



2010 CHAPTER 10

PART 4

MISCELLANEOUS AND SUPPLEMENTARY

VALID FROM 17/03/2013

Right of access to, and byelaws for, forestry land

Public right of access to, and byelaws for, forestry land

31.—(1) Subject as follows, the public shall have right of access on foot to all forestry land for the purposes of recreation.

(2) That right of access does not extend—

- (a) to any building or structure on forestry land; or
- (b) to any facility on forestry land in respect of which a charge is payable under section 3.

(3) That right of access is subject—

- (a) to byelaws under subsection (4); and
- (b) in the case of land held by the Department under a lease, to the terms of the lease.

(4) The Department may make byelaws—

- (a) making such provision as may appear to the Department to be necessary for the preservation of trees or timber on forestry land;
- (b) prohibiting or regulating any act or thing likely to injure or disfigure forestry land or the amenities of, or facilities provided on, that land;

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- (c) providing for the reasonable use of forestry land by the public for the purposes of recreation;
 - (d) excluding or restricting the right of access conferred by subsection (1) in circumstances or for purposes specified in the byelaws and subject to such conditions (if any) as may be so specified.
- (5) An authorised person may exercise such powers and perform such duties as the Department considers necessary for the enforcement of byelaws made under subsection (4).
- (6) In particular an authorised person may remove or exclude from any forestry land a person who commits or whom the authorised person reasonably suspects of committing an offence.
- (7) Where byelaws under subsection (4) declare a contravention of any provision of the byelaws to be an offence, a person contravening that provision commits an offence and is liable on summary conviction—
- (a) to a fine not exceeding level 3 on the standard scale; and
 - (b) in the case of a continuing offence, to a further fine not exceeding one-tenth of level 3 on the standard scale in respect of each day during which the offence is continued after conviction.

Powers of entry

Powers of entry

32.—(1) Subject to the following provisions of this section, an authorised person may, on production if required of that authority, at any reasonable time enter any land for the purpose of—

- (a) exercising any functions of an authorised person under this Act; or
- (b) enabling the Department to carry out any of its functions under this Act.

(2) A person is not entitled to exercise a power of entry conferred by subsection (1) in relation to any land unless that person has given at least 24 hours' notice of the intended entry to the occupier of the land or such lesser period of notice as may be agreed between that person and the occupier.

(3) Nothing in this section authorises a person to enter a dwelling house.

(4) If it is shown to the satisfaction of a lay magistrate on a sworn complaint in writing—

- (a) that admission to the land which any person is entitled to enter by virtue of subsection (1) has been refused to that person, or that refusal is apprehended, or that the land is unoccupied, or the occupier is temporarily absent, or that the case is one of urgency, and

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- (b) that there are reasonable grounds for entry to the land for any purpose for which entry is required,

the lay magistrate may by warrant authorise that person to enter on the land if need be by force.

(5) Every warrant granted under this section continues in force until the purpose for which entry is necessary has been satisfied.

(6) Any person entering any land by virtue of the power of entry conferred by subsection (1) or by virtue of a warrant granted under subsection (4)—

- (a) may take onto the land such other persons and such equipment as may be necessary; and
- (b) on leaving any unoccupied land entered by virtue of such a power of entry or such a warrant shall leave it as effectually secured against trespassers as it was found.

(7) Where, in the exercise of the power of entry conferred by subsection (1) or in executing any warrant granted under subsection (4), any damage is caused to land or goods (other than damage expressly authorised by this Act) any person interested in the land or goods may recover compensation in respect of that damage from the Department.

(8) Any question of disputed compensation under subsection (7) shall be referred to and determined by the Lands Tribunal.

Offences

Obstruction of officers, etc.

33.—(1) Any person who intentionally obstructs—

- (a) any officer of the Department in the exercise of any function under this Act,
- (b) an authorised person in the exercise of any such function, or
- (c) any other person engaged on works in pursuance of this Act,

commits an offence.

(2) Any person who—

- (a) pulls down, removes or damages any works done in pursuance of this Act, or
- (b) removes, defaces or damages any pegs, poles or marks placed or made by any authorised person for the purpose of, or in connection with, any such works,

commits an offence.

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(3) Any person guilty of an offence under this section is liable on summary conviction—

- (a) to a fine not exceeding level 4 on the standard scale or to imprisonment for a term not exceeding 6 months or to both; and
- (b) in the case of a continuing offence, to a further fine not exceeding one-tenth of level 4 on the standard scale in respect of each day during which the offence is continued after conviction.

Prosecutions under this Act

34.—(1) Notwithstanding anything in Article 19(1) of the Magistrates Courts (Northern Ireland) Order 1981 (NI 26), proceedings for an offence under this Act may be brought within a period of 6 months from the date on which evidence sufficient in the opinion of the complainant to warrant the proceedings came to the knowledge of the complainant; but no proceedings shall be brought by virtue of this subsection more than 2 years after the commission of the offence.

(2) For the purposes of subsection (1)—

- (a) a certificate signed by or on behalf of the complainant and stating the date on which such evidence as is mentioned in that subsection came to the knowledge of the complainant shall be conclusive evidence of that fact; and
- (b) a certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

Supplementary

Regulations

35.—(1) No regulations shall be made under section 15 or 21 unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.

(2) All other regulations under this Act are subject to negative resolution.

(3) Regulations under this Act may contain such incidental, supplementary, transitional and saving provisions as appear to the Department to be necessary or expedient.

Interpretation

36 In this Act—

“afforestation” includes re-afforestation;

“authorised person”, in relation to any provision of this Act, means a person authorised in writing by the Department for the purposes of that provision;

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“the Department” means the Department of Agriculture and Rural Development;

“DFP” means the Department of Finance and Personnel;

“forest”, “forestry”, “forestry land” and “forest products” have the meanings given by section 1(3);

“notice” means notice in writing;

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c. 33);

“woodland industry” means any industry which uses timber or other forestry products as a major part of its raw materials.

Application to the Crown

37.—(1) Subject to—

(a) sections 15(2)(k) and 29 (felling licences), and

(b) the provisions of this section,

this Act binds the Crown to the full extent authorised or permitted by the constitutional laws of Northern Ireland.

(2) A contravention by the Crown of any provision of, or made under, this Act does not make the Crown criminally liable; but the High Court may, on the application of the Department, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) Despite subsection (2), any provision of, or made under, this Act applies to persons in the public service of the Crown as it applies to other persons.

(4) The powers conferred by section 32 are exercisable in relation to Crown land only with the consent of the appropriate authority.

(5) In this section “the appropriate authority” and “Crown land” have the same meanings as in section 29.

Amendments and repeals

38.—(1) In section 5 of the Agriculture (Northern Ireland) Act 1949 (c. 2) (instruction and research in agriculture and related subjects) in subsection (3) in the definition of “related subjects” for paragraph (f) substitute—

“(f) forestry within the meaning of the Forestry Act (Northern Ireland) 2010;”.

(2) In Article 3 of the Agriculture (Miscellaneous Provisions) (Northern Ireland) Order 1994 (NI 6) (general duty of Department to balance interests)—

(a) the existing provision becomes paragraph (1); and

(b) after that paragraph insert—

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“(2) Paragraph (1) does not apply in relation to forestry land within the meaning of the Forestry Act (Northern Ireland) 2010.”.

(3) The statutory provisions set out in Schedule 2 are repealed to the extent specified in the second column of that Schedule.

Commencement Information

- II** S. 38 partly in operation; s. 38 not in operation at Royal Assent, see s. 39(1); s. 38(1)(2) in operation at 13.9.2010 by S.R. 2010/309, art. 2. Sch.; s. 38(3) in operation for certain purposes at 13.9.2010 by S.R. 2010/309, art. 2. Sch.

Commencement

39.—(1) Sections 1 to 34 and 38 (and the Schedules) come into operation on such day or days as the Department may by order appoint.

(2) No order may be made under subsection (1) in relation to any provision of section 10 unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.

(3) An order under subsection (1) may contain such transitional or saving provisions as the Department thinks appropriate.

Subordinate Legislation Made

- P1** S. 39(1) power partly exercised: 13.9.2010 appointed for specified provisions by {S.R. 2010/309}, art. 2, Sch.

Short title

40 This Act may be cited as the Forestry Act (Northern Ireland) 2010.

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