



Forestry Act 1967

1967 CHAPTER 10

PART II

COMMISSIONERS' POWER TO CONTROL FELLING OF TREES

Supplementary

27 ^{X1}Committees of reference for purposes of ss. 16, 20, 21 and 25.

- (1) References in sections 16, [^{F1}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 [^{F2}in relation to cases where the trees are, or the land is, in England and Wales, and the Scottish Ministers in relation to cases where the trees are, or the land is, in Scotland]; and
 - (b) two other members selected by the Minister [^{F3}or, as the case may be, the Scottish Ministers] 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 [^{F3}or, as the case may be, the Scottish Ministers] 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;

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- (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^{F4} . . . 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 [^{F3}or, as the case may be, the Scottish Ministers] 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 [^{F5}as regards England and Wales], determine.

[^{F6}(4A) The Scottish Ministers may pay to the members of a committee appointed by them under this section such remuneration as they may determine.]

Editorial Information

X1 S. 27: Unreliable margin note

Textual Amendments

- F1 Words inserted by [Forestry Act 1986 \(c. 30, SIF 54\)](#), [s. 1\(b\)](#)
- F2 Words in s. 27(1)(a) inserted (1.7.1999) by S.I. 1999/1747, art. 3, [Sch. 12 Pt. II para. 4\(22\)\(a\)](#)
- F3 Words in s. 27(1)(b)(2)(3) inserted (1.7.1999) by S.I. 1999/1747, art. 3, [Sch. 12 Pt. II para. 4\(22\)\(b\)](#)
- F4 Words in s. 27(3)(c) omitted (1.7.1999) by virtue of S.I. 1999/1747, art. 3, [Sch. 12 Pt. II para. 4\(9\)](#)
- F5 Words in s. 27(4) inserted (1.7.1999) by S.I. 1999/1747, art. 3, [Sch. 12 Pt. II para. 4\(22\)\(c\)](#)
- F6 [S. 27\(4A\)](#) inserted (1.7.1999) by S.I. 1999/1747, art. 3, [Sch. 12 Pt. II para. 4\(22\)\(d\)](#)

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 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,—

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- (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 ^{M1}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

M1 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 [^{F7}section 7 of the ^{M2}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:
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

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give it, or knowingly makes any mis-statement in respect thereof, shall be liable on summary conviction to a fine not exceeding [^{F8}level 1 on the standard scale].

Textual Amendments

- F7** Words substituted by virtue of [Interpretation Act 1978 \(c. 30, SIF 115:1\)](#), **s. 17(2)(a)**
- F8** 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

- M2** [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—
- in its application to England and Wales, be taken as requiring it to be determined by the [^{F9}Upper Tribunal]; and
 - 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 ^{M3}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 ^{M4}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.

Textual Amendments

- F9** Words in s. 31(1)(a) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 77** (with Sch. 5)

Marginal Citations

- M3** [1949 c. 42\(127\)](#)
- M4** [1963 c. 51\(28:2\)](#)

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.
- [^{F10}(3) Regulations made under this Part of this Act may make provision as regards England and Wales, or as regards Scotland.
- (4) A statutory instrument containing regulations made under this Part of this Act making provision only as regards England and Wales—

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- (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.
- (5) A statutory instrument containing regulations made under this Part of this Act making provision only as regards Scotland—
- (a) if the regulations are made under section 9(5)(b) or (c), shall be of no effect unless approved by a resolution of the Scottish Parliament; and
 - (b) in a case not falling within the foregoing paragraph, shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (6) The Statutory Instruments Act 1946 ^{M5} shall apply to any statutory instrument containing regulations made under this Part of this Act applying to Scotland as it applies to any statutory instrument made by the Scottish Ministers.]

Textual Amendments

F10 S. 32(3)-(6) substituted (1.7.1999) for s. 32(3) by S.I. 1999/1747, art. 3, Sch. 12 Pt. II para. 4(23)

Marginal Citations

M5 1946 c.36.

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 [^{F11}and the Scottish Ministers] 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;

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- (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;
- 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.

Textual Amendments

F11 Words in s. 33(4) inserted (1.7.1999) by S.I. 1999/1747, art. 3, Sch. 12 Pt. II para. 4(24)

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 ^{M6}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 ^{F12}... 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 [^{F13}Scottish Ministers] to be concerned agree, with the approval of the [^{F13}Scottish Ministers], 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 [^{F14}the Scottish Ministers withdraw their] approval under paragraph (a) of this subsection.

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- (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 felling.

Textual Amendments

- F12** Words in s. 34(3) repealed (S.) (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000](#) (asp 5), ss. 71, 77(2), Sch. 12 para. 27(3), **13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F13** Words in s. 34(3)(a) substituted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(26)(a)**
- F14** Words in s. 34(3) substituted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 12 Pt. II para. 4(26)(b)**

Marginal Citations

- M6** 1947 c. 48(2:1)

35 Interpretation of other expressions in Part II.

In this Part of this Act—

“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

[^{F15} “ 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 [^{F16}section 198 of the Town and Country Planning Act 1990] or [^{F17}section 160 of the Town and Country Planning (Scotland) Act 1997].

[^{F18}“tree preservation regulations” means regulations made under section 202A(1) of the Town and Country Planning Act 1990;]

Textual Amendments

- F15** Definition inserted by [Forestry Act 1986](#) (c. 30, SIF 54), s. 1(c)
- F16** Words substituted by [Planning \(Consequential Provisions\) Act 1990](#) (c. 11, SIF 123:1, 2), s. 4, **Sch. 2, para. 14(2)**
- F17** 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\(2\)](#)
- F18** Words in s. 35 inserted (6.4.2012 for E.) by [Planning Act 2008](#) (c. 29), s. 241(3)(4), **Sch. 8 para. 5** (with s. 226); S.I. 2012/601, art. 2(a)

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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 ^{M7}London Government Act 1963.

Marginal Citations

M7 1963 c. 33(81:1)

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