



Forestry and Land Management (Scotland) Act 2018

2018 asp 8

PART 4

FELLING

CHAPTER 3

FELLING PERMISSION

33 Felling of trees subject to tree preservation orders

- (1) If an application for felling permission relates to a tree that is covered by a tree preservation order, the Scottish Ministers may—
 - (a) after complying with subsection (2), decide whether to grant permission, or
 - (b) if consent under the order is required for the felling of the tree, refer the application to the planning authority that made the order.
- (2) The Scottish Ministers must—
 - (a) consult the planning authority that made the order, and
 - (b) have regard to any representations made by that planning authority.
- (3) Where an application is referred to a planning authority, the provisions of the order and any provisions of the Town and Country Planning (Scotland) Act 1997 relating to the order apply as if the application were an application to the planning authority for consent to fell the tree under the order.
- (4) Section 23 (offence of unauthorised felling) does not apply to felling where—
 - (a) an application has been referred under subsection (1)(b),
 - (b) the planning authority has consented to the felling, and
 - (c) the felling is carried out in accordance with the consent.
- (5) Felling of a tree that is covered by a tree preservation order is not a breach of the order if the felling is carried out in accordance with—

Changes to legislation: There are currently no known outstanding effects for the Forestry and Land Management (Scotland) Act 2018, Section 33. (See end of Document for details)

- (a) a felling permission,
 - (b) a felling direction,
 - (c) a restocking direction,
 - (d) a registered notice to comply,
 - (e) a remedial notice, or
 - (f) a registered remedial notice.
- (6) In this section and section 34, a tree is covered by a tree preservation order if the tree—
- (a) is subject to a tree preservation order, or
 - (b) forms part of a group of trees or woodland that is subject to a tree preservation order.
- (7) A “tree preservation order” means an order made or having effect as if made under section 160 of the Town and Country Planning (Scotland) Act 1997.

Commencement Information

II S. 33 in force at 1.4.2019 by S.S.I. 2019/47, **reg. 2** (with **regs. 3-22**)

Changes to legislation:

There are currently no known outstanding effects for the Forestry and Land Management (Scotland) Act 2018, Section 33.