

**EXPLANATORY DOCUMENT TO
THE PUBLIC BODIES (ABOLITION OF THE HOME GROWN TIMBER
ADVISORY COMMITTEE) ORDER 2015**

1. This explanatory document has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament under section 11(1) of the Public Bodies Act 2011 (the ‘PBA 2011’).

2. Purpose of the Statutory Instrument

2.1 This Statutory Instrument abolishes the Home Grown Timber Advisory Committee (‘the HGTAC’), as part of the Government’s public body reform programme. The HGTAC was established by section 15 of the Forestry Act 1951.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 The Government is proposing to use the powers in the PBA 2011 to abolish the HGTAC. Section 1 of the PBA 2011 permits a Minister to abolish by order a body or office specified in Schedule 1. The HGTAC is specified in Schedule 1.

4.2 The HGTAC was originally formed under section 15 of the Forestry Act 1951 (‘the 1951 Act’). The 1951 Act was repealed by the Forestry Act 1967 (‘the 1967 Act’), which consolidated the Forestry Acts 1919 to 1963. Section 15 of the 1951 Act was superseded by section 37 of the 1967 Act. No provision was made in section 15 or section 37 for the abolition of the HGTAC. Accordingly, legislation is required to abolish it.

4.3 Amendments made to section 37 of the 1967 Act by paragraph 72 of Schedule 2 to the Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), which was made under the PBA 2011, abolished the HGTAC in relation to Wales but preserved the HGTAC in England and Scotland.

4.4 The function of the HGTAC was to advise the Forestry Commissioners with regard to their general duty to promote the establishment and maintenance of adequate reserves of growing trees across Great Britain; their power to control the felling of trees and the making of regulations. Following the cessation of the HGTAC’s activities in 2005, advice has been offered at a national level to the Forestry Commission through working groups of experts. This means that, in the absence of the HGTAC, its previous functions have been taken up by a number of national committees. The key ones are:

Scottish Forestry Forum, supported by five Regional Forestry Forums; and in England, Regional Advisory Committees, now called Forestry and Woodlands Advisory Committees (FWACs); the Expert Group on Timber Trade and Statistics

(developed from the HGTAC's previous 'Supply and Demand (of timber) Sub Committee'); and the Expert Committee on Forest Science.

4.5 The HGTAC ceased to function in 2005 and its former functions are therefore now discharged through separate arrangements in each Administration (see consultation paper at: https://consult.defra.gov.uk/landscape-outdoor-recreation-and-forestry/intended-abolition-of-the-hgtac/supporting_documents/20140410%20Consultation%20Corporatedocunder10pagesgreen.pdf) However, the legislation that established it is currently still in place.

4.6 The Minister for the Cabinet Office announced the outcome of the Public Bodies Review on 14 October 2010, which included the proposal to abolish the HGTAC.

4.7 Sections 9 and 10 of the PBA 2011 require the UK Government to consult with and seek the consent of each devolved administration (as appropriate) in relation to this Order.

4.8 As required under section 9(1)(a) of the PBA 2011, the consent of the Scottish Parliament has been sought to the making of the Order. This is because the abolition of the advisory functions of the HGTAC to the Forestry Commissioners in and as regards Scotland is a provision that would be within the legislative competence of the Scottish Parliament. Scottish Ministers have also been consulted on the proposal in accordance with section 10(1) of the PBA 2011 and section 88(2) of the Scotland Act 1998 ("the 1998 Act"). Whilst the HGTAC is not a body that is specified under section 88(5) of the 1998 Act as a cross border authority, it advises the Forestry Commissioners who are so specified. Therefore, the HGTAC carries out functions in relation to a cross-border public authority and section 88(2) of the 1998 Act is engaged.

4.9 The consent of the Northern Ireland Assembly is not required under section 9 of the PBA 2011 because the 1967 Act does not extend to Northern Ireland. Accordingly, this Order does not make provision which would be within the legislative competence of the Northern Ireland Assembly, if it were contained in an Act of that Assembly.

4.10 The HGTAC has been abolished in relation to Wales (see paragraph 4.3 above). Accordingly, the requirement in section 10(1)(e) of the PBA 2011 to consult Welsh Ministers does not apply as this Order does not relate to any matter, so far as applying in or as regards Wales, in relation to which the Welsh Ministers exercise functions.

4.11 This Order abolishes the HGTAC from the day after the day on which this Order is made. This Order also makes consequential amendments to the 1967 Act and a minor amendment to Schedule 1 to the PBA 2011 (removing the words "the Home Grown Timber Advisory Committee").

4.12 The HGTAC has no property, rights or liabilities. Therefore, a transfer scheme under section 23 of the PBA 2011 is not required.

5. Territorial Extent and Application

5.1 This instrument applies in relation to England and Scotland only. This is because the provisions relating to the HGTAC in the 1967 Act do not extend to Northern Ireland and have been abolished in relation to Wales.

6. European Convention on Human Rights

6.1 Dan Rogerson, Parliamentary Under Secretary of State for water, forestry, rural affairs and resource management, for the Department for Environment, Food and Rural Affairs has made the following statement regarding Human Rights:

“In my view the provisions of the Public Bodies (Abolition of the Home Grown Timber Advisory Committee) Order 2015 are compatible with the Convention rights.”

7. Policy background

7.1 The HGTAC was originally formed under section 15 of the 1951 Act, which was consolidated into section 37 of the 1967 Act. Its principal function was to advise the Forestry Commissioners so far as their general duty requires them to promote the establishment and maintenance of adequate reserves of growing trees across Great Britain. Also, to advise the Commissioners in relation to their power to control the felling of trees. Section 37 (2) of the 1967 Act requires the Forestry Commissioners, in relation to England and Scotland, to consult the HGTAC before making regulations under section 32 of that Act. However, the advisory function is now provided by national advisory committees, referred to in para 4.4, maintained in England and Scotland and under section 37 of the 1967 Act.

7.2 The HGTAC is, therefore, currently defunct, with the last meeting occurring in September 2005. The HGTAC members' Terms of Office expired in 2006 and were not renewed because it was decided (by the Commissioners and the final Committee members themselves) that as forestry was now a devolved matter, it would be more appropriate for advice to be received at national level instead. Thus, at present, the HGTAC has no appointed members.

7.3 In October 2010, Government announced, as part of its public bodies reform programme, that it would abolish the HGTAC. However, delivery of that commitment was delayed pending the outcome of the review of forestry issues by the Independent Panel on Forestry.

8. Compliance with section 8(1) of the Public Bodies Act 2011

8.1 A Minister may make an order under sections 1 to 5, only if the Minister considers that the order serves the purpose of improving the exercise of public functions, having regard to:

- (a) efficiency,
- (b) effectiveness,
- (c) economy, and

(d)securing appropriate accountability to Ministers.

Ministers have reviewed the proposal and are satisfied that abolishing the HGTAC would serve the purpose of improving the exercise of public functions for the following reasons;

8.2 Efficiency - The proposal to abolish the HGTAC is driven by a desire to remove a defunct non-departmental public body whose continued legislative existence is superfluous. Although the HGTAC no longer exists as an operating body, provision in section 37 of the 1967 Act for it to be maintained, in relation to England and Scotland, remains in force. Section 37 makes no provision for the HGTAC to be abolished.

8.3 Effectiveness – the HGTAC no longer exists as a functioning body and has not existed as a functioning body for almost 10 years. Essentially, the HGTAC is a defunct body; it has no staff, premises, assets or liabilities. Its former functions are carried out by devolved structures.

8.4 Economy – There is no budget allocated for the HGTAC and therefore no expenditure currently incurred in relation to it. The body has not submitted accounts to Parliament since 2006, and there is no need for an audit

8.5 Securing appropriate accountability to Ministers - Abolition of the HGTAC does not create any issues of accountability given that the body is no longer operational and alternative arrangements exist to provide advice. Ultimately, the Forestry Commission remains accountable to ministers for how it discharges its functions, and therefore also as regards how or to what extent it takes into account advice from its advisory bodies.

9. Compliance with section 8(2) of the Public Bodies Act 2011

9.1 The Minister considers that -

a) The Order does not remove any necessary protection

Given that the HGTAC's functions were to advise the Forestry Commissioners only and that such advice is now provided by different means, the abolition of HGTAC will not result in the removal of any necessary protection.

b) The Order does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise

As above, the HGTAC's functions were to advise the Forestry Commissioners only and that advice is now provided by different means. The abolition of HGTAC will not therefore prevent any person from continuing to exercise any right or freedom which they might reasonably expect to continue to exercise.

10. Interest in the Houses of Parliament

10.1 During the passage of the PBA 2011 through Parliament, specific mention was made of the HGTAC. The Forestry Commission's former Chair, Lord Clark admitted that the Committee had been stopped during his chairmanship and that while he did not therefore oppose its abolition, he suggested there may be merit in retaining provision for it for some possible future need. The Earl of Selborne considered that the passage of several years without recourse to the Committee tended to suggest however that it was no longer required. The full text of the discussion can be found in the link below:

<http://www.publications.parliament.uk/pa/ld201011/ldhansrd/text/101221-0003.htm>

11. Consultation outcome

11.1 The PBA 2011 requires the Government to consult on the abolition of all public bodies, even when they are defunct.

11.2 A six week public consultation on the proposal to abolish the HGTAC was launched on 14 April 2014 and closed on 30 May 2014. The consultation was targeted towards key forestry-related interests, but was also open to all stakeholders and the wider public via the departmental website. Defra considered that a full 12 week consultation would have been disproportionate for a defunct body and the level of anticipated interest. There was no criticism of the 6 week consultation from respondents to the consultation.

The questions asked were:

Question 1: Do you foresee that abolition of the HGTAC would have any impacts (positive or negative) on your interests?

Question 2: If YES, please explain and if possible, quantify the scale of any such impacts

Question 3: Are you aware of any other reason why this abolition should not proceed?

The key stakeholders we contacted were:

England and Cross-Border Stakeholders	Scotland Stakeholders
Wildlife Trusts	Woodland Trust for Scotland
UK Forest Products Association	Scottish Environment LINK
Confederation of Forest Industries	Scottish Land & Estates
Woodland Trust	NFU Scotland
RSPB	Scottish Land and Estates
Institute of Chartered Foresters	
Country Land and Business Association	
Sport and Recreation Alliance	
Cyclists' Touring Club	

International Mountain Biking Association	
British Horse Society	
Kennel Club	
Visit England	
Adventure Forest / Go Ape	
Ramblers Association	
Tree Council	
Small Woods Association	
England Woodland and Timber Partnership	
B&Q/EWTP	
Forestry Commission RAC	
Wood Panel Industries Federation	
England's Community Forests	
Royal Forestry Society	
Plantlife	
Butterfly Conservation	
Wildlife and Countryside Link	
Save our Woods	
Hands off our Forest (HooF)	
Save Cannock Chase	
ONE VOICE New Forest	
Friends of Thetford Forest	
Campaign to Protect Rural England	
Friends of Sandlings Forest	
Association of National Parks	
Natural England	
National Trust	
National Forest Company	
National Association for AONB's	
Countryside Alliance	
Royal Institute of Chartered Surveyors	
Local Enterprise Partnerships	
Forestry Commission England	
Forestry Commission Trade Unions	
Environment Agency	
Clinton and Devon Estates	
Deer Partnership	
Forestry Contractors Association	

11.3 The Department received five responses to the consultation. Three responses supported the intended abolition of the HGTAC, and two raised objections to it.

Name of Body	Summary of Response
Confederation of Forest Industries	Agreed with the intention to abolish HGTAC
UK Forest Products Association	Agreed with the intention to abolish HGTAC
Matt Edwards	Agreed with the intention to abolish HGTAC

(personal capacity)	
Westover Woodlands	Wanted to see a public face of British timber and suggested that the HGTAC might perform such a role
RSPB	Queried what abolition of the HGTAC would mean for ensuring ‘sustainable forestry’ and implied that the arrangements that have superseded the defunct HGTAC might not be sufficient. It also suggested that sustainable forestry “needs oversight, scrutiny and advice at UK, GB and country levels for environmental content, credibility and rigour”.

11.4 No other comments were received after the consultation closed and Defra considers that the consultation process, in relation to this Public Bodies Order, is consistent with Government’s consultation principles.

11.5 Following the consultation exercise, Government remains of the view that the HGTAC’s falling into abeyance in 2005 reflects the reality of forestry being a devolved matter, and forestry policy has been operating on that basis since 2003. We therefore remain convinced that there is no genuine need to retain the statutory provision for the HGTAC.

11.6 It is also Government’s view that it is principally for the Forestry Commissioners to determine how they should be delivering their balancing duty between the management of forests and the promotion, supply, sale, utilization and conversion of timber; and that it is ultimately for the relevant Governments’ Ministers in England and Scotland to intervene should the Commissioners be failing in their statutory remit. The advisory function of the former HGTAC in support of the Commissioners in this regard is now provided by the national advisory committees, mentioned in para 4.4, for each conservancy in England, Scotland and Wales.

11.7 The Government’s formal response to the consultation has been published on the Department website at: (still waiting for date from Comms).

12. Guidance

12.1 No guidance is deemed necessary

13. Impact

13.1 The impact on business, charities or voluntary bodies is nil.

13.2 The impact on the public sector is nil.

13.3 An Impact Assessment has not been prepared for this instrument.

This Order amends section 37 of the 1967 Act, and has the effect of abolishing the HGTAC. The Order also makes consequential amendments to sections 32 and 38 of the 1967 Act as well as Schedule 1 to PBA 2011. It also revokes sub-paragraph 25 of

paragraph 4 in Schedule 12 to the Scotland Act 1998 (Cross-Border Public Authorities) (Adaptation of Functions etc) Order 1999 (S.I. 1999/1747). The HGTAC is a defunct body and an impact assessment is not considered necessary.

14. Regulating small business

14.1 The legislation does not apply to small business.

15. Monitoring & Review

15.1 This order abolishes the HGTAC and there is no tangible outcome to monitor in respect of the HGTAC, so a review is not necessary. However, Government will be advised of the on-going arrangement for the bodies delivering the service in lieu of HGTAC.

16. Contact

16.1 Colin Whelan at the Department for Environment, Food and Rural Affairs, Tel: 020 7238 4704, or email: colin.whelan@defra.gsi.gov.uk

16.2 Copies of all responses to the public consultation exercise can be seen at, or obtained from: Colin Whelan, Area 1A, Defra, Nobel House, London, SW1P 3JR.

16.3 Copies of the responses will also be made available to the Environment, Food and Rural Affairs Select Committee and the Secondary Legislation Scrutiny Committee of the House of Lords.