

BREACH OF A TREE PRESERVATION NOTICE

Planning (NI) Order 1991

66. - (1) If any person, in contravention of a tree preservation order, cuts down, uproots or wilfully destroys a tree, or wilfully damages, tops or lops a tree in such a manner as to be likely to destroy it, he shall be guilty of an offence ...

...

(2) If any person contravenes a tree preservation order otherwise than as mentioned in paragraph (1), he shall be guilty of an offence ...

Maximum Sentence:

Planning (NI) Order 1991, Art. 66

(1) Offence under Article 66(1)

Indictment: 2 years imprisonment and/or Unlimited Fine

Summary: 6 months imprisonment and/or £30,000 Fine (for offences committed before 4 May 2011)

6 months imprisonment and/or £100,000 Fine (for offences committed on or after 4 May 2011)

(2) Offence under Article 66(2)

Summary: Level 4 Fine (£2,500) (for offences committed on or after 12 November 2003)

Assessment of Offence

(Starting points and ranges based on 1st time offender convicted following contest)

<u>Nature of Offence</u>		<u>Starting Point</u>	<u>Sentencing Range</u>
Act falling within Article 66(1)	Offence committed on non-commercial basis	£5,000 Fine	Fine to Community Order
	Offence committed on commercial basis	£25,000 Fine	Fine to 3 months Custody
Act falling within Article 66(2)		Fine	Fine

Examples of Possible Aggravating Factors of Offence

1. Offence committed for financial gain (whether profit or cost-saving)
2. Nature of offence has necessitated tree being cut down
3. Offence was committed on commercial basis (where offence is an act falling within Article 66(2))

Examples of Possible Mitigating Factor of Offence

1. Offender had honest belief that tree was not subject to relevant prohibition.

Relevant Cases:

NI Cases:

N/A

English Cases

R v Palmer [1989] 11 Cr App R(S) 407

Notes:

1. In determining the amount of any fine to be imposed on a person convicted of an offence under paragraph (1), the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence. – Article 66(1A) of the 1991 Order