Forestry Act 1967

1967 CHAPTER 10

PART II E+W+S

[F1] ... POWER TO CONTROL FELLING OF TREES

Textual Amendments

F1 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

[F2 9 Requirement of licence for felling. E+W+S

(1) A felling licence granted by the [F3 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 [F4 8 centimetres] or, in the case of coppice or underwood, with a diameter not exceeding [F4 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 [F4 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 **[**[F5]in the relevant territory**]** by that person without a licence (exclusive of trees to whose felling subsection (1) above does not apply) does not exceed **[**[F6]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 **[**[F6]2 cubic metres**]** in any quarter, or such larger quantity as the **[**[F7]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, **[**[F8]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 **[**[F9]the Town and Country Planning Act 1990**]** or the enactments replaced by that Act [F10]... .

(5) Regulations made by the **[**[F11]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 **[**[F4]8 centimetres**]** a reference to a larger diameter;

(ii) in subsection (3)(a), for the reference to **[**[F4]10 centimetres**]** a reference to a larger diameter;

(iii) in subsection (3)(b) for the reference to **[**[F4]30 cubic metres**]** or the reference to **[**[F4]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 **[**[F4]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 **[**[F4]30 cubic metres**]**, or for the reference in sub-paragraph (ii) to **[**[F4]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—

[[F12] " 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; **]**

[[F12] " 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 [M1]Law of Property Act 1925

or of Part V of the National Parks and Access to the [M2]Countryside Act 1949 **[**[F13] or Part I of the Countryside and Rights of Way Act 2000**]**[F14]or of Part II or section 48 of the [M3]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;

[[F15]"relevant territory" means—

(a) England [F16]... where the felling is carried out in England [F17]...;

(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 **[**[F4]1·3 metres**]** above the ground level; . . . [F18]

Textual Amendments

F2 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)**))

F3 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)

F4 Words substituted by Forestry Act 1979 (c. 21, SIF 54), s. 2(1), **Sch. 1**

F5 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)

F6 Words substituted by virtue of S.I. 1985/1958, **reg. 2**

F7 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)

F8 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)**

F9 Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2**, para. 14(1)

F10 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

F11 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)

F12 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)**

F13 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)

F14 Words inserted by Countryside (Scotland) Act 1967 (c. 86, SIF 46:1), **s. 58(5)**

F15 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)

F16 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

F17 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

F18 Words repealed by Forestry Act 1979 (c. 21, SIF 54), s. 3(2), **Sch. 2**

Modifications etc. (not altering text)

C1 S. 9 excluded by S.I. 1979/792, **reg. 4**

C2 Definition of "public open space" restricted by Countryside Act 1968 (c. 41, SIF 46:1), **s. 24(4)**

Marginal Citations

M1 1925 c. 20**(98:1)**
M2 1949 c. 97**(46:1)**
M3 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 **[**[F19]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 **[**[F19]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; [F20]...[F21]

(b) for the purpose of complying with their duty of promoting the establishment and maintenance [F22]... of adequate reserves of growing trees. **[**[F23]; or**]**

[[F23](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.**]**

[[F24](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.

[[F25](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.**]**

(4) If in the case of any trees the **[**[F19]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 **[**[F19]appropriate forestry authority**]** will be, managed in a manner approved by them, the **[**[F19]appropriate forestry authority**]** may (subject to section 14(5) below), if they think fit and subject to the approval of the treasury **[**[F26]as regards land in **[**[F27]England or Wales**]**[F28]...**]**, 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 **[**[F19]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 **[**[F19]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 **[**[F19]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 [F29]..., and the licence is refused, no breach of the covenant [F29]... shall be deemed to have occurred by reason of anything done or omitted in consequence of the refusal.

Textual Amendments

F2 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)**))

F19 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)

F20 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)

F21 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

F22 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)**

F23 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

F24 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)

F25 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)

F26 Words in s. 10(4)(b) inserted (1.7.1999) by S.I. 1999/1747 , art. 3 , **Sch. 12 Pt. II para. 4(10)**

F27 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)

F28 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

F29 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

[F30 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

F2 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)**))

F30 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)

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 **[**[F31]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 **[**[F31]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

F2 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)**))

F31 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)

C3 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 **[**[F32]10(2)**]**[F33]**[**[F32]10(2)(a) or (b)**]** above be attached to a felling licence are such as the **[**[F34]appropriate forestry authority**]**, after consultation with the applicant for the licence, determine to be expedient for securing—

(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 **[**[F34]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 **[**[F35]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 [F36]... **[**[F37]and the felling is in accordance with a plan of operations or other working plan approved by the **[**[F34]appropriate forestry authority**]** and in force under the covenant [F36]... **]**.

Textual Amendments

F2 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)**))

F32 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

F33 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)

F34 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)

F35 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

F36 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**

F37 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 **[**[F38]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 **[**[F38]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 **[**[F38]appropriate forestry authority**]** receive the application, it referred to a period of three months after the date

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

F2 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)**))

F38 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**[**[F39]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 **[**[F39]appropriate forestry authority**]** under a forestry dedication covenant [F40]..., or otherwise approved by them in writing for the purposes of this section.

(2) The **[**[F39]appropriate forestry authority**]** shall not refuse the licence unless the Minister **[**[F41]as regards the felling of trees in **[**[F42]England or Wales**]** certifies [F43]...**]** 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 **[**[F39]appropriate forestry authority**]** refuse the licence, the applicant may by notice given to the **[**[F39]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 **[**[F39]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 [F44]..., the power of the **[**[F39]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

F2 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)**))

F39 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)

F40 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

F41 Words in s. 14(2) substituted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(11)**

F42 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)

F43 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

F44 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 **[**[F45]appropriate forestry authority**]** for a felling licence in respect of trees to which a tree preservation order relates, and **[**[F46] relevant consent**]** is required for the felling of those trees, then—

(a) the **[**[F45]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 **[**[F45]appropriate forestry authority**]** may in any case refer the application to the said authority.

[[F47](1A) In subsection (1) " relevant consent " means—

(a) in the case of trees in **[**[F48]England or Wales**]**, consent under tree preservation regulations.

[F49](b) . . . . . **]**

(2) Where the **[**[F45]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 **[**[F50]appropriate forestry authority's**]** proposal to grant a felling licence and do not withdraw their objection, then—

(a) the **[**[F45]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 **[**[F45]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—

(a) the [F45appropriate 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 [F45appropriate 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 [F51relevant 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.

[F52(5A) In subsection (5) " relevant application " means—

(a) in the case of trees in [F53England or Wales], an application under tree preservation regulations for consent under the regulations.

F54(b) . . . . . .]

(6) Where, in the case of trees to which a tree preservation order relates, a felling licence is granted by the [F45appropriate 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) F55. . . . . .

Textual Amendments

F2 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)**))

F45 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)

F46 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)

F47 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)

F48 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)

F49 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

F50 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)

F51 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)

F52 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)

F53 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)

F54 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

F55 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 **[**[F56]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 **[**[F57]where the application was to fell trees in **[**[F58]England or Wales**]**[F59]...**]** to refer the matter to a committee appointed in accordance with section 27 below and—

(a) the Minister [F60]... shall, unless he is [F61]... 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 [F62]... .

(3) The Minister [F63]... shall, after considering the committee's report, confirm the decision of the **[**[F56]appropriate forestry authority**]** on the application, or reverse or modify that decision and direct the **[**[F56]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

F2 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)**))

F56 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)

F57 Words in s. 16(2) inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(12)(a)**

F58 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)

F59 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

F60 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

F61 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

F62 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

F63 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

[[F64](a) in relation to an offence committed in Wales,**]** liable on summary conviction to a fine [F65]...**[**[F66], 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

F2 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)**))

F64 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)

F65 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)

F66 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)

[[F67]17A Power of Commissioners to require restocking notice after unauthorised felling. E+W+S

[[F68](1) The **[**[F69]appropriate forestry authority**]** may serve a notice under this section (a "restocking notice") on a person where—

(a) it appears to the **[**[F69]appropriate forestry authority**]** that he has committed an offence in **[**[F70]England or Wales**]** under section 17 of this Act, [F71] ...

[F71](b) . . . . . .

and [F72]... he has such an estate or interest in the land in question as is mentioned in section 10(1) of this Act.**]**

[F73](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 **[**[F69]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.**]**

[F74](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.**]**

[F75](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 [F76] . . . 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

F2 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)**))

F67 Ss. 17A–17C inserted by Forestry Act 1986 (c. 30, SIF 54), **s. 1(a)**

F68 S. 17A(1) substituted (16.3.2006) by Regulatory Reform (Forestry) Order 2006 (S.I. 2006/780), arts. 1(1), **4(2)**

F69 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)

F70 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)

F71 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**

F72 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**

F73 S. 17A(1A) inserted (16.3.2006) by Regulatory Reform (Forestry) Order 2006 (S.I. 2006/780), arts. 1(1), **4(3)**

F74 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))

F75 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**

F76 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 **[**[F77]where the restocking notice relates to land in **[**[F78]England or Wales**]**[F79]...**]** to refer the matter to a committee appointed in accordance with section 27 of this Act; and—

(a) the Minister [F80]... shall, unless he is [F81]... 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 [F82]....

(2) The Minister [F83]... may, after considering the committee's report, direct the **[**[F84]appropriate forestry authority**]** to withdraw the notice or to notify the objector that it shall have effect subject to such modification as the Minister [F83]... shall direct.

Textual Amendments

F2 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)**))

F67 Ss. 17A–17C inserted by Forestry Act 1986 (c. 30, SIF 54), **s. 1(a)**

F77 Words in s. 17B(1) inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(13)(a)**

F78 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)

F79 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

F80 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

F81 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

F82 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

F83 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

F84 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)

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

The provisions of sections 24 (notice to require compliance with conditions or directions), **[**[F85]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) **[**[F86]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

F67 Ss. 17A–17C inserted by Forestry Act 1986 (c. 30, SIF 54), **s. 1(a)**

F85 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)

F86 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 **[**[F87]appropriate forestry authority**]** to take advice under section 37(3), if it appears to the **[**[F87]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 [F88]. . . 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 **[**[F87]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 **[**[F87]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 **[**[F87]appropriate forestry authority**]** may comply with the directions notwithstanding any lease, covenant or contract relating to the trees or land affected by the directions.

(5) In the case of trees to which a tree preservation order relates, felling directions given by the **[**[F87]appropriate forestry authority**]** after the date on which the order comes into force**[**[F89]shall be sufficient authority for the felling, notwithstanding anything in—

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

[F90](b) . . . . . .]

Textual Amendments

F87 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)

F88 Words in s. 18(1) omitted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(9)**

F89 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)

F90 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 [F91appropriate 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 [F92]...; or

(c) trees which are being managed to the satisfaction of the [F93appropriate 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 [F94]... .

(2) If an application for a felling licence is made to the [F93appropriate forestry authority] in the case of trees to which a tree preservation order relates and the [F93appropriate 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 [F93appropriate 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 [F93appropriate forestry authority] shall not give the directions except with the consent of the Minister [F95where the felling direction was given in respect of trees in [F96England or Wales][F97]...], who shall consult with the said authority before deciding whether to grant or refuse his consent.

(4) [F98]. . . . . .

Textual Amendments

F91 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)

F92 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

F93 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)

F94 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

F95 Words in s. 19(3) inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(14)**

F96 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)

F97 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

F98 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 **[**[F99]where the felling direction was given in respect of trees in **[**[F100]England or Wales**]**[F101]...**]** to refer the matter to a committee appointed in accordance with section 27 below and the Minister [F102]**[**[F103]... shall, unless he is [F104]...**]** 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 **[**[F105]appropriate forestry authority**]**, and the **[**[F105]appropriate forestry authority**]** shall confirm, withdraw or modify the directions in accordance with the report.

Textual Amendments

F99 Words in s. 20(1) inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(15)(a)**

F100 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)

F101 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

F102 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

F103 Words in s. 20(1) substituted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(15)(b)**

F104 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

F105 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)

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 **[**[F106]where the felling direction was given in respect of trees in **[**[F107]England or Wales**]**[F108]...**]** in the prescribed manner and within the prescribed period—

(a) if he has the right to sell the trees for immediate felling, require the **[**[F109]appropriate forestry authority**]** to buy the trees to which the directions relate; or

(b) in any case, require the Minister [F110]... to acquire his interest in the land affected by the directions.

A notice under this section requiring the Minister [F111]... 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 [F111]... 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 [F111]... or as may, in default of agreement, be determined in accordance with section 31 of this Act.

(3) The Minister [F112]... 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 [F113]... 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 [F114]... 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 [F115]... fit.

(6) If within the prescribed period after receiving a notice or the report of a committee under this section the Minister [F116]... 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 [F117]... **[**[F118] ... tree preservation regulations,**]** in respect of a refusal of consent for the felling of the tree.

Textual Amendments

F106 Words in s. 21(2) inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(16)(a)**

F107 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)

F108 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

F109 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)

F110 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

F111 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

F112 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

F113 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

F114 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

F115 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

F116 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

F117 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

F118 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 [F119]... .

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

(3) If the notice requires the **[**[F120]appropriate forestry authority**]** to buy the trees to which the directions relate, the **[**[F120]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 **[**[F120]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.

(4) If the notice requires the Minister [F121]... to acquire the person's interest in the land affected by the directions,—

(a) the Minister [F122]... 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 [M4]Land Compensation Act 1961 [F123]... 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

F119 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

F120 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)

F121 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

F122 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

F123 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

M4 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 **[**[F124]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.

Textual Amendments

F124 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 **[**F125appropriate forestry authority**]** are not complied with.

(2) The **[**F125appropriate 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, **[**F126the person specified in subsection (2A)**]**; and

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

[F127(2A) The person referred to in subsection (2)(a) is—

(a) where the licence relates to land in **[**F128England 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.

F129(b) . . . . . **]**

(3) If after the expiration of the time specified in the notice any steps required by the notice have not been taken, the **[**F125appropriate forestry authority**]** may, subject to the following section, enter on the land and take those steps.

(4) Without prejudice to the powers of the **[**F125appropriate 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 **[**F130level 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.

[F131(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.**]**

Textual Amendments

F125 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)

F126 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)**

F127 S. 24(2A) inserted (16.3.2006) by Regulatory Reform (Forestry) Order 2006 (S.I. 2006/780), arts. 1(1), **5(3)**

F128 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)

F129 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

F130 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**

F131 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))

[F132 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

F132 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))

[F133 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—

(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

F133 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))

[F134 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—

(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.

Textual Amendments

F134 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

F134 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)

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

F134 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)

[F135 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

F135 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)

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 **[**[F136]where the notice is given in respect of land or trees in **[**[F137]England or Wales**]**, [F138]... **]** in the prescribed manner and within the prescribed period after the receipt of the notice under section 24, request the Minister [F139]... 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 [F140]... 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 [F141]... 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 **[**[F142]and who**]** shall, after considering the report, confirm or cancel the notice to which the reference relates.

Textual Amendments

F2 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 Words in s. 25(1) inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para 4(18)(a)**

F137 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)

F138 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

F139 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

F140 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

F141 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

F142 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

26 Expenses etc. in connection with notices under s. 24 [F143, s. 24C(3) or s. 24D(2)]. E+W+S

(1) If the [F144appropriate forestry authority], in the exercise of their powers under section 24 [F145, section 24C(9) or section 24D(4)], enter on land and take any steps required by a notice [F146under 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 [F144appropriate 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 [F144appropriate 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 [F144appropriate forestry authority] under this section may be recovered as a simple contract debt.

Textual Amendments

F143 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)**

F144 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)

F145 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)

F146 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)

[F147 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;

(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

F147 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

F147 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)

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

F147 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;

(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

F147 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

F147 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

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

F147 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

(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

F147 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 [[F148], 25, 26A, 26B and 26C]. W

(1) References in sections 16, **[**[F149]17B,**]** 20, 21 **[**[F150], 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 **[**[F151]in relation to cases where the trees are, or the land is, in **[**[F152]England or Wales**]**[F153]... **]**; and

(b) two other members selected by the Minister [F154]... 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:

[[F155]But this is subject to subsections (1A) and (1B)**]**.

[[F156](1A) The members of a committee appointed in relation to a case concerning trees or land in England [F157]... 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

(b) organisations appearing to the Minister [F158]... 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 **[**[F159]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 [F160]... 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 [F161]... 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 **[**[F162]as regards England [F163]... **]**, determine.

[F164](4A) . . . . . .

Editorial Information

X1 S. 27: Unreliable margin note

Textual Amendments

F2 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)**))

F148 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)

F149 Words inserted by Forestry Act 1986 (c. 30, SIF 54), **s. 1(b)**

F150 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)

F151 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)**

F152 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)

F153 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

F154 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

F155 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)

F156 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)

F157 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

F158 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

F159 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)

F160 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)**

F161 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

F162 Words in s. 27(4) inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(22)(c)**

F163 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)

F164 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 **[**[F165]appropriate forestry authority**]** may take such steps, whether by marking or otherwise, as the **[**[F165]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

F2 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)**))

F165 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 [F166]... 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 **[**[F167], 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.

[F168](2) . . . . . .

(3) Subject to the foregoing provisions of this section, where the owner of trees comprised in a settlement within the meaning of the [M5]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 **[**[F169], 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

F2 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)**))

F166 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**

F167 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)

F168 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**

F169 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

M5 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 **[**[F170]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 **[**[F171]section 7 of the [M6]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 **[**[F172]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

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 **[**[F173]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 **[**[F174], 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 **[**[F175]level 1 on the standard scale**]**.

[[F176](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

F2 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)**))

F170 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)

F171 Words substituted by virtue of Interpretation Act 1978 (c. 30, SIF 115:1), **s. 17(2)(a)**

F172 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)

F173 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)

F174 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)

F175 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

F176 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

M6 1978 c. 30**(115:1)**

31 Determination of matters arising under ss. 11, 14, 21 [F177, 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 **[**[F178]Upper Tribunal**]**; [F179]...

[F179](b) . . . . . .

[F180](2) . . . . . .

Textual Amendments

F2 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)**))

F177 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)

F178 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)

F179 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

F180 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) **[**[F181]The appropriate legislative authority may**]**[F182]... 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.

[[F183](3) Regulations made under this Part of this Act **[**[F184]by the Commissioners**]** may make provision as regards England [F185]... [F186]... .

(4) A statutory instrument containing regulations made under this Part of this Act making provision only as regards England [F187]...—

(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.

[F188](5) . . . . . .

[A statutory instrument containing regulations under this Part making provision only [F189](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.**]**

[F190](6) . . . . . .**]**

Textual Amendments

F2 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)**))

F181 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)

F182 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**

F183 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)**

F184 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)

F185 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)

F186 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

F187 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)

F188 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

F189 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)

F190 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 [F191]... 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—

(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 [F192]... ;

(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

F2 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)**))

F191 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

F192 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 **[**[F193]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.

[[F194](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.**]**

[F195](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

F2 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)**))

F193 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)

F194 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)

F195 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 **[**[F196]England and Wales**]** which may for the time being be designated by the **[**[F197]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**[**[F197]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;

[[F198]"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 **[**[F199]appropriate legislative authority**]** under this Part of this Act; and

[[F200] " 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 **[**[F201]section 198 of the Town and Country Planning Act 1990**]**[F202]... .

[[F203] " tree preservation regulations " means regulations made under section 202A(1) of the Town and Country Planning Act 1990; **]]**

Textual Amendments

F2 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)**))

F196 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

F197 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)

F198 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

F199 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)

F200 Definition inserted by Forestry Act 1986 (c. 30, SIF 54), **s. 1(c)**

F201 Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2**, para. 14(2)

F202 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

F203 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 [M7]London Government Act 1963.

Marginal Citations

M7 1963 c. 33**(81:1)**

Changes to legislation:
There are currently no known outstanding effects for the Forestry Act 1967, Part II.