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Forestry Act 1967

1967 CHAPTER 10

An Act to consolidate the Forestry Acts 1919 to 1963 with corrections and improvements made under the Consolidation of Enactments (Procedure) Act 1949. [22nd March 1967]

Commencement Information
I1 Act wholly in force at Royal Assent.

PART I

FORESTRY AND AFFORESTATION IN GREAT BRITAIN

1 The Forestry Commission.

(1) The Forestry Commissioners constituted under the Forestry Acts 1919 to 1945 shall continue in existence and are in this Act referred to as "the Commissioners".

(2) The Commissioners shall be charged with the general duty of promoting the interests of forestry, the development of afforestation and the production and supply of timber and other forest products in Great Britain and in that behalf shall have the powers and duties conferred or imposed on them by this Act.

(3) The Commissioners' general duty includes that of promoting the establishment and maintenance in Great Britain of adequate reserves of growing trees.

[[F1](3A) In discharging their functions under the Forestry Acts 1967 to 1979 the Commissioners shall, so far as may be consistent with the proper discharge of those functions, endeavour to achieve a reasonable balance between—

(a) the development of afforestation, the management of forests and the production and supply of timber, and

(b) the conservation and enhancement of natural beauty and the conservation of flora, fauna and geological or physiographical features of special interest.**]**

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(4) The Commissioners shall, in exercising their functions under this Act, and also in exercising their powers under the [M1]Plant Health Act 1967 (which enables them to make orders for the control of timber pests and diseases), comply with such directions as may be given to them by the Ministers.

(5) Directions given by the Ministers for purposes of the foregoing subsection shall be given by them jointly, except in so far as they make arrangements that this subsection shall not apply.

Textual Amendments

F1 S. 1(3A) added by Wildlife and Countryside (Amendment) Act 1985 (c. 31, SIF 4), **s. 4**

Marginal Citations

M1 1967 c. 8**(2:11)**

2 Constitution, administration, etc., of Commission.

(1) The Commissioners shall consist of a chairman and not more than **[**[F2]ten**]** other members appointed by Her Majesty by warrant under the sign manual to be Forestry Commissioners.

(2) Of the persons for the time being appointed to be Forestry Commissioners—

(a) at least three shall be persons who have special knowledge and experience of forestry;

(b) at least one shall be a person who has scientific attainments and a technical knowledge of forestry; and

(c) at least one shall be a person who has special knowledge and experience of the timber trade.

(3) The Commissioners shall by order appoint committees for England, Scotland and Wales respectively, whose membership shall consist partly of persons who are Forestry Commissioners or officers of the Commissioners and partly of persons not exceeding three in number, who are not Forestry Commissioners or officers of the Commissioners; and the Commissioners may delegate, subject to such restrictions or conditions as they think fit, any of their functions to a committee so appointed.

(4) Part I of Schedule 1 to this Act shall have effect with respect to the Commissioners, their staff, proceedings and other related matters and to the committees appointed under subsection (3) of this section; and Part II of that Schedule shall have effect with respect to the superannuation of Forestry Commissioners and officers employed by the Commissioners.

Textual Amendments

F2 Word substituted by Forestry Act 1981 (c. 39, SIF 54), **s. 5**

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3 Management of forestry land.

(1) The Commissioners may manage, plant and otherwise use, for the purpose of the exercise of their functions under this Act, any land placed at their disposal by the Minister under this Act, and—

(a) the power of the Commissioners under this subsection to manage and use any land shall, without prejudice to the generality of that power, include power to erect buildings or execute works on the land;

(b) any timber produced on land so placed at the Commissioners' disposal shall belong to the Commissioners.

(2) The Commissioners may undertake the management or supervision, upon such terms and subject to such conditions as may be agreed upon, or give assistance or advice in relation to the planting or management, of any woods or forests belonging to any person, including woods and forests under the management of the Crown Estate Commissioners or under the control of a government department, or belonging to a local authority.

(3) The Commissioners may—

(a) purchase or otherwise acquire standing timber, and sell or otherwise dispose of any timber belonging to them or, subject to such terms as may be mutually agreed, to a private owner, and generally promote the supply, sale, utilization and conversion of timber;

(b) establish and carry on, or aid in the establishment and carrying on, of woodland industries.

(4) In this section the expression "timber" includes all forest products.

Modifications etc. (not altering text)

C1 S. 3(1) amended by Countryside Act 1968 (c. 41, SIF 46:1), **s. 24(1)**

4 . . . . . F3

Textual Amendments

F3 S. 4 repealed by Forestry Act 1979 (c. 21, SIF 54), s. 3(2), **Sch. 2**

5 Forestry dedication covenants and agreements.

(1) The provisions of this section shall have effect with a view to allowing land to be devoted to forestry by means of agreements entered into with the Commissioners, being agreements to the effect that the land shall not, except with the previous consent in writing of the Commissioners or, in the case of dispute, under direction of the minister, be used otherwise than for the growing of timber or other forest products in accordance with the rules or practice of good forestry or for purposes connected therewith; and in this Act—

(a) "forestry dedication covenant" means a covenant to the said effect entered into with the Commissioners in respect of land in England or Wales without an intention being expressed contrary to the application of section 79 of

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the [M2]Law of Property Act 1925 (under which covenants relating to land are, unless the contrary is expressed, deemed to be made on behalf of the covenantor, his successors in title and persons deriving title under him or them); and

(b) "forestry dedication agreement" means an agreement to the said effect entered into with the Commissioners in respect of land in Scotland by a person who is the proprietor thereof for his own absolute use or is empowered by this section to enter into the agreement.

(2) Where land in England or Wales is subject to a forestry dedication covenant,—

(a) the Commissioners shall, as respects the enforcement of the covenant against persons other than the covenantor, 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 subject to the covenant and capable of being benefited by the covenant, and the covenant had been expressed to be for the benefit of that adjacent land; and

(b) section 84 of the [M3]Law of Property Act 1925 (which enables the Lands Tribunal to discharge or modify restrictive covenants) shall not apply to the covenant.

(3) A forestry dedication agreement affecting land in Scotland may be recorded in the General Register of Sasines and, on being so recorded, shall be enforceable at the instance of the Commissioners against any person having an interest in the land 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 infeftment 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.

(4) Schedule 2 to this Act shall have effect to empower limited owners, trustees and others to enter into forestry dedication covenants or agreements and to provide for matters arising on their doing so.

Modifications etc. (not altering text)

C2 S. 5(3)(4) extended (S.) with modifications by Roads (Scotland) Act 1984 (c. 54, SIF 108), **s. 46(3)**

Marginal Citations

M2 1925 c. 20**(98:1)**

M3 1925 c. 20**(98:1)**

6 Requirements for haulage facilities.

(1) The provisions of this section shall have effect where the Commissioners are of opinion that insufficient facilities exist for the haulage of timber from any wood or forest to a road, railway or waterway.

(2) Subject to the following subsections, the Commissioners may, where they are of the said opinion, make an order that the owner and occupier of any land shall afford the necessary facilities, subject to payment by the person in whose favour the order is made of reasonable rent or wayleave and of compensation for any damage caused by the haulage, and the owner or occupier shall thereupon comply with the order.

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(3) The Commissioners shall not make an order under this section until the person proposed to be required to give the said facilities has had an opportunity of being heard.

(4) A person aggrieved by an order made under this section may appeal therefrom to the Minister in such manner and upon such conditions, if any, as may be prescribed by the Minister, who may thereupon revoke or vary the order.

(5) The amount of rent or wayleave and compensation for damage which is payable in consequence of an order made under this section shall, in default of agreement, be assessed as follows that is to say—

(a) in a case relating to England and Wales, by a single arbitrator appointed by the President of the Royal Institution of Chartered Surveyors; and

(b) in a case relating to Scotland, by an arbiter appointed by the Chairman of the Scottish Committee of the said Institution.

7 Prevention of damage by rabbits, hares and vermin.

(1) The provision of this section shall have effect where the Commissioners are satisfied that trees or tree plants are being, or are likely to be, damaged by rabbits, hares or vermin owing to the failure of an occupier of land to destroy sufficiently the rabbits, hares or vermin on land in his occupation, or otherwise to take steps for the prevention of damage by them.

(2) The Commissioners may, where they are so satisfied, authorise in writing any competent person to enter on the land and kill and take the rabbits, hares or vermin thereon; but before doing so they shall first give to the occupier and owner of the land such opportunity as the Commissioners think reasonable of destroying the rabbits, hares or vermin, or of taking steps for the prevention of the damage.

(3) The Commissioners may recover from the occupier of the land the net cost incurred by them in connection with action taken by them under the foregoing subsection.

A sum recoverable under this subsection shall, in England or Wales, be recoverable summarily as a civil debt.

(4) Anyone who obstructs a person authorised by the Commissioners in the due exercise of his powers or duties under subsection (2) above shall be liable on summary conviction to a fine not exceeding **[**[F4]level 2 on the standard scale**]**; but the person authorised shall, if so required, produce his authority.

(5) For purposes of this section—

(a) the person entitled to kill rabbits, hares or vermin on any common land shall be deemed to be the occupier of the land; and

(b) the expression "vermin" includes squirrels.

Textual Amendments

F4 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G**

8 Miscellaneous powers of Commissioners.

The Commissioners may—

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(a) undertake the collection, preparation, publication and distribution of statistics relating to forestry, and promote and develop instruction and training in forestry by establishing or aiding schools or other educational institutions or in such other manner as they think fit;

(b) make, or aid in making, such inquiries, experiments and research, and collect, or aid in collecting, such information as they may think important for the purpose of promoting forestry and the teaching of forestry, and publish or otherwise take steps to make known the results of the inquiries, experiments or research and disseminate the information;

(c) make, or aid in making, such inquiries as they think necessary for the purpose of securing an adequate supply of timber and other forest products in Great Britain.

[F5 8A General duty of Ministers.

In performing their functions under this Act the Ministers shall have regard to the national interest in maintaining and expanding the forestry resources of Great Britain.]

Textual Amendments

F5 S. 8A inserted by Forestry Act 1981 (c. 39, SIF 54), **s. 4**

PART II

COMMISSIONERS' POWER TO CONTROL FELLING OF TREES

Restriction of felling

9 Requirement of licence for felling.

(1) A felling licence granted by the Commissioners shall be required for the felling of growing trees, except in a case where by or under the following provisions of this Part of this Act this subsection is expressed not to apply.

(2) Subsection (1) above does not apply—

(a) to the felling of trees with a diameter not exceeding [F6 8 centimetres] or, in the case of coppice or underwood, with a diameter not exceeding [F6 15 centimetres]; or

(b) to the felling of fruit trees or trees standing or growing on land comprised in an orchard, garden, churchyard or public open space; or

(c) to the topping or lopping of trees or the trimming or laying of hedges.

(3) Subsection (1) above does not apply to the felling by any person of trees on land in his occupation or occupied by a tenant of his—

(a) where the trees have a diameter not exceeding [F6 10 centimetres] and the felling is carried out in order to improve the growth of other trees; or

(b) where the following conditions are satisfied, that is to say—

(i) the aggregate cubic content of the trees which are felled by that person without a licence (exclusive of trees to whose felling subsection (1)

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above does not apply) does not exceed **[**[F7]5 cubic metres**]** in any quarter; and

(ii) the aggregate cubic content of the trees so felled which are sold by that person whether before or after the felling (exclusive as aforesaid) does not exceed **[**[F7]2 cubic metres**]** in any quarter, or such larger quantity as the Commissioners may in a particular case allow.

(4) Subsection (1) above does not apply to any felling which—

(a) is for the prevention of danger or the prevention or abatement of a nuisance;

(b) is in compliance with any obligation imposed by or under an Act of Parliament, including this Act;

(c) is carried out by, or at the request of, **[**[F8]an electricity operator, because the tree is or will be in such close proximity to an electric line or electrical plant which is kept installed or is being or is to be installed by the operator as to have the effect mentioned in paragraph 9(1)(a) or (b) of Schedule 4 to the Electricity Act 1989;**]**

(d) is immediately required for the purpose of carrying out development authorised by planning permission granted or deemed to be granted under **[**[F9]the Town and Country Planning Act 1990**]** or the enactments replaced by that Act, or under **[**[F10]the Town and Country Planning (Scotland) Act 1997**]**.

(5) Regulations made by the Commissioners under this Part of this Act may modify subsections (2) to (4) above as follows, that is to say—

(a) they may provide for additional exceptions from the application of subsection (1) above and may in particular substitute—

(i) in subsection (2)(a), for the reference to **[**[F6]8 centimetres**]** a reference to a larger diameter;

(ii) in subsection (3)(a), for the reference to **[**[F6]10 centimetres**]** a reference to a larger diameter;

(iii) in subsection (3)(b) for the reference to **[**[F6]30 cubic metres**]** or the reference to **[**[F6]5·5 cubic metres**]** in either case a reference to a larger quantity;

(b) they may substitute in subsection (2)(a) for the reference to **[**[F6]15 centimetres**]** a reference to a smaller diameter; and

(c) they may restrict or suspend the exception in subsection (3)(b) and may in particular substitute, for the reference in sub-paragraph (i) to **[**[F6]30 cubic metres**]**, or for the reference in sub-paragraph (ii) to **[**[F6]5·5 cubic metres**]**, in either case a reference to a smaller quantity;

and the said subsections shall have effect with any modification made by regulations under this subsection.

(6) In this section—

[[F11]"electricity operator" means a licence holder within the meaning of Part I of the Electricity Act 1989 by whom the powers conferred by paragraph 9 (tree lopping) of Schedule 4 to that Act are exercisable;**]**

[[F11]"electric line" and "electric plant" have the same meanings as in Part I of the Electricity Act 1989;**]**

"public open space" means land laid out as a public garden or used (otherwise than in pursuance of section 193 of the [M4]Law of Property Act 1925 or of Part V of the National Parks and Access to the [M5]Countryside Act 1949

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[[F12]or of Part II or section 48 of the [M6]Countryside (Scotland) Act 1967**]**) for the purpose of public recreation, or land being a disused burial ground;

"quarter" means the period of three months beginning with the 1st January, 1st April, 1st July or 1st October in any year;

and references to the diameter of trees shall be construed as references to the diameter, measured over the bark, at a point **[**[F6]1·3 metres**]** above the ground level; . . . [F13]

Textual Amendments

F6 Words substituted by Forestry Act 1979 (c. 21, SIF 54), s. 2(1), **Sch. 1**

F7 Words substituted by virtue of S.I. 1985/1958, **reg. 2**

F8 Words substituted by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1)(3), Sch. 16 para. 13(2), Sch. 17 paras. 33, **35(1)**

F9 Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2**, para. 14(1)

F10 Words in s. 9(4)(d) substituted (27.5.1997) by virtue of 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 13(1)**

F11 Definition substituted by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1)(3), Sch. 16 para. 13(3), Sch. 17 paras. 33, **35(1)**

F12 Words inserted by Countryside (Scotland) Act 1967 (c. 86, SIF 46:1), **s. 58(5)**

F13 Words repealed by Forestry Act 1979 (c. 21, SIF 54), s. 3(2), **Sch. 2**

Modifications etc. (not altering text)

C3 S. 9 excluded by S.I. 1979/792, **reg. 4**

C4 Definition of "public open space" restricted by Countryside Act 1968 (c. 41, SIF 46:1), **s. 24(4)**

Marginal Citations

M4 1925 c. 20**(98:1)**

M5 1949 c. 97**(46:1)**

M6 1967 c. 86**(46:1)**

10 Application for felling licence and decision of Commissioners thereon.

(1) An application for a felling licence may be made to the Commissioners in the prescribed manner by a person having such an estate or interest in the land on which the trees are growing as enables him, with or without the consent of any other person, to fell the trees.

(2) Subject to the provisions of this Act (and, in particular, to their duty to take advice under section 37(3), the Commissioners may on any such application grant the licence, or grant it subject to conditions, or refuse it, but shall grant it unconditionally except in a case where it appears to them to be expedient to do otherwise—

(a) in the interests of good forestry or agriculture or of the amenities of the district; or

(b) for the purpose of complying with their duty of promoting the establishment and maintenance in Great Britain of adequate reserves of growing trees.

(3) A felling licence shall continue in force for such period (not being less than one year from the date on which it is granted) as may be specified therein.

(4) If in the case of any trees the Commissioners refuse an application for a felling licence, the consequences shall be as follows:—

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(a) except in a case to which section 14(4) below applies, any person who is for the time being the owner of the trees shall be entitled to compensation under and in accordance with the next following section; and

(b) if the land on which the trees are growing is, or in the opinion of the Commissioners will be, managed in a manner approved by them, the Commissioners may (subject to section 14(5) below), if they think fit and subject to the approval of the treasury, make to persons interested in the land advances by way of loan of such amounts, upon such terms and subject to such conditions, as they may determine.

(5) At any time after a felling licence has been refused by them in the case of any trees, the Commissioners may, if they think fit, give notice to the owner of the trees that they are prepared to grant a felling licence for the trees either unconditionally or subject to conditions described in the notice; and if the Commissioners give such a notice and an application is duly made to them for a felling licence, they shall grant a licence in accordance with the notice, subject to sections 13(2) and 15 below.

(6) When the Commissioners refuse to grant a felling licence, they shall give notice in writing to the applicant of the grounds for the refusal.

(7) Where application is made for a felling licence for trees on land which is subject to a forestry dedication covenant or agreement, and the licence is refused, no breach of the covenant or agreement shall be deemed to have occurred by reason of anything done or omitted in consequence of the refusal.

11 Terms of compensation on refusal of licence.

(1) The compensation to which a person may become entitled under section 10(4)(a) above is for any depreciation in the value fo the trees which is attributable to deterioration in the quality of the timber comprised therein in consequence of the refusal of a felling licence for them.

(2) Compensation under this section shall be recoverable from the Commissioners on a claim made in the prescribed manner.

(3) Claims for compensation in the case of any trees may be made from time to time in respect of deterioration taking place after the refusal of a felling licence for those trees, but—

(a) no such claim shall be made in respect of deterioration taking place more than ten years before the date of the claim; and

(b) if the trees have been felled, no such claim shall be made after the expiration of one year from the date of the felling.

(4) In calculating compensation,—

(a) no account shall be taken of deterioration in the quality of the timber which is attributable to neglect of the trees after the refusal of a felling licence for them; and

(b) the value of the trees at any time shall be ascertained on the basis of prices current at the date of the claim.

(5) If after refusing a felling licence the Commissioners under section 10(5) above subsequently give notice to the owner of the trees that they are prepared to grant a licence, then in calculating compensation payable in consequence of the previous

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refusal no account shall be taken of deterioration occurring after the giving of the notice.

(6) Any question of disputed compensation shall be determined in accordance with section 31 of this Act.

12 Conditional licences.

(1) The conditions which may under section 10(2) above be attached to a felling licence are such as the Commissioners, after consultation with the applicant for the licence, determine to be expedient for securing—

(a) the restocking or stocking with trees of the land on which the felling is to take place, or of such other land as may be agreed between the Commissioners and the applicant; and

(b) the maintenance of those trees in accordance with the rules and practice of good forestry for a period not exceeding ten years.

(2) No conditions shall be imposed on the grant of a felling licence where it is for trees on land subject to a forestry dedication covenant or agreement **[**[F14]and the felling is in accordance with a plan of operations or other working plan approved by the Commissioners and in force under the covenant or agreement**]**.

Textual Amendments

F14 Words added by Trees Act 1970 (c. 43, SIF 54), **s. 2**

13 Deferred decision on application.

(1) Where a person applies for a felling licence and the Commissioners do not within three months after receiving the application, or within such further time as may be agreed with the applicant, give notice to him of their decision on the application (including any reference of the application under section 15 of this Act) the provisions of this Part of this Act shall apply in relation to the application as if it had been refused.

(2) If on an application for a felling licence—

(a) the Commissioners determine to grant the licence subject to conditions; and

(b) it appears to them that the applicant is not entitled to an interest in land which would enable him to comply with those conditions;

they may give notice in writing to that effect to the applicant and postpone consideration of the application until the person entitled to such an interest is joined as a party thereto.

Where a notice under this subsection is given, subsection (1) above shall apply as if, instead of referring to a period of three months after the Commissioners receive the application, it referred to a period of three months after the date on which the person entitled to such interest in the land as is mentioned in the notice is joined as a party to the application.

14 Tree-felling in accordance with approved working plan etc.

(1) The following provisions shall apply where application is made to the Commissioners for a felling licence and relates to the felling of trees in accordance with a plan of

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operations or other working plan approved by the Commissioners under a forestry dedication covenant or agreement, or otherwise approved by them in writing for the purposes of this section.

(2) The Commissioners shall not refuse the licence unless the Minister certifies that, by reason of an act of God or other emergency which has taken place or arisen since the approval of the plan, the granting of a felling licence in respect of those trees, or in respect of trees of any class which comprises those trees, would be detrimental to the national interest.

(3) If the Commissioners refuse the licence, the applicant may by notice given to the Commissioners in the prescribed manner and within the prescribed time require them to buy the trees or such of them as may be specified in the notice.

(4) If a notice is served under the foregoing subsection,—

(a) no compensation shall be payable under section 11 in respect of any trees to which the notice relates; and

(b) the Commissioners shall be deemed to have contracted with the applicant to buy the trees on the date of the service of the notice at such prices as may in default of agreement be determined in accordance with section 31 of this Act, and shall fell and remove the trees at such time or times as they may determine.

(5) Where such a notice is served, and the land on which the trees are growing is subject to a forestry dedication covenant or agreement, the power of the Commissioners under section 10(4)(b) above to make an advance by way of loan shall not be exercisable in respect of the trees, but this subsection shall not prejudice their power to make an advance in respect of any other trees on the land.

15 Trees subject to preservation order under Planning Acts.

(1) If an application is made to the Commissioners for a felling licence in respect of trees to which a tree preservation order relates, and consent under the order is required for the felling of those trees, then—

(a) the Commissioners, if they propose to grant the licence, shall give notice in writing to the authority by whom the order was made; and

(b) the Commissioners may in any case refer the application to the said authority.

(2) Where the Commissioners give the notice required by subsection (1)(a) above and the authority within the prescribed period after receipt of the notice object to the Commissioners' proposal to grant a felling licence and do not withdraw their objection, then—

(a) the Commissioners shall not deal with the application, but shall refer it to the Minister, and the application shall then be dealt with under the Town and Country Planning Acts; and

(b) if in pursuance of the application the Minister consents to the felling, section 9(1) of this Act shall not apply so as to require a felling licence for the felling of any trees in accordance with the consent.

(3) Where the Commissioners refer an application under subsection (1)(b) above,—

(a) the application shall be dealt with under the Town and Country Planning Acts; and

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(b) so long as the tree preservation order applying to the trees remains in force, section 9(1) shall not apply so as to require a felling licence for the felling of any trees to which the application relates.

(4) Where in the case of any trees—

(a) the Commissioners under this section refer an application for a felling licence to the Minister or an authority who have made a tree preservation order relating to the trees; and

(b) a felling licence in respect of the trees has been previously refused by the Commissioners,

no account shall be taken, in calculating any compensation payable under section 11 of this Act in consequence of the previous refusal, of deterioration occurring after the date of the reference.

This subsection shall be without prejudice to section 11(5) of this Act, in a case to which that subsection applies.

(5) Except as provided by the foregoing provisions of this section, no application shall be entertained under a tree preservation order for consent thereunder in respect of the felling of trees in the case of which section 9(1) of this Act applies so as to require a felling licence.

(6) Where, in the case of trees to which a tree preservation order relates, a felling licence is granted by the Commissioners after the date on which the order comes into force, the licence shall, notwithstanding anything in that order, be sufficient authority for the felling of any trees to which the order relates.

(7) Schedule 3 to this Act shall have effect for explaining the procedure applicable where this section requires an application to be dealt with under the Town and Country Planning Acts.

(8) In this section "the Minister", in relation to England, means the **[**[F15]Secretary of State**]** and not the Minister of Agriculture, Fisheries and Food.

Textual Amendments

F15 Words substituted by virtue of S.I. 1970/1681 arts. 2(1), 6(3)

16 Review of refusal or conditions of licence.

(1) The following provisions shall have effect for enabling the decision of the Commissioners on an application for a felling licence to be reviewed where they refuse to grant a felling licence or grant it subject to conditions.

(2) A person aggrieved by the refusal or conditions may by a notice served within the prescribed time and in the prescribed manner request the Minister to refer the matter to a committee appointed in accordance with section 27 below and—

(a) the Minister shall, unless he is of opinion that the grounds for the request are frivolous, refer the matter accordingly;

(b) the committee, after compliance with section 27(3), shall thereupon make a report on the reference to the Minister.

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(3) The Minister shall, after considering the committee's report, confirm the decision of the Commissioners on the application, or reverse or modify that decision and direct the Commissioners to give effect to the reversal or modification.

(4) No request may be made under this section in respect of a refusal to grant a felling licence unless a previous application for a licence in respect of the trees has been refused and the application to which the request relates is made after the following date, that is to say—

(a) where a reference under this section has been made in respect of a previous application, the third anniversary of the last such application in respect of which such a reference has been made; and

(b) in any other case, the third anniversary of the first previous application.

17 Penalty for felling without licence.

(1) Anyone who fells a tree without the authority of a felling licence, the case being one in which section 9(1) of this Act applies so as to require such a licence, shall be guilty of an offence and liable on summary conviction to a fine not exceeding **[**[F16]level 4 on the standard scale**]** or twice the sum which appears to the court to be the value of the tree, whichever is the higher.

(2) Proceedings for an offence under this section may be instituted within six months from the first discovery of the offence by the person taking the proceedings, provided that no proceedings shall be instituted more than two years after the date of the offence.

Textual Amendments

F16 Words substituted (E.W.) by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46; and (S.) by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1;), **ss. 289F**, 289G

17A Power of Commissioners to require restocking after unauthorised felling.

(1) Where a person is convicted of an offence under section 17 of this Act and he is a person having, as regards the land on which the felling which gave rise to the conviction took place, such estate or interest as is mentioned in section 10(1) of this Act, the Commissioners may serve on him a notice (in this Act referred to as a "restocking notice") requiring him—

(a) to restock or stock with trees the land or such other land as may be agreed between the Commissioners and him; and

(b) to maintain those trees in accordance with the rules and practice of good forestry for a period, not exceeding ten years, specified in the notice.

(2) A restocking notice shall be served within three months after the date of the conviction or of the dismissal or withdrawal of any appeal against the conviction.

(3) Subject to the provisions of this Act, in considering whether to issue a restocking notice the Commissioners shall—

(a) have regard to the interests of good forestry and agriculture and of the amenities of the district;

(b) have regard to their duty of promoting the establishment and maintenance in Great Britain of adequate reserves of growing trees; and

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(c) take into account any advice tendered by the regional advisory committee for the conservancy comprising the land to which the restocking notice would relate.

(4) This section shall not apply in relation to trees to which a tree preservation order relates or in relation to trees the felling of which took place before the date of coming into force of the Forestry Act 1986.

17B Appeal against restocking notice.

(1) A person on whom a restocking notice has been served who objects to the notice or to any condition contained therein may by notice served within the prescribed time and in the prescribed manner request the Minister to refer the matter to a committee appointed in accordance with section 27 of this Act; and—

(a) the Minister shall, unless he is of the opinion that the grounds of the request are frivolous, refer the matter accordingly; and

(b) the committee, after compliance with subsection (3) of that section, shall thereupon make a report to the Minister.

(2) The Minister may, after considering the committee's report, direct the Commissioners to withdraw the notice or to notify the objector that it shall have effect subject to such modification as the Minister shall direct.

[F17 17C Enforcement of restocking notice.

The provisions of sections 24 (notice to require compliance with conditions or directions), 25 (appeal against notice under section 24) and 26(1), (3) and (4) (expenses) of this Act shall apply in relation to a restocking notice as they apply in relation to a felling licence; and for the purposes of such application—

(a) references in those sections to a felling licence shall be construed as references to a restocking notice; and

(b) the reference in the said subsection (3) to the applicant for the licence shall be construed as a reference to the perosn on whom the restocking notice has been served.**]**

Textual Amendments

F17 Ss. 17A–17C inserted by Forestry Act 1986 (c. 30, SIF 54), **s. 1(a)**

Power of Commissioners to direct felling

18 Felling directions.

(1) Subject to the provisions of this Act (and, in particular, to the duty of the Commissioners to take advice under section 37(3), if it appears to the Commissioners that it is expedient in the interests of good forestry, or for purposes connected with their duty of promoting the establishment and maintenance in Great Britain of adequate reserves of growing trees, that any growing trees should be felled—

(a) in order to prevent deterioration or further deterioration in the quality of the timber comprised therein; or

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(b) in order to improve the growth of other trees,

they may give directions (in this Act referred to as "felling directions") to the owner of the trees requiring him to fell them within such period, being not less than two years after the directions have become operative, as may be specified in the directions.

(2) In considering whether to give felling directions, the Commissioners shall have regard to the interests of agriculture and the amenity or convenience of any farm or dwelling-house or park usually occupied with a dwelling-house, or of any land held inalienably by the National Trust or the National Trust for Scotland.

(3) Felling directions given by the Commissioners shall contain a statement of the grounds upon which they are given.

(4) A person who is given felling directions by the Commissioners may comply with the directions notwithstanding any lease, covenant or contract relating to the trees or land affected by the directions.

(5) In the case of trees to which a tree preservation order relates, felling directions given by the Commissioners after the date on which the order comes into force shall, notwithstanding anything in the order, be sufficient authority for the felling.

19 Restrictions on Commissioners' power under s. 18.

(1) Felling directions shall not be given in the case of—

(a) fruit trees or trees standing or growing on land comprised in an orchard, garden, churchyard or public open space (as defined in section 9(6) above);

(b) trees on land which is subject to a forestry dedication covenant or agreement; or

(c) trees which are being managed to the satisfaction of the Commissioners in accordance with a plan of operations or other working plan approved by them as mentioned in section 14(1) above, but otherwise than under a forestry dedication covenant or agreement.

(2) If an application for a felling licence is made to the Commissioners in the case of trees to which a tree preservation order relates and the Commissioners refer the application under section 15 above to the authority who made the order, then so long as the order remains in force no felling directions shall be given in respect of the trees.

(3) If the Commissioners propose to give felling directions in respect of trees to which a tree preservation order relates, they shall give notice in writing of the proposal to the authority by whom the order was made; and if within the prescribed period after the receipt of the notice the authority object to the proposal and do not withdraw the objection, the Commissioners shall not give the directions except with the consent of the Minister, who shall consult with the said authority before deciding whether to grant or refuse his consent.

(4) In subsection (3) above "the Minister", in relation to England, means the **[**[F18]Secretary of State**]** and not the Minister of Agriculture, Fisheries and Food.

Textual Amendments

F18 Words substituted by virtue of S.I. 1970/1681 arts. 2(1), 6(3)

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20 Review of felling directions.

(1) If a person to whom felling directions are given in respect of any trees is aggrieved by the directions on the ground that the felling is not expedient as mentioned in section 18(1), he may by notice served within the prescribed time and in the prescribed manner request the Minister to refer the matter to a committee appointed in accordance with section 27 below and the Minister shall, unless he is of opinion that the grounds for the request are frivolous, refer the matter accordingly.

(2) The committee to whom a matter is referred under this section, after complying with section 27(3), shall thereupon make a report on the reference to the person by whom the notice was served and to the Commissioners, and the Commissioners shall confirm, withdraw or modify the directions in accordance with the report.

21 Courses open to person adversely affected by felling directions.

(1) The provisions of this section shall have effect where a person to whom felling directions are given claims that compliance with the directions would involve him in a net loss after taking into account any benefit arising therefrom in respect of other trees of which he is the owner.

(2) The person may by notice given to the Minister in the prescribed manner and within the prescribed period—
   (a) if he has the right to sell the trees for immediate felling, require the Commissioners to buy the trees to which the directions relate; or
   (b) in any case, require the Minister to acquire his interest in the land affected by the directions.

   A notice under this section requiring the Minister to acquire an interest in land shall be deemed to include an offer by the person entitled to that interest to convey to the Minister such easement or servitude or other right for the benefit of the land over adjoining land in which that person has an interest as may be agreed between that person and the Minister or as may, in default of agreement, be determined in accordance with section 31 of this Act.

(3) The Minister may within the prescribed period after receiving the notice either—
   (a) accept the notice; or
   (b) refer it to a committee appointed in accordance with section 27 below; or
   (c) revoke the directions to which it relates.

(4) The committee to whom a matter is referred under this section, after complying with section 27(3), shall thereupon make a report to the Minister and to the person by whom the notice under this section was given and shall state—
   (a) whether in the opinion of the committee compliance with the felling directions would involve that person in such a loss as aforesaid; and
   (b) if so, what modifications (if any) of the directions would be sufficient to avoid that loss.

(5) Where the committee report that compliance with the directions would not involve the person in such loss as aforesaid, the notice shall be of no effect; but in any other case the Minister may, within the prescribed period after receiving the report, either—
   (a) accept the notice; or
   (b) revoke the directions; or

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(c) modify the directions in accordance with the report, according as he thinks fit.

(6) If within the prescribed period after receiving a notice or the report of a committee under this section the Minister has not taken any such action as is authorised by subsection (3) or subsection (5) above, as the case may be, the directions to which the notice relates shall cease to have effect at the expiration of that period.

(7) In determining for the purposes of this section whether compliance with felling directions would involve a person in a net loss, regard shall be had to any compensation received by that person under a tree preservation order in respect of a refusal of consent for the felling of the tree.

22 Consequences of acceptance by Minister of notice under s. 21

(1) The following shall be the consequences where a notice given by a person under section 21 is accepted by the Minister.

(2) The felling directions in respect of which the notice was given shall cease to have effect.

(3) If the notice requires the Commissioners to buy the trees to which the directions relate, the Commissioners shall be deemed to have contracted with that person to buy the trees on the date of acceptance of the notice at such price and on such terms (including terms as to the time within which the Commissioners may fell and remove the trees) as may in default of agreement be determined in accordance with section 31 of this Act.

(4) If the notice requires the Minister to acquire the person's interest in the land affected by the directions,—

(a) the Minister shall be deemed to be authorised to acquire that interest compulsorily under section 39 of this Act and to have served a notice to treat in respect thereof on the date of the acceptance of the notice;

(b) the interest shall for that purpose include any such easement or servitude or other right as, by virtue of section 21(2), the person is deemed to have offered in his notice to convey.

(5) The power conferred by section 31(1) of the [M7]Land Compensation Act 1961 or section 39(1) of the [M8]Land Compensation (Scotland) Act 1963 to withdraw a notice to treat shall not be exercisable in the case of a notice to treat which is deemed to have been served by virtue of this section.

Marginal Citations

M7 1961 c. 33**(28:1)**

M8 1963 c. 51**(28:2)**

23 Proceedings in respect of felling directions.

(1) A request under section 20 of this Act, and a notice under section 21 of this Act, may be made and given in respect of the same directions; and regulations made by the Commissioners under this Part of this Act may make provision for securing—

(a) that in any such case proceedings under those sections respectively on the request and on the notice are taken concurrently;

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(b) that proceedings on any such request or notice in respect of any felling directions may be postponed until the expiration of the period within which a notice or a request, as the case may be, might be given or made in respect of those directions.

(2) Felling directions shall be inoperative until the expiration of the period during which such a request or notice as aforesaid may be made or given in respect of the directions and, where a request is made or a notice is given, until the conclusions of any proceedings under section 20 or 21 pursuant to the notice or request.

Enforcement of licence conditions and felling directions

24 Notice to require compliance with conditions or directions.

(1) The provisions of this section shall apply if—

(a) any works required to be carried out in accordance with conditions of a felling licence are not so carried out; or

(b) any felling directions given by the Commissioners are not complied with.

(2) The Commissioners may give to the person responsible a notice requiring such steps as may be specified therein to be taken within such time (not being less than the prescribed period after the notice has become operative) as may be so specified for remedying the default; and for purposes of this subsection, "the person responsible" is—

(a) in the case of non-compliance with conditions of a felling licence, the owner of the land; and

(b) in the case of non-compliance with felling directions, the owner of the trees.

(3) If after the expiration of the time specified in the notice any steps required by the notice have not been taken, the Commissioners may, subject to the following section, enter on the land and take those steps.

(4) Without prejudice to the powers of the Commissioners under the foregoing subsection, a person who without reasonable excuse fails to take any steps required by a notice given to him under this section shall be guilty of an offence and be liable on summary conviction to a fine not exceeding **[**[F19]level 5 on the standard scale**]**; and proceedings in respect of such an offence may be instituted within six months of the first discovery of the offence by the person taking the proceedings, provided that no proceedings shall be instituted more than two years after the date of the offence.

(5) A person who is required by a notice under this section to carry out works or take any steps may carry out those works or take the steps notwithstanding any lease, covenant or contract relating to the trees or land affected by the notice.

Textual Amendments

F19 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1;), ss. 39, 46, **Sch. 3** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **Sch. 7D** and expressed to be substituted (S.) (1.4.1996) by 1995 c. 40, ss. 3, 7(2), Sch. 1 para. 10, **Sch. 2 Pt.III**

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25 Appeal against notice under s. 24.

(1) If a person to whom a notice under section 24 is given claims—

(a) that the works in question have been carried out in accordance with the conditions of the felling licence or, in the case of felling directions, that they have been complied with; or

(b) that the steps required by the notice to be taken are not required by the conditions or directions,

he may by a notice served on the Minister in the prescribed manner and within the prescribed period after the receipt of the notice under section 24, request the Minister to refer the matter to a committee appointed in accordance with section 27 below.

(2) A notice under section 24 shall be inoperative until the expiration of the prescribed period for the purposes of subsection (1) above and, where a request to the Minister under that subsection is made, until the conclusion of any proceedings under this section in pursuance of the request.

(3) Where such a request is made by a person receiving a notice under section 24, the Minister shall, unless he is of opinion that the grounds for the request are frivolous, refer the matter accordingly to a committee so appointed.

(4) The committee to whom a matter is referred under this section, after complying with section 27(3), shall make a report on the reference to the Minister and the Minister shall, after considering the report, confirm or cancel the notice to which the reference relates.

26 Expenses etc. in connection with notices under s. 24.

(1) If the Commissioners, in the exercise of their powers under section 24, enter on land and take any steps required by a notice under that section, they may recover from the person to whom the notice was given any expenses reasonably incurred in connection therewith.

(2) The Commissioners may remove and either retain or dispose of trees felled by them in the exercise of their said powers, and shall, on a claim made in the prescribed manner by the owner of any trees so removed, pay to him a sum equal to the value of those trees after deducting any expenses reasonably incurred by them in connection with the removal or disposal.

(3) Subject to any express agreement to the contrary, any expenses incurred by a person for the purpose of complying with a notice under section 24, and any sums paid by a person in respect of expenses of the Commissioners under that section, shall be deemed to be incurred or paid by that person—

(a) where the notice relates to works required to be carried out in pursuance of conditions of a felling licence, for the use and at the request of the applicant for the licence;

(b) where the notice requires compliance with felling directions, for the use and at the request of the person to whom the directions were given.

(4) Any sums recoverable by or from the Commissioners under this section may be recovered as a simple contract debt.

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Supplementary

27 †Committees of reference for purposes of ss. 16, 20, 21 and 25.

(1) References in sections 16, **[**[F20]17B,**]** 20, 21 and 25 of this Act to a committee appointed in accordance with this section are to a committee consisting of—

(a) a chairman appointed by the Minister; and

(b) two other members selected by the Minister from a panel of persons appointed by him, after such consultation as is provided for below, for the conservancy in which the trees are growing:

Provided that no Forestry Commissioner or person employed by the Commissioners shall be a member of any such committee.

(2) The consultation required by subsection (1)(b) above is to be with—

(a) the regional advisory committee for the said conservancy; and

(b) organisations appearing to the Minister to represent the interests of owners of woodlands and timber merchants respectively; and

(c) organisations concerned with the study and promotion of forestry.

(3) On any reference being made to them under this Part of this Act a committee appointed in accordance with this section shall—

(a) afford to the person concerned with the subject-matter of the reference an opportunity of appearing before them and of making representations to them on the matter in question;

(b) if they think fit, or are so required by the said person, inspect the trees or land to which the reference relates; and

(c) take into consideration any information furnished to them by the Commissioners as to the performance within the conservancy in which the trees are growing of their duty of promoting the establishment and maintenance in Great Britain of adequate reserves of growing trees.

For purposes of this subsection "the person concerned with the subject-matter of the reference" is the person at whose request the reference was made, except that in the case of a reference by the Minister of a notice under section 21 it is the person by whom the notice was given.

(4) The Minister may pay to the members of a committee appointed by him under this section such remuneration as he may, with the consent of the Treasury, determine.

Textual Amendments

F20 Words inserted by Forestry Act 1986 (c. 30, SIF 54), **s. 1(b)**

Modifications etc. (not altering text)

C5 Unreliable margin note

28 Identification of trees.

A person authorised by the Commissioners may take such steps, whether by marking or otherwise, as the Commissioners consider necessary for identifying trees which are

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the subject of a felling licence or felling directions, or in respect of which a felling licence has been refused.

29 Provisions relating to mortgages, heritable securities and settled land.

(1) Where the interest of the owner of trees in England or Wales is for the time being subject to a mortgage—

(a) a claim for any compensation or sum payable under section 11 or section 26 of this Act in respect of the trees may be made either by the mortgagor or by the mortgagee;

(b) in either case the compensation or sum shall be paid to the mortgagee or, if more than one, to the first mortgagee, and shall be applied by him as if it were proceeds of the sale of the trees.

(2) Where the interest of the owner of trees in Scotland is for the time being subject to a heritable security,—

(a) a claim for any compensation or sum payable under section 11 or section 26 of this Act in respect of the trees may be made either by the debtor in the heritable security or by the creditor in the heritable security;

(b) in either case the compensation or sum shall be paid to the creditor in the heritable security or, if more than one, to the creditor whose heritable security has priority over any other heritable security secured on the land, and shall be applied by him as if it were proceeds of the sale of the trees.

(3) Subject to the foregoing provisions of this section, where the owner of trees comprised in a settlement within the meaning of the [M9]Settled Land Act 1925 is a tenant for life who is impeachable for waste in respect of the trees, any compensation or sum payable under section 11 or section 26 of this Act in respect of the trees shall be paid to the trustees of the settlement, and shall be applied by them in accordance with section 66(2) of the Settled Land Act 1925 as if it were proceeds of sale of timber cut and sold with the consent of the trustees under that section.

Marginal Citations

M9 1925 c. 18**(98:3)**

30 Service of documents.

(1) Any document required or authorised to be served under this Part of this Act may be served on a person either by delivering it to him, or by leaving it at his proper address, or by sending it through the post in a registered letter addressed to him at that address or in a letter sent by the recorded delivery service and so addressed.

(2) Any such document required or authorised to be served upon an incorporated company or body shall be duly served if it is served upon the secretary or clerk of the company or body.

(3) For the purposes of this section and of **[**[F21]section 7 of the [M10]Interpretation Act 1978**]**, the proper address of any person upon whom any such document as aforesaid is to be served shall, in the case of the secretary or clerk of an incorporated company or body, be that of the registered or principal office of the company or body, and in any other case be the last known address of the person to be served:

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Provided that, where the person to be served has furnished an address for service, his proper address for the said purposes shall be the address furnished.

(4) If it is not practicable to ascertain the name or address of an owner, lessee or occupier of land on whom any such document as aforesaid is to be served, the document may be served by addressing it to him by the description of "owner", "lessee" or "occupier" of the land (describing it) to which it relates, and by delivering it to some responsible person on the land or, if there is no such person on the land to whom it may be delivered, by affixing it or a copy of it to some conspicuous part of the land.

(5) The Commissioners may, for the purpose of enabling them to serve or give any document or direction under this Part of this Act, require the occupier of any land and any person who, either directly or indirectly, receives rent in respect of any land, to state in writing the nature of his interest therein and the name and address of any other person known to him as having an interest therein, whether as a freeholder or owner, mortgagee or creditor in a heritable security, lessee or otherwise; and anyone who, having been required in pursuance of this subsection to give any information, fails to give it, or knowingly makes any mis-statement in respect thereof, shall be liable on summary conviction to a fine not exceeding **[**[F22]level 1 on the standard scale**]**.

Textual Amendments

F21 Words substituted by virtue of Interpretation Act 1978 (c. 30, SIF 115:1), **s. 17(2)(a)**

F22 Words substituted (E.W.) by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46; and (S.) by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1;), **ss. 289F**, 289G

Marginal Citations

M10 1978 c. 30**(115:1)**

31 Determination of matters arising under ss. 11, 14, 21 and 22.

(1) Where a provision of this Part of this Act requires a thing to be determined in accordance with this section, that provision shall—

(a) in its application to England and Wales, be taken as requiring it to be determined by the Lands Tribunal; and

(b) in its application to Scotland, be taken as requiring it to be determined by the Lands Tribunal for Scotland, subject however to the following subsection.

(2) Until sections 1 to 3 of the [M11]Lands Tribunal Act 1949 come into force as regards Scotland, the said provision shall be taken as requiring the thing in question to be determined by reference to an official arbiter appointed under Part I of the [M12]Land Compensation (Scotland) Act 1963; and sections 3 and 5 of that Act shall apply, subject to any necessary modifications, in relation to the determination of any question under this Act by an arbiter so appointed.

Marginal Citations

M11 1949 c. 42**(127)**

M12 1963 c. 51**(28:2)**

Status: *Point in time view as at 27/05/1997. This version of this Act contains provisions that are not valid for this point in time.*
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32 Regulations.

(1) The Commissioners may, subject to their duty of consultation under section 37(2) below, by statutory instrument make regulations for prescribing anything which by this Part of this Act is authorised to be prescribed.

(2) A power conferred by this Part of this Act to prescribe the manner in which a claim or notice may be made or given thereunder shall include power to require that any particulars specified in the claim or notice shall be verified by statutory declaration.

(3) A statutory instrument containing regulations made under this Part of this Act—
- (a) if the regulations are made under section 9(5)(b) or (c), shall be of no effect unless approved by a resolution of each House of Parliament; and
- (b) in a case not falling within the foregoing paragraph, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

33 Application of Part II to Crown land.

(1) In this section "Crown land" means land an interest in which belongs to Her Majesty in right of the Crown or of the Duchy of Lancaster, or to the Duchy of Cornwall, and land an interest in which belongs to a government department or is held in trust for Her Majesty for the purposes of a government department.

(2) Subject to the following provisions of this section, the provisions of this Part of this Act shall apply in relation to Crown land and trees growing thereon to the extent only of any estate or interest therein which is for the time being held otherwise than on behalf of the Crown.

(3) Except with the consent of the appropriate authority as defined in this section,—
- (a) no conditions relating to the restocking or stocking of Crown land shall be imposed on the grant of a felling licence;
- (b) no felling directions shall be given in respect of trees growing on Crown land.

(4) The Minister shall not be authorised to acquire the interest of any person in Crown land by virtue of a notice under section 21 unless an offer has previously been made by that person to dispose of that interest to the appropriate authority on terms that the price payable therefor shall be equal to (and shall be determined in default of agreement in like manner as) the compensation which would be payable in respect of that interest if it were acquired in pursuance of such a notice, and that offer has been refused by that authority.

(5) In this section "the appropriate authority" in relation to any land means—
- (a) in the case of land belonging to Her Majesty in right of the Crown, the Crown Estate Commissioners or other government department having the management of the land in question;
- (b) in the case of land belonging to Her Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy;
- (c) in the case of land belonging to the Duchy of Cornwall, such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints; and
- (d) in the case of land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, that department;

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and if any question arises as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.

34 Meaning of "owner" in Part II.

(1) In this Part of this Act the expression "owner" has the meaning ascribed to it by this section.

(2) In relation to land in England or Wales, "owner" means the person in whom for the time being is vested the legal estate in fee simple, except that where in relation to all or any of the provisions of this Part of this Act,—

(a) all persons appearing to the Minister to be concerned agree, with the approval of the Minister, that some person shall be treated as the owner of land other than the person who would be so treated apart from the agreement; or

(b) on an application in that behalf to the Agricultural Land Tribunal established under Part V of the [M13]Agriculture Act 1947 the Tribunal determine, having regard to the respective interests of the persons interested in the land, that some person shall be treated as the owner of the land other than the person who would be so treated apart from the determination,

that person shall be so treated, but without prejudice to a subsequent agreement or determination, or to his ceasing to be so treated, if the Minister withdraws his approval under paragraph (a) of this subsection.

(3) In relation to land in Scotland, "owner" means the person who for the time being is the proprietor of the *dominium utile* or, in the case of land other than feudal land, is the owner thereof, except that where, in relation to all or any of the provisions of this Part of this Act,—

(a) all persons appearing to the Minister to be concerned agree, with the approval of the Minister, that some person shall be treated as the owner of land other than the person who would be so treated apart from the agreement; or

(b) on an application in that behalf to the Scottish Land Court the Court determines, having regard to the respective interests of the persons interested in the land, that some person shall be treated as the owner of the land other than the person who would be so treated apart from the determination,

that person shall be so treated, but without prejudice to a subsequent agreement or determination, or to his ceasing to be so treated, if the Minister withdraws his approval under paragraph (a) of this subsection.

(4) In relation to trees, "owner" means the owner of the land on which the trees are growing and, in the case of trees which have been felled, means the person who was the owner immediately before the feeling.

Marginal Citations
M13 1947 c. 48**(2:1)**

35 Interpretation of other expressions in Part II.

In this Part of this Act—

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"conservancy" means any area in Great Britain which may for the time being be designated by the Commissioners as a conservancy for the purpose of the performance of their functions;

"felling" includes wilfully destroying by any means;

"felling directions" means directions given by the Commissioners under section 18 of this Act for the felling of trees;

"felling licence" means a licence under this Part of this Act authorising the felling of trees;

"mortgage" and "heritable security" include any charge for securing money or money's worth, and references to a mortgagee, or to a creditor or a debtor in a heritable security, shall be construed accordingly;

"prescribed" means prescribed by regulations made by the Commissioners under this Part of this Act; and

[[F23]"restocking notice" shall be construed in accordance with section 17A(1) of this Act;**]**

"tree preservation order" means an order made or having effect as if made under **[**[F24]section 198 of the Town and Country Planning Act 1990**]** or **[**[F25]section 160 of the Town and Country Planning (Scotland) Act 1997**]**.

Textual Amendments

F23 Definition inserted by Forestry Act 1986 (c. 30, SIF 54), **s. 1(c)**

F24 Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2**, para. 14(2)

F25 Words in s. 35 in the definition of "tree preservation order" substituted (27.5.1997) by virtue of 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 13(2)**

36 Application of Part II to London.

This Part of this Act shall not apply to trees standing or growing on land within the area of Greater London other than the outer London Boroughs within the meaning of the [M14]London Government Act 1963.

Marginal Citations

M14 1963 c. 33**(81:1)**

PART III

ADMINISTRATION AND FINANCE

Advisory bodies

37 Committees to advise Commissioners.

(1) For the purpose of advising the Commissioners as to the performance of their functions under section 1(3) and Part II of this Act, and such other functions as the

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Commissioners may from time to time determine, the Commissioners shall continue to maintain—

(a) the central advisory committee for Great Britain known as the Home Grown Timber Advisory Committee; and

(b) a regional advisory committee for each conservancy (within the meaning of Part II of this Act) in Great Britain.

(2) In relation to the performance of their duty of promoting the establishment and maintenance in Great Britain of adequate reserves of growing trees, the Commissioners shall from time to time, and as a general rule not less than quarterly, consult with the Home Grown Timber Advisory Committee; and the power of the Commissioners under section 32 of this Act to make regulations shall not be exercisable except after consultation with the said Committee.

(3) The Commissioners shall—

(a) in considering whether to refuse a felling licence under Part II of this Act, or to grant it unconditionally or subject to any conditions; and

(b) in considering whether to give felling directions under the said Part II,

take into account any advice tendered by the regional advisory committee for the conservancy in which are growing the trees to which the felling licence applied for, or the directions proposed to be given, relate.

38 Composition etc. of advisory committees.

(1) The chairman and other members of the Home Grown Timber Advisory Committee and of each regional advisory committee shall be appointed by the Commissioners, and shall hold and vacate office in accordance with the terms of the instrument by which they are appointed.

(2) The Home Grown Timber Advisory Committee shall consist of not more than twenty-five members, and of those members (other than chairman)—

(a) not less than six nor more than eight shall be persons appointed by the Commissioners after consultation with organisations appearing to them to represent the interests of owners of woodlands; and

(b) not less than six nor more than eight shall be persons appointed by the Commissioners after consultation with organisations appearing to them to represent the interests of timber merchants.

(3) Each regional advisory committee shall consist of not less than seven nor more than **[**[F26]twelve**]** members, and of those members (other than the chairman) not less than four shall be persons appointed by the Commissioners after consultation with organisations appearing to them to represent the interests of owners of woodlands and timber merchants respectively and organisations concerned with the study and promotion of forestry.

(4) The Commissioners may pay to the members of the Home Grown Timber Advisory Committee or of a regional advisory committee such allowances as they may with the consent of the Treasury determine.

Textual Amendments

F26 Words in s. 38(3) substituted (25.9.1991) by Forestry Act 1991 (c. 43, SIF 54), **ss.1**, 2(2).

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Acquisition and disposal of land

39 Power of Minister to acquire and dispose of land.

(1) Subject to the provisions of this Act, the Minister may acquire (by purchase, lease or exchange) land which in his opinion is suitable for afforestation or for purposes connected with forestry, together with any other land which must necessarily be acquired therewith, and may place any land acquired by him under this section at the disposal of the Commissioners.

[[F27](2) Subject to subsection (2A) below, the Minister may dispose for any purpose of land acquired by him under this section.

(2A) Subsection (2) above shall not apply in relation to land acquired under this section which is in the Forest of Dean; but the Minister may sell any such land if in his opinion it is not needed, or ought not to be used, for the purpose of afforestation or any purpose connected with forestry, and may exchange any such land for other land more suitable for either of the said purposes and may pay or receive money for equality of exchange.**]**

(3) The Minister shall have power, in the case of land acquired by him under this section, —

(a) to manage and use the land for such purposes as he thinks fit (this power to include that of erecting buildings and other works on the land) where it is not for the time being placed at the disposal of the Commissioners under subsection (1) above; and

(b) to let the land, or grant any interest or right in or over it.

(4) . . . . . [F28]

[[F29](5) Any instrument in connection with the management or disposal of land in Scotland acquired by the Minister under this section 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 an officer of the Commissioners authorised by him for the purpose; and any instrument so executed shall, for the purposes of section 1(8) and (9) of the [M15]Reorganisation of Offices (Scotland) Act 1939, be deemed to have been executed by an officer of the Secretary of State duly authorised by him.**]**

(6) Schedule 4 to this Act shall have effect as respects the procedure applicable where the Minister acquires land under this section, except in a case of compulsory purchase in accordance with the following section.

Textual Amendments

F27 S. 39(2)(2A) substituted for s. 39(2) by Forestry Act 1981 (c. 39, SIF 54), **s. 1**

F28 Ss. 39(4), 41(7) repealed by Forestry Act 1981 (c. 39, SIF 54), s. 4(2), **Sch.**

F29 S. 39(5) repealed (S.) (1.8.1995) by 1995 c. 7, ss. 14(2), 15(2), **Sch.5** (with ss. 9(3)(5)(7), 13, 14(3))

Modifications etc. (not altering text)

C6 S. 39 extended by (S.) Countryside (Scotland) Act 1967 (c. 86, SIF 46:1), **s. 59** and Countryside Act 1968 (c. 41, SIF 46:1), (E.W.) s. 23(3) and (E.W.)(S.) s. 24(5)

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Marginal Citations
M15 1939 c. 20**(57)**

40 Compulsory purchase of land.

(1) Subject to the provisions of this section, the power of the Minister to acquire land by purchase under section 39 above includes a power of compulsory purchase.

(2) The following descriptions of land shall not be subject to compulsory purchase under this Act:—

(a) land which is the site of an ancient monument or other object of archaeological interest;

(b) land which forms part of a park, garden or pleasure ground or which forms part of the home farm attached to, and usually occupied with, a mansion house or is otherwise required for the amenity or convenience of a dwelling-house;

(c) land which is the property of a local authority, that is to say,—

(i) in England or Wales, the council of a county, . . . [F30], county district or rural parish, **[**[F31]the Greater London Council**]** the Common Council of the City of London or the council of a London borough; and

(ii) in Scotland, a **[**[F32]council constituted under section 2 of the Local Government etc. (Scotland) Act 1994**]**;

(d) land which has been acquired for the purpose of their undertaking by statutory undertakers, that is to say persons authorised by an enactment, or by an order or scheme made under an enactment, to construct, work or carry on a railway, canal, inland navigation, dock, harbour, tramway, . . . [F33], . . . [F34], **[**[F35]water**]** or other public undertaking.

(3) Land shall not be subject to compulsory purchase under this Act if a forestry dedication covenant or agreement is in force with respect to it and it is being used and managed in accordance with the provisions and conditions of a plan of operations approved by the Commissioners; and—

(a) any question arising under this subsection whether there has been a breach of any of the provisions and conditions of a plan of operations shall be referred for determination as follows, that is to say—

(i) in a case relating to England and Wales, by an arbitrator appointerd by the President of the Royal Institution of Chartered Surveyors; and

(ii) in a case relating to Scotland, by an arbiter appointed by the Chairman of the Scottish Committee of the said Institution; and

(b) 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 it to be remedied.

[[F36](4) The power of compulsory purchase under this Act shall not be excercisable in relation to land held inalienably by the National Trust or by the National Trust for Scotland.**]**

(5) The Minister's power of compulsory purchase under this Act shall be exercisable by means of a compulsory purchase order, and—

(a) the order shall be made in accordance with Part I of Schedule 5 to this Act;

(b) Part II of that Schedule shall apply with respect to the validity and date of operation of the order; and

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(c) Part III of that Schedule shall apply with respect to the procedure for acquiring land by compulsory purchase.

(6) If the said power of compulsory purchase is exercised in relation to land in respect of which an advance by way of grant has been made by the Commissioners—

(a) under section 4 of this Act; or

(b) under section 3(3) of the [M16]Forestry Act 1919 at any time after the 26th March 1945,

not being in either case an advance made more than thirty years before the date of the service of the notice to treat in the exercise of that power, the amount of the compensation for the compulsory purchase shall be reduced by the amount of the advance with compound interest thereon (calculated from the date of the advance to the date on which the compensation is paid) at the rate of £3 per cent. per annum with yearly rests:

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

Textual Amendments

F30 Words repealed by S.I. 1974/595, **Sch. 1 Pt. I**

F31 Words inserted by S.I. 1970/211, **art. 3(7)**

F32 Words in s. 40(2)(c)(ii) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para.69**; S.I. 1996/323, **art. 4(1)(c)**

F33 Word repealed by Gas Act 1986 (c. 44, SIF 44), s. 67(4), **Sch. 9 Pt. 1**

F34 Word repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(3)(4), Sch. 17 para. 35(1), **Sch. 18**

F35 Word repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

F36 S. 40(4) substituted by Forestry Act 1981 (c. 39, SIF 54), **s. 2**

Modifications etc. (not altering text)

C7 S. 40 extended with modifications by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7**, para. 2(1), (xviii), Sch. 8 para. 33

C8 S. 40 extended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1)(3), Sch. 16 para. 1(1)(xvii), Sch. 17 paras. 33, **35(1)**

C9 S. 40 extended (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), **Sch. 25 para. 1(1)(2)** (xiii), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58

C10 S. 40 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xiii)**; S.I. 1996/218, **art. 2**

Marginal Citations

M16 1919 c. 58

Finance, accounts and annual report

41 Forestry Fund.

(1) The Forestry Fund constituted under section 8 of the Forestry Act 1919 shall continue to be maintained as heretofore.

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(2) There shall be paid into the Forestry Fund out of moneys provided by Parliament such annual amounts as Parliament may determine.

(3) The following shall be paid out of the Forestry Fund:—

(a) the salaries of the Forestry Commissioners, and the salaries or remuneration of the officers and servants of the Commissioners;

(b) all expenses incurred by the Commissioners in the exercise of their powers and the performance of their duties under—

(i) this Act; . . . [F37]

(ii) the [M17]Plant Health Act 1967, **[**[F38]and

(iii) the [M18]Countryside (Scotland) Act 1967**]**

including the payment of allowances to the members of any committee maintained by them under this Act;

(c) any administrative expenses of the Minister under Part II of this Act (including sums required for the payment of remuneration to the members of any committee appointed by him in pursuance of section 27).

(4) All sums received by the Commissioners in respect of the sale of timber, or otherwise received by them in respect of transactions carried out by them in the exercise of their powers and duties under this Act **[**[F38]or received by them in the exercise of their powers under the [M19]Countryside (Scotland) Act 1967**]**, shall be paid into the Forestry Fund.

[[F39](4A) There shall be paid out of the Forestry Fund into the Consolidated Fund such sums as the Ministers may from time to time with the approval of the Treasury direct.**]**

(5) The Commissioners may accept any gift made to them for all or any purposes of this Act and, subject to the terms thereof, may apply it for those purposes in accordance with regulations made by them.

(6) Payments out of and into the Forestry Fund, and all other matters relating to the Fund and money standing to the credit of the Fund, shall be made and regulated in such manner as the Treasury may, by minute to be laid before Parliament, direct.

(7) . . . . . [F40]

Textual Amendments

F37 Word repealed by Countryside (Scotland) Act 1967 (c. 86, SIF 46:1), **s. 58(6)**

F38 Words inserted by Countryside (Scotland) Act 1967 (c. 86, SIF 46:1), **s. 58(6)**

F39 S. 41(4A) inserted by Forestry Act 1981 (c. 39, SIF 54), **s. 3**

F40 Ss. 39(4), 41(7) repealed by Forestry Act 1981 (c. 39, SIF 54), s. 4(2), **Sch.**

Marginal Citations

M17 1967 c. 8**(2:11)**

M18 1967 c. 86**(46:1)**

M19 1967 c. 86**(46:1)**

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42 Finance of land acquistion, management, etc.

(1) Any capital payments made by the Minister in acquiring land under section 39 above, and any expenses of the Minister in the acquisition of land thereunder, shall be defrayed out of the Forestry Fund.

(2) Where land acquired by the Minister under section 39 is for the time being placed at the disposal of the Commissioners,—

(a) any rent or other outgoings payable in respect of the land by the Minister shall be defrayed out of the Forestry Fund; and

(b) any sums received by the Minister from the letting of the land or the grant of any interest or right in or over it shall be paid into that Fund.

(3) Where land acquired by the Minister under section 39 is not for the time being placed at the disposal of the Commissioners, the expenses of the Minister in managing and using the land, including any rent or other outgoings payable by him in respect of the land, shall be defrayed out of moneys provided by Parliament, and—

(a) any sums received by him from the letting or use, of the land, or the grant of any interest or right in or over it, shall be paid into the Exchequer; and

(b) the Minister shall pay into the Forestry Fund out of moneys provided by Parliament such periodical sums (if any) in respect of the land as may be determined by the Treasury.

(4) Any capital sums received by the Minister from the sale, lease or exchange of land acquired by him under section 39 shall be paid into the Forestry Fund.

43 Satisfaction of certain contingent liability to Crown Estate.

(1) If the Minister sells land which was transferred to him, or to any predecessor of his, or to the Commissioners, under section 1(1)(a) of the [M20]Forestry (Transfer of Woods) Act 1923 to an amount exceeding **[**[F41]2 hectares**]** at any one time, then if the sum determined under section 3 of the said Act of 1923 as the amount contingently payable by way of compensation for the transfer of rights and interests of the Crown has not been fully paid or satisfied,—

(a) the net proceeds of sale, or the portion necessary to satisfy the said sum, shall be paid by the Minister to the Crown Estate Commissioners and shall form part of the Crown Estate; and

(b) the payment shall be treated as satisfying a part of that sum equal to the gross proceeds of sale or the corresponding portion of them.

(2) In the event of the hereditary revenues which are by section 1 of the [M21]Civil List Act 1952 directed to be carried to and made part of the Consolidated Fund ceasing at any time, whether during the present or any subsequent reign, to be carried to and made part of that Fund, there shall be paid out of the Fund to the Crown Estate Commissioners all such amounts as immediately before the commencement of this Act remained outstanding as compensation due to the Crown under section 3 of the said Act of 1923, reduced by the amount of any payments made since that commencement to the Crown Estate Commissioners pursuant to subsection (1) above or to the corresponding provision in section 8(1) of the [M22]Crown Estate Act 1961.

Textual Amendments

F41 Words substituted by Forestry Act 1979 (c. 21, SIF 54), s. 2(1), **Sch. 1**

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Marginal Citations

M20 1923 c. 21
M21 1952 c. 37**(29:11)**
M22 1961 c. 55**(29:7)**

44 Annual accounts of Commissioners.

(1) The Commissioners shall prepare accounts in respect of each financial year (beginning with the 1st April), showing the sums paid into and the sums issued out of the Forestry Fund in that year.

(2) The Commissioner's accounts shall be in such form and manner as the Ministers with the approval of the Treasury may direct, and the Commissioners shall transmit the accounts to the Ministers at such time as the Ministers, with the said approval, may direct.

(3) The Ministers shall, on or before the 30th November in each year, transmit to the Comptroller and Auditor General the accounts prepared by the Commissioners under subsection (1) above for the financial year last ended, and the Comptroller and Auditor General shall examine and certify them and lay copies thereof, together with his report thereon, before both Houses of Parliament.

45 Annual report by Commissioners.

The Commissioners shall, on such day and in such form as the Ministers may direct, make to the Ministers an annual report as to their proceedings under this Act, and the Ministers shall lay the report before Parliament.

PART IV

GENERAL

46 Commisioners' power to make byelaws.

(1) Subject to the provisions of this and the next following sections, the Commissioners may make byelaws with respect to any land which is under their management or control and to which the public have, or may be permitted to have, access.

(2) The Commissioners' byelaws may be such as appear to them to be necessary—
- (a) for the preservation of any trees or timber on the land, or of any property of the Commissioners; and
- (b) for prohibiting or regulating any act or thing tending to injury or disfigurement of the land or its amenities; and
- (c) without prejudice to the generality of the foregoing, for regulating the reasonable use of the land by the public for the purposes of exercise and recreation.

(3) Byelaws under this section—
- (a) shall not take away or injuriously affect any estate, interest, right of common or other right of a profitable or beneficial nature in, over or affecting any land, except with the consent of the person entitled thereto;

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(b) shall not apply to a common which is subject to a scheme or regulation made in pursuance of the Metropolitan Commons Acts 1866 to 1898, or the Inclosure Acts 1845 to 1882, or the [M23]Commons Act 1899.

(4) Byelaws under this section shall be made by statutory instrument and a draft of a statutory instrument containing any such byelaws shall be laid before Parliament.

(5) If anyone fails to comply with, or acts in contravention of, any byelaw made under this section he shall be guilty of an offence and be liable on summary conviction as follows:—

(a) in the case of an offence against byelaws made by the Commissioners with respect to the New Forest, he shall be liable to a fine not exceeding **[**[F42]level 2 on the standard scale**]**,

(b) in a case not falling within the foregoing paragraph, he shall be liable to a fine not exceeding **[**[F42]level 2 on the standard scale**]**; and

(c) in **[**[F43]the case of a continuing offence falling within either of the foregoing paragraphs**]** he shall be liable to a further fine not exceeding **[**[F44]50p**]** for each day upon which the offence continues.

(6) . . . . . [F45]

Textual Amendments

F42 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1;), ss. 39, 46, **Sch. 3** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **Sch. 7D** and expressed to be substituted (S.) (1.4.1996) by 1995 c. 40, ss. 3, 7(2), Sch. 1 para. 10, **Sch. 2 Pt.III**

F43 Words substituted by Criminal Justice Act 1967 (c. 80, SIF 39:1), **Sch. 6 para 28**

F44 Words substituted by Decimal Currency Act 1969 (c. 19, SIF 10), **s. 10(1)**

F45 S. 46(6) repealed by Criminal Justice Act 1972 (c. 71, SIF 39:1), **Sch. 6 Pt. II**

Modifications etc. (not altering text)

C11 S. 46 amended by (S.) Countryside (Scotland) Act 1967 (c. 86, SIF 46:1), **s. 58(3)** and (E.W.) Countryside Act 1968 (c. 41, SIF 46:1), **s. 23(4)**

Marginal Citations

M23 1899 c. 30**(25)**

47 Provisions supplementary to s. 46 for New Forest and Forest of Dean.

(1) Byelaws made by the Commissioners under section 46 with respect to the New Forest or the Forest of Dean shall be without prejudice to any byelaws made under any other Act by the verderers of either Forest, but before making any such byelaws the Commissioners shall consult with the verderers of the Forest concerned.

[X1](2) Section 1(3) of the [M24]New Forest Act 1964 (which applies byelaws made by the Commissioners to certain land added under that Act to the Forest) shall have effect with the substitution for the reference to section 2 of the [M25]Forestry Act 1927 of a reference to section 46 of this Act.

(3) The verderers of either of the said Forests may in their courts inquire into any offence consisting in a failure to comply with, or a contravention of, byelaws made by the Commissioners under section 46, being an offence alleged to have been committed within the Forest, and may punish any such offence so committed.

Status: *Point in time view as at 27/05/1997. This version of this Act contains provisions that are not valid for this point in time.*
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(4) As respects their jurisdiction under this section, the verderers' courts shall be deemed to be magistrates' courts, and the provisions of the [M26][M27]Magistrates' Courts Act 1952 and 1957, including provisions as to the recovery of fines and as to appeals, and the provisions of any rules made under those Acts, shall apply accordingly.

(5) The powers conferred by this section on the verderers of the New Forest and the Forest of Dean shall be in addition to, and not in derogation of, any other powers exercisable by them, and shall be without prejudice to the power of any other court in relation to offences under section 46.

Editorial Information

X1 The text of s. 47(2) and Sch. 7 Pt. I is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Modifications etc. (not altering text)

C12 S. 47(4) references to Magistrates' Courts Act 1952 and 1957 (which Acts were repealed by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154(a), **Sch. 9**) are to be construed as mentioned in Sch. 8 para. 5 of that 1980 Act

Marginal Citations

M24 1964 c. 83.
M25 1927 c. 6.
M26 1952 c. 55
M27 1957 c. 29

48 Powers of entry and enforcement.

(1) An officer of the Commissioners or any other person authorised by them in that behalf may (on production, if so required, of his authority) enter on and survey any land for the purpose of ascertaining whether it is suitable for afforestation or for the purpose of inspecting any timber thereon, or for any other purpose in connection with the exercise of the powers and performance of the duties of the Commissioners under this Act or the [M28]Plant Health Act 1967.

(2) The Commissioners may authorise an officer or servant appointed or employed by them to exercise and perform on their behalf such powers and duties as they may consider necessary for the enforcement of byelaws under section 46 of this Act, and in particular to remove or exclude, after due warning, from any land to which the byelaws relate a person who commits, or whom he reasonably suspects of committing an offence against the said section or against the [M29]Vagrancy Act 1824.

(3) Anyone who obstructs an officer or servant appointed or employed by the Commissioners in the due exercise or performance of his powers or duties under the foregoing subsection shall be guilty of an offence and be liable on summary conviction to a fine not exceeding **[**[F46]level 3 on the standard scale**]**.

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Textual Amendments

F46 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1;), ss. 39, 46, **Sch. 3** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **Sch. 7D** and expressed to be substituted (S.) (1.4.1996) by 1995 c. 40, ss. 3, 7(2), Sch. 1 para. 10, **Sch. 2 Pt.III**

Marginal Citations

M28 1967 c. 8**(2:11)**
M29 1824 c. 83**(39:2)**

49 Interpretation.

(1) In this Act—

"the Commissioners" means the body known as "The Forestry Commissioners";

"forestry dedication covenant" and "forestry dedication agreement" have the meanings assigned to them by section 5;

"the Minister", except as provided by sections 15(8) and 19(4) and Schedule 3, means the Minister of Agriculture, Fisheries and Food as respects England, and a Secretary of State as respects Wales and as respects Scotland;

"National Trust" means the National Trust for Places of Historic Interest or Natural Beauty incorporated by the [M30]National Trust Act 1907, and "held inalienably", in relation to land belonging to the National Trust, means that the land is inalienable under section 21 of the said Act of 1907 or section 8 of the [M31]National Trust Act 1939;

"National Trust for Scotland" means the National Trust for Scotland for Places of Historic Interest or Natural Beauty incorporated by the Order confirmed by the [M32]National Trust for Scotland Order Confirmation Act 1935, and "held inalienably", in relation to land belonging to that Trust, means that the land is inalienable under section 22 of that Order.

(2) For purposes of this Act, Monmouthshire shall be deemed to be part of Wales and not of England.

(3) In this Act as it applies to Scotland any reference to the purchase of land shall be construed as including a reference to the taking of land in feu.

Marginal Citations

M30 1907 c. cxxxvi.
M31 1939 c. lxxxvi.
M32 1935 c. ii.

50 Transitional provisions, repeals and savings.

(1) The transitional provisions contained in Schedule 6 to this Act shall have effect.

(2) The enactments specified in the second column of Part I of Schedule 7 to this Act are hereby repealed to the extent specified in the third column of that Part of the Schedule, subject to the savings in Part II of that Schedule.

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(3) Nothing in this section or in Schedule 6 or 7 to this Act shall be taken as affecting the general application of section 38 of the [M33]Interpretation Act 1889 with regard to the effect of repeals.

Marginal Citations

M33 1889 c. 63

51 Short title and extent.

(1) This Act may be cited as the Forestry Act 1967.

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

Status: *Point in time view as at 27/05/1997. This version of this Act contains provisions that are not valid for this point in time.*
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SCHEDULES

SCHEDULE 1

THE FORESTRY COMMISSION AND ITS STAFF

Modifications etc. (not altering text)

C13 Sch. 1: functions exercisable by the Minister for Agriculture, Fisheries and Food and the Secretary of State for Wales acting jointly transferred (27.3.2002) to the Secretary of State by The Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794), **art. 3(5)** (with art. 6)

PART I

ADMINISTRATION

The Commissioners

1 The Commissioners may for all purposes be described by the name of "The Forestry Commissioners".

2 (1) Each Forestry Commissioner shall hold and vacate office in accordance with the terms of his warrant of appointment, and one who vacates office shall be eligible for reappointment.

(2) There shall be paid to such Forestry Commissioners as may be determined by the Ministers, with the approval of the Treasury, such salaries or other emoluments as may be so determined.

Modifications etc. (not altering text)

C14 Sch. 1 para. 2: functions of the Treasury transferred to the Minister (1.4.1995) by S.I. 1995/269, art. 3, **Sch. para.2**

3 The Commissioners may act by three of their number and notwithstanding a vacancy in their number, and may regulate their own procedure.

4 (1) The Commissioners shall have an official seal, which shall be officially and judicially noticed.

(2) The seal shall be authenticated by a Forestry Commissioner, or by the secretary to the Commissioners, or by some person authorised by the Commissioners to act on behalf of the secretary.

5 (1) Every document purporting to be an order or other instrument issued by the Commissioners and to be sealed with the seal of the Commissioners authenticated in manner provided by paragraph 4(2) above, or to be signed by the secretary to the Commissioners or any person authorised by the Commissioners to act on behalf

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of the secretary, shall be received in evidence and be deemed to be such order or instrument without further proof, unless the contrary is shown.

(2) The [M34]Documentary Evidence Act 1868, as amended by the [M35]Documentary Evidence Act 1882, shall apply to the Commissioners as though the Commissioners were included in the first column of the Schedule to the said Act of 1868, and the chairman or any other Commissioner, or the secretary, or any person authorised to act on behalf of the secretary, were mentioned in the second column of that Schedule, and as if the regulations referred to in those Acts included any document issued by the Commissioners.

Marginal Citations

M34 1868 c. 37**(47)**

M35 1882 c. 9**(47)**

Staff

6 (1) The Commissioners may, subject to such limit as to number as the Treasury may determine, appoint and employ such officers and servants for the purposes of this Act as the Commissioners think necessary, and may remove any officer or servant so appointed or employed.

(2) There shall be paid to officers and servants appointed or employed by the Commissioners such salaries or remuneration as the Ministers may, with the approval of the Treasury, determine.

Modifications etc. (not altering text)

C15 Sch. 1 para. 6: functions of the Treasury transferred to the Minister (1.4.1995) by S.I. 1995/269, **art. 2(2)**

C16 Sch. 1 para. 6(1) modified (1.7.1999) by S.I. 1999/672, art. 5, **Sch.2**

Committees appointed under section 2(3)

7 (1) An order of the Commissioners under section 2(3) of this Act appointing a committee shall make provision as to the constitution (including the terms of office of members), quorum and procedure of the committee.

(2) There shall be paid out of the Forestry Fund to the members of any committee appointed under section 2(3) who are not Forestry Commissioners or officers of the Commissioners such travelling and other allowances as the Ministers may, with the approval of the Treasury, determine.

Supplementary

8 The functions of the Ministers under this Part of this Schedule shall be exercised by them jointly, except in so far as they make arrangements that this paragraph shall not apply.

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VALID FROM 01/07/1999

[F47 8A In this Part of this Schedule, "the Ministers" means the Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales.]

Textual Amendments

F47 Sch. 1 para. 8A inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(39)(d)**

PART II

SUPERANNUATION OF FORESTRY COMMISSIONERS AND COMMISSION STAFF

9 (1) This paragraph applies to Forestry Commissioners and to such [F48 classes of officers employed by the Commissioners as may be] determined by the Ministers with the approval of the Treasury.

(2) Subject to the following provisions, there may be granted to or in respect of persons to whom this paragraph applies the same superannuation benefits as can be granted in respect of persons in the civil service under the [F48 principal civil service pension scheme within the meaning of section 2 of the M36 Superannuation Act 1972 and for the time being in force, and the relevant provisions of that scheme . . . F49] shall have effect accordingly with respect to persons to whom this paragraph applies as they have effect with respect to persons in the civil service.

(3) Superannuation benefits under this paragraph shall be paid out of the Forestry Fund.

(4) In this Part of this Schedule—

. . . . . F50

"superannuation benefits" includes a superannuation allowance, additional allowance, annual allowance, retiring allowance, compensation allowance, gratuity, pension, compensation and annuity.

Textual Amendments

F48 Words substituted by Superannuation Act 1972 (c. 11, SIF 101A:1), **Sch. 6 para 60**

F49 Words repealed by Finance Act 1972 (c. 41, SIF 63:1), **Sch. 28 Pt. IV**

F50 Words repealed by Superannuation Act 1972 (c. 11, SIF 101A:1), **Sch.8**

Modifications etc. (not altering text)

C17 Sch. 1 para. 9: functions of the Treasury transferred to the Minister (1.4.1995) by S.I. 1995/269, art. 3, **Sch. para.2**

Marginal Citations

M36 1972 c. 11**(101A:1)**

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10 (1) The Ministers may with the approval of the Treasury make schemes to supplement or replace (either as a whole or in part) paragraph 9(2) above, being schemes for the grant of superannuation and other allowances and gratuities to or for the benefit of persons to whom paragraph 9 applies; and, without prejudice to the foregoing,—

(a) the superannuation benefits to be granted in accordance with the scheme may include those which may be granted under the said paragraph 9(2), subject to the provisions of that sub-paragraph in the case of contributory pensions; and

(b) on the coming into force of a scheme made under this paragraph, paragraph 9(2) shall, to the extent that the scheme makes any provision different therefrom, cease to have effect.

(2) Superannuation benefits under a scheme made by virtue of this paragraph shall be paid out of the Forestry Fund.

[[F51](3) A scheme made under this paragraph may be made so as to take effect from such date, not being earlier than 14th July 1949, as may be specified in the scheme.**]**

Textual Amendments

F51 Para 10(3) substituted by Superannuation Act 1972 (c. 11, SIF 101A:1), **Sch. 6 para 61**

Modifications etc. (not altering text)

C18 Sch. 1 para. 10: functions of the Treasury transferred to the Minister (1.4.1995) by S.I. 1995/269, art. 3, **Sch. para.2**

11 . . . . . [F52]

Textual Amendments

F52 Sch. 1 para. 11 repealed by Superannuation Act 1972 (c. 11, SIF 101A:1), **Sch. 8**

12 Where on the death of a person to whom paragraph 9 above applies any sum not exceeding **[**[F53]£5,000**]** is due to that person or his legal personal representative in respect of salary, wages or superannuation benefits, then, subject to any regulations made by the Treasury, probate or other proof of the title of the legal personal representatives may be dispensed with, and the said sum may be paid or distributed to or among the persons appearing to the Commissioners to be beneficially entitled to the personal estate of the deceased person, or to or among any one or more of those persons, or, in the case of the illegitimacy of the deceased person or any of his children, to or among such persons as the Commissioners may think fit, and the Commissioners or other person responsible for the payment of any such sum shall be discharged from all liability in respect of any such payment or distribution.

[[F54]This paragraph shall be included among the provisions with respect to which the Treasury may make an order under section 6(1) of the [M37]Administration of Estates (Small Payments) Act 1965 substituting for references to **[**[F53]£5,000**]** such higher amount as may be specified in the order.**]**

Textual Amendments

F53 Words substituted by virtue of S.I. 1984/539, **art. 2(c)**

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F54 Words inserted by Superannuation Act 1972 (c. 11, SIF 101A:1), **Sch. 6 para. 62**

Modifications etc. (not altering text)

C19 Sch. 1 para. 12 first sub-paragraph: functions of the Treasury transferred to the Minister (1.4.1995) by S.I. 1995/269, art. 3, **Sch. para.2**

Marginal Citations

M37 1965 c. 32**(116:1)**

13 The functions of the Ministers under this Part of this Schedule shall be exercisable by them jointly, except in so far as they make arrangements that this paragraph shall not apply.

VALID FROM 01/07/1999

[[F55]13A In this Part of this Schedule, "the Ministers" means the Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales.**]**

Textual Amendments

F55 Sch. 1 para. 13A inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(39)(e)**

SCHEDULE 2

CONVEYANCING AND OTHER PROVISIONS CONNECTED WITH FORESTRY DEDICATION

Modifications etc. (not altering text)

C20 Sch. 2 extended (E.W.S.) by s. 15(5) and (E.W.) by s. 45(2) of the Countryside Act 1968 (c. 41, SIF 46:1), Wildlife and Countryside Act 1981 (c. 69, SIF 4:5), **s. 39(4)** and Agriculture Act 1986 (c. 49, SIF 2:1), **s. 18(9)(10)**
Sch. 2 applied (E.W.) (30.1.2001) by 2000 c. 37, **ss. 16(5)**, 103(2) (with ss. 16(7), 43)

England and Wales

1 (1) In the case of settled land in England or Wales, the tenant for life may enter into a forestry dedication covenant relating to the land or any part thereof either for consideration or gratuitously.

(2) The [M38]Settled Land Act 1925 shall apply as if the power conferred by subparagraph (1) above had been conferred by that Act; and for the purposes of section 72 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 applying to England or Wales, entering into a forestry dedication covenant shall be treated as a disposition.

(3) The foregoing provisions of this paragraph shall be construed as one with the Settled Land Act 1925.

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[[F56](4) Section 28 of the [M39]Law of Property Act 1925 (which confers the powers of a tenant for life on trustees for sale) shall apply as if the power of a tenant for life under sub-paragraph (1) above had been conferred by the Settled Land Act 1925.**]**

Textual Amendments

F56 Sch. 2 para. 1(4) repealed (E.W.) (1.1.1997) by 1996 c. 47, s. 25(2), **Sch.4** (with ss. 24(2), 25(4), 25(5)); S.I. 1996/2974, **art.2**

Marginal Citations

M38 1925 c. 18**(98:3)**

M39 1925 c. 20**(98:1)**

2 A university or college to which the [M40]Universities and Colleges Estates Act 1925 applies may enter into a forestry dedication covenant relating to any land belonging to it in England or Wales either for consideration or gratuitously, and that Act shall apply as if the power conferred by this paragraph had been conferred by that Act.

Marginal Citations

M40 1925 c. 24**(41:3)**

3 In the case of glebe land or other land belonging to an ecclesiastical benefice, the incumbent of the benefice and, in the case of land which is part of the endowment of any other ecclesiastical corporation, the corporation may with the consent of the Church 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 paragraph had been conferred by those Acts, except that the consent of the patron of an ecclesiastical benefice shall not be requisite.

Modifications etc. (not altering text)

C21 Para. 3 excluded as to incumbents by Endowments and Glebe Measure 1976 (No. 4, SIF 21:8), s. 47(3), **Sch. 7**

Scotland

4 (1) In the case of land in Scotland, any person being—

(a) the liferenter, or

(b) the heir of entail,

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

(2) The [M41]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 forestry dedication agreements relating to the trust estate or any part thereof.

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Modifications etc. (not altering text)

C22 Para. 4 extended (S.) with modifications by Roads (Scotland) Act 1984 (c. 54, SIF 108), **s. 46(3)**

Marginal Citations

M41 1921 c. 58**(128)**

SCHEDULE 3

PROCEEDINGS UNDER TOWN AND COUNTRY PLANNING ACTS IN RELATION TO TREE PRESERVATION ORDERS

1 Provisions of section 15 of this Act requiring an application for a felling licence to be dealt with under the Town and Country Planning Acts shall be construed in accordance with this Schedule.

2 Where under section 15(2)(a) an application, on being referred to the Minister, falls to be dealt with under the said Acts, the following shall apply:—

(a) if the tree preservation order applies **[**[F57]section 77 of the Town and Country Planning Act 1990**]** or the corresponding provision of the [M42]Town and Country Planning Act 1947 replaced thereby, or (for Scotland) **[**[F58]section 46 of the Town and Country Planning (Scotland) Act 1997**]** the provisions of the order and any provisions of the said Acts relating to the order shall apply as if the application—

(i) had been one made under the order for the felling of the trees; and

(ii) had been referred to the Minister in pursuance of the said section as so applied;

(b) if the order contains no such provisions as aforesaid it shall have effect for the purposes of this paragraph as if **[**[F59]the said section 77**]** or (for Scotland) **[**[F58]the said section 46**]** were incorporated therein subject to such modifications as the Minister may direct.

Textual Amendments

F57 Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123: 1, 2), s. 4, **Sch. 2**, para. 14(3)(a)(i)

F58 Words in Sch. 3 para. 2 substituted (27.5.1997) by virtue of 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 13(3)(a)**

F59 Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123: 1, 2), s. 4, **Sch. 2**, para. 14(3)(a)(ii)

Marginal Citations

M42 1947 c. 51**(123:1)**

3 Where under section 15(3)(a) of this Act an application, on being referred to an authority who have made a tree preservation order, falls to be dealt with under the Town and Country Planning Acts, the provisions of the order and any provisions of **[**[F60]the Town and Country Planning Act 1990**]** or (for Scotland) **[**[F61]the Town and Country Planning (Scotland) Act 1997**]** relating to the order shall apply as if the

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application were an application made to the said authority for consent for the felling of the trees to which the application for a felling licence relates.

Textual Amendments

F60 Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123: 1, 2), s. 4, **Sch. 2**, para. 14(3)(6)

F61 Words in Sch. 3 para. 3 substituted (27.5.1997) by virtue of 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 13(3)(b)**

4 In this Schedule "the Minister", in relation to England, means the **[**[F62]Secretary of State**]** and not the Minister of Agriculture, Fisheries and Food.

Textual Amendments

F62 Words substituted by virtue of S.I. 1970/1681 arts. 2(1), 6(3)

SCHEDULE 4

PROCEDURE FOR ACQUISITION OF LAND UNDER S. 39 BY AGREEMENT

England and Wales

1 (1) For the purpose of any acquisition by the Minister of land in England or Wales, where the acquisition is by agreement, Part I of the [M43]Compulsory Purchase Act 1965 shall apply in accordance with the following provisions of this paragraph.

(2) In the said Part I as so applied—

(a) "the acquiring authority" means the Minister;

(b) "the special Act" means section 39 of this Act; and

(c) for references to land subject to compulsory purchase there shall be substituted references to land which may be acquired by agreement under the said section 39.

(3) In relation to the acquisition of land by agreement under section 39, Part I of the said Act of 1965 shall be modified as follows:—

(a) sections 4 to 8, 10, 27 and 31 shall not apply;

(b) section 30(3) shall not apply, but notices required to be served by the Minister under any provision of the said Act of 1965 as applied by this paragraph may, notwithstanding anything in section 30(1) of that Act, be served and addressed in the manner specified in section 30 of this Act.

Marginal Citations

M43 1965 c. 56**(28:1)**

Status: *Point in time view as at 27/05/1997. This version of this Act contains provisions that are not valid for this point in time.*
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Scotland

2 (1) For the purpose of any acquisition by the Minister of land in Scotland, where the acquisition is by agreement, the Lands Clauses Acts, except the following enactments in the [M44]Lands Clauses Consolidation (Scotland) Act 1845, that is to say—

sections 120 to 125,
section 127, and
sections 142 and 143,

are hereby incorporated with section 39 of this Act, subject to the following sub-paragraphs.

(2) In construing the Lands Clauses Acts as incorporated by this paragraph, section 39 of this Act shall be deemed to be the special Act, and references to the promoters of the undertaking shall be construed as references to the Minister.

(3) Notices required to be served by the Minister under any provision of the Lands Clauses Acts as incorporated by this paragraph may, notwithstanding anything in section 18 of the [M45]Lands Clauses Consolidation (Scotland) Act 1845, be served and addressed in the manner specified in section 30 of this Act.

Marginal Citations

M44 1845 c. 19**(28:2)**
M45 1845 c. 19**(28:2)**

SCHEDULE 5

COMPULSORY PURCHASE

PART I

PROCEDURE FOR MAKING COMPULSORY PURCHASE ORDERS

1 A compulsory purchase order shall describe by reference to a map the land to which it applies.

2 (1) Before making a compulsory purchase order, the Minister shall—

(a) publish in one or more newspapers circulating in the locality in which the land to which the order relates is situated a notice stating that a compulsory purchase order is proposed to be made; and

(b) serve a copy of the notice in such manner as he thinks fit on every owner, lessee and occupier (except tenants for a month or less period than a month) of any land to which the order relates.

(2) Section 30 of this Act applies to the service of a notice under sub-paragraph (1)(b) above as it applies to the service of documents under Part II of this Act.

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Changes to legislation: *Forestry Act 1967 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) A notice under sub-paragraph (1) above shall—

(a) describe the land,

(b) name the place where a copy of a draft of the compulsory purchase order and of the map referred to therein may be seen at all reasonable hours, and

(c) specify the time (not less than twenty-eight days from the date of the publication of the notice) within which, and the manner in which, objections to the order may be made.

3 (1) If no objection is duly made by any of the persons on whom notices are required to be served, or by any other person appearing to the Minister to be affected, or if all objections so made are withdrawn, the Minister may, if he thinks fit (but subject to sub-paragraph (3) below), make the order, either with or without modifications.

(2) In any other case the Minister shall, before making the order, cause a local inquiry to be held and shall consider any objections not withdrawn and the report of the person who held the inquiry, and may then, if he thinks fit (but subject to sub-paragraph (3) below), make the order, either with or without modifications.

(3) An order made by the Minister with modifications shall not, unless all persons interested consent, authorise him to purchase compulsorily any land which the order would not have authorised him so to purchase if it had been made without modifications.

4 Subject to paragraph 5 below, where objection to a compulsory purchase order is duly made by a person mentioned in paragraph 3(1) above and is not withdrawn before the order is made, the order shall be subject to special parliamentary procedure and the [M46M47]Statutory Orders (Special Procedure) Acts 1945 and 1965 shall have effect accordingly.

Modifications etc. (not altering text)

C23 Para. 4 excluded (E.W.) by Mineral Workings Act 1985 (c. 12, SIF 86), **s. 6(3)**

Marginal Citations

M46 1945 c. 18 (9 & 10 Geo. 6)**(89)**

M47 1965 c. 43**(89)**

5 If an objection appears to the Minister to relate exclusively to matters which can be dealt with by the tribunal by whom the compensation for the compulsory purchase would be assessed, the Minister may disregard the objection for the purposes of paragraph 3 above, and may (whether he disregards it for those purposes or not) direct that it shall be disregarded for the purposes of paragraph 4 above.

6 An inquiry in relation to a compulsory purchase order affecting land in Scotland, being an order which becomes subject to special parliamentary procedure, shall, if the Minister so directs, be held by Commissioners under the [M48]Private Legislation Procedure (Scotland) Act 1936; and, where any direction has been so given,—

(a) it shall be deemed to have been given under section 2, as read with section 10, of the Statutory Orders (Special Procedure) Act 1945;

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(b) the provisions of section 2(1) of that Act with regard to advertisement of notice shall be deemed to have been complied with.

Marginal Citations
M48 1936 c. 52**(89)**

PART II

VALIDITY AND OPERATION OF COMPULSORY PURCHASE ORDERS

7 (1) So soon as may be after a compulsory purchase order has been made by the Minister, he shall—

(a) publish in one or more newspapers circulating in the locality in which the land to which the order relates is situated a notice stating that the order has been made and naming a place where a copy of the order and of the map referred to therein may be seen at all reasonable hours; and

(b) serve a like notice on every person who made an objection to the order.

(2) Section 30 of this Act applies to the service of a notice under sub-paragraph (1)(b) above as it applies to the service of documents under Part II of this Act.

(3) Where the order is subject to special parliamentary procedure, the notice to be published and served by the Minister under sub-paragraph (1) above shall contain a statement that the order is to be laid before Parliament under the [M49M50]Statutory Orders (Special Procedure) Acts 1945 and 1965.

Marginal Citations
M49 1945 c. 18 (9 & 10 Geo. 6)**(89)**
M50 1965 c. 43**(89)**

8 (1) Except where the order is confirmed by Act, if a person aggrieved by the order desires to question its validity on the ground that it is not within the powers of this Act or that any requirement of this Act has not been complied with, he may—

(a) in the case of an order to which the Statutory Orders (Special Procedure) Acts 1945 and 1965 apply, within a period of six weeks after the date on which the order becomes operative under those Acts; and

(b) in any other case, within a period of six weeks after the first publication of the notice of the order,

make an application for that purpose to the court.

(2) Where any such application is duly made, the court—

(a) may by interim order suspend the operation of the compulsory purchase order, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings; and

(b) if satisfied upon the hearing of the application that the order is not within the powers of this Act, or that the interests of the applicant have been substantially prejudiced by any requirement of this Act not having been complied with, may quash the order, either generally or in so far as it affects any property of the applicant.

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(3) In this paragraph—

"confirmed by Act" means confirmed by Act of Parliament under section 6 of the Statutory Orders (Special Procedure) Act 1945 or (in relation to Scotland) that section and section 2(4) of the Act as read with section 10 thereof; and

"the court" means, in relation to England and Wales, the High Court and, in relation to Scotland, the Court of Session.

9 Subject to the foregoing provisions, the order shall not be questioned by prohibition or certiorari or in any legal proceedings whatsoever either before or after the order is made.

10 The order, except where the Statutory Orders (Special Procedure) Acts 1945 and 1965 apply to it, shall become operative at the expiration of six weeks from the date on which notice of it is first published in accordance with the provisions of this Part of this Schedule.

PART III

PROCEDURE FOR ACQUISITION OF LAND BY COMPULSORY PURCHASE

England and Wales

11 (1) For the purpose of any acquisition by the Minister of land in England or Wales, where the acquisition is by compulsory purchase, Part I of the [M51]Compulsory Purchase Act 1965 shall apply subject to and in accordance with the following provisions of this paragraph.

(2) In the said Part I as so applied—

(a) "the acquiring authority" means the Minister, and

(b) "the special Act" means section 39 of this Act and the compulsory purchase order under section 40.

(3) In relation to compulsory purchase under this Act, Part I of the said Act of 1965 shall be modified as follows:—

(a) . . . . . [F63]

(b) in section 11 (power of entry after notice of treat), subsection (1) shall not apply and subsection (2) shall apply with the omission of the word "also";

(c) . . . . . [F63]

(4) . . . . . [F64]

Textual Amendments

F63 Para. 11(3)(a)(c)–(e) repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. III**

F64 Sch. 5 para. 11(4) repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. III**

Marginal Citations

M51 1965 c. 56**(28:1)**

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12 As regards land in England or Wales, a compulsory purchase order under this Act may provide that section 77 of the [M52]Railways Clauses Consolidation Act 1845, and sections 78 to 85 of that Act as originally enacted and not as amended for certain purposes by section 15 of the [M53]Mines (Working Facilities and Support) Act 1923, shall be incorporated with section 39 of this Act, subject to such adaptations and modifications as may be specified in the order.

Marginal Citations
M52 1845 c. 20**(102)**
M53 1923 c. 20**(102)**

Scotland

13 (1) For the purpose of any acquisition by the Minister of land in Scotland, where the acquisition is by compulsory purchase, the Lands Clauses Acts, except the following enactments in the [M54]Lands Clauses Consolidation (Scotland) Act 1845, that is to say—

sections 120 to 125,
section 127, and
sections 142 and 143,

are hereby incorporated with section 39 of this Act, subject to the modifications and adaptations specified in the following two sub-paragraphs.

(2) In construing the Lands Clauses Acts as incorporated by this paragraph, section 39 of this Act and the compulsory purchase order under section 40 shall be deemed to be the special Act, and references to the promoters of the undertaking shall be construed as references to the Minister.

(3) Notices required to be served by the Minister under any provision of the Lands Clauses Acts as incorporated by this paragraph may, notwithstanding anything in section 18 of the [M55]Lands Clauses Consolidation (Scotland) Act 1845, be served and addressed in the manner specified in section 30 of this Act.

(4) For the purposes of section 116 of the Lands Clauses Consolidation (Scotland) Act 1845 (which provides that powers of compulsory purchase shall not be exercised after the expiration of the prescribed period) the prescribed period shall be three years from the coming into operation of the compulsory purchase order.

Marginal Citations
M54 1845 c. 33**(102)**
M55 1845 c. 19**(28:2)**

14 As regards land in Scotland, a compulsory purchase order under this Act may provide that section 70 of the [M56]Railways Clauses Consolidation (Scotland) Act 1845, and sections 71 to 78 of that Act as originally enacted and not as amended for certain purposes by section 15 of the [M57]Mines (Working Facilities and Support) Act 1923, shall be incorporated with section 39 of this Act, subject to such adaptations and modifications as may be specified in the order.

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Marginal Citations
M56 1845 c. 19**(28:2)**
M57 1923 c. 20**(102)**

SCHEDULE 6

Section 50.

TRANSITIONAL PROVISIONS

1 (1) In so far as any appointment, order, regulation, byelaw, application, claim for compensation or reference made, or notice or directions given, or other thing done under an enactment repealed by this Act could have been made, given or done under a corresponding provision of this Act, it shall not be invalidated by the repeal but shall have effect as if made, given or done under that corresponding provisions.

(2) Anything begun under an enactment repealed by this Act may be continued under this Act as if begun thereunder.

(3) Any reference in this Act to things done, suffered or occurring in the past shall, so far as the context requires for the purpose of continuity of operation between an enactment repealed by this Act and the corresponding enactment in this Act, be construed as including a reference to things done, suffered or occurring before the commencement of this Act.

(4) So much of any document as refers expressly or by implication to any enactment repealed by this Act shall, if and so far as the context permits, be construed as referring to this Act or the corresponding enactment therein.

(5) The generality of sub-paragraphs (1) to (4) above shall not be prejudiced by anything in the subsequent provisions of this Schedule.

2 For the purposes of section 16(4) of this Act, any such anniversary of an application as is there referred to shall, in the case of an application made before the commencement of this Act and having effect as if made under this Act, be taken as falling on the date on which it would have fallen if this Act had not been passed.

3 A notice given by the Commissioners under section 11(1) of the [M58]Forestry Act 1951 and having effect as if given under section 24 of this Act shall, in a case where the notice was by virtue of section 11(4) of that Act inoperative immediately before the commencement of this Act, remain inoperative under section 25(2) of this Act for as long as, and no longer than, it would have so remained but for the passing of this Act.

Marginal Citations
M58 1951 c. 61.

4 (1) References in this Act to land acquired by the Minister thereunder shall include references to land which, immediately before the commencement of this Act, was vested in that Minister having been acquired by him or any predecessor of his under section 4 of the [M59]Forestry Act 1945, or vested by that section in the appropriate Minister for the purposes of that Act, or transferred to the Minister by the operation

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of Article 9(1) of the [M60]Secretary of State for Wales and Minister of Land and Natural Resources Order 1965 (which Order transferred functions of the Minister of Agriculture, Fisheries and Food under the Forestry Acts 1919 to 1951 partly to the Minister of Land and Natural Resources and partly to the Secretary of State for Wales) or of Article 2 of the [M61]Ministry of Land and Natural Resources (Dissolution) Order 1967 (which dissolved the Ministry of Land and Natural Resources and transferred its principal functions under the said Acts to the Ministry of Agriculture, Fisheries and Food).

(2) For the purposes of this Act, any land which was immediately before the commencement of this Act for the time being placed or deemed to have been placed at the disposal of the Commissioners under the Forestry Act 1945 shall be treated as continuing after that commencement to be so placed by virtue of section 39(1) of this Act, without prejudice to the power of the Minister to make any other disposition with regard to that land.

Marginal Citations

M59 1945 c. 35.
M60 S.I. 1965/319.
M61 S.I. 1967/156.

5 The references to the Forestry Commissioners in section 48 of the [M62]Settled Land Act 1925 (which contains regulations respecting forestry leases) and in the definition of "forestry lease" in section 117 of that Act shall be construed as references to the Minister, and the reference in the said definition to the [M63]Forestry Act 1919 shall be construed as a reference to this Act.

Marginal Citations

M62 1925 c. 18**(98:3)**
M63 1919 c. 58.

6 Any power under any enactment to amend or repeal an enactment repealed by this Act includes power to amend or repeal the corresponding provision of this Act.

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SCHEDULE 7

Section 50.

REPEALS AND SAVINGS

[X2]PART I

REPEALS

Editorial Information

X2 The text of s. 47(2) and Sch. 7 Pt. I is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Chapter	Short Title	Extent of Repeal
52 & 53 Vict. c. 30.	The Board of Agriculture Act 1889.	In section 2(2) and (3), the words “and, forestry” and “or forestry”, wherever occurring. In section 4, the words “or forestry”.
3 Edw. 7. c. 31.	The Board of Agriculture and Fisheries Act 1903.	In section 1(3) the words “or forestry”.
1 & 2 Geo. 5. c. 49.	The Small Landholders (Scotland) Act 1911.	In section 4(2), (3) and (4), the word “forestry”, wherever occurring.
9 & 10 Geo. 5. c. 58.	The Forestry Act 1919.	The whole Act except so much of section 3(2) as transfers to the Commissioners the power of making orders under the Destructive Insects and Pests Acts 1877 to 1927.
17 Geo. 5. c. 6.	The Forestry Act 1927.	The whole Act.
1 & 2 Geo. 6. c. 13.	The Superannuation (Various Services) Act 1938.	The entries in all three columns of the Schedule relating to the Forestry (Transfer of Woods) Act 1923 and the Forestry Act 1945.
8 & 9 Geo. 6. c. 35.	The Forestry Act 1945.	The whole Act.
10 & 11 Geo. 6. c. 21.	The Forestry Act 1947.	The whole Act.
12 & 13 Geo. 6. c. 44.	The Superannuation Act 1949.	Section 52(1), so far as applying to the superannuation of Forestry Commissioners and

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		officers employed by the Commissioners.
14 & 15 Geo. 6. c. 61.	The Forestry Act 1951.	The whole Act.
9 & 10 Eliz. 2. c. 55.	The Crown Estate Act 1961.	Section 8(1).
10 & 11 Eliz. 2 c. 38.	The Town and Country Planning Act 1962.	In section 29(8), paragraph (a).
1963 c. 23.	The Forestry (Sale of Land) (Scotland) Act 1963.	The whole Act.
1964 c. 83.	The New Forest Act 1964.	Section 13.

PART II

SAVINGS

1 The repeal of section 2 of the [M64]Forestry (Transfer of Woods) Act 1923 shall not affect any rights or liabilities of the Commissioners transferred to them under that section, in so far as any such rights and liabilities continued to subsist immediately before the commencement of this Act.

Marginal Citations
M64 1923 c. 21.

2 The repeal of section 4(5) of the [M65]Forestry Act 1945 shall not be taken as affecting the Minister's obligation to hold land subject to any terms and conditions applicable by virtue of that subsection, so far as any obligation arising under that subsection continued to subsist immediately before the commencement of this Act; nor shall the said repeal alter the construction of any conveyance, lease or other instrument for whose construction the subsection had effect immediately before the said commencement.

Marginal Citations
M65 1945 c. 35.

3 The repeal of sections 1 to 4 of the [M66]Forestry Act 1947 shall not affect the application of any of those sections, or any part of them, for the purposes of—

Marginal Citations
M66 1947 c. 21.
M67 1949 c. 97**(46:1)**
M68 1950 c. 24.
M69 1959 c. 25.

4 Notwithstanding the repeal of section 8(1) of the [M70]Crown Estate Act 1961, the powers of the Minister over land transferred as mentioned in that subsection shall

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not be subject to any restrictions which may have applied to the land as being part of the Royal forests, parks and chases or any of them.

Marginal Citations

M70 1961 c. 55**(29:7)**

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