

Introduction

With a few exemptions (explained below) it is illegal, under the Environmental Protection (Trees) Act 2014, to cut down, uproot or top **ANY** tree in Gibraltar without the consent of the Development and Planning Commission (DPC), and it is also illegal to willfully damage or destroy any tree. Furthermore, if a Tree Preservation Order (TPO) has been made on a tree, or trees, then it is illegal to not only cut down, uproot, willfully destroy or willfully damage the tree(s) but also to prune or lop the tree(s) without the DPC's consent.

What should I do if I want to carry out works to a tree?

Check if it is protected by a TPO. The Department of Town Planning and Building Control will maintain a register of TPOs as well as applications on trees with TPOs (a list of all TPOs is available on the Town Planning page of the Government website at <https://www.gibraltar.gov.gi/town-planning-home>).

If there is no TPO and you are not cutting down, uprooting or topping the tree you can go ahead with the works, otherwise you will need to apply to the DPC for consent. You need to ensure that any works that you do undertake do not destroy or damage the tree as that would be an offence.

If the tree is protected by a TPO you will need to apply to the DPC to carry out any works.

Does it matter whether the tree is in private or public ownership?

Under the Environmental Protection (Trees) Act 2014, the need to obtain the DPC's consent applies regardless of whether the tree(s) is in private or public ownership.

How do I apply?

Complete an application form, available from the Town Planning and Building Control Department or at <https://www.gibraltar.gov.gi/forms>, and submit it to the address given on the form together with all necessary supporting documentation. To avoid delays to your application ensure the form is fully completed and that you provide the appropriate supporting documentation.

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Following a tree assessment that will be undertaken by the Department of the Environment, Heritage and Climate Change, the DPC will consider your application and notify you of its decision. The DPC can refuse the application or grant it with conditions. If consent is granted with conditions you must ensure that you fully comply with all the conditions.

In the case of trees that are not protected by a TPO, if the DPC has not determined your application or not notified you that the application is being considered, within 28 days of it having been received, then you may proceed with the intended works.

In the case of a tree protected by a TPO you must wait for the written decision of the DPC before carrying out any works.

Is there a fee for making an application?

There is no fee for making an application.

How long is a consent valid for?

In the case of a tree protected by a TPO the consent is valid for 2 years beginning with the date of the consent.

In the case of a tree not protected by a TPO the consent is valid for 1 year beginning with the date of the consent.

Are there any exemptions from the need to obtain consent?

Yes there are certain limited exemptions. These include:

- where the diameter of the tree does not exceed 75mm (measured at a point 1.5m above natural ground level).
- where a tree(s) is already dead (subject to you giving written notice to the DPC at least 5 working days before carrying out the works). In such cases the DPC may serve notice on you to plant one or more trees in compensation;
- where a tree(s) is in a dangerous condition and works are urgently necessary to remove an immediate risk of serious harm (subject to you providing written notice to the DPC

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as soon as practicable after the works become necessary). In such cases the DPC may serve notice on you to plant one or more trees in compensation;

- where works are urgently needed for reasons of security;
- works required to implement a planning permission;
- the removal of dead branches;
- works required to comply with a notice, permission or obligation under any other legislation;
- works to trees in the Nature Reserve or Alameda Gardens where these are carried out with the written authorisation of the Government;

Do I have a right of appeal?

You can appeal against:

- a) A refusal of the DPC;
- b) Any conditions attached to a consent;
- c) The failure of the DPC to give a decision within 8 weeks of it having received the application.

Appeals must be lodged within 28 days of the DPC's decision or, in the case of (c) above, within 28 days of the end of the 8 week period. Appeals are made to the Development Appeals Tribunal which is an independent body.

Appeal forms are available from the Department of Town Planning and Building Control or can be downloaded from <https://www.gibraltar.gov.gi/new/planning-forms>

Who can carry out the tree work?

Although there are no restrictions as to who can carry out the works to a tree it is strongly recommended that you employ the services of a qualified arborist (tree surgeon) for anything other than minor works.

Works to trees can have a significant effect on their form and structure and ultimately their long term survival. Remember also that interfering with the structure of a tree can be dangerous to the individual and the public.

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You can contact the Department of the Environment, Heritage and Climate Change (contact details below) for any advice on proposed works to a tree(s).

What happens if works to a tree are carried out without the necessary consent?

The DPC takes unauthorised works to trees very seriously and will take legal action where appropriate. Unauthorised works to a tree protected by a TPO can result in a fine of £10,000, whilst unauthorised works to any other tree may result in a fine of £4000.

In the case of the unauthorised cutting down or uprooting of a tree, in addition to the powers of the DPC to prosecute a person, it may also serve a notice requiring the planting of one or more replacement trees. Failure to comply with such a notice can result in a fine of £1000.

Other controls over trees

The DPC can require an owner of a tree(s) that is protected by a TPO to take the necessary steps to remedy, control or cure a diseased tree(s), or to take steps to remedy the condition of a tree(s) that is likely to cause danger to people or property. Failure to comply with such a notice can result in a fine £1000.

Contact Details.

For further information contact:

Town Planning & Building Control

Suite 631 Europort, Gibraltar

Tel: (350) 20075483

Fax: (350) 20074086

OR

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Department of the Environment, Heritage & Climate Change

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The Environmental Protection (Trees) Act 2014 can be viewed and downloaded at:

<http://www.gibraltarlaws.gov.gi/articles/2014-01o.pdf>