Forestry Act 1967

1967 CHAPTER 10

E+W+S

F1

An Act to consolidate the Forestry Acts 1919 to 1963 with corrections and improvements made under the Consolidation of Enactments (Procedure) Act 1949. [22nd March 1967]

Textual Amendments

F1 Act repealed (S.) (1.4.2019) by Forestry and Land Management (Scotland) Act 2018 (asp 8), s. 85(2), **sch. 2** (with ss. 80, 83); S.S.I. 2019/47, reg. 2 (with transitional provisions and savings in regs. 3-22 (as amended (18.3.2021) by The Forestry and Land Management (Scotland) Act 2018 (Consequential, Saving and Transitional Provisions) Regulations 2021 (S.S.I. 2021/44), regs. 1(1), **11(2)(b)(3)(a)**))

Modifications etc. (not altering text)

C1 Act modified (27.7.2023) by The Boston Alternative Energy Facility Order 2023 (S.I. 2023/778), arts. 1, **42(3)** (with arts. 5, 53, Sch. 8 paras. 6, 64)

Commencement Information

I1 Act wholly in force at Royal Assent.

[F1 PART I E+W+S

FORESTRY AND AFFORESTATION IN GREAT BRITAIN

1 The Forestry Commission. E+W+S

(1) The Forestry Commissioners constituted under the Forestry Acts 1919 to 1945 shall continue in existence and are in this Act referred to as "the Commissioners".

[F2(1A) In this Act, "the appropriate forestry authority" means—

(a) in relation to England F3..., the Commissioners;

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(b) in relation to Wales, the Natural Resources Body for Wales.**]**

(2) The **[**[F4]appropriate forestry authority**]** shall be charged with the general duty of promoting the interests of forestry, the development of afforestation and the production and supply of timber and other forest products [F5]**[**[F6]... **[**[F7]in England and in Wales**]]** and in that behalf shall have the powers and duties conferred or imposed on them by this Act.

[F8](2A) . . . . . .

(3) The **[**[F9]appropriate forestry authority's**]** general duty **[**[F10]under subsection (2)**]**includes that of promoting the establishment and maintenance [F11]**[**[F6]... **[**[F12]in England and in Wales**]]** of adequate reserves of growing trees.

[[F13](3A) In discharging their functions under the Forestry Acts 1967 to 1979 the **[**[F14]appropriate forestry authority**]** shall, so far as may be consistent with the proper discharge of those functions, endeavour to achieve a reasonable balance between—

(a) the development of afforestation, the management of forests and **[**[F15]the production and supply of timber**[**[F15], the production and supply of timber [F16]...**]]**, and

(b) the conservation and enhancement of natural beauty and the conservation of flora, fauna and geological or physiographical features of special interest.**]**

[[F17](3B) In subsection (3A) "functions" means—

(a) in relation to the Commissioners, functions [F18]...;

(b) in relation to the Natural Resources Body for Wales, functions under this Act.**]**

(4) The Commissioners shall, in exercising their functions under this Act, and also in exercising their powers under the [M1]Plant Health Act 1967 (which enables them to make orders for the control of timber pests and diseases), comply with such directions as may be given to them by

[[F19](a) the Ministers in relation to the exercise of their functions as regards England [F20]...; [F21]...**]**

[F21](b) . . . . . .

[F22](5) . . . . . .

[F23](6) . . . . . .

Textual Amendments

F2 S. 1(1A) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 45(2)** (with Sch. 7)

F3 Words in s. 1(1A)(a) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 4(a)**; S.S.I. 2019/47, reg. 2

F4 Words in s. 1(2) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 45(3)(a)** (with Sch. 7)

F5 Words in s. 1(2) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 4(b)**; S.S.I. 2019/47, reg. 2

F6 Words in s. 1(2)(3) substituted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(2)**

F7 Words in s. 1(2) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 45(3)(b)** (with Sch. 7)

F8 S. 1(2A) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 4(c)**; S.S.I. 2019/47, reg. 2

F9 Words in s. 1(3) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 45(4)(a)** (with Sch. 7)

F10 Words in s. 1(3) inserted (S.) (1.3.2012) by The Forestry Commissioners (Climate Change Functions) (Scotland) Order 2012 (S.S.I. 2012/77), arts. 1, **2(b)**

F11 Words in s. 1(3) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 4(d)**; S.S.I. 2019/47, reg. 2

F12 Words in s. 1(3) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 45(4)(b)** (with Sch. 7)

F13 S. 1(3A) added by Wildlife and Countryside (Amendment) Act 1985 (c. 31, SIF 4), **s. 4**

F14 Words in s. 1(3A) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 45(5)(b)** (with Sch. 7)

F15 Words in s. 1(3A)(a) substituted (S.) (1.3.2012) by The Forestry Commissioners (Climate Change Functions) (Scotland) Order 2012 (S.S.I. 2012/77), arts. 1, **2(c)**

F16 Words in s. 1(3A)(a) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 4(e)**; S.S.I. 2019/47, reg. 2

F17 S. 1(3B) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 45(6)** (with Sch. 7)

F18 Words in s. 1(3A) omitted (1.4.2013) by virtue of The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 45(5)(a)** (with Sch. 7)

F19 S. 1(4)(a)(b) substituted (1.7.1999) for words "the Ministers" by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(3)**

F20 Words in s. 1(4)(a) omitted (1.4.2013) by virtue of The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 45(7)** (with Sch. 7)

F21 S. 1(4)(b) and word omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 4(f)**; S.S.I. 2019/47, reg. 2

F22 S. 1(5) omitted (1.4.2013) by virtue of The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 45(8)** (with Sch. 7)

F23 S. 1(6) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 4(g)**; S.S.I. 2019/47, reg. 2

Marginal Citations

M1 1967 c. 8**(2:11)**

2 Constitution, administration, etc., of Commission. E+W+S

(1) The Commissioners shall consist of a chairman and not more than **[**[F24]ten**]** other members appointed by Her Majesty by warrant under the sign manual to be Forestry Commissioners.

(2) Of the persons for the time being appointed to be Forestry Commissioners—

(a) at least three shall be persons who have special knowledge and experience of forestry;

(b) at least one shall be a person who has scientific attainments and a technical knowledge of forestry; and

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(c) at least one shall be a person who has special knowledge and experience of the timber trade.

(3) The Commissioners shall by order appoint **[**[F25]a committee for England**]** respectively, whose membership shall consist partly of persons who are Forestry Commissioners or officers of the Commissioners and partly of persons not exceeding three in number, who are not Forestry Commissioners or officers of the Commissioners; and the Commissioners may delegate, subject to such restrictions or conditions as they think fit, any of their functions to a committee so appointed.

(4) Part I of Schedule 1 to this Act shall have effect with respect to the Commissioners, their staff, proceedings and other related matters and to the **[**[F26]committee**]** appointed under subsection (3) of this section; and Part II of that Schedule shall have effect with respect to the superannuation of Forestry Commissioners and officers employed by the Commissioners.

Textual Amendments

F24 Word substituted by Forestry Act 1981 (c. 39, SIF 54), **s. 5**

F25 Words in s. 2(3) substituted (1.4.2019) by The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 5(a)**; S.S.I. 2019/47, reg. 2

F26 Word in s. 2(4) substituted (1.4.2019) by The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 5(b)**; S.S.I. 2019/47, reg. 2

3 Management of forestry land. E+W+S

(1) The **[**[F27]appropriate forestry authority**]** may manage, plant and otherwise use, for the purpose of the exercise of their functions under this Act, any land [F28]**[**[F29]... in **[**[F30] England or Wales**]]** placed at their disposal by the Minister under this Act, and—

(a) the power of the **[**[F27]appropriate forestry authority**]** under this subsection to manage and use any land shall, without prejudice to the generality of that power, include power to erect buildings or execute works on the land;

(b) any timber produced on land so placed at the **[**[F31]appropriate forestry authority's**]** disposal shall belong to the **[**[F27]appropriate forestry authority**]**.

(2) The **[**[F32]appropriate forestry authority**]** may undertake the management or supervision, upon such terms and subject to such conditions as may be agreed upon, or give assistance or advice in relation to the planting or management, of any woods or forests belonging to any person, including woods and forests under the management of the Crown Estate Commissioners [F33]... or under the control of a government department, or belonging to a local authority.

(3) The **[**[F34]appropriate forestry authority**]** may—

(a) purchase or otherwise acquire standing timber, and sell or otherwise dispose of any timber belonging to them or, subject to such terms as may be mutually agreed, to a private owner, and generally promote the supply, sale, utilization and conversion of timber;

(b) establish and carry on, or aid in the establishment and carrying on, of woodland industries.

(4) In this section the expression “timber” includes all forest products.

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Textual Amendments

F27 Words in s. 3(1) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 46(2)(a)** (with Sch. 7)

F28 Words in s. 3(1) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 6(a)**; S.S.I. 2019/47, reg. 2

F29 Words in s. 3(1) inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(5)**

F30 Words in s. 3(1) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 46(2)(b)** (with Sch. 7)

F31 Words in s. 3(1) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 46(2)(c)** (with Sch. 7)

F32 Words in s. 3(2) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 46(3)** (with Sch. 7)

F33 Words in s. 3(2) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 6(b)**; S.S.I. 2019/47, reg. 2

F34 Words in s. 3(3) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 46(4)** (with Sch. 7)

Modifications etc. (not altering text)

C2 S. 3(1) amended by Countryside Act 1968 (c. 41, SIF 46:1), **s. 24(1)**

4 . . . . . [F35] **E+W+S**

Textual Amendments

F35 S. 4 repealed by Forestry Act 1979 (c. 21, SIF 54), s. 3(2), **Sch. 2**

5 Forestry dedication covenants [F36]…. E+W+S

(1) The provisions of this section shall have effect with a view to allowing land to be devoted to forestry by means of agreements entered into with the **[**[F37]appropriate forestry authority**]**, being agreements to the effect that the land shall not, except with the previous consent in writing of the **[**[F37]appropriate forestry authority**]** or, in the case of dispute, under direction of the minister **[**[F38]as regards **[**[F39]England or Wales**]**[F40]...**]**, be used otherwise than for the growing of timber or other forest products in accordance with the rules or practice of good forestry or for purposes connected therewith; and in this Act—

(a) "forestry dedication covenant" means a covenant to the said effect entered into with the **[**[F37]appropriate forestry authority**]** in respect of land in England or Wales without an intention being expressed contrary to the application of section 79 of the [M2]Law of Property Act 1925 (under which covenants relating to land are, unless the contrary is expressed, deemed to be made on behalf of the covenantor, his successors in title and persons deriving title under him or them); [F41] . . .

[F41](b) . . . . . .

(2) Where land in England or Wales is subject to a forestry dedication covenant,—

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(a) the **[**[F42]appropriate forestry authority**]** shall, as respects the enforcement of the covenant against persons other than the covenantor, have the like rights as if they had at all material times been the absolute owners in possession of ascertained land adjacent to the land subject to the covenant and capable of being benefited by the covenant, and the covenant had been expressed to be for the benefit of that adjacent land; and

(b) section 84 of the [M3]Law of Property Act 1925 (which enables the **[**[F43]Upper Tribunal**]** to discharge or modify restrictive covenants) shall not apply to the covenant.

[F44](3) . . . . . .

(4) Schedule 2 to this Act shall have effect to empower limited owners, trustees and others to enter into forestry dedication covenants or agreements and to provide for matters arising on their doing so.

Textual Amendments

F36 Words in s. 5 title omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 7(a)**; S.S.I. 2019/47, reg. 2

F37 Words in s. 5(1) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 47(2)** (with Sch. 7)

F38 Words in s. 5(1) inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(6)**

F39 Words in s. 5(1) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 47(3)** (with Sch. 7)

F40 Words in s. 5(1) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 7(b)**; S.S.I. 2019/47, reg. 2

F41 S. 5(1)(b) and word omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 7(c)**; S.S.I. 2019/47, reg. 2

F42 Words in s. 5(2) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 47(2)** (with Sch. 7)

F43 Words in s. 5(2)(b) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 1, **Sch. 1 para. 76** (with Sch. 5)

F44 S. 5(3) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 7(d)**; S.S.I. 2019/47, reg. 2

Modifications etc. (not altering text)

C3 S. 5(3)(4) extended (S.) with modifications by Roads (Scotland) Act 1984 (c. 54, SIF 108), **s. 46(3)**

Marginal Citations

M2 1925 c. 20**(98:1)**

M3 1925 c. 20**(98:1)**

6 Requirements for haulage facilities. E+W+S

(1) The provisions of this section shall have effect where the **[**[F45]appropriate forestry authority**]** are of opinion that insufficient facilities exist for the haulage of timber from any wood or forest to a road, railway or waterway.

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(2) Subject to the following subsections, the **[**[F45]appropriate forestry authority**]** may, where they are of the said opinion, make an order that the owner and occupier of any land shall afford the necessary facilities, subject to payment by the person in whose favour the order is made of reasonable rent or wayleave and of compensation for any damage caused by the haulage, and the owner or occupier shall thereupon comply with the order.

(3) The **[**[F45]appropriate forestry authority**]** shall not make an order under this section until the person proposed to be required to give the said facilities has had an opportunity of being heard.

[[F46](4) a person aggrieved by an order under this section may–

(a) where the order is made in respect of land in **[**[F47]England or Wales**]**, appeal therefrom to the Minister in such manner and upon such conditions, if any, as may be prescribed by the Minister, who may thereupon revoke or vary the order; [F48] ...

[F48](b) . . . . . .**]**

(5) The amount of rent or wayleave and compensation for damage which is payable in consequence of an order made under this section shall, in default of agreement, be assessed [F49]...—

(a) in a case relating to **[**[F47]England or Wales**]**, by a single arbitrator appointed by the President of the Royal Institution of Chartered Surveyors; [F50] ...

[F50](b) . . . . . .

Textual Amendments

F45 Words in s. 6 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 47(2)** (with Sch. 7)

F46 S. 6(4) substituted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(7)**

F47 Words in s. 6 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 47(3)** (with Sch. 7)

F48 S. 6(4)(b) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 8(a)**; S.S.I. 2019/47, reg. 2

F49 Words in s. 6(5) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 8(b)(i)**; S.S.I. 2019/47, reg. 2

F50 S. 6(5)(b) and word omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 8(b)(ii)**; S.S.I. 2019/47, reg. 2

7 Prevention of damage by rabbits, hares and vermin. E+W+S

(1) The provision of this section shall have effect where the **[**[F51]appropriate forestry authority**]** are satisfied that trees or tree plants are being, or are likely to be, damaged by rabbits, hares or vermin owing to the failure of an occupier of land to destroy sufficiently the rabbits, hares or vermin on land in his occupation, or otherwise to take steps for the prevention of damage by them.

(2) The **[**[F51]appropriate forestry authority**]** may, where they are so satisfied, authorise in writing any competent person to enter on the land and kill and take the rabbits, hares

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or vermin thereon; but before doing so they shall first give to the occupier and owner of the land such opportunity as the **[**[F51]appropriate forestry authority**]** think reasonable of destroying the rabbits, hares or vermin, or of taking steps for the prevention of the damage.

(3) The **[**[F51]appropriate forestry authority**]** may recover from the occupier of the land the net cost incurred by them in connection with action taken by them under the foregoing subsection.

A sum recoverable under this subsection shall, in England or Wales, be recoverable summarily as a civil debt.

(4) Anyone who obstructs a person authorised by the **[**[F51]appropriate forestry authority**]** in the due exercise of his powers or duties under subsection (2) above shall be liable on summary conviction to a fine not exceeding **[**[F52]level 2 on the standard scale**]**; but the person authorised shall, if so required, produce his authority.

(5) For purposes of this section—

(a) the person entitled to kill rabbits, hares or vermin on any common land shall be deemed to be the occupier of the land; and

(b) the expression "vermin" includes squirrels.

Textual Amendments

F51 Words in s. 7 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 48** (with Sch. 7)

F52 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G**

[[F53]**7A Incidental powers of Commissioners** E+W+S

(1) For the purpose of the exercise of their functions under this Act so far as relating to [F54]... land in England [F55]..., or for the purpose of the exercise of their functions under section 8(1)(b) of this Act, the Commissioners may—

(a) form, or participate in the forming of, a body corporate;

(b) invest in a body corporate;

(c) provide loans;

(d) establish a charitable trust; or

(e) act, or appoint a person to act, as an officer of a body corporate or as a trustee of a charitable trust.

(2) The powers contained in subsection (1)(b) and (c) shall be exercisable only with Treasury approval.**]**

Textual Amendments

F53 S. 7A inserted (16.3.2006) by Regulatory Reform (Forestry) Order 2006 (S.I. 2006/780), arts. 1(1), **2**

F54 Words in s. 7A(1) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 9**; S.S.I. 2019/47, reg. 2

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F55 Words in s. 7A(1) omitted (1.4.2013) by virtue of The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 49** (with Sch. 7)

[F56 7AA Renewable energy installations E+W+S

(1) The Commissioners may, for the purpose of complying with their general duty under section 1(2A)—
   (a) promote, develop, construct and operate installations for or in connection with the generation, transmission, distribution and supply of electricity produced from renewable sources, and
   (b) use electricity produced by virtue of the powers conferred by paragraph (a).

(2) In subsection (1), "renewable sources" means sources other than—
   (a) fossil fuel,
   (b) energy derived from fossil fuel, and
   (c) nuclear fuel.

(3) In subsection (2), "fossil fuel" means—
   (a) coal,
   (b) lignite,
   (c) peat,
   (d) natural gas (within the meaning of the Energy Act 1976),
   (e) crude liquid petroleum,
   (f) petroleum products (within the meaning of that Act),
   (g) any substance produced directly or indirectly from a substance mentioned in paragraphs (a) to (f).

(4) Nothing in this section is to be construed as exempting the Forestry Commissioners from the requirements of Part 1 of the Electricity Act 1989.**]**

Textual Amendments

F56 S. 7AA inserted (S.) (8.11.2012) by The Forestry Commissioners (Climate Change Functions) (Scotland) Order 2012 (Consequential Modifications) Order 2012 (S.I. 2012/2855), arts. 1(2), **2(a)**

[F57 7B Delegation of functions of Commissioners: Scotland S

(1) The Commissioners may, to such extent and subject to such conditions as they think appropriate, delegate their functions under section 3(1) and (3) **[**F58 and section 7AA**]** of this Act to such community bodies as they consider appropriate.

(2) A delegation under subsection (1) may only be made in relation to land in Scotland—
   (a) placed at the disposal of the Commissioners by the Scottish Ministers under this Act, and
   (b) which is let to the community body to which the delegation is made.

(3) A delegation under subsection (1) does not affect the ability of the Commissioners to carry out the function delegated.

(4) A delegation under subsection (1) does not affect the ability of the Scottish Ministers to—

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(a) determine which land in Scotland is placed at the disposal of the Forestry Commissioners,

(b) give directions under section 1 to the Commissioners in relation to the land in question.

(5) A delegation under subsection (1) may be varied or revoked at any time.

(6) In this section, " community body " has the meaning given in section 7C.

Textual Amendments

F57 S. 7B, S. 7C inserted (S) (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), **ss. 11**, 134(7); S.S.I. 2010/221, art. 3(2), Sch.

F58 Words in s. 7B(1) inserted (S.) (8.11.2012) by The Forestry Commissioners (Climate Change Functions) (Scotland) Order 2012 (Consequential Modifications) Order 2012 (S.I. 2012/2855), arts. 1(2), **2(b)**

7C Delegation of functions under section 7B: community bodies S

(1) A community body is, subject to subsection (3), a **[**[F59]body corporate having a written constitution that includes**]** the following—

(a) a definition of the community to which the **[**[F60]body**]** relates,

(b) provision that the **[**[F60]body**]** must have not fewer than 20 members,

(c) provision that the majority of the members of the **[**[F60]body**]** is to consist of members of the community,

(d) provision by which the members of the **[**[F60]body**]** who consist of members of the community have control of the **[**[F60]body**]** ,

[[F61](da) provision that membership of the body is open to any member of the community,

(db) a statement of the body's aims and purposes, including the promotion of a benefit for the community,**]**

(e) provision ensuring proper arrangements for the financial management of the **[**[F60]body**]****[**[F62], and

(f) provision that any surplus funds or assets of the body are to be applied for the benefit of the community.**]**

(2) The Commissioners may, if they think it in the public interest to do so, disapply such requirements specified in paragraphs (b) to **[**[F63](db)**]** in subsection (1) in relation to any body they may specify.

(3) A body is not a community body unless the Commissioners have given it written confirmation that they are satisfied that the main purpose of the body is consistent with furthering the achievement of sustainable development.

[F64](4) . . . . . .

[F64](5) . . . . . .

[F64](6)**]** . . . . . .

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Textual Amendments

F57 S. 7B, S. 7C inserted (S) (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), **ss. 11**, 134(7); S.S.I. 2010/221, art. 3(2), Sch.

F59 Words in s. 7C(1) substituted (23.1.2017) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 98(2)(a)**, 142(1); S.S.I. 2016/363, art. 3(c)

F60 Word in ss. 7C(1)(a)-(e) substituted (23.1.2017) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 98(2)(b)**, 142(1); S.S.I. 2016/363, art. 3(c)

F61 S. 7C(1)(da)(db) inserted (23.1.2017) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 98(2)(c)**, 142(1); S.S.I. 2016/363, art. 3(c)

F62 S. 7C(1)(f) substituted for words in 7C(1)(e) (23.1.2017) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 98(2)(d)**, 142(1); S.S.I. 2016/363, art. 3(c)

F63 Word in s. 7C(2) substituted (23.1.2017) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 98(3)**, 142(1); S.S.I. 2016/363, art. 3(c)

F64 Ss. 7C(4)-(6) repealed (23.1.2017) by Community Empowerment (Scotland) Act 2015 (asp 6), **ss. 98(4)**, 142(1); S.S.I. 2016/363, art. 3(c)

8 Miscellaneous powers of Commissioners. E+W+S

[F65](1) The Commissioners may—

(a) undertake the collection, preparation, publication and distribution of statistics relating to forestry, and promote and develop instruction and training in forestry by establishing or aiding schools or other educational institutions or in such other manner as they think fit;

(b) make, or aid in making, such inquiries, experiments and research, and collect, or aid in collecting, such information as they may think important for the purpose of promoting forestry and the teaching of forestry, and publish or otherwise take steps to make known the results of the inquiries, experiments or research and disseminate the information;

(c) make, or aid in making, such inquiries as they think necessary for the purpose of securing an adequate supply of timber and other forest products [F66][F67]... [F68]in England and in Wales]].

[[F69](2) The Commissioners may exploit any intellectual property or intangible assets arising from the carrying out of any activity referred to in subsection (1)(b).

(3) ”Intellectual property” for the purpose of subsection (2) includes any patent, trademark, copyright, design right, registered design or plant breeder’s right.]

Textual Amendments

F65 S. 8 renumbered as s. 8(1) (16.3.2006) by Regulatory Reform (Forestry) Order 2006 (S.I. 2006/780), arts. 1(1), **3(2)**

F66 Words in s. 8(1)(c) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 10**; S.S.I. 2019/47, reg. 2

F67 Words in s. 8(c) substituted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(8)**

F68 Words in s. 8(1)(c) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 50** (with Sch. 7)

F69 S. 8(2)(3) inserted (16.3.2006) by Regulatory Reform (Forestry) Order 2006 (S.I. 2006/780), arts. 1(1), **3(3)**

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[F70 8A General duty of Ministers. E+W+S

In performing their functions under this Act the Ministers shall have regard to the national interest in maintaining and expanding the forestry resources [F71 of [F72 England or (as the case may be) Wales] F73 ...].]

Textual Amendments

F70 S. 8A inserted by Forestry Act 1981 (c. 39, SIF 54), **s. 4**

F71 Words in s. 8A substituted (30.6.1999) by S.I. 1999/1756, art. 2, **Sch. para.3**

F72 Words in s. 8A substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 51** (with Sch. 7)

F73 Words in s. 8A omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 11**; S.S.I. 2019/47, reg. 2

PART II E+W+S

F74 ... POWER TO CONTROL FELLING OF TREES

Textual Amendments

F74 Word in Pt. II cross-heading omitted (1.4.2013) by virtue of The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 52** (with Sch. 7)

Restriction of felling

9 Requirement of licence for felling. E+W+S

(1) A felling licence granted by the [F75 appropriate forestry authority] shall be required for the felling of growing trees, except in a case where by or under the following provisions of this Part of this Act this subsection is expressed not to apply.

(2) Subsection (1) above does not apply—

(a) to the felling of trees with a diameter not exceeding [F76 8 centimetres] or, in the case of coppice or underwood, with a diameter not exceeding [F76 15 centimetres]; or

(b) to the felling of fruit trees or trees standing or growing on land comprised in an orchard, garden, churchyard or public open space; or

(c) to the topping or lopping of trees or the trimming or laying of hedges.

(3) Subsection (1) above does not apply to the felling by any person of trees on land in his occupation or occupied by a tenant of his—

(a) where the trees have a diameter not exceeding [F76 10 centimetres] and the felling is carried out in order to improve the growth of other trees; or

(b) where the following conditions are satisfied, that is to say—

(i) the aggregate cubic content of the trees which are felled [F77 in the relevant territory] by that person without a licence (exclusive of trees

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to whose felling subsection (1) above does not apply) does not exceed **[**[F78]5 cubic metres**]** in any quarter; and

(ii) the aggregate cubic content of the trees so felled which are sold by that person whether before or after the felling (exclusive as aforesaid) does not exceed **[**[F78]2 cubic metres**]** in any quarter, or such larger quantity as the **[**[F79]appropriate forestry authority**]** may in a particular case allow.

(4) Subsection (1) above does not apply to any felling which—

(a) is for the prevention of danger or the prevention or abatement of a nuisance;

(b) is in compliance with any obligation imposed by or under an Act of Parliament, including this Act;

(c) is carried out by, or at the request of, **[**[F80]an electricity operator, because the tree is or will be in such close proximity to an electric line or electrical plant which is kept installed or is being or is to be installed by the operator as to have the effect mentioned in paragraph 9(1)(a) or (b) of Schedule 4 to the Electricity Act 1989;**]**

(d) is immediately required for the purpose of carrying out development authorised by planning permission granted or deemed to be granted under **[**[F81]the Town and Country Planning Act 1990**]** or the enactments replaced by that Act [F82]... .

(5) Regulations made by the **[**[F83]appropriate legislative authority**]** under this Part of this Act may modify subsections (2) to (4) above as follows, that is to say—

(a) they may provide for additional exceptions from the application of subsection (1) above and may in particular substitute—

(i) in subsection (2)(a), for the reference to **[**[F76]8 centimetres**]** a reference to a larger diameter;

(ii) in subsection (3)(a), for the reference to **[**[F76]10 centimetres**]** a reference to a larger diameter;

(iii) in subsection (3)(b) for the reference to **[**[F76]30 cubic metres**]** or the reference to **[**[F76]5·5 cubic metres**]** in either case a reference to a larger quantity;

(b) they may substitute in subsection (2)(a) for the reference to **[**[F76]15 centimetres**]** a reference to a smaller diameter; and

(c) they may restrict or suspend the exception in subsection (3)(b) and may in particular substitute, for the reference in sub-paragraph (i) to **[**[F76]30 cubic metres**]**, or for the reference in sub-paragraph (ii) to **[**[F76]5·5 cubic metres**]**, in either case a reference to a smaller quantity;

and the said subsections shall have effect with any modification made by regulations under this subsection.

(6) In this section—

[[F84] " electricity operator " means a licence holder within the meaning of Part I of the Electricity Act 1989 by whom the powers conferred by paragraph 9 (tree lopping) of Schedule 4 to that Act are exercisable; **]**

[[F84] " electric line " and " electric plant " have the same meanings as in Part I of the Electricity Act 1989; **]**

"public open space" means land laid out as a public garden or used (otherwise than in pursuance of section 193 of the [M4]Law of Property Act 1925 or of Part V of the National Parks and Access to the [M5]Countryside Act 1949 **[**[F85] or Part I of the Countryside and Rights of Way Act 2000**]****[**[F86]or of Part II

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or section 48 of the [M6]Countryside (Scotland) Act 1967**]**) for the purpose of public recreation, or land being a disused burial ground;

"quarter" means the period of three months beginning with the 1st January, 1st April, 1st July or 1st October in any year;

[[F87]"relevant territory" means—

(a) England [F88]... where the felling is carried out in England [F89]...;

(b) Wales where the felling is carried out in Wales;**]**

and references to the diameter of trees shall be construed as references to the diameter, measured over the bark, at a point **[**[F76]1·3 metres**]** above the ground level; . . . [F90]

Textual Amendments

F1 Act repealed (S.) (1.4.2019) by Forestry and Land Management (Scotland) Act 2018 (asp 8), s. 85(2), **sch. 2** (with ss. 80, 83); S.S.I. 2019/47, reg. 2 (with transitional provisions and savings in regs. 3-22 (as amended (18.3.2021) by The Forestry and Land Management (Scotland) Act 2018 (Consequential, Saving and Transitional Provisions) Regulations 2021 (S.S.I. 2021/44), regs. 1(1), **11(2)(b)(3)(a)**))

F75 Words in s. 9(1) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 53(2)** (with Sch. 7)

F76 Words substituted by Forestry Act 1979 (c. 21, SIF 54), s. 2(1), **Sch. 1**

F77 Words in s. 9(3)(b)(i) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 53(3)(a)** (with Sch. 7)

F78 Words substituted by virtue of S.I. 1985/1958, **reg. 2**

F79 Words in s. 9(3)(b)(ii) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 53(3)(b)** (with Sch. 7)

F80 Words substituted by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1)(3), Sch. 16 para. 13(2), Sch. 17 paras. 33, **35(1)**

F81 Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2**, para. 14(1)

F82 Words in s. 9(4)(d) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 12(a)**; S.S.I. 2019/47, reg. 2

F83 Words in s. 9(5) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 53(4)** (with Sch. 7)

F84 Definition substituted by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1)(3), Sch. 16 para. 13(3), Sch. 17 paras. 33, **35(1)**

F85 Words in s. 9(6) inserted (19.9.2004 for E., 28.5.2005 for W.) by Countryside and Rights of Way Act 2000 (c. 37), s. 103(3), **Sch. 4 para. 2**; S.I. 2004/2173, art. 2(1)(i); S.I. 2005/423, art. 2(h)

F86 Words inserted by Countryside (Scotland) Act 1967 (c. 86, SIF 46:1), **s. 58(5)**

F87 Words in s. 9(6) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 53(5)** (with Sch. 7)

F88 Words in s. 9(6) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 12(b)(i)**; S.S.I. 2019/47, reg. 2

F89 Words in s. 9(6) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 12(b)(ii)**; S.S.I. 2019/47, reg. 2

F90 Words repealed by Forestry Act 1979 (c. 21, SIF 54), s. 3(2), **Sch. 2**

Modifications etc. (not altering text)

C4 S. 9 excluded by S.I. 1979/792, **reg. 4**

C5 Definition of "public open space" restricted by Countryside Act 1968 (c. 41, SIF 46:1), **s. 24(4)**

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Marginal Citations

M4 1925 c. 20**(98:1)**
M5 1949 c. 97**(46:1)**
M6 1967 c. 86**(46:1)**

10 Application for felling licence and decision of Commissioners thereon. E+W+S

(1) An application for a felling licence may be made to the **[**[F91]appropriate forestry authority**]** in the prescribed manner by a person having such an estate or interest in the land on which the trees are growing as enables him, with or without the consent of any other person, to fell the trees.

(2) Subject to the provisions of this Act (and, in particular, to their duty to take advice under section 37(3), the **[**[F91]appropriate forestry authority**]** may on any such application grant the licence, or grant it subject to conditions, or refuse it, but shall grant it unconditionally except in a case where it appears to them to be expedient to do otherwise—

(a) in the interests of good forestry or agriculture or of the amenities of the district; [F92][F93]...

(b) for the purpose of complying with their duty of promoting the establishment and maintenance [F94]... of adequate reserves of growing trees. **[**[F95]; or**]**

[[F95](c) for the purpose of conserving or enhancing the flora, fauna or geological or physiographical features, or the natural beauty or amenity, of any land.**]**

[[F96](c) in relation to land in Wales, after consultation with the applicant for the licence, for the purpose of—

(i) conserving or enhancing natural beauty;

(ii) conserving flora, fauna, geological or physiographical features, or natural habitats.**]**

(3) A felling licence shall continue in force for such period (not being less than one year from the date on which it is granted) as may be specified therein.

[[F97](3A) The Natural Resources Body for Wales, and the person responsible, may agree to amend the licence at any time (but see section 10A, which imposes further requirements in relation to amendments in respect of trees to which a tree preservation order relates).

(3B) For the purposes of subsection (3A) of this section, and section 10A, the person responsible is—

(a) the applicant for the licence, if the applicant has such estate or interest in the land as is referred to in subsection (1), or

(b) if the applicant no longer has such estate or interest, a person who has such estate or interest.**]**

(4) If in the case of any trees the **[**[F91]appropriate forestry authority**]** refuse an application for a felling licence, the consequences shall be as follows:—

(a) except in a case to which section 14(4) below applies, any person who is for the time being the owner of the trees shall be entitled to compensation under and in accordance with the next following section; and

(b) if the land on which the trees are growing is, or in the opinion of the **[**[F91]appropriate forestry authority**]** will be, managed in a manner approved by them, the **[**[F91]appropriate forestry authority**]** may (subject to section 14(5)

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below), if they think fit and subject to the approval of the treasury **[**[F98]as regards land in **[**[F99]England or Wales**]**[F100]...**]**, make to persons interested in the land advances by way of loan of such amounts, upon such terms and subject to such conditions, as they may determine.

(5) At any time after a felling licence has been refused by them in the case of any trees, the **[**[F91]appropriate forestry authority**]** may, if they think fit, give notice to the owner of the trees that they are prepared to grant a felling licence for the trees either unconditionally or subject to conditions described in the notice; and if the **[**[F91]appropriate forestry authority**]** give such a notice and an application is duly made to them for a felling licence, they shall grant a licence in accordance with the notice, subject to sections 13(2) and 15 below.

(6) When the **[**[F91]appropriate forestry authority**]** refuse to grant a felling licence, they shall give notice in writing to the applicant of the grounds for the refusal.

(7) Where application is made for a felling licence for trees on land which is subject to a forestry dedication covenant [F101]..., and the licence is refused, no breach of the covenant [F101]... shall be deemed to have occurred by reason of anything done or omitted in consequence of the refusal.

Textual Amendments

F1 Act repealed (S.) (1.4.2019) by Forestry and Land Management (Scotland) Act 2018 (asp 8), s. 85(2), **sch. 2** (with ss. 80, 83); S.S.I. 2019/47, reg. 2 (with transitional provisions and savings in regs. 3-22 (as amended (18.3.2021) by The Forestry and Land Management (Scotland) Act 2018 (Consequential, Saving and Transitional Provisions) Regulations 2021 (S.S.I. 2021/44), regs. 1(1), **11(2)(b)(3)(a)**))

F91 Words in s. 10 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755) , art. 1(2) , **Sch. 2 para. 54(2)** (with Sch. 7)

F92 Word in s. 10(2)(a) omitted (18.8.2023 for specified purposes, 1.4.2024 in so far as not already in force) by virtue of Agriculture (Wales) Act 2023 (asc 4), **ss. 44(2)**, 56(1)(a); S.I. 2023/1092, art. 3(a)

F93 Word in s. 10(2)(a) repealed (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6) , s. 59(2) , **Sch. 7 para. 2(2)(a)** (with s. 55(2)); S.S.I. 2004/495 , art. 2

F94 Words in s. 10(2)(b) omitted (1.7.1999) by virtue of S.I. 1999/1747 , art. 3 , **Sch. 12 Pt. II para. 4(9)**

F95 S. 10(2)(c) and word inserted (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6) , s. 59(2) , **Sch. 7 para. 2(2)(b)** (with s. 55(2)); S.S.I. 2004/495 , art. 2

F96 S. 10(2)(c) and word inserted (18.8.2023 for specified purposes, 1.4.2024 in so far as not already in force) by Agriculture (Wales) Act 2023 (asc 4), **ss. 37**, 56(1)(a); S.I. 2023/1092, art. 3(a)

F97 S. 10(3A)(3B) inserted (18.8.2023 for specified purposes, 1.4.2024 in so far as not already in force) by Agriculture (Wales) Act 2023 (asc 4), **ss. 38(1)**, 56(1)(a); S.I. 2023/1092, art. 3(a)

F98 Words in s. 10(4)(b) inserted (1.7.1999) by S.I. 1999/1747 , art. 3 , **Sch. 12 Pt. II para. 4(10)**

F99 Words in s. 10(4)(b) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755) , art. 1(2) , **Sch. 2 para. 54(3)** (with Sch. 7)

F100 Words in s. 10(4)(b) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 13(a)**; S.S.I. 2019/47, reg. 2

F101 Words in s. 10(7) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 13(b)**; S.S.I. 2019/47, reg. 2

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[F102 10A Amendments made under section 10(3A) that affect tree preservation orders E +W

(1) The provisions of this section apply if—

(a) an amendment to a licence under section 10(3A) is proposed in respect of any trees to which a tree preservation order relates, and

(b) the Natural Resources Body for Wales does not consider that the amendment is necessary to respond to an imminent and serious risk of harm to—

(i) natural beauty, or

(ii) flora, fauna, geological or physiographical features, or natural habitats.

(2) Before amending the licence, the Natural Resources Body for Wales must give notice in writing of the proposal to the authority by whom the tree preservation order was made.

(3) If, within the prescribed period, the authority by whom the tree preservation order was made objects to the amendment in so far as it affects trees to which the tree preservation order relates, and does not withdraw its objection, the Natural Resources Body for Wales must refer the matter to the Welsh Ministers.

(4) If a matter is referred to the Welsh Ministers under subsection (3), the Welsh Ministers may decide to—

(a) grant consent to the amendment, or

(b) refuse to grant consent (in which case the amendment cannot be made).

(5) Where the Natural Resources Body for Wales has given notice in writing under subsection (1) to an authority in respect of a proposed amendment, the proposed amendment cannot be made until—

(a) the period prescribed under subsection (3) has ended without the authority having objected (or, if the authority has objected, that objection has been withdrawn), or

(b) if the Natural Resources Body for Wales has referred the matter to the Welsh Ministers, the Welsh Ministers have given their decision on the matter.

(6) Before deciding whether to grant or refuse consent under subsection (4), the Welsh Ministers must consult—

(a) the person responsible (see section 10(3B));

(b) the Natural Resources Body for Wales;

(c) the authority by whom the tree preservation order was made.]

Textual Amendments

F1 Act repealed (S.) (1.4.2019) by Forestry and Land Management (Scotland) Act 2018 (asp 8), s. 85(2), **sch. 2** (with ss. 80, 83); S.S.I. 2019/47, reg. 2 (with transitional provisions and savings in regs. 3-22 (as amended (18.3.2021) by The Forestry and Land Management (Scotland) Act 2018 (Consequential, Saving and Transitional Provisions) Regulations 2021 (S.S.I. 2021/44), regs. 1(1), **11(2)(b)(3)(a)**))

F102 S. 10A inserted (18.8.2023 for specified purposes, 1.4.2024 in so far as not already in force) by Agriculture (Wales) Act 2023 (asc 4), **ss. 38(2)**, 56(1)(a); S.I. 2023/1092, art. 3(a)

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11 Terms of compensation on refusal of licence. E+W+S

(1) The compensation to which a person may become entitled under section 10(4)(a) above is for any depreciation in the value fo the trees which is attributable to deterioration in the quality of the timber comprised therein in consequence of the refusal of a felling licence for them.

(2) Compensation under this section shall be recoverable from the **[**[F103]appropriate forestry authority**]** on a claim made in the prescribed manner.

(3) Claims for compensation in the case of any trees may be made from time to time in respect of deterioration taking place after the refusal of a felling licence for those trees, but—

(a) no such claim shall be made in respect of deterioration taking place more than ten years before the date of the claim; and

(b) if the trees have been felled, no such claim shall be made after the expiration of one year from the date of the felling.

(4) In calculating compensation,—

(a) no account shall be taken of deterioration in the quality of the timber which is attributable to neglect of the trees after the refusal of a felling licence for them; and

(b) the value of the trees at any time shall be ascertained on the basis of prices current at the date of the claim.

(5) If after refusing a felling licence the **[**[F103]appropriate forestry authority**]** under section 10(5) above subsequently give notice to the owner of the trees that they are prepared to grant a licence, then in calculating compensation payable in consequence of the previous refusal no account shall be taken of deterioration occurring after the giving of the notice.

(6) Any question of disputed compensation shall be determined in accordance with section 31 of this Act.

Textual Amendments

F1 Act repealed (S.) (1.4.2019) by Forestry and Land Management (Scotland) Act 2018 (asp 8), s. 85(2), **sch. 2** (with ss. 80, 83); S.S.I. 2019/47, reg. 2 (with transitional provisions and savings in regs. 3-22 (as amended (18.3.2021) by The Forestry and Land Management (Scotland) Act 2018 (Consequential, Saving and Transitional Provisions) Regulations 2021 (S.S.I. 2021/44), regs. 1(1), **11(2)(b)(3)(a)**))

F103 Words in s. 11 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 55** (with Sch. 7)

Modifications etc. (not altering text)

C6 S. 11(3)-(5) applied (with modifications) (E.) (6.4.2012) by The Town and Country Planning (Tree Preservation)(England) Regulations 2012 (S.I. 2012/605), regs. 1(1), **24(5)**

12 Conditional licences. E+W+S

(1) The conditions which may under section **[**[F104]10(2)**]**[F105]**[**[F104]10(2)(a) or (b)**]** above be attached to a felling licence are such as the **[**[F106]appropriate forestry authority**]**, after consultation with the applicant for the licence, determine to be expedient for securing—

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(a) the restocking or stocking with trees of the land on which the felling is to take place, or of such other land as may be agreed between the **[**[F106]appropriate forestry authority**]** and the applicant; and

(b) the maintenance of those trees in accordance with the rules and practice of good forestry for a period not exceeding ten years.

(2) No conditions shall be imposed **[**[F107]under section 10(2)(a) or (b) above**]** on the grant of a felling licence where it is for trees on land subject to a forestry dedication covenant [F108]... **[**[F109]and the felling is in accordance with a plan of operations or other working plan approved by the **[**[F106]appropriate forestry authority**]** and in force under the covenant [F108]... **]**.

Textual Amendments

F1 Act repealed (S.) (1.4.2019) by Forestry and Land Management (Scotland) Act 2018 (asp 8), s. 85(2), **sch. 2** (with ss. 80, 83); S.S.I. 2019/47, reg. 2 (with transitional provisions and savings in regs. 3-22 (as amended (18.3.2021) by The Forestry and Land Management (Scotland) Act 2018 (Consequential, Saving and Transitional Provisions) Regulations 2021 (S.S.I. 2021/44), regs. 1(1), **11(2)(b)(3)(a)**))

F104 Words in s. 12(1) substituted (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), s. 59(2), **Sch. 7 para. 2(3)(a)** (with s. 55(2)); S.S.I. 2004/495, art. 2

F105 Words in s. 12(1) inserted (18.8.2023 for specified purposes, 1.4.2024 in so far as not already in force) by Agriculture (Wales) Act 2023 (asc 4), **ss. 44(3)**, 56(1)(a); S.I. 2023/1092, art. 3(a)

F106 Words in s. 12 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 55** (with Sch. 7)

F107 Words in s. 12(2) inserted (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), s. 59(2), **Sch. 7 para. 2(3)(b)** (with s. 55(2)); S.S.I. 2004/495, art. 2

F108 Words in s. 12(2) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 14**; S.S.I. 2019/47, **reg. 2**

F109 Words added by Trees Act 1970 (c. 43, SIF 54), **s. 2**

13 Deferred decision on application. E+W+S

(1) Where a person applies for a felling licence and the **[**[F110]appropriate forestry authority**]** do not within three months after receiving the application, or within such further time as may be agreed with the applicant, give notice to him of their decision on the application (including any reference of the application under section 15 of this Act) the provisions of this Part of this Act shall apply in relation to the application as if it had been refused.

(2) If on an application for a felling licence—

(a) the **[**[F110]appropriate forestry authority**]** determine to grant the licence subject to conditions; and

(b) it appears to them that the applicant is not entitled to an interest in land which would enable him to comply with those conditions;

they may give notice in writing to that effect to the applicant and postpone consideration of the application until the person entitled to such an interest is joined as a party thereto.

Where a notice under this subsection is given, subsection (1) above shall apply as if, instead of referring to a period of three months after the **[**[F110]appropriate forestry authority**]** receive the application, it referred to a period of three months after the date

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on which the person entitled to such interest in the land as is mentioned in the notice is joined as a party to the application.

Textual Amendments

F1 Act repealed (S.) (1.4.2019) by Forestry and Land Management (Scotland) Act 2018 (asp 8), s. 85(2), **sch. 2** (with ss. 80, 83); S.S.I. 2019/47, reg. 2 (with transitional provisions and savings in regs. 3-22 (as amended (18.3.2021) by The Forestry and Land Management (Scotland) Act 2018 (Consequential, Saving and Transitional Provisions) Regulations 2021 (S.S.I. 2021/44), regs. 1(1), **11(2)(b)(3)(a)**))

F110 Words in s. 13 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 55** (with Sch. 7)

14 Tree-felling in accordance with approved working plan etc. E+W+S

(1) The following provisions shall apply where application is made to the**[**[F111]appropriate forestry authority**]** for a felling licence and relates to the felling of trees in accordance with a plan of operations or other working plan approved by the **[**[F111]appropriate forestry authority**]** under a forestry dedication covenant [F112]..., or otherwise approved by them in writing for the purposes of this section.

(2) The **[**[F111]appropriate forestry authority**]** shall not refuse the licence unless the Minister **[**[F113]as regards the felling of trees in **[**[F114]England or Wales**]** certifies [F115]...**]** that, by reason of an act of God or other emergency which has taken place or arisen since the approval of the plan, the granting of a felling licence in respect of those trees, or in respect of trees of any class which comprises those trees, would be detrimental to the national interest.

(3) If the **[**[F111]appropriate forestry authority**]** refuse the licence, the applicant may by notice given to the **[**[F111]appropriate forestry authority**]** in the prescribed manner and within the prescribed time require them to buy the trees or such of them as may be specified in the notice.

(4) If a notice is served under the foregoing subsection,—

(a) no compensation shall be payable under section 11 in respect of any trees to which the notice relates; and

(b) the **[**[F111]appropriate forestry authority**]** shall be deemed to have contracted with the applicant to buy the trees on the date of the service of the notice at such prices as may in default of agreement be determined in accordance with section 31 of this Act, and shall fell and remove the trees at such time or times as they may determine.

(5) Where such a notice is served, and the land on which the trees are growing is subject to a forestry dedication covenant [F116]..., the power of the **[**[F111]appropriate forestry authority**]**s under section 10(4)(b) above to make an advance by way of loan shall not be exercisable in respect of the trees, but this subsection shall not prejudice their power to make an advance in respect of any other trees on the land.

Textual Amendments

F1 Act repealed (S.) (1.4.2019) by Forestry and Land Management (Scotland) Act 2018 (asp 8), s. 85(2), **sch. 2** (with ss. 80, 83); S.S.I. 2019/47, reg. 2 (with transitional provisions and savings in regs. 3-22 (as amended (18.3.2021) by The Forestry and Land Management (Scotland) Act 2018 (Consequential, Saving and Transitional Provisions) Regulations 2021 (S.S.I. 2021/44), regs. 1(1), **11(2)(b)(3)(a)**))

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F111 Words in s. 14 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 56(2)** (with Sch. 7)

F112 Words in s. 14(1) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 15(a)**; S.S.I. 2019/47, reg. 2

F113 Words in s. 14(2) substituted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(11)**

F114 Words in s. 14(2) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 56(3)** (with Sch. 7)

F115 Words in s. 14(2) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 15(b)**; S.S.I. 2019/47, reg. 2

F116 Words in s. 14(5) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 15(c)**; S.S.I. 2019/47, reg. 2

15 Trees subject to preservation order under Planning Acts. E+W+S

(1) If an application is made to the **[**[F117]appropriate forestry authority**]** for a felling licence in respect of trees to which a tree preservation order relates, and **[**[F118] relevant consent**]** is required for the felling of those trees, then—

(a) the **[**[F117]appropriate forestry authority**]**, if they propose to grant the licence, shall give notice in writing to the authority by whom the order was made; and

(b) the **[**[F117]appropriate forestry authority**]** may in any case refer the application to the said authority.

[[F119](1A) In subsection (1) " relevant consent " means—

(a) in the case of trees in **[**[F120]England or Wales**]**, consent under tree preservation regulations.

[F121](b) . . . . . **]**

(2) Where the **[**[F117]appropriate forestry authority**]** give the notice required by subsection (1)(a) above and the authority within the prescribed period after receipt of the notice object to the **[**[F122]appropriate forestry authority's**]** proposal to grant a felling licence and do not withdraw their objection, then—

(a) the **[**[F117]appropriate forestry authority**]** shall not deal with the application, but shall refer it to the Minister, and the application shall then be dealt with under the Town and Country Planning Acts; and

(b) if in pursuance of the application the Minister consents to the felling, section 9(1) of this Act shall not apply so as to require a felling licence for the felling of any trees in accordance with the consent.

(3) Where the **[**[F117]appropriate forestry authority**]** refer an application under subsection (1)(b) above,—

(a) the application shall be dealt with under the Town and Country Planning Acts; and

(b) so long as the tree preservation order applying to the trees remains in force, section 9(1) shall not apply so as to require a felling licence for the felling of any trees to which the application relates.

(4) Where in the case of any trees—

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(a) the **[**[F117]appropriate forestry authority**]** under this section refer an application for a felling licence to the Minister or an authority who have made a tree preservation order relating to the trees; and

(b) a felling licence in respect of the trees has been previously refused by the **[**[F117]appropriate forestry authority**]**,

no account shall be taken, in calculating any compensation payable under section 11 of this Act in consequence of the previous refusal, of deterioration occurring after the date of the reference.

This subsection shall be without prejudice to section 11(5) of this Act, in a case to which that subsection applies.

(5) Except as provided by the foregoing provisions of this section, no **[**[F123]relevant application shall be entertained**]** in respect of the felling of trees in the case of which section 9(1) of this Act applies so as to require a felling licence.

[[F124](5A) In subsection (5) " relevant application " means—

(a) in the case of trees in **[**[F125]England or Wales**]**, an application under tree preservation regulations for consent under the regulations.

[F126](b) . . . . . **]**

(6) Where, in the case of trees to which a tree preservation order relates, a felling licence is granted by the **[**[F117]appropriate forestry authority**]** after the date on which the order comes into force, the licence shall, notwithstanding anything in that order, be sufficient authority for the felling of any trees to which the order relates.

(7) Schedule 3 to this Act shall have effect for explaining the procedure applicable where this section requires an application to be dealt with under the Town and Country Planning Acts.

(8) [F127]. . . . . .

Textual Amendments

F1 Act repealed (S.) (1.4.2019) by Forestry and Land Management (Scotland) Act 2018 (asp 8), s. 85(2), **sch. 2** (with ss. 80, 83); S.S.I. 2019/47, reg. 2 (with transitional provisions and savings in regs. 3-22 (as amended (18.3.2021) by The Forestry and Land Management (Scotland) Act 2018 (Consequential, Saving and Transitional Provisions) Regulations 2021 (S.S.I. 2021/44), regs. 1(1), **11(2)(b)(3)(a)**))

F117 Words in s. 15 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 57(2)** (with Sch. 7)

F118 Words in s. 15(1) substituted (6.4.2012 for E.) by Planning Act 2008 (c. 29), s. 241(3)(4), **Sch. 8 para. 2(2)** (with s. 226); S.I. 2012/601, art. 2(a)

F119 S. 15(1A) inserted (6.4.2012 for E.) by Planning Act 2008 (c. 29), s. 241(3)(4), **Sch. 8 para. 2(3)** (with s. 226); S.I. 2012/601, art. 2(a)

F120 Words in s. 15(1A)(a) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 57(3)** (with Sch. 7)

F121 S. 15(1A)(b) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 16(a)**; S.S.I. 2019/47, reg. 2

F122 Words in s. 15(2) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 57(4)** (with Sch. 7)

F123 Words in s. 15(5) substituted (6.4.2012 for E.) by Planning Act 2008 (c. 29), s. 241(3)(4), **Sch. 8 para. 2(4)** (with s. 226); S.I. 2012/601, art. 2(a)

F124 S. 15(5A) inserted (6.4.2012 for E.) by Planning Act 2008 (c. 29), s. 241(3)(4), **Sch. 8 para. 2(5)** (with s. 226); S.I. 2012/601, art. 2(a)

F125 Words in s. 15(5A)(a) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 57(5)** (with Sch. 7)

F126 S. 15(5A)(b) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 16(b)**; S.S.I. 2019/47, reg. 2

F127 S. 15(8) repealed (27.3.2002) by The Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794), art. 5(2), **Sch. 2** (with art. 6)

16 Review of refusal or conditions of licence. E+W+S

(1) The following provisions shall have effect for enabling the decision of the **[**[F128]appropriate forestry authority**]** on an application for a felling licence to be reviewed where they refuse to grant a felling licence or grant it subject to conditions.

(2) A person aggrieved by the refusal or conditions may by a notice served within the prescribed time and in the prescribed manner request the Minister **[**[F129]where the application was to fell trees in **[**[F130]England or Wales**]**[F131]...**]** to refer the matter to a committee appointed in accordance with section 27 below and—

(a) the Minister [F132]... shall, unless he is [F133]... of opinion that the grounds for the request are frivolous, refer the matter accordingly;

(b) the committee, after compliance with section 27(3), shall thereupon make a report on the reference to the Minister [F134]... .

(3) The Minister [F135]... shall, after considering the committee's report, confirm the decision of the **[**[F128]appropriate forestry authority**]** on the application, or reverse or modify that decision and direct the **[**[F128]appropriate forestry authority**]** to give effect to the reversal or modification.

(4) No request may be made under this section in respect of a refusal to grant a felling licence unless a previous application for a licence in respect of the trees has been refused and the application to which the request relates is made after the following date, that is to say—

(a) where a reference under this section has been made in respect of a previous application, the third anniversary of the last such application in respect of which such a reference has been made; and

(b) in any other case, the third anniversary of the first previous application.

Textual Amendments

F1 Act repealed (S.) (1.4.2019) by Forestry and Land Management (Scotland) Act 2018 (asp 8), s. 85(2), **sch. 2** (with ss. 80, 83); S.S.I. 2019/47, reg. 2 (with transitional provisions and savings in regs. 3-22 (as amended (18.3.2021) by The Forestry and Land Management (Scotland) Act 2018 (Consequential, Saving and Transitional Provisions) Regulations 2021 (S.S.I. 2021/44), regs. 1(1), **11(2)(b)(3)(a)**))

F128 Words in s. 16 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 58(2)** (with Sch. 7)

F129 Words in s. 16(2) inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(12)(a)**

F130 Words in s. 16 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 58(3)** (with Sch. 7)

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F131 Words in s. 16(2) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 17(a)**; S.S.I. 2019/47, reg. 2

F132 Words in s. 16(2)(a) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 17(b)(i)**; S.S.I. 2019/47, reg. 2

F133 Words in s. 16(2)(a) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 17(b)(ii)**; S.S.I. 2019/47, reg. 2

F134 Words in s. 16(2)(b) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 17(c)**; S.S.I. 2019/47, reg. 2

F135 Words in s. 16(3) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 17(d)**; S.S.I. 2019/47, reg. 2

17 Penalty for felling without licence. E+W+S

(1) Anyone who fells a tree without the authority of a felling licence, the case being one in which section 9(1) of this Act applies so as to require such a licence, shall be guilty of an offence and

[[F136](a) in relation to an offence committed in Wales,**]** liable on summary conviction to a fine [F137]...**[**[F138], or

(b) in relation to an offence committed in England, liable on summary conviction to a fine.**]**

(2) Proceedings for an offence under this section may be instituted within six months from the first discovery of the offence by the person taking the proceedings, provided that no proceedings shall be instituted more than two years after the date of the offence.

Textual Amendments

F1 Act repealed (S.) (1.4.2019) by Forestry and Land Management (Scotland) Act 2018 (asp 8), s. 85(2), **sch. 2** (with ss. 80, 83); S.S.I. 2019/47, reg. 2 (with transitional provisions and savings in regs. 3-22 (as amended (18.3.2021) by The Forestry and Land Management (Scotland) Act 2018 (Consequential, Saving and Transitional Provisions) Regulations 2021 (S.S.I. 2021/44), regs. 1(1), **11(2)(b)(3)(a)**))

F136 S. 17(1)(a) inserted (1.1.2023) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 16 para. 2(a)** (with s. 144); S.I. 2022/1266, reg. 2(d)

F137 Words in s. 17(1)(a) omitted (18.8.2023 for specified purposes, 1.4.2024 in so far as not already in force) by virtue of Agriculture (Wales) Act 2023 (asc 4), **ss. 42**, 56(1)(a); S.I. 2023/1092, art. 3(a)

F138 S. 17(1)(b) and word inserted (1.1.2023) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 16 para. 2(b)** (with s. 144); S.I. 2022/1266, reg. 2(d)

[[F139]17A Power of Commissioners to require restocking notice after unauthorised felling. E+W+S

[[F140](1) The **[**[F141]appropriate forestry authority**]** may serve a notice under this section (a "restocking notice") on a person where—

(a) it appears to the **[**[F141]appropriate forestry authority**]** that he has committed an offence in **[**[F142]England or Wales**]** under section 17 of this Act, [F143] ...

[F143](b) . . . . . .

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and [F144]... he has such an estate or interest in the land in question as is mentioned in section 10(1) of this Act.**]**

[F145](1A) **[** A restocking notice is a notice requiring the person on whom it is served—

(a) to restock or stock with trees the land or such other land as may be agreed between the **[**[F141]appropriate forestry authority**]** and him; and

(b) to maintain those trees in accordance with the rules and practice of good forestry for a period, not exceeding ten years, specified in the notice.**]**

[F146](1B) **[** A restocking notice served by the Commissioners is a local land charge; and for the purposes of the Local Land Charges Act 1975 the Commissioners are the originating authority as respects the charge.**]**

[F147](2) . . . . . .

(3) Subject to the provisions of this Act, in considering whether to issue a restocking notice the Commissioners shall—

(a) have regard to the interests of good forestry and agriculture and of the amenities of the district;

(b) have regard to their duty of promoting the establishment and maintenance [F148] . . . of adequate reserves of growing trees; and

(c) take into account any advice tendered by the regional advisory committee for the conservancy comprising the land to which the restocking notice would relate.

(4) This section shall not apply in relation to trees to which a tree preservation order relates or in relation to trees the felling of which took place before the date of coming into force of the Forestry Act 1986.

Textual Amendments

F1 Act repealed (S.) (1.4.2019) by Forestry and Land Management (Scotland) Act 2018 (asp 8), s. 85(2), **sch. 2** (with ss. 80, 83); S.S.I. 2019/47, reg. 2 (with transitional provisions and savings in regs. 3-22 (as amended (18.3.2021) by The Forestry and Land Management (Scotland) Act 2018 (Consequential, Saving and Transitional Provisions) Regulations 2021 (S.S.I. 2021/44), regs. 1(1), **11(2)(b)(3)(a)**))

F139 Ss. 17A–17C inserted by Forestry Act 1986 (c. 30, SIF 54), **s. 1(a)**

F140 S. 17A(1) substituted (16.3.2006) by Regulatory Reform (Forestry) Order 2006 (S.I. 2006/780), arts. 1(1), **4(2)**

F141 Words in s. 17A substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 58(2)** (with Sch. 7)

F142 Words in s. 17A substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 58(3)** (with Sch. 7)

F143 S. 17A(1)(b) and word omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 18(a)(i)**; S.S.I. 2019/47, **reg. 2**

F144 Words in s. 17A(1) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 18(a)(ii)**; S.S.I. 2019/47, **reg. 2**

F145 S. 17A(1A) inserted (16.3.2006) by Regulatory Reform (Forestry) Order 2006 (S.I. 2006/780), arts. 1(1), **4(3)**

F146 S. 17A(1B) inserted (1.1.2023) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 16 para. 3** (with s. 144); S.I. 2022/1266, reg. 2(d) (with reg. 3(1))

Changes to legislation: *Forestry Act 1967 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

F147 S. 17A(2) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 18(b)**; S.S.I. 2019/47, **reg. 2**

F148 Words in s. 17A(3)(b) omitted (1.7.1999) by virtue of S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(9)**

17B Appeal against restocking notice. E+W+S

(1) A person on whom a restocking notice has been served who objects to the notice or to any condition contained therein may by notice served within the prescribed time and in the prescribed manner request the Minister **[**[F149]where the restocking notice relates to land in **[**[F150]England or Wales**]**[F151]...**]** to refer the matter to a committee appointed in accordance with section 27 of this Act; and—

(a) the Minister [F152]... shall, unless he is [F153]... of the opinion that the grounds of the request are frivolous, refer the matter accordingly; and

(b) the committee, after compliance with subsection (3) of that section, shall thereupon make a report to the Minister [F154]....

(2) The Minister [F155]... may, after considering the committee's report, direct the **[**[F156]appropriate forestry authority**]** to withdraw the notice or to notify the objector that it shall have effect subject to such modification as the Minister [F155]... shall direct.

Textual Amendments

F1 Act repealed (S.) (1.4.2019) by Forestry and Land Management (Scotland) Act 2018 (asp 8), s. 85(2), **sch. 2** (with ss. 80, 83); S.S.I. 2019/47, reg. 2 (with transitional provisions and savings in regs. 3-22 (as amended (18.3.2021) by The Forestry and Land Management (Scotland) Act 2018 (Consequential, Saving and Transitional Provisions) Regulations 2021 (S.S.I. 2021/44), regs. 1(1), **11(2)(b)(3)(a)**))

F139 Ss. 17A–17C inserted by Forestry Act 1986 (c. 30, SIF 54), **s. 1(a)**

F149 Words in s. 17B(1) inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(13)(a)**

F150 Words in s. 17B substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 58(3)** (with Sch. 7)

F151 Words in s. 17B(1) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 19(a)**; S.S.I. 2019/47, reg. 2

F152 Words in s. 17B(1)(a) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 19(b)(i)**; S.S.I. 2019/47, reg. 2

F153 Words in s. 17B(1)(a) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 19(b)(ii)**; S.S.I. 2019/47, reg. 2

F154 Words in s. 17B(1)(b) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 19(c)**; S.S.I. 2019/47, reg. 2

F155 Words in s. 17B(2) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 19(d)**; S.S.I. 2019/47, reg. 2

F156 Words in s. 17B substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 58(2)** (with Sch. 7)

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17C Enforcement of restocking notice. E+W+S

The provisions of sections 24 (notice to require compliance with conditions or directions), **[**[F157]24A (further notice under section 24 for next estate or interest holders),**]** 25 (appeal against notice under section 24) and 26(1), (3) and (4) (expenses) of this Act shall apply in relation to a restocking notice as they apply in relation to a felling licence; and for the purposes of such application—

(a) references in those sections to a felling licence shall be construed as references to a restocking notice; and

(b) **[**[F158]the references in section 24(2A)(a)(i) and 26(3)**]** to the applicant for the licence shall be construed as a reference to the perosn on whom the restocking notice has been served.**]**

Textual Amendments

F139 Ss. 17A–17C inserted by Forestry Act 1986 (c. 30, SIF 54), **s. 1(a)**

F157 Words in s. 17C inserted (1.1.2023) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 16 para. 5(1)** (with s. 144); S.I. 2022/1266, reg. 2(d)

F158 Words in s. 17C substituted (16.3.2006) by Regulatory Reform (Forestry) Order 2006 (S.I. 2006/780), arts. 1(1), **5(4)**

Power of Commissioners to direct felling

18 Felling directions. E+W+S

(1) Subject to the provisions of this Act (and, in particular, to the duty of the **[**[F159]appropriate forestry authority**]** to take advice under section 37(3), if it appears to the **[**[F159]appropriate forestry authority**]** that it is expedient in the interests of good forestry, or for purposes connected with their duty of promoting the establishment and maintenance [F160]. . . of adequate reserves of growing trees, that any growing trees should be felled—

(a) in order to prevent deterioration or further deterioration in the quality of the timber comprised therein; or

(b) in order to improve the growth of other trees,

they may give directions (in this Act referred to as "felling directions") to the owner of the trees requiring him to fell them within such period, being not less than two years after the directions have become operative, as may be specified in the directions.

(2) In considering whether to give felling directions, the **[**[F159]appropriate forestry authority**]** shall have regard to the interests of agriculture and the amenity or convenience of any farm or dwelling-house or park usually occupied with a dwelling-house, or of any land held inalienably by the National Trust or the National Trust for Scotland.

(3) Felling directions given by the **[**[F159]appropriate forestry authority**]** shall contain a statement of the grounds upon which they are given.

(4) A person who is given felling directions by the **[**[F159]appropriate forestry authority**]** may comply with the directions notwithstanding any lease, covenant or contract relating to the trees or land affected by the directions.

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(5) In the case of trees to which a tree preservation order relates, felling directions given by the **[**[F159]appropriate forestry authority**]** after the date on which the order comes into force**[**[F161]shall be sufficient authority for the felling, notwithstanding anything in—

(a) tree preservation regulations, in the case of trees in England or Wales.

[F162](b) . . . . . .**]**

Textual Amendments

F159 Words in s. 18 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 59** (with Sch. 7)

F160 Words in s. 18(1) omitted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(9)**

F161 Words in s. 18(5) substituted (6.4.2012 for E.) by Planning Act 2008 (c. 29), s. 241(3)(4), **Sch. 8 para. 3** (with s. 226); S.I. 2012/601, art. 2(a)

F162 S. 18(5)(b) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 20**; S.S.I. 2019/47, reg. 2

19 Restrictions on [[F163]appropriate forestry authority's] power under s. 18. E+W +S

(1) Felling directions shall not be given in the case of—

(a) fruit trees or trees standing or growing on land comprised in an orchard, garden, churchyard or public open space (as defined in section 9(6) above);

(b) trees on land which is subject to a forestry dedication covenant [F164]...; or

(c) trees which are being managed to the satisfaction of the **[**[F165]appropriate forestry authority**]** in accordance with a plan of operations or other working plan approved by them as mentioned in section 14(1) above, but otherwise than under a forestry dedication covenant [F166]... .

(2) If an application for a felling licence is made to the **[**[F165]appropriate forestry authority**]** in the case of trees to which a tree preservation order relates and the **[**[F165]appropriate forestry authority**]** refer the application under section 15 above to the authority who made the order, then so long as the order remains in force no felling directions shall be given in respect of the trees.

(3) If the **[**[F165]appropriate forestry authority**]** propose to give felling directions in respect of trees to which a tree preservation order relates, they shall give notice in writing of the proposal to the authority by whom the order was made; and if within the prescribed period after the receipt of the notice the authority object to the proposal and do not withdraw the objection, the **[**[F165]appropriate forestry authority**]** shall not give the directions except with the consent of the Minister **[**[F167]where the felling direction was given in respect of trees in **[**[F168]England or Wales**]**[F169]...**]**, who shall consult with the said authority before deciding whether to grant or refuse his consent.

(4) [F170]. . . . . .

Textual Amendments

F163 Words in s. 19 heading substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 60(4)** (with Sch. 7)

F164 Words in s. 19(1)(b) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 21(a)**; S.S.I. 2019/47, reg. 2

F165 Words in s. 19 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 60(2)** (with Sch. 7)

F166 Words in s. 19(1)(c) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 21(b)**; S.S.I. 2019/47, reg. 2

F167 Words in s. 19(3) inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(14)**

F168 Words in s. 19(3) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 60(3)** (with Sch. 7)

F169 Words in s. 19(3) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 21(c)**; S.S.I. 2019/47, reg. 2

F170 S. 19(4) repealed (27.3.2002) by The Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794), art. 5(2), **Sch. 2** (with art. 6)

20 Review of felling directions. E+W+S

(1) If a person to whom felling directions are given in respect of any trees is aggrieved by the directions on the ground that the felling is not expedient as mentioned in section 18(1), he may by notice served within the prescribed time and in the prescribed manner request the Minister **[**[F171]where the felling direction was given in respect of trees in **[**[F172]England or Wales**]**[F173]...**]** to refer the matter to a committee appointed in accordance with section 27 below and the Minister [F174]**[**[F175]... shall, unless he is [F176]...**]** of opinion that the grounds for the request are frivolous, refer the matter accordingly.

(2) The committee to whom a matter is referred under this section, after complying with section 27(3), shall thereupon make a report on the reference to the person by whom the notice was served and to the **[**[F177]appropriate forestry authority**]**, and the **[**[F177]appropriate forestry authority**]** shall confirm, withdraw or modify the directions in accordance with the report.

Textual Amendments

F171 Words in s. 20(1) inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(15)(a)**

F172 Words in s. 20 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 61(2)** (with Sch. 7)

F173 Words in s. 20(1) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 22(a)**; S.S.I. 2019/47, reg. 2

F174 Words in s. 20(1) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 22(b)**; S.S.I. 2019/47, reg. 2

F175 Words in s. 20(1) substituted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(15)(b)**

F176 Words in s. 20(1) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 22(c)**; S.S.I. 2019/47, reg. 2

F177 Words in s. 20 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 61(3)** (with Sch. 7)

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21 Courses open to person adversely affected by felling directions. E+W+S

(1) The provisions of this section shall have effect where a person to whom felling directions are given claims that compliance with the directions would involve him in a net loss after taking into account any benefit arising therefrom in respect of other trees of which he is the owner.

(2) The person may by notice given to the Minister **[**[F178]where the felling direction was given in respect of trees in **[**[F179]England or Wales**]**[F180]...**]** in the prescribed manner and within the prescribed period—

(a) if he has the right to sell the trees for immediate felling, require the **[**[F181]appropriate forestry authority**]** to buy the trees to which the directions relate; or

(b) in any case, require the Minister [F182]... to acquire his interest in the land affected by the directions.

A notice under this section requiring the Minister [F183]... to acquire an interest in land shall be deemed to include an offer by the person entitled to that interest to convey to the Minister [F183]... such easement or servitude or other right for the benefit of the land over adjoining land in which that person has an interest as may be agreed between that person and the Minister [F183]... or as may, in default of agreement, be determined in accordance with section 31 of this Act.

(3) The Minister [F184]... may within the prescribed period after receiving the notice either—

(a) accept the notice; or

(b) refer it to a committee appointed in accordance with section 27 below; or

(c) revoke the directions to which it relates.

(4) The committee to whom a matter is referred under this section, after complying with section 27(3), shall thereupon make a report to the Minister [F185]... and to the person by whom the notice under this section was given and shall state—

(a) whether in the opinion of the committee compliance with the felling directions would involve that person in such a loss as aforesaid; and

(b) if so, what modifications (if any) of the directions would be sufficient to avoid that loss.

(5) Where the committee report that compliance with the directions would not involve the person in such loss as aforesaid, the notice shall be of no effect; but in any other case the Minister [F186]... may, within the prescribed period after receiving the report, either—

(a) accept the notice; or

(b) revoke the directions; or

(c) modify the directions in accordance with the report, according as he thinks [F187]... fit.

(6) If within the prescribed period after receiving a notice or the report of a committee under this section the Minister [F188]... has not taken any such action as is authorised by subsection (3) or subsection (5) above, as the case may be, the directions to which the notice relates shall cease to have effect at the expiration of that period.

(7) In determining for the purposes of this section whether compliance with felling directions would involve a person in a net loss, regard shall be had to any compensation received by that person under [F189]... **[**[F190] ... tree preservation regulations,**]** in respect of a refusal of consent for the felling of the tree.

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Textual Amendments

F178 Words in s. 21(2) inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(16)(a)**

F179 Words in s. 21(2) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 61(2)** (with Sch. 7)

F180 Words in s. 21(2) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 23(a)**; S.S.I. 2019/47, reg. 2

F181 Words in s. 21(2) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 61(3)** (with Sch. 7)

F182 Words in s. 21(2)(b) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 23(b)**; S.S.I. 2019/47, reg. 2

F183 Words in s. 21(2) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 23(c)**; S.S.I. 2019/47, reg. 2

F184 Words in s. 21(3) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 23(d)**; S.S.I. 2019/47, reg. 2

F185 Words in s. 21(4) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 23(e)**; S.S.I. 2019/47, reg. 2

F186 Words in s. 21(5) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 23(f)(i)**; S.S.I. 2019/47, reg. 2

F187 Words in s. 21(5) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 23(f)(ii)**; S.S.I. 2019/47, reg. 2

F188 Words in s. 21(6) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 23(g)**; S.S.I. 2019/47, reg. 2

F189 Words in s. 21(7) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 23(h)**; S.S.I. 2019/47, reg. 2

F190 Words in s. 21(7) inserted (6.4.2012 for E.) by Planning Act 2008 (c. 29), s. 241(3)(4), **Sch. 8 para. 4** (with s. 226); S.I. 2012/601, **art. 2(a)**

22 Consequences of acceptance by Minister of notice under s. 21 E+W+S

(1) The following shall be the consequences where a notice given by a person under section 21 is accepted by the Minister [F191]... .

(2) The felling directions in respect of which the notice was given shall cease to have effect.

(3) If the notice requires the **[**[F192]appropriate forestry authority**]** to buy the trees to which the directions relate, the **[**[F192]appropriate forestry authority**]** shall be deemed to have contracted with that person to buy the trees on the date of acceptance of the notice at such price and on such terms (including terms as to the time within which the **[**[F192]appropriate forestry authority**]** may fell and remove the trees) as may in default of agreement be determined in accordance with section 31 of this Act.

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(4) If the notice requires the Minister [F193]... to acquire the person's interest in the land affected by the directions,—

(a) the Minister [F194]... shall be deemed to be authorised to acquire that interest compulsorily under section 39 of this Act and to have served a notice to treat in respect thereof on the date of the acceptance of the notice;

(b) the interest shall for that purpose include any such easement or servitude or other right as, by virtue of section 21(2), the person is deemed to have offered in his notice to convey.

(5) The power conferred by section 31(1) of the [M7]Land Compensation Act 1961 [F195]... to withdraw a notice to treat shall not be exercisable in the case of a notice to treat which is deemed to have been served by virtue of this section.

Textual Amendments

F191 Words in s. 22(1) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 24(a)**; S.S.I. 2019/47, reg. 2

F192 Words in s. 22(3) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 62** (with Sch. 7)

F193 Words in s. 22(4) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 24(b)**; S.S.I. 2019/47, reg. 2

F194 Words in s. 22(4)(a) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 24(c)**; S.S.I. 2019/47, reg. 2

F195 Words in s. 22(5) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 24(d)**; S.S.I. 2019/47, reg. 2

Marginal Citations

M7 1961 c. 33**(28:1)**

23 Proceedings in respect of felling directions. E+W+S

(1) A request under section 20 of this Act, and a notice under section 21 of this Act, may be made and given in respect of the same directions; and regulations made by the **[**[F196]appropriate legislative authority**]** under this Part of this Act may make provision for securing—

(a) that in any such case proceedings under those sections respectively on the request and on the notice are taken concurrently;

(b) that proceedings on any such request or notice in respect of any felling directions may be postponed until the expiration of the period within which a notice or a request, as the case may be, might be given or made in respect of those directions.

(2) Felling directions shall be inoperative until the expiration of the period during which such a request or notice as aforesaid may be made or given in respect of the directions and, where a request is made or a notice is given, until the conclusions of any proceedings under section 20 or 21 pursuant to the notice or request.

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Textual Amendments

F196 Words in s. 23(1) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 63** (with Sch. 7)

Enforcement of licence conditions and felling directions

24 Notice to require compliance with conditions or directions. E+W

(1) The provisions of this section shall apply if—

(a) any works required to be carried out in accordance with conditions of a felling licence are not so carried out; or

(b) any felling directions given by the **[**[F197]appropriate forestry authority**]** are not complied with.

(2) The **[**[F197]appropriate forestry authority**]** may give to the person responsible a notice requiring such steps as may be specified therein to be taken within such time (not being less than the prescribed period after the notice has become operative) as may be so specified for remedying the default; and for purposes of this subsection, "the person responsible" is—

(a) in the case of non-compliance with conditions of a felling licence, **[**[F198]the person specified in subsection (2A)**]**; and

(b) in the case of non-compliance with felling directions, the owner of the trees.

[[F199](2A) The person referred to in subsection (2)(a) is—

(a) where the licence relates to land in **[**[F200]England or Wales**]**—

(i) the applicant for the licence, if on the date the notice is served he has such estate or interest in the land as is referred to in section 10(1) of this Act; or

(ii) in any other case, the owner of the land.

[F201](b) . . . . . **]**

(3) If after the expiration of the time specified in the notice any steps required by the notice have not been taken, the **[**[F197]appropriate forestry authority**]** may, subject to the following section, enter on the land and take those steps.

(4) Without prejudice to the powers of the **[**[F197]appropriate forestry authority**]** under the foregoing subsection, a person who without reasonable excuse fails to take any steps required by a notice given to him under this section shall be guilty of an offence and be liable on summary conviction to a fine not exceeding **[**[F202]level 5 on the standard scale**]**; and proceedings in respect of such an offence may be instituted within six months of the first discovery of the offence by the person taking the proceedings, provided that no proceedings shall be instituted more than two years after the date of the offence.

(5) A person who is required by a notice under this section to carry out works or take any steps may carry out those works or take the steps notwithstanding any lease, covenant or contract relating to the trees or land affected by the notice.

[[F203](6) A notice under this section given by the Commissioners is a local land charge; and for the purposes of the Local Land Charges Act 1975 the Commissioners are the originating authority as respects the charge.**]**

Changes to legislation: *Forestry Act 1967 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

F197 Words in s. 24 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 64(2)** (with Sch. 7)

F198 Words in s. 24(2)(a) substituted (16.3.2006) by Regulatory Reform (Forestry) Order 2006 (S.I. 2006/780), arts. 1(1), **5(2)**

F199 S. 24(2A) inserted (16.3.2006) by Regulatory Reform (Forestry) Order 2006 (S.I. 2006/780), arts. 1(1), **5(3)**

F200 Words in s. 24 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 64(3)** (with Sch. 7)

F201 S. 24(2A)(b) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 25**; S.S.I. 2019/47, reg. 2

F202 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1;), ss. 39, 46, **Sch. 3** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **Sch. 7D** and expressed to be substituted (S.) (1.4.1996) by 1995 c. 40, ss. 3, 7(2), Sch. 1 para. 10, **Sch. 2 Pt.III**

F203 S. 24(6) inserted (1.1.2023) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 16 para. 4** (with s. 144); S.I. 2022/1266, reg. 2(d) (with reg. 3(2))

[F204 24A Further notice under section 24 for next estate or interest holders E+W+S

(1) Subsection (2) applies where—

(a) a notice has been given to a person under section 24 to require compliance with the conditions of a felling licence in relation to land in England,

(b) steps required by the notice have not been taken, and

(c) before the time specified in the notice has expired, the person ceases to have the estate or interest in the land by reference to which the notice was served.

(2) The Commissioners may give to the next estate or interest holder a further notice under section 24 requiring the steps that were not completed under the notice described in subsection (1) to be completed.

(3) In subsection (2) the "next estate or interest holder" means the person who has an estate or interest in the land as is referred to in section 10(1) immediately after the person referred to in subsection (1) ceased to have the estate or interest referred to in subsection (1)(c).

(4) The reference in subsection (1) to a notice under section 24 includes a notice given under subsection (2).]

Textual Amendments

F204 S. 24A inserted (1.1.2023) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 16 para. 5(2)** (with s. 144); S.I. 2022/1266, reg. 2(d) (with reg. 3(3))

[F205 24B Restocking orders after conviction under section 24 in England E+W

(1) This section applies where a person has been convicted of an offence under section 24(4) in England in relation to a failure to take steps required by a notice given under section 24 to remedy a default in the case of non-compliance with—

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(a) the conditions of a felling licence that relate to the restocking or stocking of land with trees, or

(b) the requirements of a restocking notice.

(2) The court may make a restocking order.

(3) A restocking order is an order that requires the person to take such steps as may be specified therein to be taken within such time as may be so specified—

(a) to restock or stock with trees the land in respect of which the notice under section 24 was given, or such other land as the court considers appropriate, and

(b) to maintain those trees in accordance with the rules and practice of good forestry for a period not exceeding ten years specified in the order.

(4) In deciding whether to make a restocking order the court must have regard to—

(a) the interests of good forestry and agriculture and of the amenities of the district to which the restocking order would relate, and

(b) the desirability of promoting the establishment and maintenance of adequate reserves of growing trees in England.

(5) Section 63(3) of the Magistrates' Courts Act 1980 (power of magistrates' court to deal with person for breach of order etc) applies in relation to a restocking order.**]**

Textual Amendments

F205 S. 24B inserted (1.1.2023) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 16 para. 6** (with s. 144); S.I. 2022/1266, reg. 2(d) (with reg. 3(4))

[F206 24C Variation of conditions or suspension or revocation of licence following breach of condition: Wales E+W

(1) The provisions of this section apply if, in relation to a felling licence granted in relation to land in Wales, the Natural Resources Body for Wales considers that any condition of the licence—

(a) has not been complied with, or

(b) is not being complied with.

(2) But this section does not apply if the condition is one that requires works to be carried out (as to which see section 24).

(3) The Natural Resources Body for Wales may give to the person responsible a notice which makes provision for one or more of the following—

(a) a suspension of the felling licence, either in full or in part;

(b) a variation or removal of a condition of the felling licence or an imposition of a new condition;

(c) where the circumstances referred to in subsection (4) apply, a revocation of the felling licence.

(4) The circumstances are that the condition that has not been complied with, or is not being complied with, was imposed for the purpose mentioned in section 10(2)(c).

(5) A notice given under subsection (3) may also make provision—

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(a) requiring the person to whom the notice was given to take such steps as may be specified in the notice, and

(b) specifying the period (not being less than the prescribed period after the notice has become operative) within which those steps must be taken.

(6) A notice given under subsection (3) must—

(a) set out the reasons for giving the notice;

(b) specify the condition that has not been or is not being complied with;

(c) if the notice suspends the felling licence, specify the period for which the licence is to be suspended;

(d) if the notice varies conditions or revokes the felling licence, specify the date upon which the variation or revocation takes effect;

(e) if the notice suspends the felling licence in part, specify the felling that may continue.

(7) Where a notice given under subsection (3) suspends a felling licence, either in full or in part, the suspension ends with the earlier of—

(a) the expiry of the period specified in the notice in accordance with subsection (6)(c), and

(b) the date specified in any further notice given to the person responsible by the Natural Resources Body for Wales under this paragraph.

(8) The Natural Resources Body for Wales may give a further notice under subsection (7)(b) if it considers that the suspension should be lifted sooner than the end of the period specified in the notice given under subsection (3).

(9) If—

(a) a notice given under subsection (3) requires a person to take steps in accordance with subsection (5)(a), and

(b) those steps have not been taken before the end of the period specified in that notice in accordance with subsection (5)(b),

the Natural Resources Body for Wales may enter on the land and take those steps.

(10) A person who, without reasonable excuse, fails to take any steps required by a notice given under subsection (3) commits an offence and is liable on summary conviction to a fine (but this does not affect the powers of the Natural Resources Body for Wales under subsection (9)).

(11) Proceedings in respect of an offence under subsection (10)—

(a) must be commenced within the period of six months starting on the day the person commencing the proceedings becomes aware of the offence;

(b) may not be commenced more than two years after the date of the offence.

(12) A person who is required by a notice under subsection (3) to take steps may take the steps notwithstanding any lease, covenant or contract relating to the trees or land affected by the notice.

(13) For the purposes of this section, “the person responsible” is—

(a) the applicant for the licence, if on the date the notice is given the applicant has such estate or interest in the land as is referred to in section 10(1);

(b) in any other case, a person who has such estate or interest in the land as is referred to in section 10(1) on that date.

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Textual Amendments

F206 Ss. 24C-24E inserted (18.8.2023 for specified purposes, 1.4.2024 in so far as not already in force) by Agriculture (Wales) Act 2023 (asc 4), **ss. 39**, 56(1)(a); S.I. 2023/1092, art. 3(a)

24D Notice to subsequent estate or interest holder requiring steps to be taken E+W

(1) Subsection (2) applies where—

(a) a notice has been given to a person under section 24C(3) requiring the person to take steps,

(b) steps required by the notice have not been taken, and

(c) before the time specified in the notice (within which those steps must be taken) has expired, the person ceases to have the estate or interest in the land by reference to which the notice was given.

(2) The Natural Resources Body for Wales may give to a person who has such estate or interest in the land as is referred to in section 10(1) a notice—

(a) requiring the steps that were not taken under the notice described in subsection (1) to be taken, and

(b) specifying the period (not being less than the prescribed period after the notice has become operative) within which those steps must be taken.

(3) A notice given under subsection (2) must set out the reasons for giving the notice.

(4) If steps required by a notice under subsection (2) have not been taken before the end of the period specified in the notice, the Natural Resources Body for Wales may enter on the land and take those steps.

(5) A person who, without reasonable excuse, fails to take any steps required by a notice under subsection (2) commits an offence and is liable on summary conviction to a fine (but this does not affect the powers of the Natural Resources Body for Wales under subsection (4)).

(6) Proceedings in respect of an offence under subsection (5)—

(a) must be commenced within the period of six months starting on the day the person commencing the proceedings becomes aware of the offence;

(b) may not be commenced more than two years after the date of the offence.

(7) A person who is required by a notice under subsection (2) to take steps may take the steps notwithstanding any lease, covenant or contract relating to the trees or land affected by the notice.

(8) The reference in subsection (1) to a notice under section 24C(3) includes a notice given under this section.

Textual Amendments

F206 Ss. 24C-24E inserted (18.8.2023 for specified purposes, 1.4.2024 in so far as not already in force) by Agriculture (Wales) Act 2023 (asc 4), **ss. 39**, 56(1)(a); S.I. 2023/1092, art. 3(a)

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24E Suspension, amendment or revocation of tree felling licence where no breach of condition: Wales E+W

(1) The provisions of this section apply if, in relation to a felling licence granted in relation to land in Wales, the Natural Resources Body for Wales considers that felling in accordance with the licence is causing, or is likely to cause, significant harm to—

(a) natural beauty, or

(b) flora, fauna, geological or physiographical features, or natural habitats.

(2) The Natural Resources Body for Wales may give to the person responsible a notice which makes provision for one or more of the following—

(a) a suspension of the felling licence, either in full or in part;

(b) an amendment of the felling licence;

(c) if the Natural Resources Body for Wales considers that amending the felling licence would not prevent the harm that is being caused or is likely to be caused, a revocation of the felling licence.

(3) A notice given under subsection (2) must—

(a) set out the reasons for giving the notice;

(b) specify the harm that felling in accordance with the licence is causing or is likely to cause;

(c) if the notice suspends the felling licence, specify the period for which the licence is to be suspended;

(d) if the notice amends or revokes the felling licence, specify the date upon which the amendment or revocation takes effect;

(e) if the notice suspends the felling licence in part, specify the felling that may continue.

(4) Where a notice given under subsection (2) suspends a felling licence, either in full or in part, the suspension ends with the earlier of—

(a) the expiry of the period specified in the notice in accordance with subsection (3)(c), and

(b) the date specified in any further notice given to the person responsible by the Natural Resources Body for Wales under this paragraph.

(5) The Natural Resources Body for Wales must give a further notice specifying a date under subsection (4)(b) (to bring the suspension to an end) if it considers that felling in accordance with the felling licence (as it would have effect after that date) would neither cause nor be likely to cause the harm specified in the notice that suspended the licence.

(6) For the purposes of this section, "the person responsible" is—

(a) the applicant for the licence, if on the date the notice is given the applicant has such estate or interest in the land as is referred to in section 10(1);

(b) in any other case, a person who has such estate or interest in the land as is referred to in section 10(1) on that date.**]**

Textual Amendments

F206 Ss. 24C-24E inserted (18.8.2023 for specified purposes, 1.4.2024 in so far as not already in force) by Agriculture (Wales) Act 2023 (asc 4), **ss. 39**, 56(1)(a); S.I. 2023/1092, art. 3(a)

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[F207 24F Notices under section 24C(3) or 24E(2) that affect tree preservation orders E +W

(1) The provisions of this section apply if—

(a) the Natural Resources Body for Wales proposes to give a notice under section 24C(3) or 24E(2) in respect of any trees to which a tree preservation order relates, and

(b) the proposed notice does not meet the emergency criteria.

(2) The emergency criteria are met if the proposed notice makes no provision other than—

(a) provision that the Natural Resources Body for Wales considers is necessary to respond to an imminent and serious risk of harm to—

(i) natural beauty, or

(ii) flora, fauna, geological or physiographical features, or natural habitats, or

(b) provision that suspends a felling licence.

(3) Before the Natural Resources Body for Wales gives the proposed notice it must give notice in writing of the proposal to the authority by whom the tree preservation order was made.

(4) If, within the prescribed period, the authority by whom the tree preservation order was made objects to the notice in so far as it affects trees to which the tree preservation order relates, and does not withdraw its objection, the Natural Resources Body for Wales must refer the matter to the Welsh Ministers.

(5) If a matter is referred to the Welsh Ministers under subsection (4), the Welsh Ministers may decide to—

(a) grant consent to the giving of the notice, or

(b) refuse to grant consent (in which case the notice cannot be given).

(6) Where the Natural Resources Body for Wales has given notice in writing under subsection (3) to an authority in respect of a proposed notice, the proposed notice cannot be given until—

(a) the period prescribed under subsection (4) has ended without the authority having objected (or, if the authority has objected, that objection has been withdrawn), or

(b) if the Natural Resources for Wales has referred the matter to the Welsh Ministers, the Welsh Ministers have given their decision on the matter.

(7) Before deciding whether to grant or refuse consent under subsection (5), the Welsh Ministers must consult—

(a) the Natural Resources Body for Wales;

(b) the authority by whom the tree preservation order was made;

(c) the applicant for the licence if the applicant has such estate or interest in the land as is referred to in section 10(1) or, in any other case, a person who has such estate or interest in the land.]

Textual Amendments

F207 S. 24F inserted (18.8.2023 for specified purposes, 1.4.2024 in so far as not already in force) by Agriculture (Wales) Act 2023 (asc 4), **ss. 40**, 56(1)(a); S.I. 2023/1092, art. 3(a)

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25 Appeal against notice under s. 24. E+W+S

(1) If a person to whom a notice under section 24 is given claims—

(a) that the works in question have been carried out in accordance with the conditions of the felling licence or, in the case of felling directions, that they have been complied with; or

(b) that the steps required by the notice to be taken are not required by the conditions or directions,

he may by a notice served on the Minister **[**[F208]where the notice is given in respect of land or trees in **[**[F209]England or Wales**]**, [F210]... **]** in the prescribed manner and within the prescribed period after the receipt of the notice under section 24, request the Minister [F211]... to refer the matter to a committee appointed in accordance with section 27 below.

(2) A notice under section 24 shall be inoperative until the expiration of the prescribed period for the purposes of subsection (1) above and, where a request to the Minister [F212]... under that subsection is made, until the conclusion of any proceedings under this section in pursuance of the request.

(3) Where such a request is made by a person receiving a notice under section 24, the Minister [F213]... shall, unless he is of opinion that the grounds for the request are frivolous, refer the matter accordingly to a committee so appointed.

(4) The committee to whom a matter is referred under this section, after complying with section 27(3), shall make a report on the reference to the Minister **[**[F214]and who**]** shall, after considering the report, confirm or cancel the notice to which the reference relates.

Textual Amendments

F1 Act repealed (S.) (1.4.2019) by Forestry and Land Management (Scotland) Act 2018 (asp 8), s. 85(2), **sch. 2** (with ss. 80, 83); S.S.I. 2019/47, reg. 2 (with transitional provisions and savings in regs. 3-22 (as amended (18.3.2021) by The Forestry and Land Management (Scotland) Act 2018 (Consequential, Saving and Transitional Provisions) Regulations 2021 (S.S.I. 2021/44), regs. 1(1), **11(2)(b)(3)(a)**))

F208 Words in s. 25(1) inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para 4(18)(a)**

F209 Words in s. 25 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 65** (with Sch. 7)

F210 Words in s. 25(1) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 26(a)(i)**; S.S.I. 2019/47, reg. 2

F211 Words in s. 25(1) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 26(a)(ii)**; S.S.I. 2019/47, reg. 2

F212 Words in s. 25(2) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 26(b)**; S.S.I. 2019/47, reg. 2

F213 Words in s. 25(3) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 26(c)**; S.S.I. 2019/47, reg. 2

F214 Words in s. 25(4) substituted (1.4.2019) by The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 26(d)**; S.S.I. 2019/47, reg. 2

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26 Expenses etc. in connection with notices under s. 24 [F215, s. 24C(3) or s. 24D(2)]. E+W+S

(1) If the [F216appropriate forestry authority], in the exercise of their powers under section 24 [F217, section 24C(9) or section 24D(4)], enter on land and take any steps required by a notice [F218under either of those sections], they may recover from the person to whom the notice was given any expenses reasonably incurred in connection therewith.

(2) The [F216appropriate forestry authority] may remove and either retain or dispose of trees felled by them in the exercise of their said powers, and shall, on a claim made in the prescribed manner by the owner of any trees so removed, pay to him a sum equal to the value of those trees after deducting any expenses reasonably incurred by them in connection with the removal or disposal.

(3) Subject to any express agreement to the contrary, any expenses incurred by a person for the purpose of complying with a notice under section 24, and any sums paid by a person in respect of expenses of the [F216appropriate forestry authority] under that section, shall be deemed to be incurred or paid by that person—

(a) where the notice relates to works required to be carried out in pursuance of conditions of a felling licence, for the use and at the request of the applicant for the licence;

(b) where the notice requires compliance with felling directions, for the use and at the request of the person to whom the directions were given.

(4) Any sums recoverable by or from the [F216appropriate forestry authority] under this section may be recovered as a simple contract debt.

Textual Amendments

F215 Words in s. 26 heading inserted (18.8.2023 for specified purposes, 1.4.2024 in so far as not already in force) by Agriculture (Wales) Act 2023 (asc 4), **ss. 44(4)(a)**, 56(1)(a); S.I. 2023/1092, **art. 3(a)**

F216 Words in s. 26 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 66** (with Sch. 7)

F217 Words in s. 26(1) inserted (18.8.2023 for specified purposes, 1.4.2024 in so far as not already in force) by Agriculture (Wales) Act 2023 (asc 4), **ss. 44(4)(b)(i)**, 56(1)(a); S.I. 2023/1092, art. 3(a)

F218 Words in s. 26(1) substituted (18.8.2023 for specified purposes, 1.4.2024 in so far as not already in force) by Agriculture (Wales) Act 2023 (asc 4), **ss. 44(4)(b)(ii)**, 56(1)(a); S.I. 2023/1092, art. 3(a)

[F219 26A Appeals against notices given under section 24C(3) and 24D(2) E+W

(1) The following persons have a right to bring an appeal against a notice given under section 24C(3) if the person thinks that any of the grounds set out in subsection (2) applies—

(a) the person to whom the notice was given;

(b) a person who has such estate or interest in the land as is referred to in section 10(1);

(c) the owner of the trees.

(2) The grounds are—

(a) a condition referred to in the notice has been complied with or is being complied with;

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(b) suspending or revoking the felling licence is unreasonable or disproportionate;

(c) the variation of a condition of the felling licence, or the imposition of a new condition, is unreasonable or disproportionate;

(d) a step specified in the notice is unreasonable or disproportionate;

(e) where the notice has suspended the felling licence, the suspension should have been brought to an end by a notice given under section 24C(7)(b).

(3) A person to whom a notice has been given under section 24D(2) has a right to bring an appeal against the notice if the person thinks that a step specified in the notice is unreasonable or disproportionate.

(4) An appeal under this section is brought by serving a notice on the Welsh Ministers requesting that they refer the matter to a committee appointed in accordance with section 27 (and see section 26C for further provision about such requests).

Textual Amendments

F219 Ss. 26A-26G inserted (18.8.2023 for specified purposes, 1.4.2024 in so far as not already in force) by Agriculture (Wales) Act 2023 (asc 4), **ss. 41**, 56(1)(a); S.I. 2023/1092, art. 3(a)

26B Appeals against notice given under section 24E(2) E+W

(1) The following persons have a right to bring an appeal against a notice given under section 24E(2) if the person thinks that any of the grounds set out in subsection (2) applies—

(a) the person to whom the notice was given;

(b) a person who has such estate or interest in the land as is referred to in section 10(1);

(c) the owner of the trees.

(2) The grounds are—

(a) the felling is not causing the harm specified in the notice or is not likely to cause the harm;

(b) suspending or revoking the felling licence is unreasonable or disproportionate;

(c) an amendment to the felling licence is unreasonable or disproportionate;

(d) where the notice has suspended the felling licence, the suspension should have been brought to an end by a notice given under section 24E(4)(b).

(3) An appeal under this section is brought by serving a notice on the Welsh Ministers requesting that they refer the matter to a committee appointed in accordance with section 27 (and see section 26C for further provision about such requests).

Textual Amendments

F219 Ss. 26A-26G inserted (18.8.2023 for specified purposes, 1.4.2024 in so far as not already in force) by Agriculture (Wales) Act 2023 (asc 4), **ss. 41**, 56(1)(a); S.I. 2023/1092, art. 3(a)

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26C Further provision about appeals brought under sections 26A and 26B E+W

(1) A request made to the Welsh Ministers under section 26A or 26B must be made in the prescribed manner and within the prescribed period.

(2) A notice given under section 24C(3), 24D(2) or 24E(2) does not take effect until the expiration of the prescribed period and, where a request is made to the Welsh Ministers under section 26A or 26B (as the case may be), until the conclusion of any proceedings in pursuance of the request.

(3) But subsection (2) does not apply (and the notice may take effect immediately) to the extent that—
- (a) the notice makes provision that the Natural Resources Body for Wales considers is necessary to respond to an imminent and serious risk of harm to—
  - (i) natural beauty, or
  - (ii) flora, fauna, geological or physiographical features, or natural habitats, or
- (b) the notice makes provision that suspends a felling licence.

(4) Where a request is made to the Welsh Ministers under section 26A or 26B, the Welsh Ministers must, unless they are of the opinion that the grounds for the request are frivolous, refer the matter to the committee appointed in accordance with section 27.

(5) The committee to whom a matter is referred under this section must, after complying with section 27(3), provide the Welsh Ministers with a report in relation to the reference.

(6) After considering the report, the Welsh Ministers must—
- (a) in the case of a request made on the ground in subsection 26A(2)(e) or 26B(2)(d) (suspension should have been ended)—
  - (i) direct the Natural Resources Body for Wales to give a notice under section 24C(7)(b) or 24E(4)(b) (as the case may be) ending the suspension, or
  - (ii) give the person who made the request a notice setting out the reasons why a direction under sub-paragraph (i) is not being given;
- (b) in the case of any other request, confirm or cancel the notice to which the reference relates.

Textual Amendments

F219 Ss. 26A-26G inserted (18.8.2023 for specified purposes, 1.4.2024 in so far as not already in force) by Agriculture (Wales) Act 2023 (asc 4), **ss. 41**, 56(1)(a); S.I. 2023/1092, art. 3(a)

26D Compensation following receipt of a notice given under section 24C(3) E+W

(1) If in the case of any trees, the Natural Resources Body for Wales gives a person a notice under section 24C(3), the relevant person is entitled to compensation in accordance with this section and section 26G.

(2) If the notice given under section 24C(3) is cancelled under section 26C(6)(b), compensation is payable—
- (a) for any expenses reasonably incurred in connection with the giving of the notice;

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(b) for any depreciation in the value of the trees that is attributable to deterioration in the quality of the timber comprised in the trees as a result of the giving of the notice.

(3) If a direction is given to the Natural Resources Body for Wales under section 26C(6)(a)(i) to give a notice ending a suspension imposed by the notice given under section 24C(3), compensation is payable—

(a) for any expenses reasonably incurred in connection with the suspension;

(b) for any depreciation in the value of the trees that is attributable to deterioration in the quality of the timber comprised in the trees as a result of the suspension.

(4) For the purposes of this section "the relevant person" is—

(a) where compensation is payable for expenses reasonably incurred, and those expenses have been incurred in connection with a requirement to take steps, the person to whom the notice was given;

(b) where compensation is payable for expenses reasonably incurred, and those expenses have been incurred otherwise than in connection with a requirement to take steps, a person who had such estate or interest in the land as is referred to in section 10(1) at the time the expenses were incurred;

(c) in the case of compensation for depreciation in the value of the trees, the owner of the trees.

Textual Amendments

F219 Ss. 26A-26G inserted (18.8.2023 for specified purposes, 1.4.2024 in so far as not already in force) by Agriculture (Wales) Act 2023 (asc 4), **ss. 41**, 56(1)(a); S.I. 2023/1092, art. 3(a)

26E Compensation following receipt of a notice given under section 24D(2) E+W

(1) If in the case of any trees, the Natural Resources Body for Wales gives a person a notice under section 24D(2), the person to whom the notice was given is entitled to compensation in accordance with this section and section 26G.

(2) If the notice given under section 24D(2) is cancelled under section 26C(6)(b), compensation is payable for any expenses reasonably incurred in connection with the giving of the notice.

Textual Amendments

F219 Ss. 26A-26G inserted (18.8.2023 for specified purposes, 1.4.2024 in so far as not already in force) by Agriculture (Wales) Act 2023 (asc 4), **ss. 41**, 56(1)(a); S.I. 2023/1092, art. 3(a)

26F Compensation following receipt of a notice given under section 24E(2) E+W

(1) If in the case of any trees, the Natural Resources Body for Wales gives a person a notice under section 24E(2), the relevant person is entitled to compensation in accordance with this section and section 26G.

(2) Compensation is payable for any depreciation in the value of the trees that is attributable to deterioration in the quality of the timber comprised in the trees as a

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result of the giving of the notice under section 24E(2) (regardless of whether an appeal has been brought under section 26B).

(3) If the notice given under section 24E(2) is cancelled under section 26C(6)(b), compensation is payable for any expenses reasonably incurred in connection with the giving of the notice.

(4) If a direction is given to the Natural Resources Body for Wales under section 26C(6)(a)(i) to give a notice ending a suspension imposed by the notice given under section 24E(2), compensation is payable for any expenses reasonably incurred in connection with the suspension.

(5) For the purposes of this section "the relevant person" is—

(a) where compensation is payable for expenses reasonably incurred, a person who had such estate or interest in the land as is referred to in section 10(1) at the time the expenses were incurred;

(b) in the case of compensation for depreciation in the value of the trees, the owner of the trees.

Textual Amendments

F219 Ss. 26A-26G inserted (18.8.2023 for specified purposes, 1.4.2024 in so far as not already in force) by Agriculture (Wales) Act 2023 (asc 4), **ss. 41**, 56(1)(a); S.I. 2023/1092, art. 3(a)

26G Compensation under section 26D, 26E and 26F – further provision E+W

(1) Compensation under sections 26D, 26E and 26F is recoverable from the Natural Resources Body for Wales.

(2) A claim for compensation under section 26D, 26E or 26F must be made in the prescribed manner and within the prescribed period.

(3) Where a claim for compensation is made under section 26D or 26F for deterioration in the quality of the timber—

(a) if the trees have been felled, no claim may be made after the expiration of one year from the date of the felling;

(b) where a claim is made in reliance on section 26F(2) (depreciation in the value of the trees as a result of the giving of a notice under section 24E(2)), no claim may be made in respect of deterioration occurring more than ten years after the notice was given.

(4) In calculating compensation that is payable under section 26D or 26F—

(a) no account is to be taken of deterioration in the quality of the timber that is attributable to neglect of the trees;

(b) the value of the trees at any time is to be ascertained on the basis of prices current at the date of the claim.

(5) If—

(a) after giving notice under section 24E(2) that amends a felling licence, the Natural Resources Body for Wales notifies the person specified in subsection (6) that it is prepared to further amend the licence under section 10(3A) so that it has the same effect as it had immediately before the licence was amended by the notice given under section 24E(2), or

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(b) after giving notice under section 24E(2) that revokes a felling licence, the Natural Resources Body for Wales notifies the person mentioned in subsection (7) that it is prepared to grant a new licence that has the same effect as the licence that was revoked,

then in calculating the compensation that is payable under section 26F(2), no account is to be taken of deterioration occurring after the Natural Resources Body for Wales has notified the relevant person in accordance with this subsection.

(6) For the purposes of subsection (5)(a), the relevant person is—

(a) the applicant for the licence, if the applicant has such estate or interest in the land as is referred to in section 10(1), or

(b) if the applicant no longer has such estate or interest, a person who has such estate or interest.

(7) For the purposes of subsection (5)(b), the relevant person is the person who has such estate or interest in the land as is referred to in section 10(1).

(8) Any question of disputed compensation arising from a claim made under section 26D, 26E or 26F is to be determined in accordance with section 31.**]**

Textual Amendments

F219 Ss. 26A-26G inserted (18.8.2023 for specified purposes, 1.4.2024 in so far as not already in force) by Agriculture (Wales) Act 2023 (asc 4), **ss. 41**, 56(1)(a); S.I. 2023/1092, art. 3(a)

Supplementary

27 [X1]Committees of reference for purposes of ss. 16, 20, 21 [[F220], 25, 26A, 26B and 26C]. W

(1) References in sections 16, **[**[F221]17B,**]** 20, 21 **[**[F222], 25, 26A, 26B and 26C**]** of this Act to a committee appointed in accordance with this section are to a committee consisting of—

(a) a chairman appointed by the Minister **[**[F223]in relation to cases where the trees are, or the land is, in **[**[F224]England or Wales**]**[F225]... **]**; and

(b) two other members selected by the Minister [F226]... from a panel of persons appointed by him, after such consultation as is provided for below, for the conservancy in which the trees are growing:

[[F227]But this is subject to subsections (1A) and (1B)**]**.

[[F228](1A) The members of a committee appointed in relation to a case concerning trees or land in England [F229]... shall not include any Forestry Commissioner or employee of the Commissioners.

(1B) The members of a committee appointed in relation to a case concerning trees or land in Wales shall not include any member or employee of the Natural Resources Body for Wales.**]**

(2) The consultation required by subsection (1)(b) above is to be with—

(a) the regional advisory committee for the said conservancy; and

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(b) organisations appearing to the Minister [F230]... to represent the interests of owners of woodlands and timber merchants respectively; and

(c) organisations concerned with the study and promotion of forestry.

(3) On any reference being made to them under this Part of this Act a committee appointed in accordance with this section shall—

(a) afford to the person concerned with the subject-matter of the reference an opportunity of appearing before them and of making representations to them on the matter in question;

(b) if they think fit, or are so required by the said person, inspect the trees or land to which the reference relates; and

(c) take into consideration any information furnished to them by the **[**[F231]appropriate forestry authority**]** as to the performance within the conservancy in which the trees are growing of their duty of promoting the establishment and maintenance [F232]... of adequate reserves of growing trees.

For purposes of this subsection "the person concerned with the subject-matter of the reference" is the person at whose request the reference was made, except that in the case of a reference by the Minister [F233]... of a notice under section 21 it is the person by whom the notice was given.

(4) The Minister may pay to the members of a committee appointed by him under this section such remuneration as he may, with the consent of the Treasury **[**[F234]as regards England [F235]... **]**, determine.

[F236](4A) . . . . . .

Editorial Information

X1 S. 27: Unreliable margin note

Textual Amendments

F1 Act repealed (S.) (1.4.2019) by Forestry and Land Management (Scotland) Act 2018 (asp 8), s. 85(2), **sch. 2** (with ss. 80, 83); S.S.I. 2019/47, reg. 2 (with transitional provisions and savings in regs. 3-22 (as amended (18.3.2021) by The Forestry and Land Management (Scotland) Act 2018 (Consequential, Saving and Transitional Provisions) Regulations 2021 (S.S.I. 2021/44), regs. 1(1), **11(2)(b)(3)(a)**))

F220 Words in s. 27 heading substituted (18.8.2023 for specified purposes, 1.4.2024 in so far as not already in force) by Agriculture (Wales) Act 2023 (asc 4), **ss. 44(5)(a)**, 56(1)(a); S.I. 2023/1092, art. 3(a)

F221 Words inserted by Forestry Act 1986 (c. 30, SIF 54), **s. 1(b)**

F222 Words in s. 27(1) substituted (18.8.2023 for specified purposes, 1.4.2024 in so far as not already in force) by Agriculture (Wales) Act 2023 (asc 4), **ss. 44(5)(b)**, 56(1)(a); S.I. 2023/1092, art. 3(a)

F223 Words in s. 27(1)(a) inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(22)(a)**

F224 Words in s. 27(1) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 67(2)(a)** (with Sch. 7)

F225 Words in s. 27(1)(a) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 27(a)(i)**; S.S.I. 2019/47, reg. 2

F226 Words in s. 27(1)(b) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 27(a)(ii)**; S.S.I. 2019/47, reg. 2

F227 Words in s. 27(1) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 67(2)(b)** (with Sch. 7)

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F228 S. 27(1A)(1B) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 67(3)** (with Sch. 7)

F229 Words in s. 27(1A) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 27(b)**; S.S.I. 2019/47, reg. 2

F230 Words in s. 27(2)(b) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 27(c)**; S.S.I. 2019/47, reg. 2

F231 Words in s. 27(3)(c) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 67(4)** (with Sch. 7)

F232 Words in s. 27(3)(c) omitted (1.7.1999) by virtue of S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(9)**

F233 Words in s. 27(3) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 27(d)**; S.S.I. 2019/47, reg. 2

F234 Words in s. 27(4) inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(22)(c)**

F235 Words in s. 27(4) omitted (1.4.2013) by virtue of The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 67(5)** (with Sch. 7)

F236 S. 27(4A) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 27(e)**; S.S.I. 2019/47, reg. 2

28 Identification of trees. E+W+S

A person authorised by the **[**[F237]appropriate forestry authority**]** may take such steps, whether by marking or otherwise, as the **[**[F237]appropriate forestry authority**]** consider necessary for identifying trees which are the subject of a felling licence or felling directions, or in respect of which a felling licence has been refused.

Textual Amendments

F1 Act repealed (S.) (1.4.2019) by Forestry and Land Management (Scotland) Act 2018 (asp 8), s. 85(2), **sch. 2** (with ss. 80, 83); S.S.I. 2019/47, reg. 2 (with transitional provisions and savings in regs. 3-22 (as amended (18.3.2021) by The Forestry and Land Management (Scotland) Act 2018 (Consequential, Saving and Transitional Provisions) Regulations 2021 (S.S.I. 2021/44), regs. 1(1), **11(2)(b)(3)(a)**))

F237 Words in s. 28 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 68** (with Sch. 7)

29 Provisions relating to mortgages [F238]... and settled land. E+W+S

(1) Where the interest of the owner of trees in England or Wales is for the time being subject to a mortgage—

(a) a claim for any compensation or sum payable under section 11 **[**[F239], 26, 26D, 26E or 26F**]** of this Act in respect of the trees may be made either by the mortgagor or by the mortgagee;

(b) in either case the compensation or sum shall be paid to the mortgagee or, if more than one, to the first mortgagee, and shall be applied by him as if it were proceeds of the sale of the trees.

[F240](2) . . . . . .

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(3) Subject to the foregoing provisions of this section, where the owner of trees comprised in a settlement within the meaning of the [M8]Settled Land Act 1925 is a tenant for life who is impeachable for waste in respect of the trees, any compensation or sum payable under section 11 **[**[F241], 26, 26D, 26E or 26F**]** of this Act in respect of the trees shall be paid to the trustees of the settlement, and shall be applied by them in accordance with section 66(2) of the Settled Land Act 1925 as if it were proceeds of sale of timber cut and sold with the consent of the trustees under that section.

Textual Amendments

F1 Act repealed (S.) (1.4.2019) by Forestry and Land Management (Scotland) Act 2018 (asp 8), s. 85(2), **sch. 2** (with ss. 80, 83); S.S.I. 2019/47, reg. 2 (with transitional provisions and savings in regs. 3-22 (as amended (18.3.2021) by The Forestry and Land Management (Scotland) Act 2018 (Consequential, Saving and Transitional Provisions) Regulations 2021 (S.S.I. 2021/44), regs. 1(1), **11(2)(b)(3)(a)**))

F238 Words in s. 29 title omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 28(a)**; S.S.I. 2019/47, **reg. 2**

F239 Words in s. 29(1)(a) substituted (18.8.2023 for specified purposes, 1.4.2024 in so far as not already in force) by Agriculture (Wales) Act 2023 (asc 4), **ss. 44(6)(a)**, 56(1)(a); S.I. 2023/1092, art. 3(a)

F240 S. 29(2) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 28(b)**; S.S.I. 2019/47, **reg. 2**

F241 Words in s. 29(3) substituted (18.8.2023 for specified purposes, 1.4.2024 in so far as not already in force) by Agriculture (Wales) Act 2023 (asc 4), **ss. 44(6)(b)**, 56(1)(a); S.I. 2023/1092, art. 3(a)

Marginal Citations

M8 1925 c. 18**(98:3)**

30 Service of documents. E+W+S

(1) Any document required or authorised to be served under this Part of this Act may be served on a person either by delivering it to him, or by leaving it at his proper address, or by sending it through the post in a registered letter addressed to him at that address or in a letter sent by the recorded delivery service and so addressed.

(2) Any such document required or authorised to be served upon an incorporated company or body shall be duly served if it is served upon the secretary or clerk of the company or body **[**[F242]or, in the case of service by the Commissioners, upon a director of the company or body**]**.

(3) For the purposes of this section and of **[**[F243]section 7 of the [M9]Interpretation Act 1978**]**, the proper address of any person upon whom any such document as aforesaid is to be served shall, in the case of the secretary or clerk **[**[F244]or director**]** of an incorporated company or body, be that of the registered or principal office of the company or body, and in any other case be the last known address of the person to be served:
Provided that, where the person to be served has furnished an address for service, his proper address for the said purposes shall be the address furnished.

(4) If it is not practicable to ascertain the name or address of an owner, lessee or occupier of land on whom any such document as aforesaid is to be served, the document may be served by addressing it to him by the description of "owner", "lessee" or "occupier" of the land (describing it) to which it relates, and by delivering it to some responsible

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person on the land or, if there is no such person on the land to whom it may be delivered, by affixing it or a copy of it to some conspicuous part of the land.

(5) The **[**[F245]appropriate forestry authority**]** may, for the purpose of enabling them to serve or give any document or direction under this Part of this Act, require the occupier of any land and any person who, either directly or indirectly, receives rent in respect of any land **[**[F246], and the owner of any land in England**]**, to state in writing the nature of his interest therein and the name and address of any other person known to him as having an interest therein, whether as a freeholder or owner, mortgagee or creditor in a heritable security, lessee or otherwise; and anyone who, having been required in pursuance of this subsection to give any information, fails to give it, or knowingly makes any mis-statement in respect thereof, shall be liable on summary conviction to a fine not exceeding **[**[F247]level 1 on the standard scale**]**.

[[F248](6) For the purposes of this section, any reference in this Part to the giving of a notice or document by the Natural Resources Body for Wales is to be treated as if it were a reference to the serving of a document.**]**

Textual Amendments

F1 Act repealed (S.) (1.4.2019) by Forestry and Land Management (Scotland) Act 2018 (asp 8), s. 85(2), **sch. 2** (with ss. 80, 83); S.S.I. 2019/47, reg. 2 (with transitional provisions and savings in regs. 3-22 (as amended (18.3.2021) by The Forestry and Land Management (Scotland) Act 2018 (Consequential, Saving and Transitional Provisions) Regulations 2021 (S.S.I. 2021/44), regs. 1(1), **11(2)(b)(3)(a)**))

F242 Words in s. 30(2) inserted (1.1.2023) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 16 para. 7(2)** (with s. 144); S.I. 2022/1266, reg. 2(d)

F243 Words substituted by virtue of Interpretation Act 1978 (c. 30, SIF 115:1), **s. 17(2)(a)**

F244 Words in s. 30(3) inserted (1.1.2023) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 16 para. 7(3)** (with s. 144); S.I. 2022/1266, reg. 2(d)

F245 Words in s. 30(5) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 69** (with Sch. 7)

F246 Words in s. 30(5) inserted (1.1.2023) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 16 para. 8** (with s. 144); S.I. 2022/1266, reg. 2(d)

F247 Words substituted (E.W.) by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46; and (S.) by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1;), **ss. 289F**, 289G

F248 S. 30(6) inserted (18.8.2023 for specified purposes, 1.4.2024 in so far as not already in force) by Agriculture (Wales) Act 2023 (asc 4), **ss. 43(2)**, 56(1)(a); S.I. 2023/1092, art. 3(a)

Marginal Citations

M9 1978 c. 30**(115:1)**

31 Determination of matters arising under ss. 11, 14, 21 [[F249], 22, 26D, 26E and 26F]. W

(1) Where a provision of this Part of this Act requires a thing to be determined in accordance with this section, that provision shall—

(a) in its application to England and Wales, be taken as requiring it to be determined by the **[**[F250]Upper Tribunal**]**; [F251]...

[F251](b) . . . . . .

[F252](2) . . . . . .

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Textual Amendments

F1 Act repealed (S.) (1.4.2019) by Forestry and Land Management (Scotland) Act 2018 (asp 8), s. 85(2), **sch. 2** (with ss. 80, 83); S.S.I. 2019/47, reg. 2 (with transitional provisions and savings in regs. 3-22 (as amended (18.3.2021) by The Forestry and Land Management (Scotland) Act 2018 (Consequential, Saving and Transitional Provisions) Regulations 2021 (S.S.I. 2021/44), regs. 1(1), **11(2)(b)(3)(a)**))

F249 Words in s. 31 heading substituted (18.8.2023 for specified purposes, 1.4.2024 in so far as not already in force) by Agriculture (Wales) Act 2023 (asc 4), **ss. 44(7)**, 56(1)(a); S.I. 2023/1092, art. 3(a)

F250 Words in s. 31(1)(a) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 1, **Sch. 1 para. 77** (with Sch. 5)

F251 S. 31(1)(b) and word omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 29(a)**; S.S.I. 2019/47, reg. 2

F252 S. 31(2) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 29(b)**; S.S.I. 2019/47, reg. 2

32 Regulations. E+W+S

(1) **[**[F253]The appropriate legislative authority may**]**[F254]... by statutory instrument make regulations for prescribing anything which by this Part of this Act is authorised to be prescribed.

(2) A power conferred by this Part of this Act to prescribe the manner in which a claim or notice may be made or given thereunder shall include power to require that any particulars specified in the claim or notice shall be verified by statutory declaration.

[[F255](3) Regulations made under this Part of this Act **[**[F256]by the Commissioners**]** may make provision as regards England [F257]... [F258]... .

(4) A statutory instrument containing regulations made under this Part of this Act making provision only as regards England [F259]...—

(a) if the regulations are made under section 9(5)(b) or (c), shall be of no effect unless approved by a resolution of each House of Parliament; and

(b) in a case not falling within the foregoing paragraph, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

[F260](5) . . . . . .

[A statutory instrument containing regulations under this Part making provision only [F261](5A) as regards Wales—

(a) in the case of regulations under section 9(5)(b) or (c), must not be made unless a draft of the instrument has been laid before, and approved by resolution of, the National Assembly for Wales;

(b) in a case not falling within paragraph (a), is subject to annulment in pursuance of a resolution of the National Assembly for Wales.**]**

[F262](6) . . . . . .**]**

Textual Amendments

F1 Act repealed (S.) (1.4.2019) by Forestry and Land Management (Scotland) Act 2018 (asp 8), s. 85(2), **sch. 2** (with ss. 80, 83); S.S.I. 2019/47, reg. 2 (with transitional provisions and savings in regs. 3-22

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(as amended (18.3.2021) by The Forestry and Land Management (Scotland) Act 2018 (Consequential, Saving and Transitional Provisions) Regulations 2021 (S.S.I. 2021/44), regs. 1(1), **11(2)(b)(3)(a)**))

F253 Words in s. 32(1) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 70(2)** (with Sch. 7)

F254 Words in s. 32(1) repealed (2.3.2015) by The Public Bodies (Abolition of the Home Grown Timber Advisory Committee) Order 2015 (S.I. 2015/475), art. 1(3), **Sch. Pt. 1**

F255 S. 32(3)-(6) substituted (1.7.1999) for s. 32(3) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(23)**

F256 Words in s. 32(3) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 70(3)(a)** (with Sch. 7)

F257 Words in s. 32(3) omitted (1.4.2013) by virtue of The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 70(3)(b)** (with Sch. 7)

F258 Words in s. 32(3) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 30(a)**; S.S.I. 2019/47, reg. 2

F259 Words in s. 32(4) omitted (1.4.2013) by virtue of The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 70(4)** (with Sch. 7)

F260 S. 32(5) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 30(b)**; S.S.I. 2019/47, reg. 2

F261 S. 32(5A) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 70(5)** (with Sch. 7)

F262 S. 32(6) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 30(c)**; S.S.I. 2019/47, reg. 2

33 Application of Part II to Crown land. E+W+S

(1) In this section "Crown land" means land an interest in which belongs to Her Majesty in right of the Crown or of the Duchy of Lancaster, or to the Duchy of Cornwall, and land an interest in which belongs to a government department or is held in trust for Her Majesty for the purposes of a government department.

(2) Subject to the following provisions of this section, the provisions of this Part of this Act shall apply in relation to Crown land and trees growing thereon to the extent only of any estate or interest therein which is for the time being held otherwise than on behalf of the Crown.

(3) Except with the consent of the appropriate authority as defined in this section,—

(a) no conditions relating to the restocking or stocking of Crown land shall be imposed on the grant of a felling licence;

(b) no felling directions shall be given in respect of trees growing on Crown land.

(4) The Minister [F263]... shall not be authorised to acquire the interest of any person in Crown land by virtue of a notice under section 21 unless an offer has previously been made by that person to dispose of that interest to the appropriate authority on terms that the price payable therefor shall be equal to (and shall be determined in default of agreement in like manner as) the compensation which would be payable in respect of that interest if it were acquired in pursuance of such a notice, and that offer has been refused by that authority.

(5) In this section "the appropriate authority" in relation to any land means—

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(a) in the case of land belonging to Her Majesty in right of the Crown, the Crown Estate Commissioners or other government department having the management of the land in question [F264]... ;

(b) in the case of land belonging to Her Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy;

(c) in the case of land belonging to the Duchy of Cornwall, such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints; and

(d) in the case of land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, that department;

and if any question arises as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.

Textual Amendments

F1 Act repealed (S.) (1.4.2019) by Forestry and Land Management (Scotland) Act 2018 (asp 8), s. 85(2), **sch. 2** (with ss. 80, 83); S.S.I. 2019/47, reg. 2 (with transitional provisions and savings in regs. 3-22 (as amended (18.3.2021) by The Forestry and Land Management (Scotland) Act 2018 (Consequential, Saving and Transitional Provisions) Regulations 2021 (S.S.I. 2021/44), regs. 1(1), **11(2)(b)(3)(a)**))

F263 Words in s. 33(4) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 31(a)**; S.S.I. 2019/47, reg. 2

F264 Words in s. 33(5)(a) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 31(b)**; S.S.I. 2019/47, reg. 2

34 Meaning of "owner" in Part II. E+W+S

(1) In this Part of this Act the expression "owner" has the meaning ascribed to it by this section.

(2) In relation to land in England or Wales, "owner" means the person in whom for the time being is vested the legal estate in fee simple, except that where in relation to all or any of the provisions of this Part of this Act,—

(a) all persons appearing to the Minister to be concerned agree, with the approval of the Minister, that some person shall be treated as the owner of land other than the person who would be so treated apart from the agreement; or

(b) on an application in that behalf to the **[**[F265]appropriate tribunal**]** determine, having regard to the respective interests of the persons interested in the land, that some person shall be treated as the owner of the land other than the person who would be so treated apart from the determination,

that person shall be so treated, but without prejudice to a subsequent agreement or determination, or to his ceasing to be so treated, if the Minister withdraws his approval under paragraph (a) of this subsection.

[[F266](2A) For the purposes of subsection (2), "appropriate tribunal" means—

(a) where the land (or the greater part of the land) is in England, the First-tier Tribunal; and

(b) where the land (or the greater part of the land) is in Wales, the Agricultural Land Tribunal established under Part V of the Agriculture Act 1947.**]**

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[F267](3) . . . . . .

(4) In relation to trees, "owner" means the owner of the land on which the trees are growing and, in the case of trees which have been felled, means the person who was the owner immediately before the feeling.

Textual Amendments

F1 Act repealed (S.) (1.4.2019) by Forestry and Land Management (Scotland) Act 2018 (asp 8), s. 85(2), **sch. 2** (with ss. 80, 83); S.S.I. 2019/47, reg. 2 (with transitional provisions and savings in regs. 3-22 (as amended (18.3.2021) by The Forestry and Land Management (Scotland) Act 2018 (Consequential, Saving and Transitional Provisions) Regulations 2021 (S.S.I. 2021/44), regs. 1(1), **11(2)(b)(3)(a)**))

F265 Words in s. 34(2)(b) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 199(a)** (with Sch. 3)

F266 S. 34(2A) inserted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, **Sch. 1 para. 199(b)** (with Sch. 3)

F267 S. 34(3) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 32**; S.S.I. 2019/47, reg. 2

35 Interpretation of other expressions in Part II. E+W+S

In this Part of this Act—

"conservancy" means any area in **[**[F268]England and Wales**]** which may for the time being be designated by the **[**[F269]appropriate forestry authority**]** as a conservancy for the purpose of the performance of their functions;

"felling" includes wilfully destroying by any means;

"felling directions" means directions given by the**[**[F269]appropriate forestry authority**]** under section 18 of this Act for the felling of trees;

"felling licence" means a licence under this Part of this Act authorising the felling of trees;

[[F270]"mortgage" includes any charge for securing money or money's worth, and references to a mortgagee are to be construed accordingly**]**;

"prescribed" means prescribed by regulations made by the **[**[F271]appropriate legislative authority**]** under this Part of this Act; and

[[F272] " restocking notice " shall be construed in accordance with section 17A(1) of this Act; **]**

"tree preservation order" means an order made or having effect as if made under **[**[F273]section 198 of the Town and Country Planning Act 1990**]**[F274]... .

[[F275] " tree preservation regulations " means regulations made under section 202A(1) of the Town and Country Planning Act 1990; **]**

Textual Amendments

F1 Act repealed (S.) (1.4.2019) by Forestry and Land Management (Scotland) Act 2018 (asp 8), s. 85(2), **sch. 2** (with ss. 80, 83); S.S.I. 2019/47, reg. 2 (with transitional provisions and savings in regs. 3-22 (as amended (18.3.2021) by The Forestry and Land Management (Scotland) Act 2018 (Consequential, Saving and Transitional Provisions) Regulations 2021 (S.S.I. 2021/44), regs. 1(1), **11(2)(b)(3)(a)**))

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F268 Words in s. 35 substituted (1.4.2019) by The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 33(a)**; S.S.I. 2019/47, reg. 2

F269 Words in s. 35 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 71(2)** (with Sch. 7)

F270 Words in s. 35 substituted (1.4.2019) by The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 33(b)**; S.S.I. 2019/47, reg. 2

F271 Words in s. 35 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 71(3)** (with Sch. 7)

F272 Definition inserted by Forestry Act 1986 (c. 30, SIF 54), **s. 1(c)**

F273 Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2**, para. 14(2)

F274 Words in s. 35 omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 33(c)**; S.S.I. 2019/47, reg. 2

F275 Words in s. 35 inserted (6.4.2012 for E.) by Planning Act 2008 (c. 29), s. 241(3)(4), **Sch. 8 para. 5** (with s. 226); S.I. 2012/601, art. 2(a)

36 Application of Part II to London. E+W+S

This Part of this Act shall not apply to trees standing or growing on land within the area of Greater London other than the outer London Boroughs within the meaning of the [M10]London Government Act 1963.

Marginal Citations

M10 1963 c. 33**(81:1)**

PART III E+W+S

ADMINISTRATION AND FINANCE

Advisory bodies

37 [[F276] Advisory committees]. E+W+S

[[F277](1) For the purposes of advising the appropriate forestry authority as to the performance of their functions under section 1(3) and Part II of this Act, and such other functions as the appropriate forestry authority may from time to time determine—

[F278](a) . . . . . .

(b) the appropriate forestry authority shall continue to maintain a regional advisory committee for each conservancy (within the meaning of Part II of this Act) in [[F279]England and Wales].]

[F280](2) . . . . . .

(3) The [[F281]appropriate forestry authority] shall—

(a) in considering whether to refuse a felling licence under Part II of this Act, or to grant it unconditionally or subject to any conditions; and

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(b) in considering whether to give felling directions under the said Part II,

take into account any advice tendered by the regional advisory committee for the conservancy in which are growing the trees to which the felling licence applied for, or the directions proposed to be given, relate.

Textual Amendments

F276 S. 37 heading substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 72(3)** (with Sch. 7)

F277 S. 37(1) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 72(2)** (with Sch. 7)

F278 S. 37(1)(a) repealed (2.3.2015) by The Public Bodies (Abolition of the Home Grown Timber Advisory Committee) Order 2015 (S.I. 2015/475), art. 1(3), **Sch. Pt. 1**

F279 Words in s. 37(1)(b) substituted (1.4.2019) by The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 34**; S.S.I. 2019/47, reg. 2

F280 S. 37(2) repealed (2.3.2015) by The Public Bodies (Abolition of the Home Grown Timber Advisory Committee) Order 2015 (S.I. 2015/475), art. 1(3), **Sch. Pt. 1**

F281 Words in s. 37(3) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 72(2)** (with Sch. 7)

38 Composition etc. of advisory committees. E+W+S

[[F282](1) [F283]. . . . . .

(1A) The chairman and other members of each regional advisory committee shall be appointed by the appropriate forestry authority.

(1B) A chairman or member appointed under subsection [F284]... (1A) shall hold and vacate office in accordance with the terms of the instrument by which they are appointed.**]**

[F285](2) . . . . . .

(3) Each regional advisory committee shall consist of not less than seven nor more than **[**[F286]twelve**]** members, and of those members (other than the chairman) not less than four shall be persons appointed by the **[**[F287]appropriate forestry authority**]** after consultation with organisations appearing to them to represent the interests of owners of woodlands and timber merchants respectively and organisations concerned with the study and promotion of forestry.

(4) [F288]... **[**[F289]The appropriate forestry authority may pay to the members of a regional advisory committee,**]** such allowances as they may with the consent of the Treasury determine.

[F290](5) . . . . . .

Textual Amendments

F282 S. 38(1)-(1B) substituted for s. 38(1) (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 73(2)** (with Sch. 7)

F283 S. 38(1) repealed (2.3.2015) by The Public Bodies (Abolition of the Home Grown Timber Advisory Committee) Order 2015 (S.I. 2015/475), art. 1(3), **Sch. Pt. 1**

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F284 Words in s. 38(1B) repealed (2.3.2015) by The Public Bodies (Abolition of the Home Grown Timber Advisory Committee) Order 2015 (S.I. 2015/475), art. 1(3), **Sch. Pt. 1**

F285 S. 38(2) repealed (2.3.2015) by The Public Bodies (Abolition of the Home Grown Timber Advisory Committee) Order 2015 (S.I. 2015/475), art. 1(3), **Sch. Pt. 1**

F286 Words in s. 38(3) substituted (25.9.1991) by Forestry Act 1991 (c. 43, SIF 54), **ss.1**, 2(2).

F287 Words in s. 38(3) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 73(3)** (with Sch. 7)

F288 Words in s. 38(4) repealed (2.3.2015) by The Public Bodies (Abolition of the Home Grown Timber Advisory Committee) Order 2015 (S.I. 2015/475), art. 1(3), **Sch. Pt. 1**

F289 Words in s. 38(4) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 73(4)** (with Sch. 7)

F290 S. 38(5) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 35**; S.S.I. 2019/47, **reg. 2**

Acquisition and disposal of land

39 Power of Minister to acquire and dispose of land. E+W+S

(1) Subject to the provisions of this Act, the Minister **[**[F291]as regards **[**[F292]England or Wales**]**[F293]... **]** may acquire (by purchase, lease or exchange) land which in his [F294]... opinion is suitable for afforestation or for purposes connected with forestry, together with any other land which must necessarily be acquired therewith, and may place any land acquired by him [F295]... under this section at the disposal of the **[**[F296]appropriate forestry authority**]**.

[[F297](2) Subject to subsection (2A) below, the Minister [F298]... may dispose for any purpose of land acquired by him [F299]... under this section.

(2A) Subsection (2) above shall not apply in relation to land acquired under this section which is in the Forest of Dean; but the Minister may sell any such land if in his opinion it is not needed, or ought not to be used, for the purpose of afforestation or any purpose connected with forestry, and may exchange any such land for other land more suitable for either of the said purposes and may pay or receive money for equality of exchange.**]**

(3) The Minister [F300]... shall have power, in the case of land acquired by him [F301]... under this section,—

(a) to manage and use the land for such purposes as he thinks [F302]... fit (this power to include that of erecting buildings and other works on the land) where it is not for the time being placed at the disposal of the **[**[F296]appropriate forestry authority**]** under subsection (1) above; and

(b) to let the land, or grant any interest or right in or over it.

[F303](4) . . . . . .

[F304](5) . . . . . .

(6) Schedule 4 to this Act shall have effect as respects the procedure applicable where the Minister acquires [F305]... land under this section, except in a case of compulsory purchase in accordance with the following section.

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Textual Amendments

F291 Words in s. 39(1) inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(28)(a)**

F292 Words in s. 39(1) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 74(2)** (with Sch. 7)

F293 Words in s. 39(1) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 36(a)(i)**; S.S.I. 2019/47, reg. 2

F294 Words in s. 39(1) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 36(a)(ii)**; S.S.I. 2019/47, reg. 2

F295 Words in s. 39(1) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 36(a)(iii)**; S.S.I. 2019/47, reg. 2

F296 Words in s. 39(1) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 74(3)** (with Sch. 7)

F297 S. 39(2)(2A) substituted for s. 39(2) by Forestry Act 1981 (c. 39, SIF 54), **s. 1**

F298 Words in s. 39(2) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 36(b)(i)**; S.S.I. 2019/47, reg. 2

F299 Words in s. 39(2) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 36(b)(ii)**; S.S.I. 2019/47, reg. 2

F300 Words in s. 39(3) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 36(c)(i)**; S.S.I. 2019/47, reg. 2

F301 Words in s. 39(3) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 36(c)(ii)**; S.S.I. 2019/47, reg. 2

F302 Words in s. 39(3)(a) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 36(c)(iii)**; S.S.I. 2019/47, reg. 2

F303 Ss. 39(4), 41(7) repealed by Forestry Act 1981 (c. 39, SIF 54), s. 4(2), **Sch.**

F304 S. 39(5) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 36(d)**; S.S.I. 2019/47, reg. 2

F305 Words in s. 39(6) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 36(e)**; S.S.I. 2019/47, reg. 2

Modifications etc. (not altering text)

C7 S. 39 extended by (S.) Countryside (Scotland) Act 1967 (c. 86, SIF 46:1), **s. 59** and Countryside Act 1968 (c. 41, SIF 46:1), (E.W.) s. 23(3) and (E.W.)(S.) s. 24(5)

40 Compulsory purchase of land. E+W+S

(1) Subject to the provisions of this section, the power of the Minister [F306]... to acquire land by purchase under section 39 above includes a power of compulsory purchase.

(2) The following descriptions of land shall not be subject to compulsory purchase under this Act:—

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(a) land which is the site of an ancient monument or other object of archaeological interest;

(b) land which forms part of a park, garden or pleasure ground or which forms part of the home farm attached to, and usually occupied with, a mansion house or is otherwise required for the amenity or convenience of a dwelling-house;

(c) land which is the property of a local authority, that is to say,—

(i) in England or Wales, the council of a county, [F307]... , county district or rural parish, **[**[F308]the Greater London Council**]** the Common Council of the City of London or the council of a London borough; [F309] ...

[F309](ii) . . . . . .

(d) land which has been acquired for the purpose of their undertaking by statutory undertakers, that is to say persons authorised by an enactment, or by an order or scheme made under an enactment, to construct, work or carry on a railway, canal, inland navigation, dock, harbour, tramway, [F310]... , [F311]... , **[**[F312]water**]** or other public undertaking.

[[F313](e) land held or used by a universal service provider (within the meaning of **[**[F314]Part 3 of the Postal Services Act 2011**]**) for any purpose in connection with the provision of a universal postal service (within the meaning of **[**[F315]that Part**]**).**]**

(3) Land shall not be subject to compulsory purchase under this Act if a forestry dedication covenant [F316]... is in force with respect to it and it is being used and managed in accordance with the provisions and conditions of a plan of operations approved by the **[**[F317]appropriate forestry authority**]**; and—

(a) any question arising under this subsection whether there has been a breach of any of the provisions and conditions of a plan of operations shall be referred for determination as follows, that is to say—

(i) in a case relating to **[**[F318]England or Wales**]**, by an arbitrator appointerd by the President of the Royal Institution of Chartered Surveyors; [F319] ...

[F319](ii) . . . . . .

(b) such a breach shall not be treated as having occurred by virtue of any act or omission capable of remedy unless there has been default in remedying it within a reasonable time after notice given by the **[**[F317]appropriate forestry authority**]** requiring it to be remedied.

[[F320](4) The power of compulsory purchase under this Act shall not be excercisable in relation to land held inalienably by the National Trust or by the National Trust for Scotland.**]**

(5) The Minister's [F321]... power of compulsory purchase under this Act shall be exercisable by means of a compulsory purchase order, and—

(a) the order shall be made in accordance with Part I of Schedule 5 to this Act;

(b) Part II of that Schedule shall apply with respect to the validity and date of operation of the order; and

(c) Part III of that Schedule shall apply with respect to the procedure for acquiring land by compulsory purchase.

(6) If the said power of compulsory purchase is exercised in relation to land in respect of which an advance by way of grant has been made by the **[**[F317]appropriate forestry authority**]**—

(a) under section 4 of this Act; or

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(b) under section 3(3) of the [M11]Forestry Act 1919 at any time after the 26th March 1945,

not being in either case an advance made more than thirty years before the date of the service of the notice to treat in the exercise of that power, the amount of the compensation for the compulsory purchase shall be reduced by the amount of the advance with compound interest thereon (calculated from the date of the advance to the date on which the compensation is paid) at the rate of £3 per cent. per annum with yearly rests:

Provided that, in the case of compensation for the compulsory purchase of one of several interests in such land, the amount of the reduction in the case of each interest purchased shall be equal to a part of the advance and interest proportionate to the value of that interest as compared with the value of the land.

Textual Amendments

F306 Words in s. 40(1) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 37(a)**; S.S.I. 2019/47, reg. 2

F307 Words repealed by S.I. 1974/595, **Sch. 1 Pt. I**

F308 Words inserted by S.I. 1970/211, **art. 3(7)**

F309 S. 40(2)(c)(ii) and word omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 37(b)**; S.S.I. 2019/47, reg. 2

F310 Word repealed by Gas Act 1986 (c. 44, SIF 44), s. 67(4), **Sch. 9 Pt. 1**

F311 Word repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(3)(4), Sch. 17 para. 35(1), **Sch. 18**

F312 Word repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

F313 S. 40(2)(e) inserted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 23** (subject to art. 1(3))

F314 Words in s. 40(2)(e) substituted (1.10.2011) by Postal Services Act 2011 (c. 5), s. 93(2)(3), **Sch. 12 para. 86(a)**; S.I. 2011/2329, art. 3

F315 Words in s. 40(2)(e) substituted (1.10.2011) by Postal Services Act 2011 (c. 5), s. 93(2)(3), **Sch. 12 para. 86(b)**; S.I. 2011/2329, art. 3

F316 Words in s. 40(3) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 37(c)**; S.S.I. 2019/47, reg. 2

F317 Words in s. 40(3) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 75(2)** (with Sch. 7)

F318 Words in s. 40(3)(a)(i) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 75(3)** (with Sch. 7)

F319 S. 40(3)(a)(ii) and word omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 37(d)**; S.S.I. 2019/47, reg. 2

F320 S. 40(4) substituted by Forestry Act 1981 (c. 39, SIF 54), **s. 2**

F321 Words in s. 40(5) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 37(e)**; S.S.I. 2019/47, reg. 2

Modifications etc. (not altering text)

C8 S. 40 extended with modifications by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7**, para. 2(1), (xviii), Sch. 8 para. 33

C9 S. 40 extended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1)(3), Sch. 16 para. 1(1)(xvii), Sch. 17 paras. 33, **35(1)**

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C10 S. 40 extended (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), **Sch. 25 para. 1(1)(2)** (xiii), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58

C11 S. 40 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xiii)**; S.I. 1996/218, **art. 2**

Marginal Citations

M11 1919 c. 58

Finance, accounts and annual report

41 Forestry Fund. E+W+S

[[F322](1) The Forestry Fund constituted under section 8 of the Forestry Act 1919 shall be wound up and any balance in the Forestry Fund shall be paid to the Forestry Commissioners.

[F323](2) **[** This subsection applies to the following expenses–

(a) the salaries of the Forestry Commissioners and the salaries or remuneration of the officers and servants of the Commissioners;

(b) all expenses incurred by the Commissioners (including the cost of any grant or loan made by them) in the exercise of their functions under or by virtue of–

(i) this Act (including the payment of allowances to the members of any committee maintained by them under this Act), or

(ii) any other enactment;

(c) any superannuation benefits paid under paragraph 9 of Schedule 1 to this Act or under a scheme made by virtue of paragraph 10 of that Schedule;

(d) any administrative expenses of the **[**[F324]Secretary of State**]** under Part II of this Act (including sums required for the payment of remuneration to the members of any committee appointed by him under section 27);

(e) all capital payments made by the **[**[F324]Secretary of State**]** in acquiring land under section 39 above and any expenses incurred by him in managing such land and any rent or other outgoings payable in respect of such land,

but this subsection does not apply to any expenses to which subsection (4) below applies.

(3) The expenses to which subsection (2) above applies shall be payable out of money provided by Parliament, except in so far as they are met out of money held by the Commissioners in accordance with subsection (6) or (7) below.

(3A) Where, by virtue of subsection (3) above, any expenses incurred by the **[**[F324]Secretary of State**]** falling within subsection (2) above are to be met out of money held by the Commissioners, they shall make payments to him for that purpose.**]**

[F325](4) . . . . . .

[F326](4A) . . . . . .**]**

(5) The Commissioners may accept any gift made to them for all or any purposes of this Act and, subject to the terms thereof, may apply it for those purposes in accordance with regulations made by them.

[F327](6) . . . . . .

[F328](7) . . . . . .

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[[F329](6) Subject to **[**[F330]subsection (8)**]** below, all sums received by the Commissioners in respect of–

(a) the sale of timber or any other transactions carried out by them in the exercise of their functions under this Act, or

(b) any other exercise of their functions under or by virtue of this Act or any other enactment,

shall be held by the Commissioners for the purpose of meeting the expenses to which subsection (2) above applies.

(7) Subject to subsection (8) below, the following sums received by the **[**[F324]Secretary of State**]** shall be paid by him to the Commissioners and held by them for the purpose of meeting the expenses to which subsection (2) above applies–

(a) any capital sum received from the sale, lease or exchange of land **[**[F331]in England**]** acquired by him under section 39 above and all sums received by him from the letting or use of such land, and

(b) all sums received under sections 16 to 18 of the New Forest Act 1949.

(8) The **[**[F324]Secretary of State**]** may, with the approval of the Treasury, direct–

(a) that sums received by the Commissioners falling within subsection (6) above, or by the **[**[F324]Secretary of State**]** falling within subsection (7) above, or both, which are specified or of a description specified in the direction, or

(b) that all sums received by the Commissioners falling within subsection (6) above, or by the **[**[F324]Secretary of State**]** falling within subsection (7) above, or both, as specified in the direction,

shall not be subject to subsection (6) or, as the case may be, (7) but shall instead be paid into the Consolidated Fund.

(9) The power to give a direction under subsection (8) above includes power to vary or revoke a previous direction under that power.

[F332](10) . . . . . .

[F332](11) . . . . . .**]**

Textual Amendments

F322 S. 41(1)-(4A) substituted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(33)(a)**

F323 S. 41(2)(3)(3A) substituted (16.3.2000) for s. 41(2)(3) by S.I. 2000/746, art. 2, **Sch. para. 5(2)**

F324 Words in s. 41 substituted (18.7.2013) by The Natural Resources Body for Wales (Consequential Provision) Order 2013 (S.I. 2013/1821), arts. 1(2)(3), **13(2)(a)** (with art. 24)

F325 S. 41(4) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 38(a)**; S.S.I. 2019/47, reg. 2

F326 S. 41A repealed (16.3.2000) by S.I. 2000/746, art. 2, **Sch. para. 5(4)**

F327 S. 41(6) repealed (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(33)(b)**

F328 Ss. 39(4), 41(7) repealed by Forestry Act 1981 (c. 39, SIF 54), s. 4(2), **Sch.**

F329 S. 41(6)-(11) inserted (16.3.2000) by S.I. 2000/746, art. 2, **Sch. para. 5(5)**

F330 Words in s. 41(6) substituted (1.4.2019) by The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 38(b)**; S.S.I. 2019/47, reg. 2

F331 Words in s. 41(7)(a) inserted (18.7.2013) by The Natural Resources Body for Wales (Consequential Provision) Order 2013 (S.I. 2013/1821), arts. 1(2)(3), **13(2)(b)** (with art. 24)

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F332 S. 41(10)(11) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 38(c)**; S.S.I. 2019/47, reg. 2

Modifications etc. (not altering text)

C12 S. 41 transfer of functions (18.7.2013) by The Natural Resources Body for Wales (Consequential Provision) Order 2013 (S.I. 2013/1821), arts. 1(2)(3), **13(1)** (with art. 24)

[F333]42 . . . . . **E+W+S**

Textual Amendments

F333 S. 42 repealed (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(34)**

43 Satisfaction of certain contingent liability to Crown Estate. E+W+S

(1) If the Minister sells land which was transferred to him, or to any predecessor of his, or to the Commissioners, under section 1(1)(a) of the [M12]Forestry (Transfer of Woods) Act 1923 to an amount exceeding **[**[F334]2 hectares**]** at any one time, then if the sum determined under section 3 of the said Act of 1923 as the amount contingently payable by way of compensation for the transfer of rights and interests of the Crown has not been fully paid or satisfied,—

(a) the net proceeds of sale, or the portion necessary to satisfy the said sum, shall be paid by the Minister to the Crown Estate Commissioners and shall form part of the Crown Estate; and

(b) the payment shall be treated as satisfying a part of that sum equal to the gross proceeds of sale or the corresponding portion of them.

(2) **[**[F335]If section 1 of the Sovereign Grant Act 2011 ceases to have effect **]**, there shall be paid out of **[**[F336]the Consolidated Fund**]** to the Crown Estate Commissioners all such amounts as immediately before the commencement of this Act remained outstanding as compensation due to the Crown under section 3 of the said Act of 1923, reduced by the amount of any payments made since that commencement to the Crown Estate Commissioners pursuant to subsection (1) above or to the corresponding provision in section 8(1) of the [M13]Crown Estate Act 1961.

Textual Amendments

F334 Words substituted by Forestry Act 1979 (c. 21, SIF 54), s. 2(1), **Sch. 1**

F335 Words in s. 43(2) substituted (1.4.2012) by Sovereign Grant Act 2011 (c. 15), s. 15(1), **Sch. 1 para. 18(a)**

F336 Words in s. 43(2) substituted (1.4.2012) by Sovereign Grant Act 2011 (c. 15), s. 15(1), **Sch. 1 para. 18(b)**

Marginal Citations

M12 1923 c. 21

M13 1961 c. 55**(29:7)**

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[F337 44 . . . . . **E+W+S**

Textual Amendments

F337 S. 44 repealed (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(35)**

[[F338 45 **E+W+S**

[F339(1) . . . . . .

[F339(2) . . . . . .

(3) The Commissioners shall, on such day and in such form as the Ministers may direct, submit to the Ministers an annual report [F340]... as to their proceedings under this Act [F341]... and the Ministers shall lay the report [F340]... before Parliament.

[F342(4) . . . . . .]

Textual Amendments

F338 S. 45 substituted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(36)**

F339 S. 45(1)(2) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 39(a)**; S.S.I. 2019/47, reg. 2

F340 Words in s. 45(3) omitted (16.3.2000) by virtue of S.I. 2000/746, art. 2, **Sch. para. 5(6)**

F341 Words in s. 45(3) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 39(b)**; S.S.I. 2019/47, reg. 2

F342 S. 45(4) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 39(a)**; S.S.I. 2019/47, reg. 2

PART IV **E+W+S**

GENERAL

46 [[F343 Appropriate legislative authority's] power to make byelaws. **E+W+S**

(1) Subject to the provisions of this and the next following sections, the **[**[F344]appropriate legislative authority**]** may make byelaws with respect to any land which is under **[**[F345]the**]** management or control **[**[F346]of the appropriate forestry authority**]** and to which the public have, or may be permitted to have, access.

(2) The **[**[F347]appropriate legislative authority's**]** byelaws may be such as appear to them to be necessary—

(a) for the preservation of any trees or timber on the land, or of any property of the **[**[F348]appropriate forestry authority**]**; and

(b) for prohibiting or regulating any act or thing tending to injury or disfigurement of the land or its amenities; and

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(c) without prejudice to the generality of the foregoing, for regulating the reasonable use of the land by the public for the purposes of exercise and recreation.

(3) Byelaws under this section—

(a) shall not take away or injuriously affect any estate, interest, right of common or other right of a profitable or beneficial nature in, over or affecting any land, except with the consent of the person entitled thereto;

(b) shall not apply to a common which is subject to a scheme or regulation made in pursuance of the Metropolitan Commons Acts 1866 to 1898, or the Inclosure Acts 1845 to 1882, or the [M14]Commons Act 1899.

(4) Byelaws under this section shall be made by statutory instrument and a draft of a statutory instrument containing any such byelaws **[**[F349]with respect to land in England [F350]... **]** shall be laid before Parliament.

[F351](4A) . . . . . .

[F351](4B) . . . . . .

[[F352](4C) A draft of any statutory instrument containing byelaws under this section with respect to land in Wales must be laid before the National Assembly for Wales.**]**

(5) If anyone fails to comply with, or acts in contravention of, any byelaw made under this section he shall be guilty of an offence and be liable on summary conviction as follows:—

(a) in the case of an offence against byelaws made by the Commissioners with respect to the New Forest, he shall be liable to a fine not exceeding **[**[F353]level 2 on the standard scale**]**,

(b) in a case not falling within the foregoing paragraph, he shall be liable to a fine not exceeding **[**[F353]level 2 on the standard scale**]**; and

(c) in **[**[F354]the case of a continuing offence falling within either of the foregoing paragraphs**]** he shall be liable to a further fine not exceeding **[**[F355]50p**]** for each day upon which the offence continues.

(6) . . . . . [F356]

Textual Amendments

F343 Words in s. 46 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 76(6)** (with Sch. 7)

F344 Words in s. 46(1) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 76(2)(a)** (with Sch. 7)

F345 Word in s. 46(1) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 76(2)(b)** (with Sch. 7)

F346 Words in s. 46(1) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 76(2)(c)** (with Sch. 7)

F347 Words in s. 46(2) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 76(3)(a)** (with Sch. 7)

F348 Words in s. 46(2)(a) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 76(3)(b)** (with Sch. 7)

F349 Words in s. 46(4) inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(37)(a)**

F350 Words in s. 46(4) omitted (1.4.2013) by virtue of The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 76(4)** (with Sch. 7)

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F351 S. 46(4A)(4B) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 40**; S.S.I. 2019/47, reg. 2

F352 S. 46(4C) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 76(5)** (with Sch. 7)

F353 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1;), ss. 39, 46, **Sch. 3** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **Sch. 7D** and expressed to be substituted (S.) (1.4.1996) by 1995 c. 40, ss. 3, 7(2), Sch. 1 para. 10, **Sch. 2 Pt. III**

F354 Words substituted by Criminal Justice Act 1967 (c. 80, SIF 39:1), **Sch. 6 para 28**

F355 Words substituted by Decimal Currency Act 1969 (c. 19, SIF 10), **s. 10(1)**

F356 S. 46(6) repealed by Criminal Justice Act 1972 (c. 71, SIF 39:1), **Sch. 6 Pt. II**

Modifications etc. (not altering text)

C13 S. 46 amended by (S.) Countryside (Scotland) Act 1967 (c. 86, SIF 46:1), **s. 58(3)** and (E.W.) Countryside Act 1968 (c. 41, SIF 46:1), **s. 23(4)**

Marginal Citations

M14 1899 c. 30**(25)**

47 Provisions supplementary to s. 46 for New Forest and Forest of Dean. E+W+S

(1) Byelaws made by the Commissioners under section 46 with respect to the New Forest or the Forest of Dean shall be without prejudice to any byelaws made under any other Act by the verderers of either Forest, but before making any such byelaws the Commissioners shall consult with the verderers of the Forest concerned.

[X2](2) Section 1(3) of the [M15]New Forest Act 1964 (which applies byelaws made by the Commissioners to certain land added under that Act to the Forest) shall have effect with the substitution for the reference to section 2 of the [M16]Forestry Act 1927 of a reference to section 46 of this Act.

(3) The verderers of either of the said Forests may in their courts inquire into any offence consisting in a failure to comply with, or a contravention of, byelaws made by the Commissioners under section 46, being an offence alleged to have been committed within the Forest, and may punish any such offence so committed.

(4) As respects their jurisdiction under this section, the verderers' courts shall be deemed to be magistrates' courts, and the provisions of the [M17][M18]Magistrates' Courts Act 1952 and 1957, including provisions as to the recovery of fines and as to appeals, and the provisions of any rules made under those Acts, shall apply accordingly.

(5) The powers conferred by this section on the verderers of the New Forest and the Forest of Dean shall be in addition to, and not in derogation of, any other powers exercisable by them, and shall be without prejudice to the power of any other court in relation to offences under section 46.

Editorial Information

X2 The text of s. 47(2) and Sch. 7 Pt. I is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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Modifications etc. (not altering text)

C14 S. 47(4) references to Magistrates' Courts Act 1952 and 1957 (which Acts were repealed by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154(a), **Sch. 9**) are to be construed as mentioned in Sch. 8 para. 5 of that 1980 Act

Marginal Citations

M15 1964 c. 83.
M16 1927 c. 6.
M17 1952 c. 55
M18 1957 c. 29

48 Powers of entry and enforcement. E+W+S

(1) An officer of the **[**[F357]appropriate enforcement authority**]** or any other person authorised by **[**[F358]the appropriate enforcement authority**]** in that behalf may (on production, if so required, of his authority) enter on and survey any land for the purpose of ascertaining whether it is suitable for afforestation or for the purpose of inspecting any timber thereon, or for any other purpose in connection with the exercise of the powers and performance of the duties of the **[**[F357]appropriate enforcement authority**]** under this Act or the [M19]Plant Health Act 1967.

[[F359](1A) In subsection (1) "the appropriate enforcement authority" means—

(a) in relation to powers and duties of the Commissioners, the Commissioners;
(b) in relation to powers and duties of the Welsh Ministers, the Welsh Ministers;
(c) in relation to powers and duties of the Natural Resources Body for Wales, the Natural Resources Body for Wales.**]**

(2) The **[**[F360]appropriate forestry authority**]** may authorise an officer or servant appointed or employed by them to exercise and perform on their behalf such powers and duties as they may consider necessary for the enforcement of byelaws under section 46 of this Act, and in particular to remove or exclude, after due warning, from any land to which the byelaws relate a person who commits, or whom he reasonably suspects of committing an offence against the said section or against the [M20]Vagrancy Act 1824.

(3) Anyone who obstructs an officer or servant appointed or employed by the **[**[F361]appropriate forestry authority**]** in the due exercise or performance of his powers or duties under the foregoing subsection shall be guilty of an offence and be liable on summary conviction to a fine not exceeding **[**[F362]level 3 on the standard scale**]**.

Textual Amendments

F357 Words in s. 48(1) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 77(2)(a)** (with Sch. 7)
F358 Words in s. 48(1) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 77(2)(b)** (with Sch. 7)
F359 S. 48(1A) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 77(3)** (with Sch. 7)
F360 Words in s. 48(2) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 77(4)** (with Sch. 7)
F361 Words in s. 48(3) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 77(4)** (with Sch. 7)

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F362 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1;), ss. 39, 46, **Sch. 3** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **Sch. 7D** and expressed to be substituted (S.) (1.4.1996) by 1995 c. 40, ss. 3, 7(2), Sch. 1 para. 10, **Sch. 2 Pt.III**

Marginal Citations

M19 1967 c. 8**(2:11)**

M20 1824 c. 83**(39:2)**

49 Interpretation. E+W+S

(1) In this Act—

[F363"the appropriate forestry authority" has the meaning given by section 1(1A);

"the appropriate legislative authority" means—

(a) the Commissioners, in relation to England F364... ;

(b) the Welsh Ministers, in relation to Wales;]

"the Commissioners" means the body known as "The Forestry Commissioners";

[F365"forestry dedication covenant" has the meaning assigned to it by section 5;]

[F366 " the Minister " means, except as provided by F367 ... [F368 Schedule 1]F368 , the [F369 Secretary of State]F369 as respects England and the Secretary of State as respects Wales;]

"National Trust" means the National Trust for Places of Historic Interest or Natural Beauty incorporated by the M21National Trust Act 1907, and "held inalienably", in relation to land belonging to the National Trust, means that the land is inalienable under section 21 of the said Act of 1907 or section 8 of the M22National Trust Act 1939;

"National Trust for Scotland" means the National Trust for Scotland for Places of Historic Interest or Natural Beauty incorporated by the Order confirmed by the M23National Trust for Scotland Order Confirmation Act 1935, and "held inalienably", in relation to land belonging to that Trust, means that the land is inalienable under section 22 of that Order.

F370...

(2) For purposes of this Act, Monmouthshire shall be deemed to be part of Wales and not of England.

F371(3) . . . . . .

Textual Amendments

F363 Words in s. 49(1) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 78** (with Sch. 7)

F364 Words in s. 49(1) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 41(a)**; S.S.I. 2019/47, reg. 2

F365 Words in s. 49(1) substituted (1.4.2019) by The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 41(b)**; S.S.I. 2019/47, reg. 2

F366 Definition in s. 49 substituted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(38)**

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F367 Words in s. 49(1) in definition of "the Minister" repealed (27.3.2002) by The Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794), art. 5(2), **Sch. 2** (with art. 6)

F368 Words in s. 49(1) in definition of "the Minister" substituted (27.3.2002) by The Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794), art. 5(1), **Sch. 1 para. 13(a)** (with arts. 5(3), 6)

F369 Words in s. 49(1) in definition of "the Minister" substituted (27.3.2002) by The Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794), art. 5(1), **Sch. 1 para. 13(b)** (with arts. 5(3), 6)

F370 Words in s. 49(1) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 41(c)**; S.S.I. 2019/47, reg. 2

F371 S. 49(3) repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), Sch. 12 para. 27(4), **13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

Marginal Citations

M21 1907 c. cxxxvi.

M22 1939 c. lxxxvi.

M23 1935 c. ii.

50 Transitional provisions, repeals and savings. E+W+S

(1) The transitional provisions contained in Schedule 6 to this Act shall have effect.

(2) The enactments specified in the second column of Part I of Schedule 7 to this Act are hereby repealed to the extent specified in the third column of that Part of the Schedule, subject to the savings in Part II of that Schedule.

(3) Nothing in this section or in Schedule 6 or 7 to this Act shall be taken as affecting the general application of section 38 of the [M24]Interpretation Act 1889 with regard to the effect of repeals.

Marginal Citations

M24 1889 c. 63

51 Short title and extent. E+W+S

(1) This Act may be cited as the Forestry Act 1967.

(2) This Act shall not extend to Northern Ireland.]

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SCHEDULES

SCHEDULE 1 E+W+S

THE FORESTRY COMMISSION AND ITS STAFF

Modifications etc. (not altering text)

C15 Sch. 1: functions exercisable by the Minister for Agriculture, Fisheries and Food and the Secretary of State for Wales acting jointly transferred (27.3.2002) to the Secretary of State by The Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794), **art. 3(5)** (with art. 6)

C16 Sch. 1 transfer of functions (18.7.2013) by The Natural Resources Body for Wales (Consequential Provision) Order 2013 (S.I. 2013/1821), arts. 1(2)(3), **14(1)** (with art. 24)

PART I E+W+S

ADMINISTRATION

The Commissioners

1 The Commissioners may for all purposes be described by the name of "The Forestry Commissioners".

2 (1) Each Forestry Commissioner shall hold and vacate office in accordance with the terms of his warrant of appointment, and one who vacates office shall be eligible for reappointment.

(2) There shall be paid to such Forestry Commissioners as may be determined by the Ministers, with the approval of the Treasury, such salaries or other emoluments as may be so determined.

Modifications etc. (not altering text)

C17 Sch. 1 para. 2: functions of the Treasury transferred to the Minister (1.4.1995) by S.I. 1995/269, art. 3, **Sch. para.2**

3 The Commissioners may act by three of their number and notwithstanding a vacancy in their number, and may regulate their own procedure.

4 (1) The Commissioners shall have an official seal, which shall be officially and judicially noticed.

(2) The seal shall be authenticated by a Forestry Commissioner, or by the secretary to the Commissioners, or by some person authorised by the Commissioners to act on behalf of the secretary.

5 (1) Every document purporting to be an order or other instrument issued by the Commissioners and to be sealed with the seal of the Commissioners authenticated

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in manner provided by paragraph 4(2) above, or to be signed by the secretary to the Commissioners or any person authorised by the Commissioners to act on behalf of the secretary, shall be received in evidence and be deemed to be such order or instrument without further proof, unless the contrary is shown.

(2) The [M25]Documentary Evidence Act 1868, as amended by the [M26]Documentary Evidence Act 1882, shall apply to the Commissioners as though the Commissioners were included in the first column of the Schedule to the said Act of 1868, and the chairman or any other Commissioner, or the secretary, or any person authorised to act on behalf of the secretary, were mentioned in the second column of that Schedule, and as if the regulations referred to in those Acts included any document issued by the Commissioners.

Marginal Citations

M25 1868 c. 37**(47)**

M26 1882 c. 9**(47)**

Staff

6 (1) The Commissioners may, subject to such limit as to number as the Treasury may determine, appoint and employ such officers and servants for the purposes of this Act as the Commissioners think necessary, and may remove any officer or servant so appointed or employed.

(2) There shall be paid to officers and servants appointed or employed by the Commissioners such salaries or remuneration as the Ministers may, with the approval of the Treasury, determine.

Modifications etc. (not altering text)

C18 Sch. 1 para. 6: functions of the Treasury transferred to the Minister (1.4.1995) by S.I. 1995/269, **art. 2(2)**

C19 Sch. 1 para. 6(1) modified (1.7.1999) by S.I. 1999/672, art. 5, **Sch.2**

C20 Sch. 1 para. 6(1) modified (18.7.2013) by The Natural Resources Body for Wales (Consequential Provision) Order 2013 (S.I. 2013/1821), arts. 1(2)(3), **14(2)** (with art. 24)

Committees appointed under section 2(3)

7 (1) An order of the Commissioners under section 2(3) of this Act appointing a committee shall make provision as to the constitution (including the terms of office of members), quorum and procedure of the committee.

(2) There shall be paid [F372]. . .to the members of any committee appointed **[**[F373]for England [F374]...**]** under section 2(3) who are not Forestry Commissioners or officers of the Commissioners such travelling and other allowances as the Ministers may, with the approval of the Treasury, determine.

[F375](3) . . . . . .

Textual Amendments

F372 Words in Sch. 1 para. 7(2) omitted (16.3.2000) by virtue of S.I. 2000/746, **art. 2 Sch. para. 5(7)(a)**

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F373 Words in Sch. 1 para. 7(2) inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(39)(b)**

F374 Words in Sch. 1 para. 7(2) omitted (18.7.2013) by virtue of The Natural Resources Body for Wales (Consequential Provision) Order 2013 (S.I. 2013/1821), arts. 1(2)(3), **12(3)** (with art. 24)

F375 Sch. 1 para. 7(3) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 42**; S.S.I. 2019/47, reg. 2

Supplementary

8 The functions of the Ministers under this Part of this Schedule shall be exercised by them jointly, except in so far as they make arrangements that this paragraph shall not apply.

[[F376]8A In this Part of this Schedule, "the Ministers" means the Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales.**]**

Textual Amendments

F376 Sch. 1 para. 8A inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(39)(d)**

PART II E+W+S

SUPERANNUATION OF FORESTRY COMMISSIONERS AND COMMISSION STAFF

9 (1) This paragraph applies to Forestry Commissioners and to such **[**[F377]classes of officers employed by the Commissioners as may be**]** determined by the Ministers with the approval of the Treasury.

(2) Subject to the following provisions, there may be granted to or in respect of persons to whom this paragraph applies the same superannuation benefits as can be granted in respect of persons in the civil service under the **[**[F377]principal civil service pension scheme within the meaning of section 2 of the [M27]Superannuation Act 1972 and for the time being in force, and the relevant provisions of that scheme . . . **]**[F378] shall have effect accordingly with respect to persons to whom this paragraph applies as they have effect with respect to persons in the civil service.

[F379](3) . . . . . .

(4) In this Part of this Schedule—

. . . . . [F380]

"superannuation benefits" includes a superannuation allowance, additional allowance, annual allowance, retiring allowance, compensation allowance, gratuity, pension, compensation and annuity.

Textual Amendments

F377 Words substituted by Superannuation Act 1972 (c. 11, SIF 101A:1), **Sch. 6 para 60**

F378 Words repealed by Finance Act 1972 (c. 41, SIF 63:1), **Sch. 28 Pt. IV**

F379 Sch. 1 para. 9(3) repealed (16.3.2000) by S.I. 2000/746, art. 2, **Sch. para. 5(7)(b)**

F380 Words repealed by Superannuation Act 1972 (c. 11, SIF 101A:1), **Sch.8**

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Modifications etc. (not altering text)

C21 Sch. 1 para. 9: functions of the Treasury transferred to the Minister (1.4.1995) by S.I. 1995/269, art. 3, **Sch. para. 2**

Marginal Citations

M27 1972 c. 11**(101A:1)**

10 (1) The Ministers may with the approval of the Treasury make schemes to supplement or replace (either as a whole or in part) paragraph 9(2) above, being schemes for the grant of superannuation and other allowances and gratuities to or for the benefit of persons to whom paragraph 9 applies; and, without prejudice to the foregoing,—

(a) the superannuation benefits to be granted in accordance with the scheme may include those which may be granted under the said paragraph 9(2), subject to the provisions of that sub-paragraph in the case of contributory pensions; and

(b) on the coming into force of a scheme made under this paragraph, paragraph 9(2) shall, to the extent that the scheme makes any provision different therefrom, cease to have effect.

[F381](2) . . . . . .

[[F382](3) A scheme made under this paragraph may be made so as to take effect from such date, not being earlier than 14th July 1949, as may be specified in the scheme.**]**

Textual Amendments

F381 Sch. 1 para. 10(2) repealed (16.3.2000) by S.I. 2000/746, art. 2, **Sch. para. 5(7)(b)**

F382 Para 10(3) substituted by Superannuation Act 1972 (c. 11, SIF 101A:1), **Sch. 6 para 61**

Modifications etc. (not altering text)

C22 Sch. 1 para. 10: functions of the Treasury transferred to the Minister (1.4.1995) by S.I. 1995/269, art. 3, **Sch. para. 2**

11 . . . . . [F383]

Textual Amendments

F383 Sch. 1 para. 11 repealed by Superannuation Act 1972 (c. 11, SIF 101A:1), **Sch. 8**

12 Where on the death of a person to whom paragraph 9 above applies any sum not exceeding **[**[F384]£5,000**]** is due to that person or his legal personal representative in respect of salary, wages or superannuation benefits, then, subject to any regulations made by the Treasury, probate or other proof of the title of the legal personal representatives may be dispensed with, and the said sum may be paid or distributed to or among the persons appearing to the Commissioners to be beneficially entitled to the personal estate of the deceased person, or to or among any one or more of those persons, or, in the case of the illegitimacy of the deceased person or any of his children, to or among such persons as the Commissioners may think fit, and the Commissioners or other person responsible for the payment of any such sum shall be discharged from all liability in respect of any such payment or distribution.

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[[F385]This paragraph shall be included among the provisions with respect to which the Treasury may make an order under section 6(1) of the [M28]Administration of Estates (Small Payments) Act 1965 substituting for references to **[**[F384]£5,000**]** such higher amount as may be specified in the order.**]**

Textual Amendments

F384 Words substituted by virtue of S.I. 1984/539, **art. 2(c)**

F385 Words inserted by Superannuation Act 1972 (c. 11, SIF 101A:1), **Sch. 6 para. 62**

Modifications etc. (not altering text)

C23 Sch. 1 para. 12 first sub-paragraph: functions of the Treasury transferred to the Minister (1.4.1995) by S.I. 1995/269, art. 3, **Sch. para.2**

Marginal Citations

M28 1965 c. 32**(116:1)**

13 The functions of the Ministers under this Part of this Schedule shall be exercisable by them jointly, except in so far as they make arrangements that this paragraph shall not apply.

[[F386]13A In this Part of this Schedule, "the Ministers" means the Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales.**]**

Textual Amendments

F386 Sch. 1 para. 13A inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(39)(e)**

SCHEDULE 2 E+W+S

CONVEYANCING AND OTHER PROVISIONS CONNECTED WITH FORESTRY DEDICATION

Modifications etc. (not altering text)

C24 Sch. 2 extended (E.W.S.) by s. 15(5) and (E.W.) by s. 45(2) of the Countryside Act 1968 (c. 41, SIF 46:1), Wildlife and Countryside Act 1981 (c. 69, SIF 4:5), **s. 39(4)** and Agriculture Act 1986 (c. 49, SIF 2:1), **s. 18(9)(10)**
Sch. 2 applied (E.W.) (30.1.2001) by 2000 c. 37, **ss. 16(5)**, 103(2) (with ss. 16(7), 43)

C25 Sch. 2 applied (E.W.) (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), **ss. 7(4)**, 107(1); S.I. 2006/2541, art. 2 (with Sch.)

C26 Sch. 2 applied (E.W.) (21.5.2016) by Environment (Wales) Act 2016 (anaw 3), **ss. 18**, 88(2)(a)

England and Wales

1 (1) In the case of settled land in England or Wales, the tenant for life may enter into a forestry dedication covenant relating to the land or any part thereof either for consideration or gratuitously.

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(2) The [M29]Settled Land Act 1925 shall apply as if the power conferred by subparagraph (1) above had been conferred by that Act; and for the purposes of section 72 of that Act (which relates to the mode of giving effect to a disposition by a tenant for life and to the operation thereof), and of any other relevant statutory provision applying to England or Wales, entering into a forestry dedication covenant shall be treated as a disposition.

(3) The foregoing provisions of this paragraph shall be construed as one with the Settled Land Act 1925.

[[F387](4) Section 28 of the [M30]Law of Property Act 1925 (which confers the powers of a tenant for life on trustees for sale) shall apply as if the power of a tenant for life under sub-paragraph (1) above had been conferred by the Settled Land Act 1925.**]**

Textual Amendments

F387 Sch. 2 para. 1(4) repealed (E.W.) (1.1.1997) by 1996 c. 47, s. 25(2), **Sch.4** (with ss. 24(2), 25(4), 25(5)); S.I. 1996/2974, **art.2**

Modifications etc. (not altering text)

C27 Sch. 2 paras. 1-3 applied (E.W.) (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), regs. 1(2), **16(5)** (with reg. 125)

C28 Sch. 2 paras. 1-3 applied (E.W.) (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), regs. 1(2), **20(5)**

Marginal Citations

M29 1925 c. 18**(98:3)**

M30 1925 c. 20**(98:1)**

2 A university or college to which the [M31]Universities and Colleges Estates Act 1925 applies may enter into a forestry dedication covenant relating to any land belonging to it in England or Wales either for consideration or gratuitously, and that Act shall apply as if the power conferred by this paragraph had been conferred by that Act.

Modifications etc. (not altering text)

C27 Sch. 2 paras. 1-3 applied (E.W.) (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), regs. 1(2), **16(5)** (with reg. 125)

C28 Sch. 2 paras. 1-3 applied (E.W.) (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), regs. 1(2), **20(5)**

Marginal Citations

M31 1925 c. 24**(41:3)**

3 **[**[F388]In the case of diocesan glebe land the Diocesan Board of Finance in which the land is vested and, in the case of land which is part of the endowment of any other ecclesiastical corporation, the corporation, with the consent of the Church Commissioners, may**]** enter into a forestry dedication covenant relating to the land either for consideration or gratuitously, and the Ecclesiastical Leasing Acts shall apply as if the power conferred by this paragraph had been conferred by those

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Acts, except that the consent of the patron of an ecclesiastical benefice shall not be requisite. **[**[F389]Provided—

(a) the consent of the Church Commissioners shall be required to any transaction under this paragraph relating to diocesan glebe land if such consent would be required under **[**[F390]section 21 of the Church Property Measure 2018**]**, and

(b) **[**[F391]section 47**]** of that Measure shall apply to any transaction under this paragraph as it applies to any transaction under that Measure and as if the reference therein to the requirements of that Measure included a reference to the requirements of this paragraph. **]**

Textual Amendments

F388 Words in Sch. 2 para. 3 substituted (E.) (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), s. 16(2), **Sch. 5 para. 14(a)**; 2006 No. 2, Instrument made by Archbishops

F389 Words in Sch. 2 para. 3 added (E.) (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), s. 16(2), **Sch. 5 para. 14(b)**; 2006 No. 2, Instrument made by Archbishops

F390 Words in Sch. 2 para. 3(a) substituted (E.) (1.3.2019) by Church Property Measure 2018 (No. 8), s. 53(2), **Sch. 1 para. 8(a)**; S.I. 2019/97, art. 2

F391 Words in Sch. 2 para. 3(b) substituted (E.) (1.3.2019) by Church Property Measure 2018 (No. 8), s. 53(2), **Sch. 1 para. 8(b)**; S.I. 2019/97, art. 2

Modifications etc. (not altering text)

C27 Sch. 2 paras. 1-3 applied (E.W.) (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), regs. 1(2), **16(5)** (with reg. 125)

C28 Sch. 2 paras. 1-3 applied (E.W.) (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), regs. 1(2), **20(5)**

C29 Para. 3 excluded as to incumbents by Endowments and Glebe Measure 1976 (No. 4, SIF 21:8), s. 47(3), **Sch. 7**

Scotland

[F392]4 . . . . . .

Textual Amendments

F392 Sch. 2 para. 4 omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 43**; S.S.I. 2019/47, reg. 2

SCHEDULE 3 E+W+S

PROCEEDINGS UNDER TOWN AND COUNTRY PLANNING ACTS IN RELATION TO TREE PRESERVATION ORDERS

1 Provisions of section 15 of this Act requiring an application for a felling licence to be dealt with under the Town and Country Planning Acts shall be construed in accordance with this Schedule.

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[F393]2 . . . . . .

Textual Amendments

F393 Sch. 3 para. 2 omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 44**; S.S.I. 2019/47, reg. 2

[[F394]2A(1) Where under section 15(2)(a) an application, on being referred to the appropriate national authority, falls to be dealt with under the Town and Country Planning Act 1990, the appropriate national authority must decide the application as if it were an application for consent for the felling of trees made under tree preservation regulations.

(2) In this paragraph, "the appropriate national authority" means—

(a) the Secretary of State in relation to England;

(b) the Welsh Ministers in relation to Wales.**]**

Textual Amendments

F394 Sch. 3 para. 2A inserted (6.4.2012 for E.) by Planning Act 2008 (c. 29), s. 241(3)(4), **Sch. 8 para. 6(3)** (with s. 226); S.I. 2012/601, art. 2(a)

[F395]3 . . . . . .

Textual Amendments

F395 Sch. 3 para. 3 omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 44**; S.S.I. 2019/47, reg. 2

[[F396]3A Where under section 15(3)(a) an application, on being referred to an authority who have made a tree preservation order, falls to be dealt with under the Town and Country Planning Act 1990, the authority must decide the application as if it were an application for consent for the felling of trees made under tree preservation regulations.**]**

Textual Amendments

F396 Sch. 3 para. 3A inserted (6.4.2012 for E.) by Planning Act 2008 (c. 29), s. 241(3)(4), **Sch. 8 para. 6(5)** (with s. 226); S.I. 2012/601, art. 2(a)

4 [F397] . . . . . .

Textual Amendments

F397 Sch. 3 para. 4 repealed (27.3.2004) by The Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794), art. 5(2), **Sch. 2** (with art. 6)

Changes to legislation: *Forestry Act 1967 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCHEDULE 4 E+W+S

PROCEDURE FOR ACQUISITION OF LAND UNDER S. 39 BY AGREEMENT

England and Wales

1 (1) For the purpose of any acquisition by the Minister of land in England or Wales, where the acquisition is by agreement, Part I of the [M32]Compulsory Purchase Act 1965 shall apply in accordance with the following provisions of this paragraph.

(2) In the said Part I as so applied—

(a) "the acquiring authority" means the Minister;

(b) "the special Act" means section 39 of this Act; and

(c) for references to land subject to compulsory purchase there shall be substituted references to land which may be acquired by agreement under the said section 39.

(3) In relation to the acquisition of land by agreement under section 39, Part I of the said Act of 1965 shall be modified as follows:—

(a) sections 4 to 8, 10, 27 and 31 shall not apply;

(b) section 30(3) shall not apply, but notices required to be served by the Minister under any provision of the said Act of 1965 as applied by this paragraph may, notwithstanding anything in section 30(1) of that Act, be served and addressed in the manner specified in section 30 of this Act.

Marginal Citations

M32 1965 c. 56**(28:1)**

Scotland

[F398]2 . . . . . .

Textual Amendments

F398 Sch. 4 para. 2 omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 45**; S.S.I. 2019/47, reg. 2

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SCHEDULE 5 E+W+S

COMPULSORY PURCHASE

PART I E+W+S

PROCEDURE FOR MAKING COMPULSORY PURCHASE ORDERS

1 A compulsory purchase order shall describe by reference to a map the land to which it applies.

2 (1) Before making a compulsory purchase order, the Minister [F399]... shall—

(a) publish in one or more newspapers circulating in the locality in which the land to which the order relates is situated a notice stating that a compulsory purchase order is proposed to be made; and

(b) serve a copy of the notice in such manner as he thinks fit on **[**[F400]every person who is an owner, lessee, tenant (whatever the tenancy period) or occupier**]** of any land to which the order relates.

[F401](1A) . . . . . .

[F401](1B) . . . . . .

[F401](1C) . . . . . .

(2) Section 30 of this Act applies to the service of a notice under sub-paragraph (1)(b) above as it applies to the service of documents under Part II of this Act.

(3) A notice under sub-paragraph (1) above shall—

(a) describe the land,

(b) name the place where a copy of a draft of the compulsory purchase order and of the map referred to therein may be seen at all reasonable hours, and

(c) specify the time (not less than twenty-eight days from the date of the publication of the notice) within which, and the manner in which, objections to the order may be made.

Textual Amendments

F399 Words in Sch. 5 para. 2(1) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 46(a)(i)**; S.S.I. 2019/47, reg. 2

F400 Words in Sch. 5 para. 2(1)(b) substituted (E.W.) (24.5.2007) by Planning and Compulsory Purchase Act 2004 (Corresponding Amendments) Order 2007 (S.I. 2007/1519), art. 1(1), **Sch. para. 7** (with art. 1(3))

F401 Sch. 5 para. 2(1A)-(1C) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 46(a)(ii)**; S.S.I. 2019/47, reg. 2

3 (1) If no objection is duly made by any of the persons on whom notices are required to be served, or by any other person appearing to the Minister [F402]... to be affected, or if all objections so made are withdrawn, the Minister may, if he thinks fit [F403]... (but subject to sub-paragraph (3) below), make the order, either with or without modifications.

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(2) **[**[F404]Subject to paragraph 6B below,**]** in any other case the Minister [F405]... shall, before making the order, cause a local inquiry to be held and shall consider any objections not withdrawn and the report of the person who held the inquiry, and may then, if he thinks fit (but subject to sub-paragraph (3) below), make the order, either with or without modifications.

(3) An order made by the Minister [F406]... with modifications shall not, unless all persons interested consent, authorise him to purchase compulsorily any land which the order would not have authorised him so to purchase if it had been made without modifications.

Textual Amendments

F402 Words in Sch. 5 para. 3(1) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 46(b)(i)**; S.S.I. 2019/47, reg. 2

F403 Words in Sch. 5 para. 3(1) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 46(b)(ii)**; S.S.I. 2019/47, reg. 2

F404 Words in Sch. 5 para. 3(2) inserted (S.) (1.11.2003) by Title Conditions (Scotland) Act 2003 (asp 9), **ss. 110(3)**, 129(4) (with ss. 119, 121); S.S.I. 2003/454, art. 2(1)

F405 Words in Sch. 5 para. 3(2) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 46(b)(iii)**; S.S.I. 2019/47, reg. 2

F406 Words in Sch. 5 para. 3(3) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 46(b)(iv)**; S.S.I. 2019/47, reg. 2

4 Subject to **[**[F407]paragraph 5**]** below, where objection to a compulsory purchase order is duly made by a person mentioned in paragraph 3(1) above and is not withdrawn before the order is made, the order shall be subject to special parliamentary procedure and the [M33M34]Statutory Orders (Special Procedure) Acts 1945 and 1965 shall have effect accordingly.

Textual Amendments

F407 Words in Sch. 5 para. 4 substituted (1.4.2019) by The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 46(c)**; S.S.I. 2019/47, reg. 2

Modifications etc. (not altering text)

C30 Para. 4 excluded (E.W.) by Mineral Workings Act 1985 (c. 12, SIF 86), **s. 6(3)**

Marginal Citations

M33 1945 c. 18 (9 & 10 Geo. 6)**(89)**

M34 1965 c. 43**(89)**

5 If an objection appears to the Minister [F408]... to relate exclusively to matters which can be dealt with by the tribunal by whom the compensation for the compulsory purchase would be assessed, the Minister [F408]... may disregard the objection for the

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purposes of paragraph 3 above, and may (whether he disregards it for those purposes or not) direct that it shall be disregarded for the purposes of paragraph 4 above.

Textual Amendments

F408 Words in Sch. 5 para. 5 omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 46(d)**; S.S.I. 2019/47, reg. 2

F409 6 . . . . . .

Textual Amendments

F409 Sch. 5 paras. 6-6D omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 46(e)**; S.S.I. 2019/47, reg. 2

F409 6A . . . . . .

Textual Amendments

F409 Sch. 5 paras. 6-6D omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 46(e)**; S.S.I. 2019/47, reg. 2

F409 6B . . . . . .

Textual Amendments

F409 Sch. 5 paras. 6-6D omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 46(e)**; S.S.I. 2019/47, reg. 2

F409 6C . . . . . .

Textual Amendments

F409 Sch. 5 paras. 6-6D omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 46(e)**; S.S.I. 2019/47, reg. 2

F409 6D . . . . . .

Textual Amendments

F409 Sch. 5 paras. 6-6D omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 46(e)**; S.S.I. 2019/47, reg. 2

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PART II E+W+S

VALIDITY AND OPERATION OF COMPULSORY PURCHASE ORDERS

7 (1) So soon as may be after a compulsory purchase order has been made by the Minister, he shall—

(a) publish in one or more newspapers circulating in the locality in which the land to which the order relates is situated a notice stating that the order has been made and naming a place where a copy of the order and of the map referred to therein may be seen at all reasonable hours; and

(b) serve a like notice on every person who made an objection to the order.

(2) Section 30 of this Act applies to the service of a notice under sub-paragraph (1)(b) above as it applies to the service of documents under Part II of this Act.

[[F410](2A) Sub-paragraphs (2B) to (2H) apply where a compulsory purchase order authorises the compulsory purchase of land in England or Wales.

(2B) The appropriate national authority must serve the notice mentioned in sub-paragraph (1) on any person who, if Schedule 1 to the Acquisition of Land Act 1981 applied to the acquisition, would be entitled to a notice under paragraph 3 of that Schedule (notice to owners, lessees and occupiers).

(2C) The notice must—

(a) contain a statement about the effect of Parts 2 and 3 of the Compulsory Purchase (Vesting Declarations) Act 1981), and

(b) invite any person who would be entitled to claim compensation if a declaration were executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 to give the appropriate national authority information about the person's name, address and interest in land, using a form set out in the notice.

(2D) The statement referred to in sub-paragraph (2C)(a) must be the same as the relevant statement prescribed under paragraph 6(4)(e) of Schedule 1 to the Acquisition of Land Act 1981, subject to any necessary modifications.

(2E) The form mentioned in sub-paragraph (2C)(b) must be the same as the relevant form prescribed under paragraph 6(4)(f) of Schedule 1 to the Acquisition of Land Act 1981, subject to any necessary modifications.

(2F) The appropriate national authority must send a copy of the notice to the Chief Land Registrar and it shall be a local land charge in respect of the land in England or Wales to which it relates.

(2G) For the purposes of sub-paragraphs (2D) and (2E), a statement or a form is "relevant" if it was prescribed by the appropriate national authority which has to serve it.

(2H) In this paragraph, the "appropriate national authority" means—

(a) in relation to the compulsory purchase of land in England, the Secretary of State, and

(b) in relation to the compulsory purchase of land in Wales, the Welsh Ministers.**]**

(3) Where the order is subject to special parliamentary procedure, the notice to be published and served by the Minister under sub-paragraph (1) above shall contain

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a statement that the order is to be laid before Parliament under the [M35M36]Statutory Orders (Special Procedure) Acts 1945 and 1965.

Textual Amendments

F410 Sch. 5 para. 7(2A)-(2H) inserted (E.W.) (2.2.2017) by The Housing and Planning Act 2016 (Compulsory Purchase) (Corresponding Amendments) Regulations 2017 (S.I. 2017/16), reg. 1(2), **Sch. para. 3(1)** (with Sch. para. 3(2))

Marginal Citations

M35 1945 c. 18 (9 & 10 Geo. 6)**(89)**

M36 1965 c. 43**(89)**

8 (1) Except where the order is confirmed by Act, if a person aggrieved by the order desires to question its validity on the ground that it is not within the powers of this Act or that any requirement of this Act has not been complied with, he may—

(a) in the case of an order to which the Statutory Orders (Special Procedure) Acts 1945 and 1965 apply, within a period of six weeks after the date on which the order becomes operative under those Acts; and

(b) in any other case, within a period of six weeks after the first publication of the notice of the order,

make an application for that purpose to the court.

(2) Where any such application is duly made, the court—

(a) may by interim order suspend the operation of the compulsory purchase order, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings; and

(b) if satisfied upon the hearing of the application that the order is not within the powers of this Act, or that the interests of the applicant have been substantially prejudiced by any requirement of this Act not having been complied with, may quash the order, either generally or in so far as it affects any property of the applicant.

(3) In this paragraph—

"confirmed by Act" means confirmed by Act of Parliament under section 6 of the Statutory Orders (Special Procedure) Act 1945 [F411]... ; and

"the court" means, in relation to England and Wales, the High Court [F412]... .

Textual Amendments

F411 Words in Sch. 5 para. 8(3) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 46(f)(i)**; S.S.I. 2019/47, reg. 2

F412 Words in Sch. 5 para. 8(3) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 46(f)(ii)**; S.S.I. 2019/47, reg. 2

9 Subject to the foregoing provisions, the order shall not be questioned by prohibition or certiorari or in any legal proceedings whatsoever either before or after the order is made.

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10 The order, except where the Statutory Orders (Special Procedure) Acts 1945 and 1965 apply to it, shall become operative at the expiration of six weeks from the date on which notice of it is first published in accordance with the provisions of this Part of this Schedule.

PART III E+W+S

PROCEDURE FOR ACQUISITION OF LAND BY COMPULSORY PURCHASE

England and Wales

11 (1) For the purpose of any acquisition by the Minister of land in England or Wales, where the acquisition is by compulsory purchase, Part I of the [M37]Compulsory Purchase Act 1965 shall apply subject to and in accordance with the following provisions of this paragraph.

(2) In the said Part I as so applied—

(a) "the acquiring authority" means the Minister, and

(b) "the special Act" means section 39 of this Act and the compulsory purchase order under section 40.

(3) In relation to compulsory purchase under this Act, Part I of the said Act of 1965 shall be modified as follows:—

(a) . . . . . [F413]

[F414](b) . . . . . .

(c) . . . . . [F413]

(4) . . . . . [F415]

Textual Amendments

F413 Para. 11(3)(a)(c)–(e) repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. III**

F414 Sch. 5 para. 11(3)(b) omitted (13.7.2016) by virtue of Housing and Planning Act 2016 (c. 22), s. 216(3), **Sch. 16 para. 7**; S.I. 2016/733, reg. 3(j)

F415 Sch. 5 para. 11(4) repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. III**

Marginal Citations

M37 1965 c. 56**(28:1)**

12 As regards land in England or Wales, a compulsory purchase order under this Act may provide that section 77 of the [M38]Railways Clauses Consolidation Act 1845, and sections 78 to 85 of that Act as originally enacted and not as amended for certain purposes by section 15 of the [M39]Mines (Working Facilities and Support) Act 1923, shall be incorporated with section 39 of this Act, subject to such adaptations and modifications as may be specified in the order.

Marginal Citations

M38 1845 c. 20**(102)**

M39 1923 c. 20**(102)**

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Scotland

[F416]13 . . . . . .

Textual Amendments

F416 Sch. 5 para. 13 omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 46(g)**; S.S.I. 2019/47, reg. 2

[F417]14 . . . . . .

Textual Amendments

F417 Sch. 5 para. 14 omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 46(g)**; S.S.I. 2019/47, reg. 2

SCHEDULE 6 E+W+S

Section 50.

TRANSITIONAL PROVISIONS

1 (1) In so far as any appointment, order, regulation, byelaw, application, claim for compensation or reference made, or notice or directions given, or other thing done under an enactment repealed by this Act could have been made, given or done under a corresponding provision of this Act, it shall not be invalidated by the repeal but shall have effect as if made, given or done under that corresponding provisions.

(2) Anything begun under an enactment repealed by this Act may be continued under this Act as if begun thereunder.

(3) Any reference in this Act to things done, suffered or occurring in the past shall, so far as the context requires for the purpose of continuity of operation between an enactment repealed by this Act and the corresponding enactment in this Act, be construed as including a reference to things done, suffered or occurring before the commencement of this Act.

(4) So much of any document as refers expressly or by implication to any enactment repealed by this Act shall, if and so far as the context permits, be construed as referring to this Act or the corresponding enactment therein.

(5) The generality of sub-paragraphs (1) to (4) above shall not be prejudiced by anything in the subsequent provisions of this Schedule.

2 For the purposes of section 16(4) of this Act, any such anniversary of an application as is there referred to shall, in the case of an application made before the commencement of this Act and having effect as if made under this Act, be taken as falling on the date on which it would have fallen if this Act had not been passed.

3 A notice given by the Commissioners under section 11(1) of the [M40]Forestry Act 1951 and having effect as if given under section 24 of this Act shall, in a case where the notice was by virtue of section 11(4) of that Act inoperative immediately before the commencement of this Act, remain inoperative under section 25(2) of this Act

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for as long as, and no longer than, it would have so remained but for the passing of this Act.

Marginal Citations

M40 1951 c. 61.

4 (1) References in this Act to land acquired by the Minister thereunder shall include references to land which, immediately before the commencement of this Act, was vested in that Minister having been acquired by him or any predecessor of his under section 4 of the [M41]Forestry Act 1945, or vested by that section in the appropriate Minister for the purposes of that Act, or transferred to the Minister by the operation of Article 9(1) of the [M42]Secretary of State for Wales and Minister of Land and Natural Resources Order 1965 (which Order transferred functions of the Minister of Agriculture, Fisheries and Food under the Forestry Acts 1919 to 1951 partly to the Minister of Land and Natural Resources and partly to the Secretary of State for Wales) or of Article 2 of the [M43]Ministry of Land and Natural Resources (Dissolution) Order 1967 (which dissolved the Ministry of Land and Natural Resources and transferred its principal functions under the said Acts to the Ministry of Agriculture, Fisheries and Food).

(2) For the purposes of this Act, **[**[F418]but subject to sub-paragraph (3),**]**any land which was immediately before the commencement of this Act for the time being placed or deemed to have been placed at the disposal of the Commissioners under the Forestry Act 1945 shall be treated as continuing after that commencement to be so placed by virtue of section 39(1) of this Act, without prejudice to the power of the Minister to make any other disposition with regard to that land.

[[F419](3) Any land in Wales which, immediately prior to 1 April 2013, was treated as being placed at the disposal of the Commissioners pursuant to sub-paragraph (2) shall thereafter be treated as being placed at the disposal of the Natural Resources Body for Wales by virtue of section 39(1) of this Act, without prejudice to the power of the Welsh Ministers to make any other disposition with regard to that land.**]**

Textual Amendments

F418 Words in Sch. 6 para. 4(2) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 79(2)** (with Sch. 7)

F419 Sch. 6 para. 4(3) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 79(3)** (with Sch. 7)

Marginal Citations

M41 1945 c. 35.

M42 S.I. 1965/319.

M43 S.I. 1967/156.

5 The references to the Forestry Commissioners in section 48 of the [M44]Settled Land Act 1925 (which contains regulations respecting forestry leases) and in the definition of "forestry lease" in section 117 of that Act shall be construed as references to the Minister, and the reference in the said definition to the [M45]Forestry Act 1919 shall be construed as a reference to this Act.

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Marginal Citations

M44 1925 c. 18**(98:3)**

M45 1919 c. 58.

6 Any power under any enactment to amend or repeal an enactment repealed by this Act includes power to amend or repeal the corresponding provision of this Act.

SCHEDULE 7 E+W+S

Section 50.

REPEALS AND SAVINGS

X3 PART I E+W+S

REPEALS

Editorial Information

X3 The text of s. 47(2) and Sch. 7 Pt. I is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Chapter	Short Title	Extent of Repeal
52 & 53 Vict. c. 30.	The Board of Agriculture Act 1889.	In section 2(2) and (3), the words “and, forestry” and “or forestry”, wherever occurring. In section 4, the words “or forestry”.
3 Edw. 7. c. 31.	The Board of Agriculture and Fisheries Act 1903.	In section 1(3) the words “or forestry”.
1 & 2 Geo. 5. c. 49.	The Small Landholders (Scotland) Act 1911.	In section 4(2), (3) and (4), the word “forestry”, wherever occurring.
9 & 10 Geo. 5. c. 58.	The Forestry Act 1919.	The whole Act except so much of section 3(2) as transfers to the Commissioners the power of making orders under the Destructive Insects and Pests Acts 1877 to 1927.
17 Geo. 5. c. 6.	The Forestry Act 1927.	The whole Act.
1 & 2 Geo. 6. c. 13.	The Superannuation (Various Services) Act 1938.	The entries in all three columns of the Schedule

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		relating to the Forestry (Transfer of Woods) Act 1923 and the Forestry Act 1945.
8 & 9 Geo. 6. c. 35.	The Forestry Act 1945.	The whole Act.
10 & 11 Geo. 6. c. 21.	The Forestry Act 1947.	The whole Act.
12 & 13 Geo. 6. c. 44.	The Superannuation Act 1949.	Section 52(1), so far as applying to the superannuation of Forestry Commissioners and officers employed by the Commissioners.
14 & 15 Geo. 6. c. 61.	The Forestry Act 1951.	The whole Act.
9 & 10 Eliz. 2. c. 55.	The Crown Estate Act 1961.	Section 8(1).
10 & 11 Eliz. 2 c. 38.	The Town and Country Planning Act 1962.	In section 29(8), paragraph (a).
1963 c. 23.	The Forestry (Sale of Land) (Scotland) Act 1963.	The whole Act.
1964 c. 83.	The New Forest Act 1964.	Section 13.

PART II E+W+S

SAVINGS

1 The repeal of section 2 of the [M46]Forestry (Transfer of Woods) Act 1923 shall not affect any rights or liabilities of the Commissioners transferred to them under that section, in so far as any such rights and liabilities continued to subsist immediately before the commencement of this Act.

Marginal Citations

M46 1923 c. 21.

2 The repeal of section 4(5) of the [M47]Forestry Act 1945 shall not be taken as affecting the Minister's obligation to hold land subject to any terms and conditions applicable by virtue of that subsection, so far as any obligation arising under that subsection continued to subsist immediately before the commencement of this Act; nor shall the said repeal alter the construction of any conveyance, lease or other instrument for whose construction the subsection had effect immediately before the said commencement.

Marginal Citations

M47 1945 c. 35.

3 The repeal of sections 1 to 4 of the [M48]Forestry Act 1947 shall not affect the application of any of those sections, or any part of them, for the purposes of—

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Marginal Citations

M48 1947 c. 21.

M49 1949 c. 97**(46:1)**

M50 1950 c. 24.

M51 1959 c. 25.

4 Notwithstanding the repeal of section 8(1) of the [M52]Crown Estate Act 1961, the powers of the Minister over land transferred as mentioned in that subsection shall not be subject to any restrictions which may have applied to the land as being part of the Royal forests, parks and chases or any of them.

Marginal Citations

M52 1961 c. 55**(29:7)**

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View outstanding changes

Changes and effects yet to be applied to :

- s. 48(2) words omitted by 2022 c. 32 s. 81(5)
- Sch. 2 para. 2 omitted by 2022 c. 6 Sch. 1 para. 8