
SCOTTISH STATUTORY INSTRUMENTS

2021 No. 44

The Forestry and Land Management (Scotland)
Act 2018 (Consequential, Saving and
Transitional Provisions) Regulations 2021

PART 2

Consequential amendments to secondary legislation

Amendment to the Conservation (Natural Habitats, &c.) Regulations 1994

- 2.—(1) The Conservation (Natural Habitats, &c.) Regulations 1994⁽¹⁾ are amended as follows.
- (2) In regulation 3(2) (duties relating to compliance with the Directives), for “the Forestry Act 1967” substitute “the Forestry and Land Management (Scotland) Act 2018”.
- (3) In regulation 3A (duties in relation to wild bird habitat)—
- (a) in paragraph (2), omit “the Forestry Commissioners,”,
 - (b) in paragraph (4), for “sections 3, 7, 8A, 9, 10, 17A, 39, 40 and 46 of the Forestry Act 1967” substitute “the Forestry and Land Management (Scotland) Act 2018”.
- (4) In regulation 3B (review and guidance), in paragraph (3), omit “the Forestry Commissioners,”.

Amendment to the Nature Conservation (Designation of Relevant Regulatory Authorities) (Scotland) Order 2004

- 3.—(1) The Nature Conservation (Designation of Relevant Regulatory Authorities) (Scotland) Order 2004⁽²⁾ is amended as follows.
- (2) In the schedule (relevant regulatory authorities), omit “The Forestry Commissioners continued in existence by section 1(1) of the Forestry Act 1967”.

Amendment to the Land Management Contracts (Menu Scheme) (Scotland) Regulations 2005

- 4.—(1) The Land Management Contracts (Menu Scheme) (Scotland) Regulations 2005⁽³⁾ are amended as follows.
- (2) In schedule 2 (general environmental requirements)—
- (a) in Part I (the standards of good farming practice including good animal husbandry), in paragraph 6, for—
 - (i) “authorisation” substitute “permission”,

⁽¹⁾ [S.I. 1994/2716](#), relevantly amended by [S.S.I. 2012/228](#).
⁽²⁾ [S.S.I. 2004/474](#).
⁽³⁾ [S.S.I. 2005/225](#).

- (ii) “Forestry Commission” substitute “Scottish Ministers under section 27 of the Forestry and Land Management (Scotland) Act 2018”,
- (b) in Part II (environmental legislation), in paragraph 14 (forestry management), for “The Forestry Act 1967” substitute “The Forestry and Land Management (Scotland) Act 2018”.

Amendment to the Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 2010

5.—(1) The Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 2010(4) are amended as follows.

(2) In regulation 4 (procedure and representations), in paragraph (1)(c), for “Forestry Commissioners” substitute “Scottish Ministers”.

(3) In regulation 6 (action after confirmation of a tree preservation order), in paragraph (2)(a), for “Forestry Commissioners” substitute “Scottish Ministers”.

(4) In regulation 7 (action where a tree preservation order is not confirmed), in paragraph (b)(i), for “Forestry Commissioners” substitute “Scottish Ministers”.

(5) In regulation 8 (trees in conservation areas), in paragraph (1)—

(a) in sub-paragraph (a), for “a felling license granted by The Forestry Commissions under the Forestry Act 1967” substitute “a felling permission granted by the Scottish Ministers under the Forestry and Land Management (Scotland) Act 2018”,

(b) omit sub-paragraph (e).

Amendment to the Disclosure (Persons engaged in the Investigation and Reporting of Crime or Sudden Deaths) (Scotland) Regulations 2011

6.—(1) The Disclosure (Persons engaged in the Investigation and Reporting of Crime or Sudden Deaths) (Scotland) Regulations 2011(5) are amended as follows.

(2) In the schedule, under the heading “Ministers”, omit “Forestry Commission (Scotland)”.

Amendment to the Water Environment (Relevant Enactments and Designation of Responsible Authorities and Functions) (Scotland) Order 2011

7.—(1) The Water Environment (Relevant Enactments and Designation of Responsible Authorities and Functions) (Scotland) Order 2011(6) is amended as follows.

(2) In schedule 1, at the end, insert “The Forestry and Land Management (Scotland) Act 2018”.

(3) In schedule 2, in the table, omit the row relating to the Forestry Commissioners.

Amendment to the Flood Risk Management (Designated Responsible Authorities) (Scotland) Order 2013

8.—(1) The Flood Risk Management (Designated Responsible Authorities) (Scotland) Order 2013(7) is amended as follows.

(2) In article 2 (designated responsible authorities), omit paragraph (b).

(4) S.S.I. 2010/434.

(5) S.S.I. 2011/146.

(6) S.S.I. 2011/368, relevantly amended by S.S.I. 2015/323 and S.S.I. 2016/19.

(7) S.S.I. 2013/314.

Amendment to the Plant Health (Forestry) (Phytophthora ramorum Management Zone) (Scotland) Order 2014

9.—(1) The Plant Health Forestry (Phytophthora ramorum Management Zone) (Scotland) Order 2014(8) is amended as follows.

- (2) For “Commissioners”, in each place it occurs in the Order, substitute “Scottish Ministers”.
- (3) In article 2(1) (interpretation), omit the definition of “Commissioners”.
- (4) In schedule 2 (management zone), in Part 1—
 - (a) in entry 6, for “the Forestry Commission owned land”, substitute “the land owned by Scottish Ministers”,
 - (b) in entry 8, for “Forestry Commission”, in each place it occurs, substitute “Scottish Ministers”.

Amendment to the Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017

10.—(1) The 2017 Regulations are amended as follows.

- (2) In regulation 2 (interpretation)—
 - (a) for the definition of “applicant” substitute—

““applicant” means a person applying for EIA consent under regulation 6(1) and includes, for the purposes of screening opinions, scoping opinions, and regulation 17, a prospective applicant,”
 - (b) in the definition of “application website”, for “Commissioners” substitute “Scottish Ministers”,
 - (c) omit the definition of “the Commissioners”,
 - (d) in the definition of “EIA consent”, omit “or, as the case may be under regulations 30(5) (a) or (b)”,
 - (e) in the definition of “register”—
 - (i) for “Commissioners” substitute “Scottish Ministers”,
 - (ii) omit paragraphs (c), (e) and (g),
 - (f) omit the definition of “scoping direction”,
 - (g) in the definition of “scoping opinion”, for “Commissioners” substitute “Scottish Ministers”,
 - (h) omit the definition of “screening direction”,
 - (i) in the definition of “screening opinion”, for “Commissioners” substitute “Scottish Ministers”.
- (3) In regulation 3 (prohibitions relating to EIA forestry projects), in paragraph (2), for “Commissioners” substitute “Scottish Ministers”.
- (4) In regulation 5 (environmental impact assessment), for “Commissioners”, in each place it occurs, substitute “Scottish Ministers”.
- (5) In regulation 6 (application for EIA consent)—
 - (a) in paragraph (1), for “Commissioners” substitute “Scottish Ministers”,
 - (b) in paragraph (4) omit—
 - (i) “or a scoping direction is made”,

- (ii) “or scoping direction”,
- (c) in paragraph (7), for “Commissioners”, in each place it occurs, substitute “Scottish Ministers”.
- (6) In regulation 7 (determination of applications for EIA consent), for “Commissioners”, in each place it occurs, substitute “Scottish Ministers”.
- (7) In regulation 8 (EIA forestry project)—
 - (a) in paragraph (1), omit “and to paragraph 4(11) of schedule 4”,
 - (b) in paragraph (2)—
 - (i) in sub-paragraphs (a) and (b), for “Commissioners”, in each place it occurs, substitute “Scottish Ministers”,
 - (ii) in sub-paragraph (b) at the end insert “ or”,
 - (iii) omit sub-paragraph (c),
 - (iv) in sub-paragraph (d), for “(a), (b) or (c)” substitute “(a) or (b)”.
- (8) In regulation 9 (exemptions), for “Commissioners”, in each place it occurs, substitute “Scottish Ministers”.
- (9) In regulation 11 (general provisions relating to screening)—
 - (a) in paragraph (1)—
 - (i) omit “the Commissioners, or as the case may be,”,
 - (ii) in sub-paragraph (b), omit “or 14(1)(a)”,
 - (b) in paragraph (2) for “Commissioners must adopt their opinion or, as the case may be, the Scottish Ministers must make their direction” substitute “Scottish Ministers must adopt their opinion”,
 - (c) in paragraph (3)—
 - (i) for “Commissioners adopt a screening opinion or the Scottish Ministers make a screening direction” substitute “Scottish Ministers adopt a screening opinion”,
 - (ii) in sub-paragraph (a), omit “or screening direction”,
 - (iii) in sub-paragraph (b), omit “or the screening direction”,
 - (d) in paragraph (4), for “Commissioners” substitute “Scottish Ministers”,
 - (e) omit paragraphs (5), (6) and (7),
 - (f) in paragraph (8), omit “the Commissioners or, as the case may be,”.
- (10) In regulation 12 (requests for screening opinion of the Commissioners)—
 - (a) for the cross-heading, substitute—

“Requests for screening opinions”,
 - (b) in paragraph (1), for “Commissioners” substitute “Scottish Ministers”.
- (11) In regulation 13 (screening opinions – time period for decision)—
 - (a) in paragraph (1)—
 - (i) for “Commissioners”, in each place it occurs, substitute “Scottish Ministers”,
 - (ii) omit “, unless a screening direction is made by the Scottish Ministers,”,
 - (b) in paragraphs (2), (4), and (7), for “Commissioners” in each place it occurs substitute “Scottish Ministers”,
 - (c) in paragraph (3)—

- (i) for “Commissioners”, substitute “Scottish Ministers”,
 - (ii) for “the Commissioners”, substitute “they”,
- (d) omit paragraphs (5) and (6).
- (12) Omit regulation 14 (requests for screening directions by the Scottish Ministers).
- (13) In regulation 15 (requests for scoping opinions of the Commissioners)—
 - (a) for the cross-heading, substitute—

“Requests for scoping opinions”,
 - (b) for “Commissioners”, in each place it occurs, substitute “Scottish Ministers”,
 - (c) omit paragraphs (8) and (9),
 - (d) in paragraph (11), for “neither they nor the Scottish Ministers are” substitute “they are not”.
- (14) Omit regulation 16 (requests for scoping directions by the Scottish Ministers).
- (15) In regulation 17 (procedure to facilitate preparation of EIA reports)—
 - (a) in paragraphs (1), (3), (5), (6) and (7) for “Commissioners”, in each place it occurs, substitute “Scottish Ministers”,
 - (b) in paragraph (4)—
 - (i) omit “the Commissioners and”,
 - (ii) omit “the Commissioners or” in each place it occurs,
 - (iii) for “have in their” substitute “has in its”.
- (16) In regulation 18 (publication of EIA report), for “Commissioners”, in each place it occurs, substitute “Scottish Ministers”.
- (17) In regulation 19 (consultation where EIA report received by the Commissioners)—
 - (a) in the cross-heading, omit “by the Commissioners”,
 - (b) in paragraphs (1) and (2), for “Commissioners”, in each place it occurs, substitute “Scottish Ministers”.
- (18) In regulation 21 (additional information and evidence relating to EIA reports)—
 - (a) for paragraph (1) substitute—

“(1) This regulation applies where the Scottish Ministers are dealing with an EIA application.”,
 - (b) in paragraph (2), omit “the Commissioners or, as the case may be,” in both places it occurs,
 - (c) for paragraph (3), substitute—

“(3) The applicant must provide supplementary information within such reasonable period as the Scottish Ministers may specify and if the applicant does not provide the supplementary information within such a period the Scottish Ministers may treat the EIA application as withdrawn.”,
 - (d) in paragraph (4), omit “Commissioners or, as the case may be, the”.
- (19) In regulation 22 (publication of additional information), omit “the Commissioners or, as the case may be,”.
- (20) In regulation 23 (availability of opinions, directions etc. for inspection)—
 - (a) for “Commissioners”, in each place it occurs, substitute “Scottish Ministers”,
 - (b) omit paragraphs (2)(b), (e) and (g).

- (21) In regulation 24 (decision notice), for “Commissioners”, in each place it occurs, substitute “Scottish Ministers”.
- (22) In regulation 25 (monitoring measures)—
- (a) in paragraph (1)—
 - (i) for “Commissioners”, where it first occurs, substitute “Scottish Ministers”,
 - (ii) for “Commissioners or the Scottish Ministers, as the case may be,” substitute “Scottish Ministers”,
 - (b) in paragraphs (2) and (4), for “Commissioners”, in both places it occurs, substitute “Scottish Ministers”,
 - (c) in paragraph (3), omit “the Commissioners or”.
- (23) In regulation 26 (duties to inform the applicant and public of final decisions)—
- (a) in paragraph (1), for “Commissioners”, in each place it occurs, substitute “Scottish Ministers”,
 - (b) omit paragraph (2).
- (24) In Part 9, in the title, omit “APPEALS AND”.
- (25) Omit regulation 30 (appeals against the decision of the Commissioners).
- (26) In regulation 31 (application to the Court of Session by person aggrieved), in paragraph (1) (a), omit “the Commissioners or, as the case may be,”.
- (27) In regulation 32 (Electronic communications – general), in paragraph (1)(b), omit “, directions”.
- (28) In regulation 34 (withdrawal of consent to use of electronic communications), in—
- (a) paragraph (a), omit “to the Commissioners or, as the case may be,”,
 - (b) paragraph (b), omit “with the Commissioners or, as the case may be,”.
- (29) In regulation 35 (service of notices etc.), in paragraph (1), omit “by the Commissioners or, as the case may be,”.
- (30) In regulation 36 (competent authority – avoidance of conflict of interest)—
- (a) in paragraph (1), omit “Commissioners or, as the case may be, the”,
 - (b) in paragraph (2), for “Commissioners”, in both places it occurs, substitute “Scottish Ministers”,
 - (c) omit paragraph (3).
- (31) In regulation 37 (co-ordination of assessments), in paragraph (1), for “Commissioners (or the Scottish Ministers, as the case may be)” substitute “Scottish Ministers”.
- (32) In regulation 38 (offence – false or misleading statements), in paragraph (4), omit “the Commissioners,”.
- (33) In regulation 39 (offences – non-compliance with enforcement notices), in paragraph (6), omit “the Commissioners,”.
- (34) In regulation 41 (revocation and savings), after paragraph (3) insert—
- “(4) Where paragraph (2) applies, the 1999 Regulations are to be read, where appropriate, as if references to “the Forestry Commissioners” or “the Commissioners” were references to “the Scottish Ministers”.

(5) For the purpose of this regulation, “the Commissioners” means the Forestry Commissioners constituted under the Forestry Acts 1919 to 1945 and continued in existence by section 1 of the Forestry Act 1967⁽⁹⁾.”

(35) In schedule 1 (thresholds for the identification of projects likely to have significant effects on the environment), in paragraph 6 (exceptional circumstances in relation to forestry projects near to or adjoining other projects)—

- (a) in sub-paragraph (1), for “Commissioners (or as the case may be, by the Scottish Ministers)” substitute “Scottish Ministers”,
- (b) in sub-paragraph (1)(a), omit “the Commissioners or, as the case may be,”,
- (c) in sub-paragraph (2)(b), omit “by the Commissioners or, as the case may be,”.

(36) In schedule 4 (enforcement powers)—

- (a) in paragraph 1 (interpretation of schedule 4), in the definition of “authorised person”, for “Commissioners” substitute “Scottish Ministers”,
- (b) in paragraph 2 (powers of entry), in sub-paragraphs (1) and (3)(b), for “Commissioners” substitute “Scottish Ministers”,
- (c) in paragraph 3 (enforcement notices)—
 - (i) for “Commissioners” in each place it occurs substitute “Scottish Ministers”,
 - (ii) omit sub-paragraph (4),
 - (iii) in sub-paragraph (5) omit “(in addition to the requirements of sub-paragraph (4)),”,
- (d) omit paragraph 4 (appeals against enforcement notices).