

CAYMAN ISLANDS



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**THE DEVELOPMENT AND PLANNING
(TREE PRESERVATION ORDERS) REGULATIONS 1992**

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THE DEVELOPMENT AND PLANNING LAW (REVISED)

THE DEVELOPMENT AND PLANNING (TREE PRESERVATION ORDERS) REGULATIONS 1992

In exercise of the powers conferred upon the Governor in Council by sections 19(2) and 35 of the Development and Planning Law (Revised), the following regulations are made –

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| Citation | 1. These regulations may be cited as the Development and Planning (Tree Preservation Orders) Regulations 1992. |
| Commencement | 2. These regulations shall come into operation on the date of their publication in the <i>Gazette</i> . |
| Form of order | 3. A tree preservation order must be substantially in the form set out in the Schedule. |
| Content of order | 4. A tree preservation order must define the tree, trees, groups of trees or woodlands to which it relates, by reference to a plan included in the order. |
| Procedure | 5. Before making a tree preservation order the Authority must –
(a) deposit a draft of the order with the Director of Planning; and
(b) serve a copy of the draft order and a notice on –
(i) the owners and occupiers of the land affected by the proposed order; and
(ii) any other person then known to the Authority to be entitled to fell any tree affected by the proposed order; and |

- (iii) any other person then known to the Authority to be entitled to develop the land in such a way as might affect any tree affected by the proposed order.

Content of notice

6. The notice referred to in regulation 5(b) must –
- (a) state the ground for making the proposed order; and
 - (b) inform the person upon whom it is served that he or she may object to the order being made or may make representations in respect of the proposed order within 28 days of receipt of the notice by writing to the Director of Planning stating –
 - (i) the ground of the objection or representation; and
 - (ii) the particular tree, trees, group of trees or woodlands in respect of which the objection or representation is made.

Where no objection or representations made

7. If –
- (a) no written objection or representation to the making of a tree preservation order is made to the Authority by a person served with a copy of the proposed order in accordance with regulation 5(b) within 28 days of the service of the proposed order; or
 - (b) any objection or representation so made is withdrawn before the end of the period of 28 days,

the Authority may after that period of 28 days but not later than 56 days after the end of that period make the order in the form proposed.

Where objection or representations made

8. If –
- (a) a written objection or representation to the making of a tree preservation order is made to the Authority by a person served with a copy of the proposed order in accordance with regulation 5(b) within 28 days of the service of the proposed order; and
 - (b) the objection or representation so made is not withdrawn before the end of the period of 28 days,

the Authority must take into consideration the objection or representation and may after that period of 28 days but not later than 28 days after the end of that period make the order either in the form proposed or with modifications.

Persons to be served

9. If the Authority makes a tree preservation order it must, within 14 days after making the order –
- (a) deposit a copy of the order with the Director of Planning; and

- (b) serve a copy of the order and a notice upon those people who were served with a copy of the draft order and notice in accordance with regulation 5(b).

Content of notice

10. The notice referred to in regulation 9(b) must –
- (a) state that the order has been made and that if a person contravenes the provisions of the order he or she shall be guilty of an offence and liable on summary conviction to a fine not exceeding \$400, and, in the case of a continuing offence, to a further fine not exceeding \$100 for each day after the first during which the contravention continues; and
 - (b) inform the person upon whom it is served that if he or she is aggrieved by the decision of the Authority to make the order he or she may within 10 days after receipt of the notice (or within such longer period as the Tribunal may in any particular case allow for good cause) appeal by way of rehearing to the Tribunal against the decision on the ground that –
 - (i) it is erroneous in law; or
 - (ii) it is unreasonable; or
 - (iii) it is contrary to the principles of natural justice; or
 - (iv) it is at variance with a development plan having effect in relation to the land affected by the order.

Cayman Brac and Little Cayman

11. Where a proposed tree preservation order or a tree preservation order will affect or affects land on Cayman Brac or Little Cayman the provisions of these regulations (including the Schedule to these regulations) have effect as if references to the Authority were references to the Board and references to the Tribunal were references to the Appeals Tribunal.

Provisional orders

12. Where the Authority makes a tree preservation order provisionally in accordance with section 19(3) of the Law these regulations (including the Schedule to these regulations) have effect in respect of that order as if references to a proposed tree preservation order were references to the provisional order.

SCHEDULE

Regulation 3

FORM OF TREE PRESERVATION ORDER

DEVELOPMENT AND PLANNING LAW (REVISED)

DEVELOPMENT AND PLANNING TREE PRESERVATION () ORDER 199 .

The Central Planning Authority, in pursuance of the powers conferred on it by section 19 of the Development and Planning Law (Revised), and after complying with the provisions of the Development and Planning (Tree Preservation Order) Regulations 1992, makes the following order -

Citation 1. This order may be cited as the Development and Planning Tree Preservation () Order, 199 .

Prohibition 2. A person must not cut down, lop or wilfully destroy the tree/any tree comprised in the trees/groups of trees/woodland specified in Schedule 1, the position of which tree/groups of trees/woodland is shown on the plan in Schedule 2 except -

(a) with the consent of the Authority and in accordance with the conditions, if any, imposed on that consent; or

(b) (set out any other exemptions).

Application for consent 3. An application for the Authority's consent under clause 2(a) must -

(a) be in writing; and

(b) state the reason why the consent is being sought; and

(c) detail the tree or trees to which the application relates by reference, if necessary, to the plan in Schedule 2; and

(d) specify the operation for which consent is being sought.

Compensation

4. (1) Subject to subclause (2), a person who has suffered loss or incurred damage as a consequence of -

(a) the refusal of any consent required under this order; or

(b) the grant of such consent subject to conditions,

is entitled to be paid compensation by the Crown.

(2) Compensation is not payable under subclause (1) unless the land affected by this order -

(a) is incapable of reasonably beneficial use; and

(b) cannot, as a result of this order, be rendered capable of reasonable beneficial use by the carrying out of any development for which the Authority has granted permission or has undertaken to grant permission.

(3) Compensation payable under subclause (1) shall be assessed taking into account -

(a) any compensation or contribution which has previously been paid to the claimant or any person in respect of the same tree or trees under the terms of this or any other tree preservation order; and

(b) any injurious affection to any land of the owner which would result from the felling of the tree or trees, the subject of the claim.

(4) Sections 28 and 29 of the Development and Planning (Revised) Law apply to claims under subclause (1).

Plan to prevail

5 If there is any ambiguity between any detail contained in Schedule 1 and the plan in Schedule 2 the plan shall prevail.

SCHEDULE 1

Details of protected tree/trees/groups of trees/ woodland

COLUMN 1 No. on plan	COLUMN 2 Description	COLUMN 3 Location
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SCHEDULE 2

PLAN

[The plan must show in the case of a tree preservation order relating to –

- (a) a specified tree – the tree encircled in black; or
- (b) specified trees – the trees surrounded by a dotted black line; or
- (c) a group of trees – the group surrounded by a broken black line; or
- (d) woodlands – the woodlands surrounded by a continuous black line.]

Made by the Central Planning Authority this day of 199 .

Chairman
Central Planning Authority

Made in Executive Council the 6th day of October, 1992, the Legislative Assembly having by resolution passed on 27th day of July, 1992, approved a draft thereof laid before it as required by section 35(3) of the Law.

MONA N. BANKS-JACKSON
Clerk of the Executive Council.

(Price \$2.40)