

Draft Regulations laid before the Scottish Parliament under section 76(2)(b) of the Forestry and Land Management (Scotland) Act 2018 (asp 8), for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2019 No.

FORESTRY

**The Forestry and Land Management (Scotland) Act
2018 (Consequential Amendments) Regulations 2019**

Made - - - - *2019*
Coming into force - - *1st April 2019*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 77(1) and (2) of the Forestry and Land Management (Scotland) Act 2018⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 76(2)(b) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1.—(1) These Regulations may be cited as the Forestry and Land Management (Scotland) Act 2018 (Consequential Amendments) Regulations 2019.

(2) These Regulations come into force on 1 April 2019.

National Parks and Access to the Countryside Act 1949

2.—(1) The National Parks and Access to the Countryside Act 1949⁽²⁾ is amended as follows.

(2) For section 16(5)(c) (agreements for management of nature reserves in Scotland and Wales) substitute—

“(c) an agreement under this section [to which an owner or limited owner of land or a trustee acting under paragraph (b) is a party] may be recorded in the General Register of Sasines or (as the case may be) registered in the Land Register of Scotland and, on being so recorded or registered, shall be enforceable at the instance of Scottish Natural Heritage against any person having an interest in the land and against any person deriving title from that person:

(1) 2018 asp 8.
(2) 1949 c.97.

Provided that such an agreement shall not be enforceable against any third party who shall have in good faith and for value acquired right (whether title has been completed or not) to an interest in the land prior to the agreement being recorded or registered as aforesaid, or against any person deriving title from any such third party;”.

Agriculture Act 1967

3.—(1) The Agriculture Act 1967(3) is amended as follows.

(2) For section 52(2)(g) (control of afforestation) substitute—

“(g) to planting required as a condition—

- (i) imposed on the granting of planning permission under the Town and Country Planning (Scotland) Act 1997 or the Town and Country Planning Act 1990,
- (ii) attached to a felling licence granted, or having effect as if granted, under the Forestry Act 1967, or
- (iii) imposed on a felling permission, felling direction, restocking direction, registered notice to comply, remedial notice or registered remedial notice under the Forestry and Land Management (Scotland) Act 2018,”

(3) In section 57(1) (interpretation of Part III), in the definition of “the appropriate forestry authority” for “and”, where it first appears, substitute “, the Scottish Ministers in relation to”.

Countryside Act 1968

4.—(1) The Countryside Act 1968(4) is amended as follows.

(2) In section 15 (areas of special scientific interest) for subsection (6) substitute—

“(6) This section shall apply to Scotland subject to the following modifications—

(a) for subsections (4) and (5) substitute—

“(4) An agreement entered into under this section affecting land in Scotland may be recorded in the General Register of Sasines or (as the case may be) registered in the Land Register of Scotland and, on being so recorded or registered, shall be enforceable at the instance of Scottish Natural Heritage against any person having an interest in the land and against any person deriving title from that person:

Provided that such an agreement shall not be enforceable against any third party who has in good faith and for value acquired right (whether title has been completed or not) to an interest in the land prior to the agreement being recorded or registered as aforesaid, or against any person deriving title from any such third party.

(5) In the case of land in Scotland, a liferenter in possession of the land shall have the power to enter into agreements under this section relating to, or to any part of, the land.”, and

(b) after subsection (5), insert—

“(5A) The Trusts (Scotland) Act 1921 shall have effect as if among the powers conferred on trustees by section 4 thereof (which relates to the general powers of trustees) there were included a power to enter into agreements under this section relating to the trust estate or any part thereof.”.”

(3) 1967 c.22.

(4) 1968 c.41.

Roads (Scotland) Act 1984

5.—(1) The Roads (Scotland) Act 1984⁽⁵⁾ is amended as follows.

(2) In section 46 (agreements for use of land for cattle-grids or by-passes)—

(a) for subsection (3) substitute—

“(3) An agreement under this section may be recorded in the General Register of Sasines or (as the case may be) registered in the Land Register of Scotland and, on being so recorded or registered, shall be enforceable at the instance of the roads authority against any person having an interest in the land and against any person deriving title from that person:

Provided that such an agreement shall not be so enforceable against any third party who has in good faith and for value acquired right (whether title has been completed or not) to an interest in the land prior to the agreement being recorded or registered as aforesaid, or against any person deriving title from any such third party.”,

(b) after subsection (3) insert—

“(4) In the case of land in Scotland, a liferenter in possession of the land shall have the power to enter into agreements under this section relating to, or to any part of, the land.

(5) The Trusts (Scotland) Act 1921 shall have effect as if among the powers conferred on trustees by section 4 thereof (which relates to the general powers of trustees) there were included a power to enter into agreements under this section relating to the trust estate or any part thereof.”.

Agriculture Act 1986

6.—(1) The Agriculture Act 1986⁽⁶⁾ is amended as follows.

(2) For section 18(9) (designation and management of environmentally sensitive areas), substitute—

“(9) In the case of land in Scotland, a liferenter in possession of the land shall have the power to enter into agreements under subsection (3) above relating to, or to any part of, the land.”.

(3) After subsection (9), insert—

“(9A) The Trusts (Scotland) Act 1921 shall have effect as if among the powers conferred on trustees by section 4 thereof (which relates to the general powers of trustees) there were included a power to enter into agreements under this section relating to the trust estate or any part thereof.”.

Tribunals and Inquiries Act 1992

7. In the Tribunals and Inquiries Act 1992⁽⁷⁾, in schedule 1, Part 1 (Tribunals – General), omit the entry for “Forestry”.

Criminal Procedure (Consequential Provisions) (Scotland) Act 1995

8. In the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995⁽⁸⁾ in the table in schedule 2, Part 3 (fines to be altered other than in accordance with paragraphs 4 and 5 of schedule 1), omit the entries for “FORESTRY ACT 1967”.

(5) 1984 c.54.

(6) 1986 c.49.

(7) 1992 c.53.

(8) 1995 c.40.

Town and Country Planning (Scotland) Act 1997

- 9.**—(1) The Town and Country Planning (Scotland) Act 1997(**9**) is amended as follows.
- (2) In section 162 (tree preservation: Forestry Commissioners)—
- (a) omit subsection (1)(a),
 - (b) for subsection (2) substitute—
 - “(2) A relevant plan is—
 - (a) a plan of operations or other working plan approved by the Forestry Commissioners under—
 - (i) a forestry dedication agreement within the meaning of section 5 of the Forestry Act 1967, or
 - (ii) conditions of a grant or loan made under section 1 of the Forestry Act 1979,
 - (b) a plan approved by the Scottish Ministers under conditions of financial assistance provided under section 71 of the Forestry and Land Management (Scotland) Act 2018, provided that the plan relates to the promotion of sustainable forest management, or
 - (c) any other plan approved by the Scottish Ministers relating to sustainable forest management.”,
 - (c) in subsection (3) after “the Forestry Act 1979” insert “or the Forestry and Land Management (Scotland) Act 2018”.
- (3) In section 166 (compensation in respect of requirement as to replanting of trees)—
- (a) in subsection (1)(b) for “Forestry Commissioners decide not to make any grant or loan under section 1 of the Forestry Act 1979” substitute “Scottish Ministers decide not to provide financial assistance under section 71 of the Forestry and Land Management (Scotland) Act 2018”,
 - (b) in subsection (3) for “Forestry Commissioners” substitute “Scottish Ministers”, and
 - (c) in subsection (3)(a) for “make such a grant or loan” substitute “provide such financial assistance”.

The Title Conditions (Scotland) Act 2003

- 10.** In the Title Conditions (Scotland) Act 2003(**10**) in section 106 (extinction of real burdens and servitudes etc. on compulsory acquisition of land) for subsection (4A) substitute—
- “(4A) This section applies to a compulsory purchase order in respect of which notice is given under paragraph 3 of schedule 1 of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 on or after the day on which section 109 of this Act comes into force.”.

St Andrew’s House,
Edinburgh
Date

Name
A member of the Scottish Government

(9) 1997 c.8.

(10) 2003 asp 9. Subsection (4A) was inserted by S.S.I. 2003/503.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 77(1) and (2) of the Forestry and Land Management (Scotland) Act 2018 and makes provision for primary legislation in consequence of the 2018 Act.