

Heritage Trees Bill [HL]

[AS INTRODUCED]

CONTENTS

- 1 Heritage trees
- 2 National list of heritage trees
- 3 Protection of heritage trees
- 4 Regulations
- 5 Interpretation
- 6 Extent, commencement and short title

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TO

Promote the protection and stewardship of heritage trees in England; and for connected purposes.

BE IT ENACTED by the King’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Heritage trees

A “heritage tree” is a tree in England listed as such by Natural England on grounds of exceptional historic, landscape, cultural or ecological importance.

2 National list of heritage trees

- (1) Natural England must create, publish and maintain a list of heritage trees in England. 5
- (2) Any person may nominate a tree for inclusion in the list by writing to Natural England.
- (3) Natural England must publish and follow a reasonable process for determining nominations, which must include— 10
 - (a) notice to the owner of the tree, any other occupier of the land where the tree stands, any planning authority within whose area it stands and the general public,
 - (b) an opportunity for them to make representations, and
 - (c) an expedited process for cases of demonstrable urgency. 15
- (4) Natural England must publish the process under this section within six months of the passing of this Act and the first list under this section within six months of publishing the process.
- (5) The Secretary of State may by regulations— 20
 - (a) provide for the Secretary of State to review and vary a determination under this section, either on appeal or of their own motion;
 - (b) prescribe the information to be published in the list, which may include location, species and reason for listing, and may allow for information to be not published for reasons of security of the tree or the property of which it forms part. 25

3 Protection of heritage trees

- (1) The following provisions apply in relation to heritage trees.
- (2) The responsible planning authority must make a heritage tree preservation order in respect of a heritage tree within one month of the date of receipt of notice of listing, or within two working days of that date in a case of demonstrable urgency (see section 2). 5
- (3) A heritage tree preservation order has retrospective effect from the date of determination by Natural England to list the tree.
- (4) The Secretary of State must make provision by regulations for heritage tree preservation orders, which must include— 10
- (a) provision for a heritage tree to have all the protections afforded to a tree by a tree preservation order under section 198 of the Town and Country Planning Act 1990;
 - (b) provision requiring the owner of a heritage tree, or any other occupier of the land where the tree stands, to advertise appropriately its status as such, and the penalties for harming it, to persons approaching the tree or planning activities in its vicinity; 15
 - (c) provision enabling the responsible planning authority, Natural England or the Secretary of State to order the owner of a heritage tree or any other occupier of the land where the tree stands to take specified reasonable steps to maintain and protect the tree and, if the owner or occupier does not take such steps in reasonable time, to take such steps itself and to recover the reasonable cost of doing so from the owner or occupier; 20
 - (d) provision for the responsible planning authority, Natural England, the Secretary of State or another prescribed responsible body to enter into an agreement with the owner or occupier about the care and preservation of the heritage tree (a “heritage tree partnership agreement”), including about costs; 25
 - (e) provision for additional or higher penalties for breach of a heritage tree preservation order, including in the period between the listing of the tree and the making of the order; 30
- and must not include notice or consultation requirements which repeat those required for listing under section 2.
- (5) In the Sentencing Code, after section 72 (supply of psychoactive substance) insert— 35

“72A Harm to heritage tree

Where a court is considering the seriousness of an offence involving harm to a heritage tree in England (see the Heritage Trees Act 2024), the court must treat that harm as an aggravating factor and must state in open court that the offence is so aggravated.” 40

- (6) The responsible planning authority must report to Natural England on the condition and security of each heritage tree in its area within one year of receiving notice of listing and at least every five years thereafter.

4 Regulations

- (1) Regulations under this Act are made by statutory instrument.
- (2) The first statutory instrument containing regulations under section 3 may not be made unless a draft of the instrument has been laid before and approved by resolution of both Houses of Parliament.
- (3) Other such statutory instruments are subject to annulment in pursuance of a resolution of either House of Parliament.

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5 Interpretation

In this Act, “Natural England” includes any successor body.

6 Extent, commencement and short title

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- (1) This Act extends to England and Wales only.
- (2) This Act comes into force on the day on which it is passed.
- (3) This Act may be cited as the Heritage Trees Act 2024.

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Baroness Young of Old Scone

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