

Forestry Act, 1947.

10 & 11 GEO. 6. CH. 21.

ARRANGEMENT OF SECTIONS.

Forestry dedication covenants (England).

Section.

1. Forestry dedication covenants and enforcement thereof.
2. Power of tenants for life, etc., to enter into forestry dedication covenants.

Forestry dedication agreements (Scotland).

3. Forestry dedication agreements and enforcement thereof.
4. Power of liferenters, etc., to enter into forestry dedication agreements.

Miscellaneous, short title, etc.

5. Restriction on compulsory acquisition of dedicated land.
6. Deduction of grants from compensation in case of compulsory acquisition.
7. Execution of certain instruments on behalf of Secretary of State.
8. Short title, construction, citation, and extent.



CHAPTER 21.

An Act to provide for the dedication of land to forestry purposes; for the deduction from compensation of grants made by the Forestry Commissioners in the event of compulsory purchase of the land in respect of which the grants were made; and for the execution on behalf of the Secretary of State of instruments relating to land placed at the disposal of the Forestry Commissioners. [27th March 1947.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Forestry dedication covenants (England).

1.—(1) In this Act the expression “forestry dedication covenant” means a covenant entered into with the Forestry Commissioners (in this Act referred to as “the Commissioners”) to the effect that land shall not, except with the previous consent in writing of the Commissioners or, in case of dispute, under direction of the Minister of Agriculture and Fisheries, be used otherwise than for the growing of timber (within the meaning of section three of the Forestry Act, 1919) in accordance with the rules or practice of good forestry or for purposes connected therewith, being a covenant not containing any expression of intention contrary to the application of section seventy-nine of the Law of Property Act, 1925 (which provides that, unless a contrary intention is expressed, a covenant relating to any land of a covenantor or capable of being bound by him shall be deemed to be made by the covenantor on behalf of himself or his successors in title and the persons deriving title under him or them).

Forestry dedication covenants and enforcement thereof.
9 & 10 Geo. 5. c. 58.
15 & 16 Geo. 5. c. 20.

(2) As respects the enforcement of a forestry dedication covenant against persons other than the covenantor the Commissioners shall have the like rights as if they had at all material times been the absolute owners in possession of ascertained land adjacent to the land in respect of which the covenant is sought to be enforced and capable of being benefited by the covenant, and the covenant had been expressed to be for the benefit of that adjacent land.

(3) Section eighty-four of the Law of Property Act, 1925 (which confers power to discharge or modify restrictive covenants) shall not apply to a forestry dedication covenant.

(4) This section shall not extend to Scotland.

Power of tenants for life, etc., to enter into forestry dedication covenants.
15 & 16 Geo. 5.
c. 18.

2.—(1) A tenant for life may enter into a forestry dedication covenant relating to the settled land or any part thereof either for consideration or gratuitously, and—

(a) this subsection shall be construed as one with the Settled Land Act, 1925;

(b) that Act, and section twenty-eight of the Law of Property Act, 1925 (which confers the powers of a tenant for life on trustees for sale), shall apply as if the power conferred by this subsection had been conferred by that Act; and

(c) for the purposes of section seventy-two of that Act (which relates to the mode of giving effect to a disposition by a tenant for life and to the operation thereof), and of any other relevant statutory provision, entering into a forestry dedication covenant shall be treated as a disposition.

15 & 16 Geo. 5.
c. 24.

(2) A university or college to which the Universities and College Estates Act, 1925, applies may enter into a forestry dedication covenant relating to any land belonging to it either for consideration or gratuitously, and that Act shall apply as if the power conferred by this subsection had been conferred by that Act.

(3) Where land is glebe land or other land belonging to an ecclesiastical benefice, the incumbent of the benefice, and, where land is part of the endowment of any other ecclesiastical corporation, the ecclesiastical corporation, may with the consent of the Ecclesiastical Commissioners enter into a forestry dedication covenant relating to the land either for consideration or gratuitously, and the Ecclesiastical Leasing Acts shall apply as if the power conferred by this subsection had been conferred by those Acts, except that the consent of the patron of an ecclesiastical benefice shall not be requisite.

(4) This section shall not extend to Scotland.

Forestry dedication agreements (Scotland).

3.—(1) In this Act the expression “ forestry dedication agreement ” means an agreement entered into with the Commissioners by an owner or a limited owner of land to the effect that the land or any part thereof shall not, except with the previous consent in writing of the Commissioners or, in case of dispute, under direction of the Secretary of State, be used otherwise than for the growing of timber (within the meaning of section three of the Forestry Act, 1919) in accordance with the rules or practice of good forestry or for purposes connected therewith.

Forestry
dedication
agreements
and enforce-
ment thereof.

(2) A forestry dedication agreement may be recorded in the appropriate Register of Sasines, and, on being so recorded, shall be enforceable at the instance of the Commissioners against any person having any interest in the land to which the agreement relates and against any person deriving title from him:

Provided that such an agreement shall not be so enforceable against any third party who shall have in bona fide onerously acquired right (whether completed by infertment or not) to his interest in the land prior to the agreement being recorded as aforesaid, or against any person deriving title from such third party.

(3) In this section the expression “ owner ” in relation to any land means the proprietor thereof for his own absolute use, and the expression “ limited owner ” means any person empowered by the next succeeding section to enter into forestry dedication agreements relating thereto.

(4) This section shall extend to Scotland only.

4.—(1) Any person being

(a) the liferenter, or

(b) the heir of entail,

in possession of any land shall have power to enter into forestry dedication agreements relating to the land or any part thereof.

Power of life-
renters, etc.,
to enter into
forestry
dedication
agreements.

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

11 & 12 Geo. 5,
c. 58.

(3) This section shall extend to Scotland only.

Miscellaneous, short title, etc.

Restriction on compulsory acquisition of dedicated land. 8 & 9 Geo. 5. c. 35.

5.—(1) Nothing in section four of the Forestry Act, 1945, shall authorise the compulsory acquisition of any land as to which a forestry dedication covenant or agreement is in force and which is being used and managed in accordance with the provisions and conditions of a plan of operations approved by the Commissioners.

(2) Any question arising under this section whether there has been a breach of any of the provisions and conditions of a plan of operations shall be referred to the determination of an arbitrator appointed by the President for the time being of the Royal Institution of Chartered Surveyors, and such a breach shall not be treated as having occurred by virtue of any act or omission capable of remedy unless there has been default in remedying it within a reasonable time after notice given by the Commissioners requiring the remedy thereof.

(3) In the application of this section to Scotland there shall be substituted, for the reference to an arbitrator appointed by the President of the Royal Institution of Chartered Surveyors, a reference to an arbiter appointed by the Chairman of the Scottish Committee of the said Institution.

Deduction of grants from compensation in case of compulsory acquisition.

6. If the power of compulsory purchase conferred by subsection (2) of section four of the Forestry Act, 1945, falls to be exercised in relation to land in respect of which advances by way of grant have been made by the Commissioners after the passing of this Act or within two years before the passing thereof, the advances, other than any made more than thirty years before the date of service of notice to treat in exercise of that power, shall become repayable by the person entitled to the compensation for the compulsory purchase, together with compound interest on each advance repayable, calculated from the date of the making thereof to the date on which the compensation is paid at the rate of three pounds per cent. per annum with yearly rests, and shall be recoverable by deduction from the compensation and not otherwise:

Provided that, in the case of compensation for the compulsory purchase of one of several interests in such land, the amount repayable shall be a part only of the advances and interest proportionate to the value of the purchased interest as compared with the value of the land.

Execution of certain instruments on behalf of Secretary of State.

7. Any instrument in connection with the management or disposal of any land vested in or acquired by the Secretary of State concerned with agriculture in Scotland by or under the Forestry Act, 1945, and for the time being placed at

the disposal of the Commissioners, shall, without prejudice to any other method of execution, be deemed to be validly executed by him if it is executed on his behalf by any officer of the Commissioners authorised by him for the purpose; and any instrument so executed shall, for the purposes of subsections (8) and (9) of section one of the Reorganisation of Offices (Scotland) Act, 1939, be deemed to have been executed by an officer of the Secretary of State duly authorised by him. 2 & 3 Geo. 6. c. 20.

8.—(1) This Act may be cited as the Forestry Act, 1947, and shall be construed as one with the Forestry Acts, 1919 to 1945, and this Act and those Acts may be cited together as the Forestry Acts, 1919 to 1947. Short title, construction, citation, and extent.

(2) This Act shall not extend to Northern Ireland.

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