SCHEDULE 12

FORESTRY COMMISSIONERS

PART II

MODIFICATIONS

Forestry Act 1967 (c. 10)

4.—(1) The Forestry Act 1967 is amended as follows.

(2) In section 1, subsections (2) and (3), for "in Great Britain", there is substituted "in Scotland, and in England and Wales".

(3) In section 1(4), for "the Ministers", there is substituted–

"(a) the Ministers in relation to the exercise of their functions as regards England and Wales; and

(b) the Scottish Ministers in relation to the exercise of their functions as regards Scotland.".

(4) The following subsection is added at the end of section 1–

"(6) The power of the Ministers and of the Scottish Ministers to give directions for the purposes of subsection (4) above shall be exercisable as regards Great Britain by the Ministers and the Scottish Ministers acting jointly.".

(5) In section 3(1), after "any land" there is inserted "in Scotland placed at their disposal by the Scottish Ministers under this Act or in England and Wales".

(6) In section 5(1), after "the Minister" there is inserted "as regards England and Wales and the Scottish Ministers as regards Scotland".

(7) For section 6(4), there is substituted the following subsection–

"(4) a person aggrieved by an order under this section may–

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

(b) where the order is made in respect of land in Scotland, appeal therefrom to the Scottish Ministers in such manner and upon such conditions, if any, as may be prescribed by the Scottish Ministers, who may thereupon revoke or vary the order.".

(8) In section 8(c), for "in Great Britain", there is substituted "in Scotland, and in England and Wales".

(9) In sections 10(2)(b), 17A(3)(b)(**1**), 18(1), 27(3)(c) and 37(2), the words "in Great Britain" are omitted.

(10) In section 10(4)(b) after "the Treasury", there is inserted "as regards land in England and Wales, and the Scottish Ministers as regards land in Scotland".

(11) In section 14(2), for "certifies" there is substituted "as regards the felling of trees in England and Wales certifies, and the Scottish Ministers as regards the felling of trees in Scotland certify".

(12) In section 16–

(**1**) Section 17A was inserted by the Forestry Act 1986 (c. 30), section 1(a).

(a) in subsection (2), after "request the Minister", there is inserted "where the application was to fell trees in England and Wales, and the Scottish Ministers where the application was to fell trees in Scotland";

(b) in each of subsections (2)(a), (2)(b) and (3), after "the Minister", there is inserted "or, as the case may be, the Scottish Ministers"; and

(c) in subsection (2)(a), after "he is", there is inserted "or they are".

(13) In section 17B(**2**)–

(a) in subsection (1), after "request the Minister", there is inserted "where the restocking notice relates to land in England and Wales, and the Scottish Ministers where the restocking notice relates to land in Scotland";

(b) in each of subsections (1)(a), (1)(b) and (2), after "the Minister", there is inserted "or, as the case may be, the Scottish Ministers"; and

(c) in subsection (1)(a), after "he is", there is inserted "or they are".

(14) In section 19(3), after "the Minister" there is inserted "where the felling direction was given in respect of trees in England and Wales, and the Scottish Ministers where the felling direction was given in respect of trees in Scotland".

(15) In section 20(1)–

(a) after "request the Minister", there is inserted "where the felling direction was given in respect of trees in England and Wales, and the Scottish Ministers where the felling direction was given in respect of trees in Scotland"; and

(b) for "shall, unless he is", there is substituted "or, as the case may be, the Scottish Ministers shall, unless he is or they are".

(16) In section 21–

(a) in subsection (2), after "given to the Minister", there is inserted "where the felling direction was given in respect of trees in England and Wales, and the Scottish Ministers where the felling direction was given in respect of trees in Scotland";

(b) in subsections (2) to (6) after the words "the Minister", on each occasion they occur apart from in the phrase "given to the Minister" in subsection (2), there is inserted "or, as the case may be, the Scottish Ministers"; and

(c) in subsection (5) after "thinks", there is inserted "or they think".

(17) In section 22, after "the Minister" on each occasion the words occur, there is inserted "or, as the case may be, the Scottish Ministers".

(18) In section 25, in subsection (1)–

(a) after "served on the Minister", there is inserted "where the notice is given in respect of land or trees in England and Wales, and the Scottish Ministers where the notice is given in respect of land or trees in Scotland"; and

(b) after "request the Minister", there is inserted "or, as the case may be, the Scottish Ministers".

(19) In section 25(2), after "the Minister", there is inserted "or the Scottish Ministers".

(20) In section 25(3), after "the Minister", there is inserted "or, as the case may be, the Scottish Ministers".

(21) In section 25(4), for "and the Minister", there is substituted "or, as the case may be, the Scottish Ministers and he or they".

(22) In section 27–

(**2**) Section 17B was inserted by the Forestry Act 1986, section 1(a).

(a) in subsection (1)(a) after "the Minister" there is inserted "in relation to cases where the trees are, or the land is, in England and Wales, and the Scottish Ministers in relation to cases where the trees are, or the land is, in Scotland";

(b) in each of subsection (1)(b), (2) and (3), after "the Minister", there is inserted "or, as the case may be, the Scottish Ministers";

(c) in subsection (4), after "the Treasury", there is inserted "as regards England and Wales"; and

(d) after subsection (4), there is inserted–

"(4A) The Scottish Ministers may pay to the members of a committee appointed by them under this section such remuneration as they may determine.".

(23) For section 32(3), the following subsections are substituted–

"(3) Regulations made under this Part of this Act may make provision as regards England and Wales, or as regards Scotland.

(4) A statutory instrument containing regulations made under this Part of this Act making provision only as regards England and Wales–

(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.

(5) A statutory instrument containing regulations made under this Part of this Act making provision only as regards Scotland–

(a) if the regulations are made under section 9(5)(b) or (c), shall be of no effect unless approved by a resolution of the Scottish Parliament; and

(b) in a case not falling within the foregoing paragraph, shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.

(6) The Statutory Instruments Act 1946(**3**) shall apply to any statutory instrument containing regulations made under this Part of this Act applying to Scotland as it applies to any statutory instrument made by the Scottish Ministers.".

(24) In section 33(4), after "the Minister", there is inserted "and the Scottish Ministers".

(25) For section 37(2) there is substituted–

"(2) The power of the Commissioners under section 32 of this Act to make regulations shall not be exercisable except after consultation with the Home Grown Timber Advisory Committee.".

(26) In section 34(3)–

(a) in paragraph (a), for "Minister", on both occasions the words appear, there is substituted "Scottish Ministers"; and

(b) for "the Minister withdraws his", there is substituted "the Scottish Ministers withdraw their".

(27) At the end of section 38, the following new subsection is added–

"(5) Subsection (4) above shall have effect in relation to a regional advisory committee for a conservancy wholly in Scotland as if the reference to the consent of the Treasury were a reference to the consent of the Scottish Ministers.".

(28) In section 39(1)–

(**3**) 1946 c. 36.

(a) after “the Minister”, there is inserted “as regards England and Wales, and the Scottish Ministers as regards Scotland”;

(b) after “his”, there is inserted “or their”; and

(c) after “him”, there is inserted “or them”.

(29) In section 39(2)–

(a) after “the Minister”, there is inserted “and the Scottish Ministers”;

(b) after “him”, there is inserted “or them”.

(30) In section 39(3)–

(a) after “the Minister”, there is inserted “and the Scottish Ministers”;

(b) after “him”, there is inserted “or them”; and

(c) in paragraph (a), after “he thinks”, there is inserted “or they think”.

(31) In section 39(6), after “acquires”, there is inserted “or the Scottish Ministers acquire”.

(32) In section 40–

(a) in subsection (1), after “the Minister”, there is inserted “and the Scottish Ministers”; and

(b) in subsection (5), after “the Minister's”, there is inserted “and the Scottish Ministers'”.

(33) In section 41–

(a) for subsections (1) to (4A)(**4**), there are substituted the following subsections:–

“(1) The Forestry Fund constituted under section 8 of the Forestry Act 1919 shall be wound up and any balance in the Forestry Fund shall be paid to the Forestry Commissioners.

(2) Subject to subsection (4) below, the following shall be paid out of money provided by Parliament–

(a) the salaries of the Forestry Commissioners and the salaries or remuneration of the officers and servants of the Commissioners;

(b) all expenses incurred by the Commissioners in the exercise of their powers and the performance of their duties under–

(i) this Act; and

(ii) the Plant Health Act 1967,

including the payment of allowances to the members of any Committee maintained by them under this Act;

(c) any administrative expenses of the Minister under Part II of this Act (including sums required for the payment of remuneration to the members of any committee appointed by him in pursuance of section 27);

(d) all capital payments made by the Minister in acquiring land under section 39 above and any expenses incurred by him in managing such land and any rent or other outgoings payable in respect of such land.

(3) Subject to subsection (4A) below, there shall be paid into the Consolidated Fund–

(a) all sums received by the Commissioners in respect of the sale of timber or otherwise received by them in respect of transactions carried out by them in exercise of their powers and duties under this Act;

(**4**) Section 41(4A) was inserted by the Forestry Act 1981 (c. 39), section 3.

(b) any capital sum received by the Minister from the sale, lease or exchange of land acquired by him under section 39 above and all sums received by him from the letting or use of such land; and

(c) all sums received by the Commissioners in respect of the exercise of their powers and duties under the Plant Health Act 1967.

(4) There shall be payable out of the Scottish Consolidated Fund–

(a) all expenditure of a description specified in paragraph (a) or (b)(i) of subsection (2) above incurred by the Commissioners as regards Scotland; and

(b) all expenditure incurred by the Commissioners in the exercise of their functions under the Countryside (Scotland) Act 1967(**5**).

(4A) Subject to any provision made by or under an Act of the Scottish Parliament for the disposal of or accounting for sums received, there shall be paid into the Scottish Consolidated Fund–

(a) all sums received by the Commissioners of a description specified in subsection (3)(a) above as regards Scotland; and

(b) all sums received by the Commissioners in the exercise of their functions under the Countryside (Scotland) Act 1967.”; and

(b) subsection (6) is repealed.

(34) Section 42 is repealed.

(35) Section 44 is repealed.

(36) For section 45, there is substituted the following section–

(1) The Commissioners shall, on such day and in such form as the Scottish Ministers may direct, submit to the Scottish Ministers an annual report and accounts as to their proceedings under this Act as regards Scotland and the Scottish Ministers shall lay the report and accounts before the Scottish Parliament.

(2) The annual report and accounts referred to in subsection (1) above shall be audited by the Auditor General for Scotland or by persons appointed by him.

(3) The Commissioners shall, on such day and in such form as the Ministers may direct, submit to the Ministers an annual report and accounts as to their proceedings under this Act other than such proceedings as regards Scotland and the Ministers shall lay the report and accounts before Parliament.

(4) Section 88(3) of the Scotland Act 1998 shall not apply in relation to the Commissioners.”.

(37) In section 46–

(a) in subsection (4), after “any such byelaws”, there is inserted “with respect to land in England and Wales”; and

(b) after subsection (4), there is inserted the following subsections–

“(4A) A draft of any statutory instrument containing byelaws made under this section with respect to land in Scotland shall be laid before the Scottish Parliament.

(4B) The Statutory Instruments Act 1946 shall apply to any statutory instrument containing byelaws made under this section with respect to land in Scotland as it applies to any statutory instrument made by the Scottish Ministers.”.

(**5**) 1967 c. 86.

(38) In section 49, for the definition of "the Minister", there is substituted the following definition–

""the Minister" means, except as provided by sections 15(8) and 19(4), and Schedules 1 and 3, the Minister of Agriculture, Fisheries and Food as respects England and the Secretary of State as respects Wales;"

(39) In Schedule 1–

(a) in paragraphs 7(2) and 10(2), for "the Forestry Fund", there is substituted "money provided by Parliament";

(b) in paragraph 7(2), after "appointed", there is inserted "for England or Wales";

(c) after paragraph 7(2), there is inserted the following new sub-paragraph–

"(3) There shall be payable out of the Scottish Consolidated Fund to the members of any committee appointed for Scotland under section 2(3) who are not Commissioners or officers of the Commissioners such travelling and other allowances as the Scottish Ministers may determine.";

(d) after paragraph 8, there is inserted–

"**8A.** In this Part of this Schedule, "the Ministers" means the Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales."; and

(e) after paragraph 13, there shall be inserted–

"**13A.** In this Part of this Schedule, "the Ministers" means the Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales.".

(40) In paragraph 2 of Schedule 4, for "Minister", wherever that word occurs there is substituted "Scottish Ministers".

(41) In Schedule 5–

(a) in each of paragraphs 2(1), 3(1) on the first occasion the words occur, and in paragraph 5 on both occasions the words occur, after "the Minister", there is inserted "or, as the case may be, the Scottish Ministers";

(b) in paragraph 3(1) after "if he thinks fit", there is inserted "and the Scottish Ministers may if they think fit"; and

(c) in paragraphs 3(2) and 3(3), after "the Minister", there is inserted "or the Scottish Ministers".