

# **Tree Protection Bill**

[AS INTRODUCED]

## LEGISLATIVE COMPETENCE

At Introduction the Member in charge of the Bill, Mr Peter McReynolds, had made the following statement under Standing Order 30:

*“In my view the Tree Protection Bill would be within the legislative competence of the Northern Ireland Assembly.”*



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A

## **BILL**

TO

Amend the law relating to the protection of trees and woodlands.

**B**E IT ENACTED by being passed by the Northern Ireland Assembly and assented to by His Majesty as follows:

### PART 1

#### TREE PRESERVATION ORDERS

##### *Tree Preservation Orders*

##### **Tree preservation orders: councils**

5     **1.**—(1) Section 122 (Tree preservation orders: councils) of the 2011 Act is amended as follows.

(2) In subsection (1) after “amenity” insert “or ecosystem services”.

(3) In subsection (1)(a) after “destruction of trees” insert “; or for prohibiting the causing or permitting of the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of trees,”.

10

(4) After subsection (1) insert—

“(1A) Notwithstanding the requirement under subsection (1) that the making of a tree preservation order appears to a council to be expedient in the interests of amenity or ecosystem services, a council may make a tree preservation order in respect of any tree which is an ancient tree.

15

(1B) Where a council has reason to believe that a tree may be an ancient tree, and the tree has not been confirmed to be an ancient tree by a suitably qualified arboriculturist, the council may, before determining whether to make a tree preservation order in respect of that tree, commission an assessment by a suitably qualified arboriculturist to determine whether the tree is an ancient tree.

20

(1C) Where, following such an assessment, the arboriculturist determines that the tree is an ancient tree, the council must make a tree preservation order in respect of that tree unless the arboriculturist has confirmed that the tree is dead. Other than if the tree is dead, the condition, health or structural integrity of that tree is not to be considered a ground for refusing to make a tree preservation order.

(1D) Where a council decides not to commission an assessment under subsection (1B), it must provide written reasons for that decision to any person who requested the assessment or who brought the potential ancient status of the tree to the attention of the council.”.

(5) In subsection (3) for “A tree preservation order shall not take effect until it is confirmed by the council and the council may confirm any such” substitute “The council may confirm a tree preservation”.

(6) After subsection (3) insert—

“(3A) A tree preservation order shall take effect on the earlier of the date on which the order is confirmed by the council or the date on which it is deemed to have been confirmed in accordance with subsection 123(2)(b)(ii).”.

(7) After subsection (5) insert—

“(6) In this section, “ecosystem services” means the direct and indirect contributions of ecosystems to human well-being as listed in Schedule 1A.”.

### **Provisional tree preservation orders**

2.—(1) Section 123 (Provisional tree preservation orders) of the 2011 Act is amended as follows.

(2) In subsection (2)(b)(i) after “made” insert “at which time the order will be deemed to have been confirmed, provided that no objections or representations have been received by the council and the council has not issued a decision to revoke the provisional tree preservation order”.

### **Penalties for contravention of tree preservation orders**

3.—(1) Section 126 (Penalties for contravention of tree preservation orders) of the 2011 Act is amended as follows.

(2) In subsection (1) after “destroy it” insert “or knowingly causes or permits a tree to be cut down, uprooted or wilfully destroyed, or wilfully damaged, topped or lopped in such a manner as to be likely to destroy it,”.

### *Replacement of trees*

### **Replacement of trees**

4.—(1) Section 125 (Replacement of trees) of the 2011 Act is amended as follows.

(2) In subsection (1) for “another tree of an appropriate size and species” substitute “a heavy standard tree of an appropriate species”.

(3) In subsection (1) after “can” insert “and to inform the council that such a tree has been planted”.

(4) After subsection (3) insert—

5           “(3A) If any tree planted pursuant to this section dies or becomes damaged, diseased or is removed within 5 years of planting, it shall be the duty of the owner of the land to plant a subsequent replacement tree and the provisions of this section shall apply to any tree planted pursuant to this subsection.

10           (3B) If the owner is not responsible for the breach of the tree preservation order, the replacement and other duties set out in subsections (1) and (3A) are instead imposed on the person responsible for the breach. The owner may elect to replace the tree, and if the person responsible for the breach has failed to replace the tree within 18 months of being notified of the duty by the council or the owner, the owner of the land must replace the tree.  
15           If the owner of the land replaces the tree pursuant to this subsection (3B), the owner may recover the reasonable costs of replacement from the person responsible for the breach.”.

### **Council to inspect replacement trees**

5.—(1) After Section 125 (Replacement of trees) insert—

20           **“Council to inspect replacement trees**

**125A.**—(1) A council must annually inspect, for a period of 5 years from the date of planting, the condition of any tree that is planted in its district pursuant to section 125 with a view to—

- 25           (a) identifying any tree that needs additional care or replacement; and  
          (b) informing the owner of the land of any action that they need to take to ensure that the tree becomes established.

30           (2) It is for the council to determine the form of the inspection under subsection (1)(a), and an inspection may be limited to the examination of evidence of the tree’s establishment, or may include a scheduled or unscheduled site visit.

          (3) Where the council requests the owner of the land to provide evidence of the establishment of the tree, the owner must provide the evidence in such form and within such reasonable period as the council may specify.

35           (4) Where remedial action is required pursuant to subsection (1)(a), the council must inform both the owner of the land and, if known, the person responsible for the breach of the remedial action required and may specify a reasonable period during which the action is to be carried out.

40           (5) Unless the owner of the land elects to carry out the remedial action, the person responsible for the breach must carry out the remedial action within the period specified or, if no period is specified, as soon as that person reasonably can.

(6) If the person who committed the breach has not taken the required remedial action within the period specified under subsection (4), the owner of the land must carry out the action as soon as the owner reasonably can.

5 (7) If the owner of the land carries out the remedial action pursuant to section 125A, the owner may recover the reasonable costs of such action from the person responsible for the breach.”.

### **Enforcement of duties as to replacement of trees**

6.—(1) Section 164 (Enforcement of duties as to replacement of trees) of the 2011 Act is amended as follows.

10 (2) In subsection (1) after “plant a” insert “heavy standard”.

(3) After subsection (5) insert—

“(6) Where a person fails to comply with an enforcement notice under this section, the council may enter the land, carry out the planting, and recover the costs of doing so from the person who committed the breach.

15 (7) Where the person who committed the breach cannot be identified, is insolvent or cannot be found, the council may recover costs from the owner of the land.

(8) Where the owner of the land incurs costs by reason of subsection (7), the owner has a right of action against the person who committed the breach to recover these costs.”.

20

### *Tree Protection Map*

#### **Tree Protection Map**

7. After section 128 (Power to disapply section 127) insert—

#### **“Tree Protection Map**

25 **128A.**—(1) The Department must make available online free of charge a digital map of tree preservation orders that are in effect in Northern Ireland.

(2) This map will show the boundaries of all conservation areas in Northern Ireland and the number of tree preservation orders received, approved, and rejected by each council.

30 (3) This map is to be known as the Tree Protection Map (and is referred to in this Act as “TPM”).

#### **Upload of information into the Tree Protection Map**

**128B.**—(1) Before the end of the initial upload period each council must enter into TPM—

35 (a) all information that is included in the council’s records under section 242(1)(l) on the archive upload date;

(b) conservation area boundary information for all conservation areas within its district; and

(c) the number of tree preservation order applications received, approved, and rejected by the council per year over the previous 5 years.

(2) Information must be entered into TPM under subsection (1) in such form and manner as may be prescribed.

5 (3) Following the end of the initial upload period under subsection (1), the council must at least once in every 3 month period, upload to TPM any new information and update any existing information that is included in the council's records in respect of the information uploaded under subsection (1) to ensure that the information held in TPM is accurate and current.

10 (4) For the purposes of this section, the Department must by regulations—

(a) specify a date as “the archive upload date”, and

(b) specify a period beginning with that date as the “initial upload period”.

15 (5) Regulations under this section are subject to the negative resolution procedure.

#### **Access to information kept in the Tree Protection Map**

**128C.**—(1) The Department may by regulations make provision for or in connection with making information kept in TPM available.

(2) The regulations may (among other things) make provision about—

20 (a) which information, or descriptions of information, may be made available; and

(b) the form and manner in which information may be made available.

25 (3) The Department must ensure that any person required by a provision of this Act to upload data to TPM is granted suitable access to TPM for that purpose.

(4) Except as otherwise prescribed and subject to section 128D, processing of information by the Department in exercise of functions conferred by or under section 128A or this section does not breach—

30 (a) an obligation of confidence owed by the Department, or

(b) any other restriction on the processing of information (however imposed).

(5) Regulations under this section are subject to the draft affirmative procedure.

#### **Data protection**

35 **128D.**—(1) A duty or power to process information that is imposed or conferred by or under sections 128A, 128B or 128C does not operate to require or authorise the processing of personal data that would contravene the data protection legislation (but in determining whether processing of personal data would do so, that duty or power is to be taken into account).

40 (2) In this section—

“the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3(9) of that Act);

“personal data” has the same meaning as in that Act (see section 3(2) of that Act).”.

*Long-established and ancient woodland*

**Determination of planning applications**

5 **8.**—(1) Section 45 (Determination of planning applications) of the 2011 Act is amended as follows.

(2) After subsection (1) insert—

“(1A) Where an application is made for planning permission, and the grant of that planning permission would result in—

- 10 (a) the loss or deterioration of ancient or long-established woodland;  
 (b) development within 15 metres of ancient or long-established woodland; or  
 (c) the deterioration of an ancient tree that is subject to a tree preservation order,

15 the council or, as the case may be, the Department, must refuse planning permission unless the applicant demonstrates that there are wholly exceptional circumstances justifying the grant of planning permission.”.

**Permitted Development**

20 **9.**—(1) Article 3 (Permitted Development) of the 2015 Order is amended as follows.

(2) After paragraph (5) insert—

“(5A) The permission granted by the Schedule shall not authorise any development which requires or involves—

- 25 (a) the loss or deterioration of ancient or long-established woodland; or  
 (b) (b) development within 15 metres of ancient or long-established woodland.”.

*Ecosystem services*

**Ecosystem services**

**10.**—(1) After Schedule 1 to the 2011 Act insert—

“SCHEDULE 1A

Section 122.

ECOSYSTEM SERVICES

5 1.—(1) The following services are ecosystem services for the purposes of section 122.

(2) Cultural Services, including—

- (a) Recreation and tourism;
- (b) Sense of place; and
- (c) Health benefits.

10 (3) Regulating services, including—

- (a) Climate regulation;
- (b) Flood regulation;
- (c) Fire hazard regulation;
- (d) Air and water quality regulation;
- (e) Erosion control;
- (f) Disease and pest control;
- (g) Soil quality regulation; and
- (h) Noise regulation.

15 (4) Supporting services, including—

- (a) Primary production;
- (b) Soil formation;
- (c) Water cycling; and
- (d) Nutrient cycling.”.

*Interpretation*

25 **Interpretation: 2011 Act**

**11.**—(1) In Part 15 (Supplementary), section 250(1), insert the following definitions in their appropriate places—

30 ““ancient tree” means a tree that meets the criteria for ancient trees published by the Ancient Tree Forum and the Woodland Trust (or any successor body to either), or such other criteria as the Department may by regulations prescribe;

“ancient woodland” means an area that has been continuously wooded since at least the end of the year 1600 AD, including ancient semi-natural woodland and plantations on ancient woodland sites;

35 “heavy standard tree” means a tree that meets the heavy standard specification set out in British Standard 8545:2014 (Trees: from nursery to independence in the landscape), or any British Standard which from time to time replaces, supersedes or is equivalent to that

standard, or meets such other specification or standard as the Department may by regulations prescribe;

“long-established woodland” means an area that has been shown to be continuously wooded since the First Edition six-inch to the mile Ordnance Survey Maps of 1830-1844 were published, but for which no documentary evidence has been found that it was wooded prior to 1600;”.

### **Interpretation: 2015 Order**

12. In Article 2 (Interpretation) of the 2015 Order insert the following definitions in their appropriate places—

““ancient woodland” means an area that has been continuously wooded since at least the end of the year 1600 AD, including ancient semi-natural woodland and plantations on ancient woodland sites;

“long-established woodland” means an area that has been shown to be continuously wooded since the First Edition six-inch to the mile Ordnance Survey Maps of 1830-1844 were published, but for which no documentary evidence has been found that it was wooded prior to 1600;”.

## PART 2

### SUPPLEMENTARY PROVISIONS

### **Interpretation: general**

13. In this Act—

“the 2011 Act” means the Planning Act (Northern Ireland) 2011; and any reference to a Part, numbered Section, or Schedule, is a reference to that Part, Section of, or Schedule to, the 2011 Act (unless otherwise stated); and

“the 2015 Order” means the Planning (General Permitted Development) Order (Northern Ireland) 2015.

### **Commencement**

14. This Act comes into operation twelve months after the day on which this Act receives Royal Assent.

### **Short title**

15. This Act may be cited as the Tree Protection (Northern Ireland) Act 2026.



# **Tree Protection Bill**

[AS INTRODUCED]

A Bill to amend the law relating to the protection of trees and woodlands.

Introduced by: Mr Peter McReynolds

On: 29 June 2026

Bill Type: Non-Executive Bill

## **ACCOMPANYING DOCUMENTS**

**An Explanatory and Financial Memorandum is printed separately as  
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