

BERMUDA STATUTORY INSTRUMENT

SR&O 44/1975

**DEVELOPMENT AND PLANNING (TREE PRESERVATION
ORDER) REGULATIONS 1975**

*[made under section 27 of the Development and Planning Act 1974 [title 20
item 1] and brought into operation on 26 April 1975]*

ARRANGEMENT OF REGULATIONS

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SCHEDULE

Interpretation

- 1 In these Regulations, unless the context otherwise requires—
"the Act" means the Development and Planning Act 1974 [*title 20
item 1*];
"Form" means form specified in the Schedule;
"order" means an order under section 27 of the Act.

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Orders

2 (1) An order for the preservation of any tree, trees or group of trees shall be in Form 1, with such variations as the circumstances of the case may require.

(2) An order for the preservation of woodlands shall be in Form 2 with such variations as the circumstances of the case may require.

(3) The order shall define the position of the tree, trees, groups of trees or woodlands to which it relates and for that purpose shall include a map.

Notice of intention to make order

3 Subject to section 27(3) of the Act the Minister shall, prior to making an order, serve on the owners and occupiers of the land affected by the order a notice stating—

- (a) the grounds for making the order;
- (b) the address or place where a certified copy of the proposed order and map have been deposited for inspection, and the hours during which they may be inspected;
- (c) that objections and representations with respect to the order may be made to the Minister in accordance with regulation 5, a copy of which regulation shall be included in or appended to the notice.

Making of order where no objections

4 If no objections or representations with respect to an order are duly made in accordance with regulation 5, or if any so made are withdrawn, the Minister may forthwith upon the expiration of the period specified in regulation 5, or the withdrawal of objections or representations, as the case may be, make the order.

Objections and representations

5 (1) Every objection or representation with respect to an order shall be made in writing to the Minister, and shall state the grounds thereof, and specify the particular tree, group of trees, or woodlands in respect of which it is made, and the objector's interest in the land affected by the proposed order and shall be signed by the objector or the objector's agent.

(2) An objection or representation shall be duly made if it complies with paragraph (1) and is received by the Minister within 28 days from the date of the service of the notice under regulation 3.

(3) Notwithstanding paragraph (2) the Minister may in his discretion consider an objection or representation made by an owner or

occupier other than within 28 days from the date of the service of notice under regulation 3.

Inquiries

6 Prior to making an order in respect of which objections or representations have been made under regulation 5 the Minister may direct an officer of the Department of Planning to conduct such inquiry into the matter as the Minister may think fit.

Making of contested order

7 (1) The Minister shall, before deciding whether to make an order, take into consideration any objections or representations duly made in accordance with regulation 5 and, if an inquiry has been held under regulation 6, the report of that inquiry.

(2) The Minister may, in making an order, modify the proposed order to take account of matters which he is required to consider under this regulation.

(3) The Minister's decision shall be communicated by registered letter to any person making an objection and if the decision is to make the order, a copy of the order shall be enclosed.

(4) Copies of the order when it comes into operation shall be served on the owners and occupiers of the land to which it relates.

Revocation

8 [omitted]

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SCHEDULE

Form 1

FORM OF TREE PRESERVATION ORDER (TREES AND GROUPS OF TREES)

THE DEVELOPMENT AND PLANNING ACT 1974

made by the Minister of Planning under section 27 of the Development and Planning Act 1974.

1 Subject to this order and section 27(4) of the Development and Planning Act 1974 (which authorizes the cutting etc. of dead and dangerous trees and of trees where the cutting is required by law) no person shall, except with the consent of the Director of Environmental Protection and in accordance with the conditions, if any, imposed by such consent, cut down, top, lop, or wilfully destroy or cause or permit the cutting down, topping, lopping, or wilful destruction of any tree specified in the Schedule hereto or comprised in a group of trees so specified; the position of which trees or group of trees is defined in the manner indicated in the Schedule on map number T.P.O. . . ., signed by the Director of Planning, annexed hereto which map shall, for the purpose of such definition, prevail where any ambiguity arises between it and the specification in the Schedule.

2 An application for consent made to the Director of Environmental Protection under article 1 of this order shall be in writing stating the reasons for making the application, and shall be by reference if necessary to a plan specifying the trees to which the application relates and the operations by the carrying out of which consent is required.

3 When an application for consent is made to the Director of Environmental Protection under this order, the Director may grant such permission either unconditionally, or subject to such conditions (including conditions requiring the replacement of any tree by one or more trees on the site or in the immediate vicinity thereof) as the Director may think fit, or he may refuse consent.

4 Subject to this order any person who has suffered loss or damage by reason of inability to undertake any development (as defined for the purposes of the Development and Planning Act 1974) or by having to modify such development because of any refusal of consent under this order or any revocation or modification thereof or of any grant of such consent subject to conditions, may claim compensation for such loss or damage.

5 (1) A claim for compensation under this order shall be in writing and shall be made by serving it on the Minister, such service to be effected by delivering the claim at the offices of the Department of Planning and directed to the Director of Planning or by sending it by prepaid post so addressed.

(2) The time within which any such claim shall be made as aforesaid shall be—

- (a) in the case where this order is made prior to planning permission being granted or refused for a development of the character specified in article 4 thereof, twelve months of such grant or refusal;
- (b) in the case where the making of this order interferes with a development of the character specified in article 4 thereof, being development for which planning permission had been granted prior to such date, twelve months of the making of this order.

6 Any question of disputed compensation shall be determined in accordance with section 47(3) of the Development and Planning Act 1974.

7 This order shall not apply so as to require the consent of the Director of Environmental Protection by or at the request of the Bermuda Electric Light Company or Bermuda Telephone Company where such tree obstructs the construction by these Companies of an electric or telephone line or interferes or would interfere with the maintenance or working of any such line.

8 The Director of Environmental Protection may at any time revoke or modify consent given by him under this order.

9 This order may be cited as the

[Form 1 amended by 2002:18 s.2 & Sch effective 1 April 2002]

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SCHEDULE

Trees and Groups of Trees
(shown within a broken black line on the accompanying 1:2500 scale
Ordnance Map)

No. on Map	Description	Location
T.1.		
T.2.		

Form 2

FORM OF TREE (WOODLANDS) PRESERVATION ORDER

THE DEVELOPMENT AND PLANNING ACT 1974

made by the Minister of Planning under section 27 of the Development and Planning Act 1974

1 Subject to this order and section 27(4) of the Development and Planning Act 1974 (which authorizes the cutting etc. of dead and dangerous trees and of trees where the cutting is required by law) no person shall, except with the consent of the Director of Environmental Protection and in accordance with the conditions, if any, imposed by such consent, within the woodlands specified in the Schedule hereto—

- (a) cut down, top, lop, or wilfully destroy or cause or permit the cutting down, topping, lopping, or wilful destruction of any tree;
- (b) damage or destroy any shrub or bulb;
- (c) damage or destroy any plant indigenous to Bermuda other than grass or common weeds;
- (d) deposit rubbish;
- (e) do any act which has the effect of destroying or detrimentally affecting the natural appearance or character of the woodlands or any portion thereof,

the position of the said woodlands being defined in the manner indicated in the Schedule on map number T.P.O. . . ., signed by the Director of Planning, annexed hereto which map shall, for the purposes of such definition, prevail where any ambiguity arises between it and the specification in the Schedule.

2 An application for consent made to the Director of Environmental Protection under article 1 of this order shall be in writing stating the reasons for making the application, and shall be by reference if necessary to a plan specifying the trees, shrubs, plants or area to which the application relates and the operations for the carrying out of which consent is required.

3 When an application for consent is made to the Director of Environmental Protection under this order, the Director may grant such permission either unconditionally, or subject to such conditions (including conditions requiring the replacement of any trees, shrubs or plants by other trees, shrubs or plants on the site or in the immediate vicinity thereof) as the Director may think fit, or he may refuse consent.

4 Subject to this order any person who has suffered loss or damage by reason of inability to undertake any development (as defined for the purposes of the Development and Planning Act 1974) or by having to modify such development because of any refusal of consent under this order or any revocation or modification thereof or of any grant of such consent subject to conditions, may claim compensation for such loss or damage.

5 (1) A claim for compensation under this order shall be in writing and shall be made by serving it on the Minister, such service to be effected by delivering the claim at the offices of the Department of Planning and directed to the Director of Planning or by sending it by prepaid post so addressed.

(2) The time within which any such claim shall be made as aforesaid shall be—

(a) in the case where this order is made prior to planning permission being granted or refused for a development of the character specified in article 4 hereof, twelve months of such grant or refusal;

(b) in the case where the making of this order interferes with a development of the character specified in article 4 hereof, being development for which planning permission had been granted prior to such date, twelve months from the making of this order.

6 Any question of disputed compensation shall be determined in accordance with section 47(3) of the Development and Planning Act 1974.

7 This order shall not apply so as to require the consent of the Director of Environmental Protection by or at the request of the Bermuda Electric Light company or Bermuda Telephone Company where such tree obstructs the construction by these Companies of an electric or

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telephone line or interferes or would interfere with the maintenance or working of any such line.

8 The Director of Environmental Protection may at any time revoke or modify consent given by him under this order.

9 This order may be cited as the

[Form 2 amended by 2002:18 s.2 & Sch effective 1 April 2002]

SCHEDULE

Woodland

(shown within a continuous black line on the accompanying 1:2500 scale Ordnance Map)

No. on Map	Description	Location
W.1.		
W.2.		

*[Amended by:
2002 : 18]*