

11.1 Introduction

There is a range of legal obligations on those owning, managing or working on ancient trees. It is your responsibility to establish which of these applies in your situation.

1. *Tree Preservation Orders*
2. *Conservation Areas (towns and villages)*
3. *Felling licences*
4. *SSSI/NNR/SAC*
5. *Scheduled Ancient Monument*
6. *Wildlife and Countryside Act - Bats*
7. *Wildlife and Countryside Act - other species*
8. *Hedgerow legislation*
9. *Owners/occupier liability*
10. *Health and safety (operational work)*

11.2 Tree Preservation Orders

These are placed on trees by the local planning authority for amenity reasons and usually apply to individual trees (occasionally groups of trees or areas). Permission is required from the local planning authority for any work to be done on the tree (including pollarding and crown thinning) and heavy fines are given for not gaining permission. Veteran trees can, however, still be felled if they are considered unsafe. It is possible for anyone to request that a TPO is put on any particular tree (contact your Local Authority) although it may not always be carried out. They are usually placed on trees of landscape interest but there are some exemptions.

11.3 Conservation Areas (towns and villages)

Any trees in a designated conservation area of a town or village are protected in the same way as trees with TPOs. If in any doubt, contact your Local Authority.

11.4 Felling licence

This is required from the Forestry Commission for felling more than 5 m³ in any calendar quarter, eg 1st January to 31st March. If less is felled then no more than 2 m³ can be sold. There are various exemptions and the Forestry Commission should be contacted for details. It may be necessary to clear surrounding woodland or commercial plantations from veteran trees and a felling licence would be necessary in these situations. Note that permission is not required for pollarding but is for cutting coppice when the stems have a diameter of more than 15 cm.

11.5 SSSI/NNR/SAC

For sites with a designated conservation status, work on old trees (both surgery and felling) needs to be approved by the relevant statutory nature conservation agency. The best way is usually to draw up a management plan, which is then approved. Then only work not included in the plan will need further approval.

11.6 Scheduled Ancient Monuments

If work affects a Scheduled Ancient Monument, or is in the vicinity of one, Scheduled Monument Consent may be necessary. Advice should be sought from the appropriate Inspector of Ancient Monuments for English Heritage, CADW or Historic Scotland.

11.7 Wildlife and Countryside Act - Bats

All bats and their roosts are protected under the Wildlife and Countryside Act (Schedule 5), 1981 (as amended) and are also included in Schedule 2 of the Conservation Regulations, 1994. The roost is protected even if the bats are not present at the time. If bats are found or a roost is suspected the relevant statutory nature conservation organisation should be contacted immediately. Information on bats is also available from the Bat Conservation Trust.

11.8 Wildlife and Countryside Act - other species

During the course of work on veteran trees other species may be encountered which are covered by legislation. It is an offence to take or destroy an egg laid by a wild bird and this includes destroying nests with eggs in during the course of tree surgery. The law with regard to birds is quite complex; some species have greater protection than this and others are not protected. If in doubt, check the Act (obtainable from HMSO).

Other species are protected too, for example badgers and their setts.

11.9 Hedgerows

Important hedges are protected under the Hedgerow Regulations (1997). Removal, including removal of trees, requires permission for certain categories of hedges. Your local authority should be contacted before any work is done.

11.10 Owner/occupier liability

All trees can be dangerous if they fall on people or property and there is a perception that old trees are more dangerous than young ones. The owner of a property has a duty of care to people coming onto his land (even if they are trespassing) and should take all reasonable action to make sure that his trees are safe. Ultimately, the only truly safe tree is one felled at ground level but this is not an option that should be followed with ancient trees unless there is really no other solution.

It is necessary for the owner therefore to look at the risk associated with his trees, ie the chance that if it fell it would cause damage. He should ensure that he has a system in place for assessing and surveying trees and for dealing promptly with any trees that are hazardous and in high-risk areas.

This complex issue is considered in more detail in a separate leaflet produced by the Veteran Trees Initiative.

11.11 Health and safety at work

The health and safety regulations for occupational workers and other persons in the vicinity are extensive. Work on ancient trees can be extremely dangerous. Ensure that those working on such trees are approved contractors (eg the Arboricultural Association has a list) who take safety issues seriously. These contractors are certificated in climbing, chainsaw use and using a chainsaw at height. If using 'in house' staff they should be properly trained (eg in the use of chainsaws and in climbing trees) and wearing appropriate personal protective equipment. Do not let volunteers use machinery or carry out work on old trees unless you know that they are fully trained and protected.