

*These notes refer to the Forestry Act (Northern Ireland)
2010 (c.10) which received Royal Assent on 28 June 2010*

Forestry Act (Northern Ireland) 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2– Protection of Forest Trees from Damage

Section 8– Control of animals in forests

Section 9– Control (with permission of occupier) of animals on land adjacent to forest

Section 10– Control of animals on land adjacent to forests

Sections 8 to 10 are intended to protect forest trees from damage by wild animals. Section 8 allows the occupier, in the event of damage to growing trees by deer or hares (except Irish hares), to cull such animals in their close season.

Section 9 allows the Department to request that occupiers of land adjoining forest take effective measures against wild animals that pose a threat to that forest. As a further resort, the Department may seek permission to enter the land to take, kill or destroy the animals.

Section 10 is similar, except that it would allow mandatory measures rather than the consensual ones in section 9. Section 10 will remain dormant, to be used only at such time as a widespread problem will warrant its activation, when it must be laid before the Assembly (section 39). In both section 9 and section 10, “wild animals” specifically excludes birds, the Irish hare and animals protected by Schedule 5 to the Wildlife (Northern Ireland) Order 1985.

Section 11 – Removal or destruction of vegetation on adjoining land

Section 11 allows the Department, to prevent fire risk from vegetation on uncultivated land adjoining a forest. It may serve a notice on the occupier of the uncultivated land requesting that any vegetation within a 15 metre boundary of the forest should be removed or destroyed or other specified measures taken to reduce fire risk. If the occupier fails to comply within 4 months of the date of service of the notice, an authorised person may remove or destroy the vegetation or take other appropriate action to reduce the fire risk.

Section 12 – Protection for persons acting under sections 8 to 11

Section 7(1)(a) of the Game Preservation Act (Northern Ireland) 1928 forbids the culling of hares in their close season and Section 7(A)(1)(a) forbids their culling on Sundays. Article 19(1) of the Wildlife (Northern Ireland) Order 1985 prohibits the killing of fallow, sika and red deer in the close season.

Article 19(4) of the Wildlife (Northern Ireland) Order 1985 forbids the taking and removing of live deer, their marking or tagging, or their transportation by aircraft, other than inside the aircraft. Persons will be protected against these prohibitions where they take action under sections 8, 9 or 10 of the Forestry Act.

Section 7B of the Game Preservation Act (Northern Ireland) 1928 prohibits the taking, destruction or molestation of the nests or eggs of game birds. Section 7E of the Game Preservation Act (Northern Ireland) 1928 prohibits the burning or destruction from 15 April to the 31 August of cover for game birds. Persons will be protected against these prohibitions where they remove or destroy vegetation under section 11 of the Forestry Act.

Article 10(4) of the Wildlife (Northern Ireland) Order 1985 prohibits the damaging, destruction, or obstruction of the shelter or protective place of any wild animal protected under Schedule 5 of that Order. Article 14 of the Wildlife (Northern Ireland) Order 1985 prohibits the picking, uprooting, removal or destruction of wild plants protected under its Schedule 8. Persons will be protected against these prohibitions where they remove or destroy vegetation under section 11 of the Forestry Act.

Section 13 – Burning of vegetation

Under this section, a person wishing to burn vegetation within one and a half kilometres of a forest not owned by that person is required to give to the forest owner notice of between 14 days and one calendar month.

An offence is created for failure to comply with this requirement.

Following receipt of the notice, a forest owner may serve a counter notice objecting to the proposed burning as it may cause damage. A person who burns vegetation in contravention of the requirement for notice or after receiving a counter notice is liable for any damage caused to the forest.

Section 14 – Protection of forest trees, etc from pests

Section 14 amends the [Plant Health Act \(Northern Ireland\) 1967 \(c. 28\)](#) to provide powers to make subordinate legislation to control the tree disease risk posed by imported wood packaging.