) after paragraph (e) insert—
 - “(f) After subsection (5) insert—

(1) S.I. 1999/1892 to which there are amendments but none are relevant.

(2) Section 78 was amended by section 197 of, and paragraphs 1 and 2 of Schedule 11 to, the Planning Act 2008 (c. 29), article 3 of, and paragraphs 1 and 3 of the Schedule to, the Town and Country Planning (Determination of Procedure) (Wales) Order 2014 (S.I. 2014/2773) (W. 280), sections 45, 47(1) and 55 of, and paragraph 7(1) and (2) of Schedule 7 to, the Planning (Wales) Act 2015 (anaw 4), section 150(5) of, and paragraphs 1 and 21 of Schedule 12 to, the Housing and Planning Act 2016 (c. 22). Other amendments are not relevant to these Regulations.

- “(6) In this section “full statement of case” means and is comprised of a written statement containing full particulars of the case the appellant proposes to put forward in relation to the appeal and copies of any supporting documents the appellant proposes to refer to or put in evidence.”.”;
- (c) the adaptations and modifications to section 79(1) of the Planning Act mentioned in column (2) of Part 1 of Schedule 2 are amended as follows—
- (i) in paragraph (a) for “subsections (1) and (2)” substitute “subsection (1)”;
 - (ii) for paragraph (b) substitute—
“(b) Omit subsections (1A) to (3A).”;
 - (iii) for paragraph (c) substitute—
“(c) For subsection (4), substitute—
“(4) The provisions of section 70(1), (1A) and (1B) apply, with any necessary modifications, in relation to an appeal to the Secretary of State under section 78 as they apply in relation to an application for consent under a tree preservation order which falls to be determined by the authority.”.”;
 - (iv) in paragraph (d) for “(6A)” substitute “(6ZA)”;
 - (v) after paragraph (d) insert—
“(da) In subsection (6A), for “such an appeal” substitute “an appeal in relation to an application for consent under a tree preservation order”.”;
- (d) omit Part 2 of Schedule 2.

Transitional and saving provisions

3.—(1) Paragraph (2) applies where any of the following was made before these Regulations come into force—

- (a) an application for consent under a tree preservation order,

(1) Section 79 was amended by sections 18 and 32 of, and paragraph 19 of Schedule 7 to, the Planning and Compensation Act 1991 (c 34), section 196(4) of, and paragraphs 1 and 4 of Schedule 10 to the Planning Act 2008, article 3 of, and paragraphs 1 and 4 of the Schedule to, the Town and Country Planning (Determination of Procedure) (Wales) Order 2014, section 29(1) and (3) of the Planning (Wales) Act 2015 and section 150(5) of, and paragraphs 1 and 23(1), (2)(a) to (d), (3) of Schedule 12 to, the Housing and Planning Act 2016.

- (b) an application for any consent, agreement or approval required by a condition imposed on a grant of consent under such an order, or
- (c) a direction under a tree preservation order or an application for any consent, agreement or approval required by such a direction.

(2) The 1999 Regulations apply to an appeal in relation to such an application or direction as though the amendments made by regulation 2(2)(b)(ii), (iii) and (vi) had not been made.

Jane Hutt
One of the Welsh Ministers
5 April 2017