
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2019 No.

The Forestry (Exemptions) (Scotland) Regulations 2019

Specified types of felling

4. The types of felling specified for the purposes of regulation 3 are—
- (a) the felling, by a relevant person, of a tree with a diameter not exceeding 10 centimetres measured over the bark at a point 1.3 metres from the base,
 - (b) the felling, by a relevant person, of a tree situated in—
 - (i) an orchard,
 - (ii) a garden,
 - (iii) a churchyard,
 - (iv) a burial ground, or
 - (v) a public open space,
 - (c) the felling, by a relevant person, of trees where the aggregate cubic content of the trees felled does not exceed 5 cubic metres in any quarter and for the purposes of that calculation—
 - (i) trees felled in accordance with paragraphs (a) and (b) and paragraphs (d) to (p) of this regulation are disregarded, and
 - (ii) the aggregate cubic content per quarter is calculated by reference to all land owned by the relevant person,
 - (d) the felling of a tree where necessary for the prevention of immediate danger to persons or to property,
 - (e) the felling of a tree where immediately required for the purposes of carrying out development authorised by planning permission granted or deemed to be granted under the Town and Country Planning (Scotland) Act 1997(1),
 - (f) the felling of a tree which may obstruct the approach of aircraft to, or the departure of aircraft from, any aerodrome, or which may hinder the safe and efficient use of air navigational or aircraft landing equipment,
 - (g) the felling of a tree by, or at the request of, an electricity operator, where—
 - (i) the tree is in close proximity to an electric line or electrical plant which is, is being, or is to be, installed by the operator, and
 - (ii) the presence of the tree has the effect mentioned in paragraph 9(1)(a) or (b) of schedule 4 of the Electricity Act 1989(2),
 - (h) the felling of a tree by, or at the request of, a statutory undertaker, on land occupied by the statutory undertaker which would otherwise obstruct the construction of any works required for the undertaker's purposes or which is interfering with the maintenance of any works vested in that undertaker,

(1) 1997 c.8.
(2) 1989 c.29.

- (i) the felling of a tree by or at the request of—
 - (i) Scottish Water, where the tree is interfering, or may interfere, with the exercise of any functions of Scottish Water, or
 - (ii) a local authority, where done in accordance with the local authority’s functions under section 56(1) and (2)(a) to (d) of the Flood Risk Management (Scotland) Act 2009(3),
- (j) the felling of a tree of the genus *Ulmus* (commonly known as Elm) which is affected by disease caused by the fungus *Ceratocystis ulmi* (commonly known as Dutch Elm disease) to such an extent that the greater part of the crown of the tree is dead,
- (k) the felling of a tree on land which is subject to an agreement entered into with the Forestry Commissioners under section 5(1) of the 1967 Act (forestry dedication agreements) and which is being managed in accordance with a plan of operations approved by the Forestry Commissioners or the Scottish Ministers (“the plan”), where—
 - (i) the agreement is a forestry dedication agreement registered in the General Register of Sasines or the Land Register of Scotland,
 - (ii) any obligations in the forestry dedication agreement stated to be binding on the owner of the land are, at the time of felling, binding on the person who is then the owner of the land, and
 - (iii) the felling is in accordance with the plan,
- (l) the felling of a tree on land which is subject to an agreement entered into with the Forestry Commissioners under section 5(1) of the 1967 Act (forestry dedication agreements etc.) and which is being managed in accordance with a plan of operations approved by the Forestry Commissioners or the Scottish Ministers (“the plan”), where—
 - (i) the agreement is a forestry dedication agreement which is not registered in the General Register of Sasines or the Land Register of Scotland,
 - (ii) the land is, at the time of the felling, owned by the person or persons who entered into the agreement with the Forestry Commissioners or by the survivor or survivors of such person or persons, and
 - (iii) the felling is in accordance with the plan.
- (m) the felling of dead trees,
- (n) the felling of a tree where required by order of a court or tribunal or by any enactment,
- (o) the felling of a tree to which a tree preservation order relates where the felling—
 - (i) occurs after 1 April 2019, and
 - (ii) is carried out in accordance with the consent of the authority which made the order or the Scottish Ministers, as the case may be, following a referral under section 15(1) (b) or 15(2)(a) of the 1967 Act,
- (p) the felling of a tree that is covered by a tree preservation order where the felling is carried out in accordance with the consent of the planning authority following a referral to the authority under section 33(1)(b) of the Act.