

Up to date as of 31st March 2015.

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]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows

Part I Forestry and Afforestation in Great Britain

1 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”.

[(1A) In this Act, “the appropriate forestry authority” means—

- (a) in relation to England and Scotland, the Commissioners;
- (b) in relation to Wales, the Natural Resources Body for Wales.]

(2) The [appropriate forestry authority] 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 Scotland, [in England and in Wales]] and in that behalf shall have the powers and duties conferred or imposed on them by this Act.

[(2A) The Commissioners also have the general duty of using land in Scotland placed at their disposal by the Scottish Ministers under this Act in the way best calculated to contribute to the delivery of the targets set in or under Part 1 of the Climate Change (Scotland) Act 2009 (asp 12) (“the climate change targets”).]

(3) The [appropriate forestry authority's] general duty [under subsection (2)] includes that of promoting the establishment and maintenance [in Scotland, [in England and in Wales]] of adequate reserves of growing trees.

[(3A) In discharging their functions . . . the [appropriate forestry authority] 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* [, the production and supply of timber and, in Scotland, the delivery of the climate change targets], and
- (b) the conservation and enhancement of natural beauty and the conservation of flora, fauna and geological or physiographical features of special interest.]

[(3B) In subsection (3A) “functions” means—

- (a) in relation to the Commissioners, functions under the Forestry Acts 1967 to 1979;
- (b) in relation to the Natural Resources Body for Wales, functions under this Act.]

(4) The Commissioners shall, in exercising their functions under this Act, and also exercising their powers under the 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

- [(a) the Ministers in relation to the exercise of their functions as regards England . . . ; and
- (b) the Scottish Ministers in relation to the exercise of their functions as regards Scotland].

(5) . . .

[(6) The power of the Ministers and of the Scottish Ministers to give directions for the purposes of subsection (4) above shall be exercisable as regards [England and Scotland] by the Ministers and the Scottish Ministers acting jointly.]

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-s (1A): inserted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 45(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 45(1), (3)(a).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): words in square brackets beginning with the words “in Scotland,” substituted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (2).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (2): words “in England and in Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 45(1), (3)(b).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2A): inserted, in relation to Scotland, by SSI 2012/77, art 2(a).

Date in force: 1 March 2012: see SSI 2012/77, art 1.

Sub-s (3): words “appropriate forestry authority’s” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 45(1), (4)(a).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (3): words “under subsection (2)” in square brackets inserted, in relation to Scotland, by SSI 2012/77, art 2(b).

Date in force: 1 March 2012: see SSI 2012/77, art 1.

Sub-s (3): words in square brackets beginning with the words “in Scotland,” substituted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (2).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (3): words “in England and in Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 45(1), (4)(b).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (3A): inserted by the Wildlife and Countryside (Amendment) Act 1985, s 4.

- Sub-s (3A): words omitted repealed by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 45(1), (5)(a).
Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.
- Sub-s (3A): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 45(1), (5)(b).
Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.
- Sub-s (3A): in para (a) words from “, the production and” to “climate change targets” in square brackets substituted, in relation to Scotland, by SSI 2012/77, art 2(c).
Date in force: 1 March 2012: see SSI 2012/77, art 1.
- Sub-s (3B): inserted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 45(1), (6).
Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.
- Sub-s (4): paras (a), (b) substituted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (3).
Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.
- Sub-s (4): in para (a) words omitted repealed by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 45(1), (7).
Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.
- Sub-s (5): repealed by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 45(1), (8).
Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.
- Sub-s (6): inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (4).
Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.
- Sub-s (6): words “England and Scotland” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 45(1), (9).
Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Transfer of Functions

Functions of the Minister and the Ministers, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

2 Constitution, administration, etc, of Commission

- (1) The Commissioners shall consist of a chairman and not more than [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 and Scotland] 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-s (1): word in square brackets substituted by the Forestry Act 1981, s 5.

Sub-s (3): words "England and Scotland" in square brackets substituted by SI 2013/1821, art 12(1), (2).

Date in force: this amendment has retrospective effect as from 1 April 2013: see SI 2013/1821, art 1(3).

3 Management of forestry land

(1) The [appropriate forestry authority] may manage, plant and otherwise use, for the purpose of the exercise of their functions under this Act, any land [in Scotland placed at their disposal by the Scottish Ministers under this Act or in [England or Wales]] placed at their disposal by the Minister under this Act, and—

- (a) the power of the [appropriate forestry authority] 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 [appropriate forestry authority's] disposal shall belong to the [appropriate forestry authority].

(2) The [appropriate forestry authority] 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 [appropriate forestry authority] 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-s (1): words "appropriate forestry authority" in square brackets in each place they occur substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 46(1), (2)(a).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): words in square brackets beginning with the words "in Scotland placed" inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (5).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (1): words “England or Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 46(1), (2)(b).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): in para (b) words “appropriate forestry authority’s” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 46(1), (2)(c).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 46(1), (3).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (3): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 46(1), (4).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Transfer of Functions

Functions of the Minister and the Ministers, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

4 . . .

. . .

NOTES

Amendment

Repealed by the Forestry Act 1979, 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 [appropriate forestry authority], being agreements to the effect that the land shall not, except with the previous consent in writing of the [appropriate forestry authority] or, in the case of dispute, under direction of the Minister [as regards [England or Wales] and the Scottish Ministers as regards Scotland], 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 [appropriate forestry authority] in respect of land in England or Wales without an intention being expressed contrary to the application of section 79 of the 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 [appropriate forestry authority] 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 [appropriate forestry authority] 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 Law of Property Act 1925 (which enables the [Upper Tribunal] to discharge or modify respective 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 [title has been completed] or not) to his interest in the land prior to the agreement being recorded as aforesaid, or against any person deriving title from such a 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-s (1): words “appropriate forestry authority” in square brackets in each place they occur substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 47(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): words from “as regards” to “as regards Scotland” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (6).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (1): words “England or Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 47(1), (3).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): in para (a) words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 47(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): in para (b) words “Upper Tribunal” in square brackets substituted by SI 2009/1307, art 5(1), (2), Sch 1, paras 75, 76.

Date in force: 1 June 2009: see SI 2009/1307, art 1; for transitional and savings provisions see art 5(6), Sch 5 thereto.

Sub-s (3): words “title has been completed” in square brackets substituted by the Abolition of Feudal Tenure etc (Scotland) Act 2000, s 76(1), Sch 12, Pt I, para 27(1), (2).

Date in force: this amendment came into force on 28 November 2004 (being the day appointed under the Abolition of Feudal Tenure etc (Scotland) Act 2000, s 71): see SSI 2003/456, art 2 and the Abolition of Feudal Tenure etc (Scotland) Act 2000, ss 71, 77(2).

Transfer of Functions

Functions of the Minister and the Ministers, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

6 Requirements for haulage facilities

(1) The provisions of this section shall have effect where the [appropriate forestry authority] 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 [appropriate forestry authority] 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.

(3) The [appropriate forestry authority] 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 under this section may—

- (a) where the order is made in respect of land in [England or Wales], 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; and
- (b) where the order is made in respect of land in Scotland, appeal therefrom to the Scottish Ministers in such manner and upon such conditions, if any, as may be prescribed by the Scottish Ministers, 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 or 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-s (1): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 47(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 47(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (3): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 47(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (4): substituted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (7).

Date in force: 1 July 1999: see SI 1999/1747, art 1.

Sub-s (4): in para (a) words “England or Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 47(1), (3).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (5): in para (a) words “England or Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 47(1), (3).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Transfer of Functions

Functions of the Minister and the Ministers, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

7 Prevention of damage by rabbits, hares and vermin

(1) The provisions of this section shall have effect where the [appropriate forestry authority] 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 [appropriate forestry authority] 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 shall first give to the occupier and owner of the land such opportunity as the [appropriate forestry authority] think reasonable of destroying the rabbits, hares or vermin, or of taking steps for the prevention of the damage.

(3) The [appropriate forestry authority] 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 [appropriate forestry authority] in the due exercise of his powers or duties under subsection (2) above shall be liable on summary conviction to a fine not exceeding [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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-s (1): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 48.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): words “appropriate forestry authority” in square brackets in both places they occur substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 48.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (3): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 48.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (4): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 48.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (4): maximum fine increased by the Criminal Law Act 1977, s 31(6), and converted to a level on the standard scale by the Criminal Justice Act 1982, ss 37, 46.

[7A Incidental powers of Commissioners]

[(1) For the purpose of the exercise of their functions under this Act so far as relating to [land in Scotland or] land in England . . . , or for the purpose of the exercise of their functions under section 8(1)(b) of this Act, the Commissioners may—

- (a) form, or participate in the forming of, a body corporate;
- (b) invest in a body corporate;
- (c) provide loans;
- (d) establish a charitable trust; or
- (e) act, or appoint a person to act, as an officer of a body corporate or as a trustee of a charitable trust.

(2) The powers contained in subsection (1)(b) and (c) shall be exercisable only with Treasury approval.]

NOTES

Amendment

Inserted by SI 2006/780, art 2.

Date in force: 16 March 2006: see SI 2006/780, art 1(1).

Sub-s (1): words “land in Scotland or” in square brackets inserted by the Public Services Reform (Scotland) Act 2010, s 12(1).

Date in force: 1 August 2010: see SSI 2010/221, art 3(2), Schedule.

Sub-s (1): words omitted repealed by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 49.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

[7AA Renewable energy installations]

[(1) The Commissioners may, for the purpose of complying with their general duty under section 1(2A)—

- (a) promote, develop, construct and operate installations for or in connection with the generation, transmission, distribution and supply of electricity produced from renewable sources, and
- (b) use electricity produced by virtue of the powers conferred by paragraph (a).

(2) In subsection (1), “renewable sources” means sources other than—

- (a) fossil fuel,
- (b) energy derived from fossil fuel, and
- (c) nuclear fuel.

(3) In subsection (2), “fossil fuel” means—

- (a) coal,
- (b) lignite,
- (c) peat,
- (d) natural gas (within the meaning of the Energy Act 1976),
- (e) crude liquid petroleum,
- (f) petroleum products (within the meaning of that Act),
- (g) any substance produced directly or indirectly from a substance mentioned in paragraphs (a) to (f).

(4) Nothing in this section is to be construed as exempting the Forestry Commissioners from the requirements of Part 1 of the Electricity Act 1989.]

NOTES

Amendment

Inserted, in relation to Scotland, by SI 2012/2855, art 2(a).

Date in force: 8 November 2012: see SI 2012/2855, art 1(2).

[7B Delegation of functions of Commissioners: Scotland]

[(1) The Commissioners may, to such extent and subject to such conditions as they think appropriate, delegate their functions under section 3(1) and (3) [and section 7AA] of this Act to such community bodies as they consider appropriate.

(2) A delegation under subsection (1) may only be made in relation to land in Scotland—

- (a) placed at the disposal of the Commissioners by the Scottish Ministers under this Act, and
- (b) which is let to the community body to which the delegation is made.

(3) A delegation under subsection (1) does not affect the ability of the Commissioners to carry out the function delegated.

(4) A delegation under subsection (1) does not affect the ability of the Scottish Ministers to—

- (a) determine which land in Scotland is placed at the disposal of the Forestry Commissioners,
- (b) give directions under section 1 to the Commissioners in relation to the land in question.

(5) A delegation under subsection (1) may be varied or revoked at any time.

(6) In this section, “community body” has the meaning given in section 7C.]

NOTES

Amendment

Inserted by the Public Services Reform (Scotland) Act 2010, s 11.

Date in force: 1 August 2010: see SSI 2010/221, art 3(2), Schedule.

Sub-s (1): words “and section 7AA” in square brackets inserted by SI 2012/2855, art 2(b).

Date in force: 8 November 2012: see SI 2012/2855, art 1(2).

[7C Delegation of functions under section 7B: community bodies]

[(1) A community body is, subject to subsection (3), a company limited by guarantee the articles of association of which include the following—

- (a) a definition of the community to which the company relates,
- (b) provision that the company must have not fewer than 20 members,
- (c) provision that the majority of the members of the company is to consist of members of the community,
- (d) provision by which the members of the company who consist of members of the community have control of the company,
- (e) provision ensuring proper arrangements for the financial management of the company and the auditing of its accounts.

(2) The Commissioners may, if they think it in the public interest to do so, disapply such requirements specified in paragraphs (b) to (d) in subsection (1) in relation to any body they may specify.

(3) A body is not a community body unless the Commissioners have given it written confirmation that they are satisfied that the main purpose of the body is consistent with furthering the achievement of sustainable development.

(4) Unless the Scottish Ministers otherwise direct, a community—

- (a) must be defined for the purposes of subsection (1)(a) by reference to a postcode unit or postcode units, and
- (b) must comprise the persons from time to time—
 - (i) resident in that postcode unit or in one of those postcode units, and
 - (ii) entitled to vote, at a local government election, in a polling district which includes that postcode unit or those postcode units (or part of it or them).

(5) In subsection (4) above, “postcode unit” means an area in relation to which a single postcode is used to facilitate the identification of postal service delivery points within the area.

(6) In subsection (1), “company limited by guarantee” has the meaning given by section 3(3) of the Companies Act 2006 (c 46).]

NOTES

Amendment

Inserted by the Public Services Reform (Scotland) Act 2010, s 11.

Date in force: 1 August 2010: see SSI 2010/221, art 3(2), Schedule.

8 Miscellaneous powers of Commissioners

[(1)] The Commissioners may—

- (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 Scotland, [in England and in Wales]].

[(2) The Commissioners may exploit any intellectual property or intangible assets arising from the carrying out of any activity referred to in subsection (1)(b).

(3) "Intellectual property" for the purpose of subsection (2) includes any patent, trademark, copyright, design right, registered design or plant breeder's right.]

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-s (1): numbered as such by SI 2006/780, art 3(1), (2).

Date in force: 16 March 2006: see SI 2006/780, art 1(1).

Sub-s (1): in para (c) words in square brackets beginning with the words "in Scotland," substituted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (8).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (1): in para (c) words "in England and in Wales" in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 50.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-ss (2), (3): inserted by SI 2006/780, art 3(1), (3).

Date in force: 16 March 2006: see SI 2006/780, art 1(1).

[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 [England or (as the case may be) Wales] and the Scottish Ministers shall have regard to the national interest in maintaining and expanding the forestry resources of Scotland].]

NOTES

Amendment

Inserted by the Forestry Act 1981, s 4.

Words from "of" to "resources of Scotland" in square brackets substituted by SI 1999/1756, art 2, Schedule, para 3.

By virtue of SI 1999/1756, art 1(1), this amendment comes into force immediately before the principal appointed day, which, by virtue of SI 1998/3178, art 3, is 1 July 1999.

Words "England or (as the case may be) Wales" in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 51.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Transfer of Functions

Functions of the Minister and the Ministers, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Part II

. . . Power to Control Felling of Trees

NOTES

Amendment

Part heading: word omitted repealed by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 52.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Restriction of Felling

9 Requirement of licence for felling

(1) A felling licence granted by the [appropriate forestry authority] 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 [8 centimetres] or, in the case of coppice or underwood, with a diameter not exceeding [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 [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 [in the relevant territory] by that person without a licence (exclusive of trees to whose felling subsection (1) above does not apply) does not exceed [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 [2 cubic metres] in any quarter, or such larger quantity as the [appropriate forestry authority] 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, [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 the [Town and Country Planning Act 1990] or the enactments replaced by that Act, or [the Town and Country Planning (Scotland)

Act 1997].

(5) Regulations made by the [appropriate legislative authority] 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 [8 centimetres] a reference to a larger diameter;
 - (ii) in subsection (3)(a), for the reference to [10 centimetres] a reference to a larger diameter;
 - (iii) in subsection (3)(b), for the reference to [30 cubic metres] or the reference to [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 [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 [30 cubic metres], or for the reference in sub-paragraph (ii) to [5.5 cubic metres] in either cases 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—

["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 of that Act are exercisable;

"electric line" and "electrical 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 Law of Property Act 1925 or of Part V of the National Parks and Access to the Countryside Act 1949 [or Part I of the Countryside and Rights of Way Act 2000]) 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;

["relevant territory" means—

- (a) England and Scotland where the felling is carried out in England or Scotland;
- (b) Wales where the felling is carried out in Wales;]

and references to the diameter of trees shall be construed as references to the diameter, measured over the bark, at a point [1.3 metres] above the ground level; . . .

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-s (1): word “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 53(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): in para (a) words “8 centimetres” and “15 centimetres” in square brackets substituted by the Forestry Act 1979, s 2, Sch 1.

Sub-s (3): in para (a) words “10 centimetres” in square brackets substituted by the Forestry Act 1979, s 2, Sch 1.

Sub-s (3): in para (b)(i) words “in the relevant territory” in square brackets inserted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 53(1), (3)(a).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (3): in para (b) words “5 cubic metres” and “2 cubic metres” in square brackets substituted by SI 1985/1958, reg 2.

Sub-s (3): in para (b)(ii) words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 53(1), (3)(b).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (4): words in square brackets in para (c) substituted by the Electricity Act 1989, s 112(1), Sch 16, para 13; in para (d) first words in square brackets substituted by the Planning (Consequential Provisions) Act 1990, s 4, Sch 2, para 14(1), second words in square brackets substituted by the Planning (Consequential Provisions) (Scotland) Act 1997, s 4, Sch 2, para 13(1).

Sub-s (5): word “appropriate legislative authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 53(1), (4).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (5): in paras (a)–(c) words “8 centimetres”, “10 centimetres”, “30 cubic metres”, “5.5 cubic metres” and “15 centimetres” in square brackets in each place they occur substituted by the Forestry Act 1979, s 2, Sch 1.

Sub-s (6): definitions “electricity operator”, “electric line” and “electrical plant” substituted, for definitions “Electricity Board” and “electric line” as originally enacted, by the Electricity Act 1989, s 112(1), Sch 16, para 13(1), (3).

Sub-s (6): in definition “public open space” words “or Part I of the Countryside and Rights of Way Act 2000” in square brackets inserted, in relation to England and Wales, by the Countryside and Rights of Way Act 2000, s 46(3), Sch 4, para 2.

Date in force (in relation to England): 19 September 2004: see SI 2004/2173, art 2(1)(g), (i).

Date in force (in relation to Wales): 28 May 2005: see SI 2005/423, art 2(e), (h).

Sub-s (6): definition “relevant territory” inserted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 53(1), (5).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (6): words “1.3 metres” in square brackets substituted by the Forestry Act 1979, s 2(1), Sch 1.

Sub-s (6): words omitted repealed by the Forestry Act 1979, s 3(2), Sch 2.

Subordinate Legislation

Forestry (Exceptions from Restriction of Felling) Regulations 1979, SI 1979/792.

Forestry (Modification of Felling Restrictions) Regulations 1985, SI 1985/1958 (made under sub-s (5)(c)).

Forestry (Exceptions from Restrictions of Felling) (Amendment) Regulations 1998, SI 1998/603 (made under sub-s (5)(a)).

10 Application for felling licence and decision of [appropriate forestry authority] thereon

(1) An application for a felling licence may be made to the [appropriate forestry authority] 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 [appropriate forestry authority] may on 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 . . . of adequate reserves of growing trees; *or*
- (c) for the purpose of conserving or enhancing the flora, fauna or geological or physiographical features, or the natural beauty or amenity, of any land].

(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 [appropriate forestry authority] refuse an application for a felling licence, the consequences shall be as follows:—

- (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 [appropriate forestry authority] will be, managed in a manner approved by them, the [appropriate forestry authority] may (subject to section 14(5) below), if they think fit and subject to the approval of the Treasury [as regards land in [England or Wales], and the Scottish Ministers as regards land in Scotland], 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 [appropriate forestry authority] 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 [appropriate forestry authority] 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 [appropriate forestry authority] 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Section heading: words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 54(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art

4(1), Sch 2, Pt 1, paras 44, 54(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 54(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): in para (a) word “or” in italics repealed by the Nature Conservation (Scotland) Act 2004, s 57, Sch 7, para 2(1), (2)(a).

Date in force: 29 November 2004: see SSI 2004/495, art 2.

Sub-s (2): in para (b) words omitted repealed by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (9).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (2): para (c) and word “; or” immediately preceding it inserted by the Nature Conservation (Scotland) Act 2004, s 57, Sch 7, para 2(1), (2)(b).

Date in force: 29 November 2004: see SSI 2004/495, art 2.

Sub-s (4): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 54(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (4): in para (b) words “appropriate forestry authority” in square brackets in both places they occur substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 54(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (4): in para (b) words from “as regards land” to “land in Scotland” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (10).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (4): in para (b) words “England or Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 54(1), (3).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (5): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 54(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (6): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 54(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Transfer of Functions

Functions of the Treasury, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Subordinate Legislation

Forestry (Felling of Trees) Regulations 1979, SI 1979/791.

Forestry (Felling of Trees) (Amendment) Regulations 1987, SI 1987/632 (made under sub-s (1)).

Forestry (Felling of Trees) (England and Wales) (Amendment) Regulations 2002, SI 2002/226 (made under sub-s (1)).

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 of 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 [appropriate forestry authority] on

a claim made in the prescribed manner.

(3) Claims for the 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 [appropriate forestry authority] 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 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-s (2): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 55.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (5): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 55.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

See Further

See further, in relation to interest payable on any award of compensation: the Planning and Compensation Act 1991, s 80, Sch 18, Part I.

See further, in relation to the application, with modifications, of sub-ss (3)–(5) above to the assessment of compensation under the Town and Country Planning (Tree Preservation) (England) Regulations 2012, SI 2012/605, reg 24(3): the Town and Country Planning (Tree Preservation) (England) Regulations 2012, SI 2012/605, reg 24(5).

Subordinate Legislation

Forestry (Felling of Trees) Regulations 1979, SI 1979/791.

12 Conditional licences

(1) The conditions which may under section 10(2) [10(2)(a) or (b)] above be attached to a felling licence are such as the [appropriate forestry authority], 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 [appropriate forestry authority] 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 [under section 10(2)(a) or (b) above] on the grant of a felling licence where it is for trees on land subject to a forestry dedication covenant or agreement [and the felling is in accordance with a plan of operations or other working plan approved by the [appropriate forestry authority] and in force under the covenant or agreement].

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-s (1): reference to “10(2)” in italics repealed and subsequent words in square brackets substituted by the Nature Conservation (Scotland) Act 2004, s 57, Sch 7, para 2(1), (3)(a).

Date in force: 29 November 2004: see SSI 2004/495, art 2.

Sub-s (1): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 55.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): in para (a) words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 55.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): words “under section 10(2)(a) or (b) above” in square brackets inserted by the Nature Conservation (Scotland) Act 2004, s 57, Sch 7, para 2(1), (3)(b).

Date in force: 29 November 2004: see SSI 2004/495, art 2.

Sub-s (2): words from “and the felling” to “covenant or agreement” in square brackets inserted by the Trees Act 1970, s 2.

Sub-s (2): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 55.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

13 Deferred decision on application

(1) Where a person applies for a felling licence and the [appropriate forestry authority] 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 [appropriate forestry authority] 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 [appropriate forestry authority] 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-s (1): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 55.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): in para (a) words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 55.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Proviso: words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 55.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

14 Tree-felling in accordance with approved working plan etc

(1) The following provisions shall apply where application is made to the [appropriate forestry authority] for a felling licence and relates to the felling of trees in accordance with a plan of operations or other working plan approved by the [appropriate forestry authority] under a forestry dedication covenant or agreement, or otherwise approved by them in writing for the purposes of this section.

(2) The [appropriate forestry authority] shall not refuse the licence unless the Minister [as regards the felling of trees in [England or Wales] certifies, and the Scottish Ministers as regards the felling of trees in Scotland certify] 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 [appropriate forestry authority] refuse the licence, the applicant may by notice given to the [appropriate forestry authority] 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 [appropriate forestry authority] 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 [appropriate forestry authority] 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-s (1): words “appropriate forestry authority” in square brackets in both places they occur substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 54(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): word “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 56(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): word from “as regards the” to “in Scotland certify” in square brackets substituted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (11).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (2): words “England or Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 56(1), (3).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (3): words “appropriate forestry authority” in square brackets in both places they occur substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 56(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (4): in para (b) words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 56(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (5): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 56(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Transfer of Functions

Functions of the Minister and the Ministers, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions)

Order 1999, SI 1999/672, art 2, Sch 1.

Subordinate Legislation

Forestry (Felling of Trees) Regulations 1979, SI 1979/791.

15 Trees subject to preservation order under Planning Acts

(1) If an application is made to the [appropriate forestry authority] for a felling licence in respect of trees to which a tree preservation order relates, and *consent under the order* [relevant consent] is required for the felling of those trees, then—

- (a) the [appropriate forestry authority], if they propose to grant the licence, shall give notice in writing to the authority by whom the order was made; and
- (b) the [appropriate forestry authority] may in any case refer the application to the said authority.

[(1A) In subsection (1) “relevant consent” means—

- (a) in the case of trees in [England or Wales], consent under tree preservation regulations;
- (b) in the case of trees in Scotland, consent under the tree preservation order.]

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

- (a) the [appropriate forestry authority] 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 [appropriate forestry authority] refer an application under subsection (1)(b) above,—

- (a) the application shall be dealt with under the Town and Country Planning Acts; and
- (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 [appropriate forestry authority] 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 [appropriate forestry authority],

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* [relevant application shall be entertained] 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.

[(5A) In subsection (5) “relevant application” means—

- (a) in the case of trees in [England or Wales], an application under tree preservation regulations for consent under the regulations;
- (b) in the case of trees in Scotland, an application under a tree preservation order for consent under the order.]

(6) Where, in the case of trees to which a tree preservation order relates, a felling licence is granted by the [appropriate forestry authority] 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) . . .

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-s (1): words “appropriate forestry authority” in square brackets in each place they occur substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 57(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): words “consent under the order” in italics repealed and subsequent words in square brackets substituted by the Planning Act 2008, s 192(8), Sch 8, paras 1, 2(1), (2).

Date in force (in relation to England): 6 April 2012: see SI 2012/601, art 2(a).

Date in force (in relation to Wales): to be appointed: see the Planning Act 2008, s 241(3), (4)(a), (c).

Sub-s (1A): inserted by the Planning Act 2008, s 192(8), Sch 8, paras 1, 2(1), (3).

Date in force (in relation to England): 6 April 2012: see SI 2012/601, art 2(a).

Date in force (in relation to Wales): to be appointed: see the Planning Act 2008, s 241(3), (4)(a), (c).

Sub-s (1A): in para (a) words “England or Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 57(1), (3).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 57(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): words “appropriate forestry authority’s” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 57(1), (4).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): in para (a) words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 57(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (3): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 57(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (4): in paras (a), (b) words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 57(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (5): words “application shall be entertained under a tree preservation order for consent thereunder” in italics repealed and subsequent words in square brackets substituted by the Planning Act 2008, s 192(8), Sch 8, paras 1, 2(1), (4).

Date in force (in relation to England): 6 April 2012: see SI 2012/601, art 2(a).

Date in force (in relation to Wales): to be appointed: see the Planning Act 2008, s 241(3), (4)(a), (c).

Sub-s (5A): inserted by the Planning Act 2008, s 192(8), Sch 8, paras 1, 2(1), (5).

Date in force (in relation to England): 6 April 2012: see SI 2012/601, art 2(a).

Date in force (in relation to Wales): to be appointed: see the Planning Act 2008, s 241(3), (4)(a), (c).

Sub-s (5A): in para (a) words “England or Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 57(1), (5).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings

see art 10, Sch 7 thereto.

Sub-s (6): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 57(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (8): repealed by SI 2002/794, art 5(2), Sch 2.

Date in force: 27 March 2002: see SI 2002/794, art 1(2).

Transfer of Functions

The functions of the Minister of Housing and Local Government were, in relation to Wales and Monmouthshire, transferred (subject to limited exceptions with regard to regulation making powers) to the Secretary of State by the Secretary of State for Wales and Minister of Land and Natural Resources Order 1965, SI 1965/319, art 2(1), Sch 1. Other functions of the Minister of Housing and Local Government were transferred (subject to certain limited exceptions not relevant to this Act) to the Secretary of State by the Secretary of State for the Environment Order 1970, SI 1970/1681, art 2(1).

Functions under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Subordinate Legislation

Forestry (Felling of Trees) Regulations 1979, SI 1979/791.

16 Review of refusal or conditions of licence

(1) The following provisions shall have effect for enabling the decision of the [appropriate forestry authority] 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 [where the application was to fell trees in [England or Wales], and the Scottish Ministers where the application was to fell trees in Scotland] to refer the matter to a committee appointed in accordance with section 27 below and—

- (a) the Minister [or, as the case may be, the Scottish Ministers] shall, unless he is [or they are] 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 [or, as the case may be, the Scottish Ministers].

(3) The Minister [or, as the case may be, the Scottish Ministers] shall, after considering the committee's report, confirm the decision of the [appropriate forestry authority] on the application, or reverse or modify that decision and direct the [appropriate forestry authority] 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 case, the third anniversary of the previous application.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-s (1): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 58(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): words from “where the application” to “trees in Scotland” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (12)(a).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (2): words “England or Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 58(1), (3).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): in para (a) words “or, as the case may be, the Scottish Ministers” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (12)(b).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (2): in para (a) words “or they are” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (12)(c).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (2): in para (b) words “or, as the case may be, the Scottish Ministers” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (12)(b).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (3): words “or, as the case may be, the Scottish Ministers” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (12)(b).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (3): words “appropriate forestry authority” in square brackets in both places they occur substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 58(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Transfer of Functions

Functions of the Minister and the Ministers, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Subordinate Legislation

Forestry (Felling of Trees) Regulations 1979, SI 1979/791.

17 Penalty for felling without a 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 [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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-s (1): maximum fine increased and converted to a level on the standard scale by the Criminal

Justice Act 1982, ss 37, 38, 46.

[17A Power of [appropriate forestry authority] to require restocking after unauthorised felling]

[(1) The [appropriate forestry authority] may serve a notice under this section (a “restocking notice”) on a person where—

- (a) it appears to the [appropriate forestry authority] that he has committed an offence in [England or Wales] under section 17 of this Act, or
- (b) he is convicted in Scotland of an offence under that section,

and (in either case) he has such an estate or interest in the land in question as is mentioned in section 10(1) of this Act.]

[(1A) A restocking notice is a notice requiring the person on whom it is served—

- (a) to restock or stock with trees the land or such other land as may be agreed between the [appropriate forestry authority] 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 [which relates to land in Scotland] 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 [appropriate forestry authority] 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 . . . of adequate reserves of growing trees; and
- (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.]

NOTES

Amendment

Inserted by the Forestry Act 1986, s 1.

Section heading: words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 58(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): substituted by SI 2006/780, art 4(1), (2).

Date in force: 16 March 2006: see SI 2006/780, art 1(1).

Sub-s (1): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 58(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): in para (a) words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 58(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): in para (a) words “England or Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 58(1), (3).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1A): inserted by SI 2006/780, art 4(1), (3).

Date in force: 16 March 2006: see SI 2006/780, art 1(1).

Sub-s (1A): in para (a) words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 58(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): words “which relates to land in Scotland” in square brackets inserted by SI 2006/780, art 4(1), (4).

Date in force: 16 March 2006: see SI 2006/780, art 1(1).

Sub-s (3): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 58(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (3): in para (b) words omitted repealed by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (9).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

[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 [where the restocking notice relates to land in [England or Wales], and the Scottish Ministers where the restocking notice relates to land in Scotland] to refer the matter to a committee appointed in accordance with section 27 of this Act; and—

- (a) the Minister [or, as the case may be, the Scottish Ministers] shall, unless he is [or they are] 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 [or, as the case may be, the Scottish Ministers].

(2) The Minister [or, as the case may be, the Scottish Ministers] may, after considering the committee’s report, direct the [appropriate forestry authority] to withdraw the notice or to notify the objector that it shall have effect subject to such modification as the Minister [or, as the case may be, the Scottish Ministers] shall direct.]

NOTES

Amendment

Inserted by the Forestry Act 1986, s 1.

Sub-s (1): words from “where the restocking” to “land in Scotland” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (13)(a).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (1): words “England or Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 58(1), (3).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): in para (a) words “or, as the case may be, the Scottish Ministers” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (13)(b).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (1): in para (a) words “or they are” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (13)(c).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (1): in para (b) words “or, as the case may be, the Scottish Ministers” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (13)(b).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (2): words “or, as the case may be, the Scottish Ministers” in square brackets in both places they occur inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (13)(b).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (2): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 58(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Transfer of Functions

Functions of the Minister and the Ministers, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

[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 references in section 24(2A)(a)(i) and 26(3)] to the applicant for the licence shall be construed as a reference to the person on whom the restocking notice has been served.]

NOTES

Amendment

Inserted by the Forestry Act 1986, s 1.

In para (b) words “the references in section 24(2A)(a)(i) and 26(3)” in square brackets substituted by SI 2006/780, art 5(4).

Date in force: 16 March 2006: see SI 2006/780, art 1(1).

Power of [appropriate forestry authority] to direct felling

NOTES

Amendment

Cross-heading: words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 59.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

18 Felling directions

(1) Subject to the provisions of this Act (and in particular, to the duty of the [appropriate forestry authority] to take advice under section 37(3)), if it appears to the [appropriate forestry authority] that it is expedient in the interests of good forestry, or for purposes connected with their duty of promoting the establishment and maintenance . . . 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
- (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 [appropriate forestry authority] 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 [appropriate forestry authority] shall contain a statement of the grounds upon which they are given.

(4) A person who is given felling directions by the [appropriate forestry authority] 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 [appropriate forestry authority] after the date on which the order comes into force *shall, notwithstanding anything in the order, be sufficient authority for the felling* [shall be sufficient authority for the felling, notwithstanding anything in—

- (a) tree preservation regulations, in the case of trees in England or Wales;
- (b) the tree preservation order, in the case of trees in Scotland].

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-s (1): words “appropriate forestry authority” in square brackets in both places they occur substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 59.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): words omitted repealed by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (9).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (2): word “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 59.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (3): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 59.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (4): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 59.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (5): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 59.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (5): words “shall, notwithstanding anything in the order, be sufficient authority for the felling” in italics repealed and subsequent words in square brackets substituted by the Planning Act 2008, s 192(8), Sch 8, paras 1, 3.

Date in force (in relation to England): 6 April 2012: see SI 2012/601, art 2(a).
Date in force (in relation to Wales): to be appointed: see the Planning Act 2008, s 241(3), (4)(a), (c).

19 Restrictions on [appropriate forestry authority's] 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 [appropriate forestry authority] 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 [appropriate forestry authority] in the case of trees to which a tree preservation order relates and the [appropriate forestry authority] 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 [appropriate forestry authority] 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 [appropriate forestry authority] shall not give the directions except with the consent of the Minister [where the felling direction was given in respect of trees in [England or Wales], and the Scottish Ministers where the felling direction was given in respect of trees in Scotland], who shall consult with the said authority before deciding whether to grant or refuse his consent.
- (4) . . .

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Section heading: words “appropriate forestry authority’s” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 60(1), (4).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): in para (c) words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 60(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): words “appropriate forestry authority” in square brackets in both places they occur substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 60(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (3): words “appropriate forestry authority” in square brackets in both places they occur substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 60(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (3): words from “where the felling direction” to “trees in Scotland” in square brackets inserted

by SI 1999/1747, art 3, Sch 12, Pt II, para 4(14).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (3): words “England or Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 60(1), (3).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (4): repealed by SI 2002/794, art 5(2), Sch 2.

Date in force: 27 March 2002: see SI 2002/794, art 1(2).

Transfer of Functions

The functions of the Minister of Housing and Local Government were, in relation to Wales and Monmouthshire, transferred (subject to limited exceptions with regard to regulation making powers) to the Secretary of State by the Secretary of State for Wales and Minister of Land and Natural Resources Order 1965, SI 1965/319, art 2(1), Sch 1. Other functions of the Minister of Housing and Local Government were transferred (subject to certain limited exceptions not relevant to this Act) to the Secretary of State by the Secretary of State for the Environment Order 1970, SI 1970/1681, art 2(1).

Functions under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

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 [where the felling direction was given in respect of trees in [England or Wales], and the Scottish Ministers where the felling direction was given in respect of trees in Scotland] to refer the matter to a committee appointed in accordance with section 27 below and the Minister [or, as the case may be, the Scottish Ministers shall, unless he is or they are] 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 [appropriate forestry authority], and the [appropriate forestry authority] shall confirm, withdraw or modify the directions in accordance with the report.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-s (1): words from “where the felling” to “trees in Scotland” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (15)(a).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (1): words “England or Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 61(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): words “or, as the case may be, the Scottish Ministers shall, unless he is or they are” in square brackets substituted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (15)(b).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (2): words “appropriate forestry authority” in square brackets in both places they occur substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 61(1), (3).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Transfer of Functions

Functions of the Minister and the Ministers, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Subordinate Legislation

Forestry (Felling of Trees) Regulations 1979, SI 1979/791.

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 [where the felling direction was given in respect of trees in [England or Wales], and the Scottish Ministers where the felling direction was given in respect of trees in Scotland] in the prescribed manner and within the prescribed period—

- (a) if he has the right to sell the trees for immediate felling, require the [appropriate forestry authority] to buy the trees to which the directions relate; or
- (b) in any case, require the Minister [or, as the case may be, the Scottish Ministers] to acquire his interest in the land affected by the directions.

A notice under this section requiring the Minister [or, as the case may be, the Scottish Ministers] 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 [or, as the case may be, the Scottish Ministers] 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 the case may be, the Scottish Ministers] or as may, in default of agreement, be determined in accordance with section 31 of this Act.

(3) The Minister [or, as the case may be, the Scottish Ministers] 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 [or, as the case may be, the Scottish Ministers] 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 [or, as the case may be, the Scottish Ministers] may, within the prescribed period after receiving the report, either—

- (a) accept the notice; or
- (b) revoke the directions; or
- (c) modify the directions in accordance with the report,

according as he thinks [or they think] fit.

(6) If within the prescribed period after receiving a notice or the report of a committee under this section the Minister [or, as the case may be, the Scottish Ministers] 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[, or under tree preservation regulations,] in respect of a refusal of consent for the felling of the tree.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-s (2): words “where the felling direction was given in respect of trees in England and Wales, and the Scottish Ministers where the felling direction was given in respect of trees in Scotland” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (16)(a).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (2): words “England or Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 61(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): in para (a) words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 61(1), (3).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): words “or, as the case may be, the Scottish Ministers” in square brackets in each place they occur inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (16)(b).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (3): words “or, as the case may be, the Scottish Ministers” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (16)(b).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (4): words “or, as the case may be, the Scottish Ministers” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (16)(b).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (5): words “or, as the case may be, the Scottish Ministers” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (16)(b).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (5): words “or they think” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (16)(c).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (6): words “or, as the case may be, the Scottish Ministers” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (16)(b).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (7): words “, or under tree preservation regulations,” in square brackets inserted by the Planning Act 2008, s 192(8), Sch 8, paras 1, 4.

Date in force (in relation to England): 6 April 2012: see SI 2012/601, art 2(a).

Date in force (in relation to Wales): to be appointed: see the Planning Act 2008, s 241(3), (4)(a), (c).

Transfer of Functions

Functions of the Minister and the Ministers, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions)

Order 1999, SI 1999/672, art 2, Sch 1.

Subordinate Legislation

Forestry (Felling of Trees) Regulations 1979, SI 1979/791.

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 [or, as the case may be, the Scottish Ministers].
- (2) The felling directions in respect of which the notice was given shall cease to have effect.
- (3) If the notice requires the [appropriate forestry authority] to buy trees to which the directions relate, the [appropriate forestry authority] shall be deemed to have contracted with that person to buy 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 [appropriate forestry authority] 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 [or, as the case may be, the Scottish Ministers] to acquire the person's interest in the land affected by the directions,—
 - (a) the Minister [or, as the case may be, the Scottish Ministers] 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 Land Compensation Act 1961 or section 39(1) of the 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-s (1): words "or, as the case may be, the Scottish Ministers" in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (17).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (3): words "appropriate forestry authority" in square brackets in each place they occur substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 62.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (4): words "or, as the case may be, the Scottish Ministers" in square brackets in both places they occur inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (17).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Transfer of Functions

Functions of the Minister and the Ministers, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

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 [appropriate legislative

authority] 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;
- (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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-s (1): words “appropriate legislative authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 63.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Subordinate Legislation

Forestry (Felling of Trees) Regulations 1979, SI 1979/791.

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 [appropriate forestry authority] are not complied with.

(2) The [appropriate forestry authority] 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 person specified in subsection (2A)]; and
- (b) in the case of non-compliance with felling directions, the owner of the trees.

[(2A) The person referred to in subsection (2)(a) is—

- (a) where the licence relates to land in [England or Wales]—
 - (i) the applicant for the licence, if on the date the notice is served he has such estate or interest in the land as is referred to in section 10(1) of this Act; or
 - (ii) in any other case, the owner of the land;

(b) where the licence relates to land in Scotland, the owner of the land.]

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

(4) Without prejudice to the powers of the [appropriate forestry authority] 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 [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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-s (1): in para (b) words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 64(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 64(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): in para (a) words “the person specified in subsection (2A)” in square brackets substituted by SI 2006/780, art 5(1), (2).

Date in force: 16 March 2006: see SI 2006/780, art 1(1).

Sub-s (2A): inserted by SI 2006/780, art 5(1), (3).

Date in force: 16 March 2006: see SI 2006/780, art 1(1).

Sub-s (2A): in para (a) words “England or Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 64(1), (3).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (3): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 64(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (4): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 64(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (4): maximum fine increased and converted to a level on the standard scale by the Criminal Justice Act 1982, ss 37, 39(2), 46, Sch 3.

Subordinate Legislation

Forestry (Felling of Trees) Regulations 1979, SI 1979/791.

Forestry (Felling of Trees) (Amendment) Regulations 1987, SI 1987/632 (made under sub-s (2)).

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 [where the notice is given in respect of land or trees in [England or Wales], and the Scottish Ministers where the notice is given in respect of land or trees in Scotland] in the prescribed manner and within the prescribed period after the receipt of the notice under section 24, request the Minister [or, as the case may be, the Scottish Ministers] 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 [or the Scottish Ministers] 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 [or, as the case may be, the Scottish Ministers] 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 [or, as the case may be, the Scottish Ministers and he or they] shall, after considering the report, confirm or cancel the notice to which the reference relates.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-s (1): words “where the notice is given in respect of land or trees in England and Wales, and the Scottish Ministers where the notice is given in respect of land or trees in Scotland” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (18)(a).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (1): words “England or Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 65.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): words “or, as the case may be, the Scottish Ministers” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (18)(b).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (2): words “or the Scottish Ministers” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (19).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (3): words “or, as the case may be, the Scottish Ministers” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (20).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (4): words “or, as the case may be, the Scottish Ministers and he or they” in square brackets substituted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (21).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Transfer of Functions

Functions of the Minister and the Ministers, so far as exercisable in relation to Wales, transferred to

the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Subordinate Legislation

Forestry (Felling of Trees) Regulations 1979, SI 1979/791.

Forestry (Felling of Trees) (Amendment) Regulations 1987, SI 1987/632 (made under sub-s (1)).

26 Expenses etc in connection with notices under s 24

- (1) If the [appropriate forestry authority], 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 [appropriate forestry authority] 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 [appropriate forestry authority] 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 [appropriate forestry authority] under this section may be recovered as a simple contract debt.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-s (1): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 66.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 66.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (3): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 66.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (4): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 66.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Subordinate Legislation

Forestry (Felling of Trees) Regulations 1979, SI 1979/791.

Supplementary

27 Committee of reference for purposes of ss 16, [17B,] 20, 21, 25

(1) References in sections 16, [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 [in relation to cases where the trees are, or the land is, in [England or 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 [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:

[But this is subject to subsections (1A) and (1B)].

[(1A) The members of a committee appointed in relation to a case concerning trees or land in England or Scotland shall not include any Forestry Commissioner or employee of the Commissioners.

(1B) The members of a committee appointed in relation to a case concerning trees or land in Wales shall not include any member or employee of the Natural Resources Body for Wales.]

(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 [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;
- (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 [appropriate forestry authority] as to the performance within the conservancy in which the trees are growing of their duty of promoting the establishment and maintenance . . . 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 [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 [as regards England . . .], determine.

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

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Section heading: reference to "17B," inserted by the Forestry Act 1986, s 1.

Sub-s (1): reference to "17B," inserted by the Forestry Act 1986, s 1.

Sub-s (1): in para (a) words from "in relation to" to "is, in Scotland" in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (22)(a).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (1): in para (a) words "England or Wales" in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 67(1), (2)(a).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): in para (b) words "or, as the case may be, the Scottish Ministers" in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (22)(b).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (1): words "But this is subject to subsections (1A) and (1B)" in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 67(1), (2)(b).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-ss (1A), (1B): inserted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 67(1), (3).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): in para (b) words "or, as the case may be, the Scottish Ministers" in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (22)(b).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (3): in para (c) words "appropriate forestry authority" in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 67(1), (4).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (3): in para (c) words omitted repealed by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (9).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (3): words "or, as the case may be, the Scottish Ministers" in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (22)(b).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (4): words in square brackets beginning with the words "as regards England" inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (22)(c).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (4): words omitted repealed by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 67(1), (5).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (4A): inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (22)(d).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Transfer of Functions

Functions of the Minister and the Treasury, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions)

Order 1999, SI 1999/672, art 2, Sch 1.

28 Identification of trees

A person authorised by the [appropriate forestry authority] may take such steps, whether by marking or otherwise, as the [appropriate forestry authority] 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Words “appropriate forestry authority” in square brackets in both places they occur substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 68.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

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 or;
- (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 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

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 section 26 of the Interpretation Act 1889, 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 purpose 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 [appropriate forestry authority] 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 [level 1 on the standard scale].

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-s (5): words "appropriate forestry authority" in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 69.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (5): maximum fine increased and converted to a level on the standard scale by the Criminal Justice Act 1982, ss 37, 38, 46.

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 [Upper 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 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 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-s (1): in para (a) words "Upper Tribunal" in square brackets substituted by SI 2009/1307, art 5(1), (2), Sch 1, paras 75, 77.

Date in force: 1 June 2009: see SI 2009/1307, art 1; for transitional and savings provisions see art 5(6), Sch 5 thereto.

32 Regulations

(1) [The appropriate legislative authority may . . .] 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) Regulations made under this Part of this Act [by the Commissioners] may make provision as regards England . . ., or as regards Scotland [(but not both)].

(4) A statutory instrument containing regulations made under this Part of this Act making provision only as regards England . . .—

- (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.

[(5A) A statutory instrument containing regulations under this Part making provision only as regards Wales—

- (a) in the case of regulations under section 9(5)(b) or (c), must not be made unless a draft of the instrument has been laid before, and approved by resolution of, the National Assembly for Wales;
- (b) in a case not falling within paragraph (a), is subject to annulment in pursuance of a resolution of the National Assembly for Wales.]

(6) The Statutory Instruments Act 1946 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.]

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-s (1): words in square brackets beginning with the words “The appropriate legislative” substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 70(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): words omitted repealed by SI 2015/475, art 3, Schedule, Pt 1.

Date in force: 2 March 2015: see SI 2015/475, art 1(2).

Sub-ss (3)–(6): substituted, for sub-s (3) as originally enacted, by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (23).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (3): words “by the Commissioners” in square brackets inserted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 70(1), (3)(a).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (3): words omitted repealed by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 70(1), (3)(b).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (3): words “(but not both)” in square brackets inserted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 70(1), (3)(c).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (4): words omitted repealed by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 70(1), (4).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (5A): inserted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 70(1), (5).

Date in force: 1 April 2013: see SI 2013/755, art 1(2).

Subordinate Legislation

Forestry (Felling of Trees) Regulations 1979, SI 1979/791.

Forestry (Exceptions from Restriction of Felling) Regulations 1979, SI 1979/792.

Forestry (Modification of Felling Restrictions) Regulations 1985, SI 1985/1958 (made under sub-s (1)).

Forestry (Felling of Trees) (Amendment) Regulations 1987, SI 1987/632 (made under sub-ss (1), (2)).

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 [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;
 - (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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-s (4): words “and the Scottish Ministers” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (24).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Transfer of Functions

Functions of the Minister and the Ministers, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

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 the land other than the person who would be so treated apart from the agreement; or
 - (b) on an application in that behalf to the [appropriate tribunal] 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.

[(2A) For the purposes of subsection (2), “appropriate tribunal” means—

- (a) where the land (or the greater part of the land) is in England, the First-tier Tribunal; and

- (b) where the land (or the greater part of the land) is in Wales, the Agricultural Land Tribunal established under Part V of the Agriculture Act 1947.]

(3) In relation to land in Scotland, “owner” means the person who for the time being 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 [Scottish Ministers] to be concerned agree, with the approval of the [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 [the Scottish Ministers withdraw their] 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 felling.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-s (2): in para (b) words “appropriate tribunal” in square brackets substituted by SI 2013/1036, art 6(1), Sch 1, Pt 2, para 199(a).

Date in force: 1 July 2013: see SI 2013/1036, art 1; for transitional provisions see art 6(3), Sch 3, paras 1–8 thereto.

Sub-s (2A): inserted by SI 2013/1036, art 6(1), Sch 1, Pt 2, para 199(b).

Date in force: 1 July 2013: see SI 2013/1036, art 1; for transitional provisions see art 6(3), Sch 3, paras 1–8 thereto.

Sub-s (3): words omitted repealed by the Abolition of Feudal Tenure etc (Scotland) Act 2000, s 76(1), (2), Sch 12, Pt 1, para 27(1), (3), Sch 13, Pt I.

Date in force: this repeal came into force on 28 November 2004 (being the day appointed under the Abolition of Feudal Tenure etc (Scotland) Act 2000, s 71): see SSI 2003/456, art 2 and the Abolition of Feudal Tenure etc (Scotland) Act 2000, ss 71, 77(2).

Sub-s (3): words “Scottish Ministers” and “the Scottish Ministers withdraw their” in square brackets substituted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (26).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Transfer of Functions

Functions of the Minister and the Ministers, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 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 [appropriate forestry authority] 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 [appropriate forestry authority] 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 [appropriate legislative authority] under this Part of this Act; and

[“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 [section 198 of the Town and Country Planning Act 1990] or [section 160 of the Town and Country Planning (Scotland) Act 1997];

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

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

In definition “conservancy” words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 71(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

In definition “felling directions” words “Commissioners” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 71(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

In definition “prescribed” words “appropriate legislative authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 71(1), (3).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Definition “restocking notice” inserted by the Forestry Act 1986, s 1.

In definition “tree preservation order” words “section 198 of the Town and Country Planning Act 1990” in square brackets substituted by the Planning (Consequential Provisions) Act 1990, s 4, Sch 2, para 14(2).

In definition “tree preservation order” words “section 160 of the Town and Country Planning (Scotland) Act 1997” in square brackets substituted by the Planning (Consequential Provisions) (Scotland) Act 1997, s 4, Sch 2, para 13(2).

Definition “tree preservation regulations” inserted by the Planning Act 2008, s 192(8), Sch 8, paras 1, 5.

Date in force (in relation to England): 6 April 2012: see SI 2012/601, art 2(a).

Date in force (in relation to Wales): to be appointed: see the Planning Act 2008, s 241(3), (4)(a), (c).

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 London Government Act 1963.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Part III Administration and Finance

Advisory Bodies

[37 Advisory committees]

[(1) For the purposes of advising the appropriate forestry authority as to the performance of their functions under section 1(3) and Part II of this Act, and such other functions as the appropriate forestry authority may from time to time determine—

- (a) . . .
- (b) the appropriate forestry authority shall continue to maintain a regional advisory committee for each conservancy (within the meaning of Part II of this Act) in Great Britain.]

[(2) . . .]

(3) The [appropriate forestry authority] 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Section heading: substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 72(1), (3).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 72(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): para (a) repealed by SI 2015/475, art 3, Schedule, Pt 1.

Date in force: 2 March 2015: see SI 2015/475, art 1(2).

Sub-s (2): substituted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (25).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (2): repealed by SI 2015/475, art 3, Schedule, Pt 1.

Date in force: 2 March 2015: see SI 2015/475, art 1(2).

Sub-s (3): words “appropriate forestry authority” in square brackets substituted by virtue of SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 72(1), (3).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

38 Composition etc of advisory committees

[(1) . . .

(1A) The chairman and other members of each regional advisory committee shall be appointed by the appropriate forestry authority.

(1B) A chairman or member appointed under subsection . . . (1A) shall hold and vacate office in accordance with the terms of the instrument by which they are appointed.]

(2) . . .

(3) Each regional advisory committee shall consist of not less than seven nor more than [twelve] members, and of those members (other than the chairman) not less than four shall be persons appointed by the [appropriate forestry authority] 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 appropriate forestry authority may pay to the members of a regional advisory committee,] such allowances as they may with the consent of the Treasury determine.

[(5) Subsection (4) above shall have effect in relation to a regional advisory committee for a conservancy wholly in Scotland as if the reference to the consent of the Treasury were a reference to the consent of the Scottish Ministers.]

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-ss (1), (1A), (1B): substituted, for sub-s (1) as originally enacted, by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 73(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): repealed by SI 2015/475, art 3, Schedule, Pt 1.

Date in force: 2 March 2015: see SI 2015/475, art 1(2).

Sub-s (1B): words omitted repealed by SI 2015/475, art 3, Schedule, Pt 1.

Date in force: 2 March 2015: see SI 2015/475, art 1(2).

Sub-s (2): repealed by SI 2015/475, art 3, Schedule, Pt 1.

Date in force: 2 March 2015: see SI 2015/475, art 1(2).

Sub-s (3): word "twelve" in square brackets substituted by the Forestry Act 1991, s 1.

Sub-s (3): words "appropriate forestry authority" in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 73(1), (3).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (4): words omitted repealed by SI 2015/475, art 3, Schedule, Pt 1.

Date in force: 2 March 2015: see SI 2015/475, art 1(2).

Sub-s (4): words in square brackets ending with the words "regional advisory committee," substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 73(1), (4).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (5): inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (27).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Transfer of Functions

Functions of the Treasury, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

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 [as regards [England or Wales], and the Scottish Ministers as regards Scotland] may acquire (by purchase, lease or exchange) land which in his [or their] 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 [or them] under this section at the disposal of the [appropriate forestry authority].

[(2) Subject to subsection (2A) below, the Minister [and the Scottish Ministers] may dispose for any purpose of land acquired by him [or them] 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 [and the Scottish Ministers] shall have power, in the case of land acquired by him [or them] under this section,—

- (a) to manage and use the land for such purposes as he thinks [or they think] 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 [appropriate forestry authority] under subsection (1) above; and
- (b) to let the land, or grant any interest or right in or over it.

(4), (5) . . .

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

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-s (1): words from “as regards England” to “as regards Scotland” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (28)(a).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (1): words “England or Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 74(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): words “or their” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (28)(b).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (1): words “or them” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (28)(c).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (1): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 74(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-ss (2), (2A): substituted, for sub-s (2) as originally enacted, by the Forestry Act 1981, s 1.

Sub-s (2): words “and the Scottish Ministers” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (29)(a).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (2): words “or them” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (29)(b).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (3): words “and the Scottish Ministers” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (30)(a).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (3): words “or them” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (30)(b).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (3): in para (a) words “or they think” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (30)(c).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (3): in para (a) words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 74(1), (3).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (4): repealed by the Forestry Act 1981, s 6, Schedule.

Sub-s (5): repealed by the Requirements of Writing (Scotland) Act 1995, s 14(2), Sch 5.

Sub-s (6): words “or the Scottish Ministers acquire” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (31).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Transfer of Functions

Functions of the Minister and the Ministers, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

40 Compulsory purchase of land

- (1) Subject to the provisions of this section, the power of the Minister [and the Scottish Ministers] 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, . . . county district or rural parish, [the Greater London Council] the Common Council of the City of London or the council of a London borough; and

(ii) in Scotland, a [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, . . . or other public undertaking;
- [(e) land held or used by a universal service provider (within the meaning of [Part 3 of the Postal Services Act 2011]) for any purpose in connection with the provision of a universal postal service (within the meaning of [that Part])].

(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 [appropriate forestry authority]; 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 or Wales], by an arbitrator appointed 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 [appropriate forestry authority] requiring it to be remedied .

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

(5) The Minister's [and the Scottish Ministers'] 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
- (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 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-s (1): words “and the Scottish Ministers” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (32)(a).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (2): in para (c)(i) words omitted repealed by SI 1974/595, art 3, Sch 1, Pt I.

Sub-s (2): in para (c)(i) words “the Greater London Council” in square brackets inserted by SI 1970/211, art 3.

Sub-s (2): in para (c)(ii) words “council constituted under section 2 of the Local Government etc (Scotland) Act 1994” in square brackets substituted by the Local Government etc (Scotland) Act 1994, s 180(1), Sch 13, para 69.

Sub-s (2): in para (d) words omitted repealed by the Gas Act 1986, s 67(4), Sch 9, Pt II, the Electricity Act 1989, s 112(4), Sch 18 and the Water Act 1989, s 190, Sch 27, Pt I.

Sub-s (2): para (e) inserted by SI 2001/1149, art 3(1), Sch 1, para 23.

Date in force: 26 March 2001: see SI 2001/1149, art 1(2).

Sub-s (2): in para (e) words “Part 3 of the Postal Services Act 2011” in square brackets substituted by the Postal Services Act 2011, s 91(1), (2), Sch 12, Pt 3, para 86(a).

Date in force: 1 October 2011: see SI 2011/2329, art 3(1).

Sub-s (2): in para (e) words “that Part” in square brackets substituted by the Postal Services Act 2011, s 91(1), (2), Sch 12, Pt 3, para 86(b).

Date in force: 1 October 2011: see SI 2011/2329, art 3(1).

Sub-s (3): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 75(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (3): in para (a)(i) words “England or Wales” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 75(1), (3).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (3): in para (b) words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 75(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (4): substituted by the Forestry Act 1981, s 2.

Sub-s (5): words “and the Scottish Ministers” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (32)(b).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

See Further

See further, in relation to statutory undertakers: the Electricity Act 1989, s 112(1), Sch 16, para 1(1) and the Gas Act 1995, s 16(1), Sch 4, para 2(1)(xiii).

Transfer of Functions

Functions of the Minister and the Ministers, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Finance, accounts and annual report

41 Forestry Fund

[(1) The Forestry Fund constituted under section 8 of the Forestry Act 1919 shall be wound up and any balance in the Forestry Fund shall be paid to the Forestry Commissioners.

[(2) This subsection applies to the following expenses—

- (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 (including the cost of any grant or loan made by them) in the exercise of their functions under or by virtue of—
 - (i) this Act (including the payment of allowances to the members of any committee maintained by them under this Act), or
 - (ii) any other enactment;
- (c) any superannuation benefits paid under paragraph 9 of Schedule 1 to this Act or under a scheme made by virtue of paragraph 10 of that Schedule;
- (d) any administrative expenses of the [Secretary of State] under Part II of this Act (including sums required for the payment of remuneration to the members of any committee appointed by him under section 27);
- (e) all capital payments made by the [Secretary of State] in acquiring land under section 39 above and any expenses incurred by him in managing such land and any rent or other outgoings payable in respect of such land,

but this subsection does not apply to any expenses to which subsection (4) below applies.

(3) The expenses to which subsection (2) above applies shall be payable out of money provided by Parliament, except in so far as they are met out of money held by the Commissioners in accordance with subsection (6) or (7) below.

(3A) Where, by virtue of subsection (3) above, any expenses incurred by the [Secretary of State] falling within subsection (2) above are to be met out of money held by the Commissioners, they shall make payments to him for that purpose.]

(4) There shall be payable out of the Scottish Consolidated Fund—

- (a) all expenditure of a description specified in paragraph (a) or (b)(i) of subsection (2) above incurred by the Commissioners as regards Scotland; . . .
- (b) all expenditure incurred by the Commissioners in the exercise of their functions under the Countryside (Scotland) Act 1967;
- [(c) all grants and loans made by the Commissioners under section 1 of the Forestry Act 1979 in relation to land in Scotland; and
- (d) all expenditure incurred by the Commissioners in the exercise of their functions under the Environmental Impact Assessment (Forestry) (Scotland) Regulations 1999].

(4A) . . .]

(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) . . .

(7) . . .

[(6) Subject to subsections (8) and (10) below, all sums received by the Commissioners in respect of—

- (a) the sale of timber or any other transactions carried out by them in the exercise of their functions under this Act, or
- (b) any other exercise of their functions under or by virtue of this Act or any other enactment,

shall be held by the Commissioners for the purpose of meeting the expenses to which subsection (2) above applies.

(7) Subject to subsection (8) below, the following sums received by the [Secretary of State] shall be paid by him to the Commissioners and held by them for the purpose of meeting the expenses to which subsection (2) above applies—

- (a) any capital sum received from the sale, lease or exchange of land [in England] acquired by him under section 39 above and all sums received by him from the letting or use of such land, and
- (b) all sums received under sections 16 to 18 of the New Forest Act 1949.

(8) The [Secretary of State] may, with the approval of the Treasury, direct—

- (a) that sums received by the Commissioners falling within subsection (6) above, or by the [Secretary of State] falling within subsection (7) above, or both, which are specified or of a description specified in the direction, or
- (b) that all sums received by the Commissioners falling within subsection (6) above, or by the [Secretary of State] falling within subsection (7) above, or both, as specified in the direction,

shall not be subject to subsection (6) or, as the case may be, (7) but shall instead be paid into the Consolidated Fund.

(9) The power to give a direction under subsection (8) above includes power to vary or revoke a previous direction under that power.

(10) Subject to any provision made by or under an Act of the Scottish Parliament for the disposal of or accounting for sums received, there shall be paid into the Scottish Consolidated Fund—

- (a) all sums received by the Commissioners of a description specified in subsection (6)(a) above as regards Scotland;
- (b) all sums received by the Commissioners in the exercise of their functions under the Countryside (Scotland) Act 1967.

(11) Any question as to whether, for the purposes of this section—

- (a) any expenditure incurred by the Commissioners is incurred, or to be treated as incurred, as regards Scotland, or
- (b) any sum received by them is received, or to be treated as received, in respect of the exercise

of their functions as regards Scotland,

may be determined by agreement between the [Secretary of State] (acting with the agreement of the Treasury) and the Scottish Ministers.]

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-ss (1)–(4A): substituted, for sub-ss (1)–(4) (as originally enacted) and sub-s (4A) (as inserted by the Forestry Act 1981, s 3), by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (33)(a).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-ss (2), (3), (3A): further substituted, for existing sub-ss (2), (3), by SI 2000/746, art 2, Schedule, para 5(1), (2).

Date in force: 16 March 2000: see SI 2000/746, art 1.

Sub-s (2): in paras (d), (e) words “Secretary of State” in square brackets substituted by SI 2013/1821, art 13(2)(a).

Date in force: this amendment has retrospective effect as from 1 April 2013: see SI 2013/1821, art 1(3).

Sub-s (3A): words “Secretary of State” in square brackets substituted by SI 2013/1821, art 13(2)(a).

Date in force: this amendment has retrospective effect as from 1 April 2013: see SI 2013/1821, art 1(3).

Sub-s (4): in para (a) word omitted repealed by SI 2000/746, art 2, Schedule, para 5(1), (3).

Date in force: 16 March 2000: see SI 2000/746, art 1.

Sub-s (4): paras (c), (d) inserted by SI 2000/746, art 2, Schedule, para 5(1), (3).

Date in force: 16 March 2000: see SI 2000/746, art 1.

Sub-s (4A): repealed by SI 2000/746, art 2, Schedule, para 5(1), (4).

Date in force: 16 March 2000: see SI 2000/746, art 1.

Original sub-s (6): repealed by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (33)(b).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Original sub-s (7): repealed by the Forestry Act 1981, s 6(2), Schedule.

Sub-ss (6)–(11): inserted by SI 2000/746, art 2, Schedule, para 5(1), (5).

Date in force: 16 March 2000: see SI 2000/746, art 1.

Sub-s (7): words “Secretary of State” in square brackets substituted by SI 2013/1821, art 13(2)(a).

Date in force: this amendment has retrospective effect as from 1 April 2013: see SI 2013/1821, art 1(3).

Sub-s (7): in para (a) words “in England” in square brackets inserted by SI 2013/1821, art 13(2)(b).

Date in force: this amendment has retrospective effect as from 1 April 2013: see SI 2013/1821, art 1(3).

Sub-s (8): words “Secretary of State” in square brackets in each place they occur substituted by SI 2013/1821, art 13(2)(a).

Date in force: this amendment has retrospective effect as from 1 April 2013: see SI 2013/1821, art 1(3).

Sub-s (11): words “Secretary of State” in square brackets substituted by SI 2013/1821, art 13(2)(a).

Date in force: this amendment has retrospective effect as from 1 April 2013: see SI 2013/1821, art 1(3).

Transfer of Functions

Functions of the Minister and the Ministers, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions)

Order 1999, SI 1999/672, art 2, Sch 1.

42 . . .

...

NOTES

Amendment

Repealed by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (34).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

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 Forestry (Transfer of Woods) Act 1923 to an amount exceeding [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) [If section 1 of the Sovereign Grant Act 2011 ceases to have effect], there shall be paid out of [the Consolidated 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 Crown Estate Act 1961.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-s (1): words in square brackets substituted by the Forestry Act 1979, s 2, Sch 1.

Sub-s (2): words from “If section 1” to “to have effect” in italics repealed and subsequent words in square brackets substituted by the Sovereign Grant Act 2011, s 14, Sch 1, para 18(a).

Date in force: 1 April 2012: see the Sovereign Grant Act 2011, s 15(1).

Sub-s (2): words “the Consolidated Fund” in square brackets substituted by the Sovereign Grant Act 2011, s 14, Sch 1, para 18(b).

Date in force: 1 April 2012: see the Sovereign Grant Act 2011, s 15(1).

Transfer of Functions

Functions of the Minister and the Ministers, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

44 ...

...

NOTES

Amendment

Repealed by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (35).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

[45]

(1) The Commissioners shall, on such day and in such form as the Scottish Ministers may direct, submit to the Scottish Ministers an annual report and accounts as to their proceedings under this Act as regards Scotland and the Scottish Ministers shall lay the report and accounts before the Scottish Parliament.

(2) The annual report and accounts referred to in subsection (1) above shall be audited by the Auditor General for Scotland or by persons appointed by him.

(3) The Commissioners shall, on such day and in such form as the Ministers may direct, submit to the Ministers an annual report . . . as to their proceedings under this Act other than such proceedings as regards Scotland and the Ministers shall lay the report . . . before Parliament.

(4) Section 88(3) of the Scotland Act 1998 shall not apply in relation to the Commissioners.]

NOTES

Amendment

Substituted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (36).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (3): words omitted repealed by SI 2000/746, art 2, Schedule, para 5(1), (6).

Date in force: 16 March 2000: see SI 2000/746, art 1.

Part IV General

46 [Appropriate legislative authority's] power to make byelaws

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

(2) The [appropriate legislative authority's] 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 [appropriate forestry authority]; 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;
- (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 Commons Act 1899.

(4) Byelaws under this section shall be made by statutory instrument and a draft of statutory instrument containing any such byelaws [with respect to land in England . . .] shall be laid before Parliament.

[(4A) A draft of any statutory instrument containing byelaws made under this section with respect to land in Scotland shall be laid before the Scottish Parliament.

(4B) The Statutory Instruments Act 1946 shall apply to any statutory instrument containing byelaws made under this section with respect to land in Scotland as it applies to any statutory instrument made by the Scottish Ministers.]

[(4C) A draft of any statutory instrument containing byelaws under this section with respect to land in Wales must be laid before the National Assembly for Wales.]

(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 [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 [level 2 on the standard scale]; and
- (c) in [the case of a continuing offence falling within either of the foregoing paragraphs] he shall be liable to a further fine not exceeding [50p] for each day upon which the offence continues.

(6) . . .

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Section heading: words “Appropriate legislative authority’s” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 76(1), (6).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): words “appropriate legislative authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 76(1), (2)(a).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): word “the” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 76(1), (2)(b).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): words “of the appropriate forestry authority” in square brackets inserted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 76(1), (2)(c).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): words “appropriate legislative authority’s” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 76(1), (3)(a).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): in para (a) words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 76(1), (3)(a).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (4): words in square brackets beginning with words “with respect to” inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (37)(a).

- Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.
- Sub-s (4): words omitted repealed by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 76(1), (4).
Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.
- Sub-ss (4A), (4B): inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (37)(b).
Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.
- Sub-s (4C): inserted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 76(1), (5).
Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.
- Sub-s (5): maximum fines in paras (a), (b) increased by the Criminal Justice Act 1967, s 92(1), Sch 3, Part I, and converted to levels on the standard scale by the Criminal Justice Act 1982, ss 37, 39(2), 46, Sch 3; in para (c) first words in square brackets substituted by the Criminal Justice Act 1967, s 103, Sch 6, para 28, reference to "50p" substituted by virtue of the Decimal Currency Act 1969, s 10(1).
- Sub-s (6): repealed by the Criminal Justice Act 1972, s 64, Sch 6.

Subordinate Legislation

UK

Forestry Commission Byelaws 1982, SI 1982/648 (made under sub-s (1)).

Scotland

Forestry Commission Byelaws 1982 Revocation (Scotland) Byelaws 2007, SSI 2007/66 (made under sub-s (1)).

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.
- (2) Section 1(3) of the 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 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.
- (4) As respects their jurisdiction under this section, the verderers' courts shall be deemed to be magistrates' courts, and the provisions of the Magistrates' Courts Acts 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

48 Powers of entry and enforcement

- (1) An officer of the [appropriate enforcement authority] or any other person authorised by [the

appropriate enforcement authority] 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 [appropriate enforcement authority] under this Act or the Plant Health Act 1967.

[(1A) In subsection (1) “the appropriate enforcement authority” means—

- (a) in relation to powers and duties of the Commissioners, the Commissioners;
- (b) in relation to powers and duties of the Welsh Ministers, the Welsh Ministers;
- (c) in relation to powers and duties of the Natural Resources Body for Wales, the Natural Resources Body for Wales.]

(2) The [appropriate forestry authority] 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 reasonably suspects of committing, an offence against the said section or against the Vagrancy Act 1824.

(3) Anyone who obstructs an officer or servant appointed or employed by the [appropriate forestry authority] 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 [level 3 on the standard scale].

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-s (1): words “appropriate enforcement authority” in square brackets in both places they occur substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 77(1), (2)(a).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): words “the appropriate enforcement authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 77(1), (2)(b).

Date in force: 1 April 2013: see SI 2013/755, art 1(2).

Sub-s (1A): inserted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 77(1), (3).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (2): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 77(1), (4).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (3): words “appropriate forestry authority” in square brackets substituted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 77(1), (4).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (3): maximum fine increased and converted to a level on the standard scale by the Criminal Justice Act 1982, ss 37, 39(2), 46, Sch 3.

49 Interpretation

(1) In this Act—

["the appropriate forestry authority" has the meaning given by section 1(1A);]

["the appropriate legislative authority" means—

- (a) the Commissioners, in relation to England and Scotland;
- (b) the Welsh Ministers, in relation to Wales;]

"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" means, except as provided by . . . [Schedule 1], the [Secretary of State] as respects England and the Secretary of State as respects Wales;]

"National Trust" means the National Trust for Places of Historic Interest or Natural Beauty incorporated by the 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 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 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) . . .

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Sub-s (1): definition "the appropriate forestry authority" inserted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 78.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): definition "the appropriate legislative authority" inserted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 78.

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Sub-s (1): definition "the Minister" substituted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (38).
Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Sub-s (1): in definition "the Minister" words omitted repealed by SI 2002/794, art 5(2), Sch 2.
Date in force: 27 March 2002: see SI 2002/794, art 1(2).

Sub-s (1): in definition "the Minister" words "Schedule 1" and "Secretary of State" in square brackets substituted by SI 2002/794, art 5(1), Sch 1, para 13.

Date in force: 27 March 2002: see SI 2002/794, art 1(2).

Sub-s (3): repealed by the Abolition of Feudal Tenure etc (Scotland) Act 2000, s 76(1), (2), Sch 12, Pt 1, para 27(1), (4), Sch 13, Pt I.

Date in force: this repeal came into force on 28 November 2004 (being the day appointed under the Abolition of Feudal Tenure etc (Scotland) Act 2000, s 71): see SSI 2003/456, art 2 and the Abolition of Feudal Tenure etc (Scotland) Act 2000, ss 71, 77(2).

Transfer of Functions

Functions of the Minister and the Ministers, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

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.
- (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 Interpretation Act 1889 with regard to the effect of repeals.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

SCHEDULE 1 THE FORESTRY COMMISSION AND ITS STAFF

Section 2

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.

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 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 Documentary Evidence Act 1868, as amended by the 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.

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.

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 . . . to the members of any committee appointed [for England . . .] 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.
- [(3) There shall be payable out of the Scottish Consolidated Fund to the members of any committee appointed for Scotland under section 2(3) who are not Commissioners or officers of the Commissioners such travelling and other allowances as the Scottish Ministers may 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.

[8A

In this Part of this Schedule, “the Ministers” means the Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales.]

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Para 7: in sub-para (2) words omitted repealed by SI 2000/746, art 2, Schedule, para 5(1), (7)(a).
Date in force: 16 March 2000: see SI 2000/746, art 1.

Para 7: in sub-para (2) words in square brackets beginning with the words “for England” inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (39)(b).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Para 7: in sub-para (2) final words omitted repealed by SI 2013/1821, art 12(1), (3).

Date in force: this repeal has retrospective effect as from 1 April 2013: see SI 2013/1821, art 1(3).

Para 7: sub-para (3) inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (39)(c).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Para 8A: inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (30)(d).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Transfer of Functions

Functions of the Treasury under paras 2, 6 above transferred to the Minister for the Civil Service, by the Transfer of Functions (Treasury and Minister for the Civil Service) Order 1995, SI 1995/269, arts 2(2), 3, Schedule.

Functions of the Minister and the Ministers, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Functions of the Secretary of State referred to in para 6(1) above, so far as exercisable in relation to Wales, shall be exercisable only after consultation with the National Assembly for Wales: see the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 5, Sch 2.

Part II

Superannuation of Forestry Commissioners and Commission Staff

9

(1) This paragraph applies to Forestry Commissioners and to such [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 [principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and for the time being in force, and the relevant provisions of that Scheme . . .] 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) . . .

(4) In this Part of this Schedule—

...

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

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 subparagraph 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) ...

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

11

...

12

Where on the death of a person to whom paragraph 9 above applies any sum not exceeding [£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.

[This paragraph shall be included among the provisions with respect to which the Treasury may make an order under section 6(1) of the Administration of Estates (Small Payments) Act 1965 substituting for references to £500 such higher amount as may be specified in the order.]

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.

[13A

In this Part of this Schedule, “the Ministers” means the Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales.]

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Para 9: in sub-para (1) words "classes of officers employed by the Commissioners as may be" in square brackets substituted by the Superannuation Act 1972, s 29, Sch 6.

Para 9: in sub-para (2) words omitted repealed by the Finance Act 1972, s 134, Sch 28.

Para 9: sub-para (3) repealed by SI 2000/746, art 2, Schedule, para 5(1), (7).

Date in force: 16 March 2000: see SI 2000/746, art 1.

Para 9: in sub-para (4) definition omitted repealed by the Superannuation Act 1972, s 29, Sch 6.

Para 10: sub-para (2) repealed by SI 2000/746, art 2, Schedule, para 5(1), (7)(b).

Date in force: 16 March 2000: see SI 2000/746, art 1.

Para 10: sub-para (3) substituted by the Superannuation Act 1972, s 29, Sch 6.

Para 11: repealed by the Superannuation Act 1972, s 29, Sch 8.

Para 12: sum in square brackets substituted, in relation to deaths occurring after 11 May 1984, by SI 1984/539; final words in square brackets inserted by the Superannuation Act 1972, s 29, Sch 6.

Para 13A: inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (39)(e).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Transfer of Functions

Functions of the Treasury under paras 9, 10 and the first sub-para of para 12 above transferred to the Minister for the Civil Service, by the Transfer of Functions (Treasury and Minister for the Civil Service) Order 1995, SI 1995/269, art 3, Schedule.

Functions of the Minister and the Ministers, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

SCHEDULE 2

CONVEYANCING AND OTHER PROVISIONS CONNECTED WITH FORESTRY DEDICATION

Section 5

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 Settled Land Act 1925 shall apply as if the power conferred by sub-paragraph (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.

(4) ...

2

A university or college to which the 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.

3

[In the case of diocesan glebe land the Diocesan Board of Finance in which the land is vested and, in the case of land which is part of the endowment of any other ecclesiastical corporation, the corporation, with the consent of the Church Commissioners, may] 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.

[Provided—

- (a) the consent of the Church Commissioners shall be required to any transaction under this paragraph relating to diocesan glebe land if such consent would be required under the Endowments and Glebe Measure 1976 (1976 No 4), and
- (b) section 20(11) of that Measure shall apply to any transaction under this paragraph as it applies to any transaction under that Measure and as if the reference therein to the requirements of that Measure included a reference to the requirements of this paragraph.]

Scotland

4

[(1) In the case of land in Scotland, a liferenter in possession of the land shall have power to enter into forestry dedication agreements relating to, or to any part of, the land.]

(2) The 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Para 1: sub-para (4) repealed by the Trusts of Land and Appointment of Trustees Act 1996, s 25(2), Sch 4; for savings in relation to entailed interests created before the commencement of that Act, and savings consequential upon the abolition of the doctrine of conversion, see s 25(4), (5) thereof.

Para 3: repealed, so far as it applies to incumbents, by the Endowments and Glebe Measure Act 1976, s 47, Sch 7.

Para 3: words from “In the case” to “Church Commissioners, may” in square brackets substituted by the Church of England (Miscellaneous Provisions) Measure 2006, s 14, Sch 5, para 14(a).

Date in force: 1 October 2006: see s 16(2) thereof and the Instrument made by the Archbishops of Canterbury and York dated 11 September 2006.

Para 3: proviso inserted by the Church of England (Miscellaneous Provisions) Measure 2006, s 14, Sch 5, para 14(b).

Date in force: 1 October 2006: see s 16(2) thereof and the Instrument made by the Archbishops of Canterbury and York dated 11 September 2006.

Para 4: sub-para (1) substituted by the Abolition of Feudal Tenure etc (Scotland) Act 2000, s 76(1), Sch 12, Pt 1, para 26(1), (5).

Date in force: this amendment came into force on 28 November 2004 (being the day appointed under the Abolition of Feudal Tenure etc (Scotland) Act 2000, s 71): see SSI 2003/456, art 2 and the Abolition of Feudal Tenure etc (Scotland) Act 2000, ss 71, 77(2).

See Further

See further, in relation to England, in relation to the application of this Schedule to management agreements as it applies to forestry dedication covenants: the Natural Environment and Rural Communities Act 2006, s 7(4).

SCHEDULE 3

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

Section 15

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* [under the Town and Country Planning (Scotland) Act 1997], the following shall apply:—

- (a) if the tree preservation order applies [*section 77 of the Town and Country Planning Act 1990*], or the corresponding provision of the *Town and Country Planning Act 1947* replaced thereby, or (for Scotland) [section 46 of the Town and Country Planning (Scotland) Act 1997], the provisions of the order and any *provisions of the said Acts* [provisions of that Act] 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 [*the said section 77*] or (for Scotland) [the said section 46] were incorporated therein subject to such modifications as the Minister may direct.

[2A

(1) Where under section 15(2)(a) an application, on being referred to the appropriate national authority, falls to be dealt with under the Town and Country Planning Act 1990, the appropriate national authority must decide the application as if it were an application for consent for the felling of trees made under tree preservation regulations.

(2) In this paragraph, “the appropriate national authority” means—

- (a) the Secretary of State in relation to England;
- (b) the Welsh Ministers in relation to Wales.]

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 Town and Country Planning (Scotland) Act 1997], the provisions of the order and any provisions of [*the Town and Country Planning Act 1990*] (for Scotland) [*the Town and Country Planning (Scotland) Act 1997*] [that Act] relating to the order shall apply as if the 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.

[3A

Where under section 15(3)(a) 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 Act 1990, the authority must decide the application as if it were an application for consent for the felling of trees made under tree preservation regulations.]

4

...

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Para 2: words “under the said Acts” in italics repealed and subsequent words in square brackets substituted by the Planning Act 2008, s 192(8), Sch 8, paras 1, 6(1), (2)(a).

Date in force (in relation to England): 6 April 2012: see SI 2012/601, art 2(a).

Date in force (in relation to Wales): to be appointed: see the Planning Act 2008, s 241(3), (4)(a), (c).

Para 2: in sub-para (a) words “section 77 of the Town and Country Planning Act 1990” in square brackets substituted by the Planning (Consequential Provisions) Act 1990, s 4, Sch 2, para 14(3).

Para 2: in sub-para (a) words from “section 77 of” to “or (for Scotland)” in italics repealed by the Planning Act 2008, ss 192(8), 238, Sch 8, paras 1, 6(1), (2)(b), Sch 13.

Date in force (in relation to England): 6 April 2012: see SI 2012/601, art 2(a).

Date in force (in relation to Wales): to be appointed: see the Planning Act 2008, s 241(3), (4)(a), (c).

Para 2: in sub-para (a) words “section 46 of the Town and Country Planning (Scotland) Act 1997” in square brackets substituted by the Planning (Consequential Provisions) (Scotland) Act 1997, s 4, Sch 2, para 13(3)(a).

Para 2: in sub-para (a) words “provisions of the said Acts” in italics repealed and subsequent words in square brackets substituted by the Planning Act 2008, s 192(8), Sch 8, paras 1, 6(1), (2)(c).

Date in force (in relation to England): 6 April 2012: see SI 2012/601, art 2(a).

Date in force (in relation to Wales): to be appointed: see the Planning Act 2008, s 241(3), (4)(a), (c).

Para 2: in sub-para (b) words “the said section 77” in square brackets substituted by the Planning (Consequential Provisions) Act 1990, s 4, Sch 2, para 14(3).

Para 2: in sub-para (b) words “the said section 77 or (for Scotland)” in italics repealed by the Planning Act 2008, ss 192(8), 238, Sch 8, paras 1, 6(1), (2)(d), Sch 13.

Date in force (in relation to England): 6 April 2012: see SI 2012/601, art 2(a).

Date in force (in relation to Wales): to be appointed: see the Planning Act 2008, s 241(3), (4)(a), (c).

Para 2: in sub-para (b) words “the said section 46” in square brackets substituted by the Planning (Consequential Provisions) (Scotland) Act 1997, s 4, Sch 2, para 13(3)(a).

Para 2A: inserted by the Planning Act 2008, s 192(8), Sch 8, paras 1, 6(1), (3).

Date in force (in relation to England): 6 April 2012: see SI 2012/601, art 2(a).

Date in force (in relation to Wales): to be appointed: see the Planning Act 2008, s 241(3), (4)(a), (c).

Para 3: words “the Town and Country Planning Acts” in italics repealed and subsequent words in square brackets substituted by the Planning Act 2008, s 192(8), Sch 8, paras 1, 6(1), (4)(a).

Date in force (in relation to England): 6 April 2012: see SI 2012/601, art 2(a).

Date in force (in relation to Wales): to be appointed: see the Planning Act 2008, s 241(3), (4)(a), (c).

Para 3: words “the Town and Country Planning Act 1990” in square brackets substituted by the Planning (Consequential Provisions) Act 1990, s 4, Sch 2, para 14(3).

Para 3: words “the Town and Country Planning Act 1990 (for Scotland) the Town and Country Planning (Scotland) Act 1997” in italics repealed and subsequent words in square brackets substituted by the Planning Act 2008, s 192(8), Sch 8, paras 1, 6(1), (4)(b).

Date in force (in relation to England): 6 April 2012: see SI 2012/601, art 2(a).

Date in force (in relation to Wales): to be appointed: see the Planning Act 2008, s 241(3), (4)(a), (c).

Para 3: words “the Town and Country Planning (Scotland) Act 1997” in square brackets substituted by the Planning (Consequential Provisions) (Scotland) Act 1997, s 4, Sch 2, para 13(3)(b).

Para 3A: inserted by the Planning Act 2008, s 192(8), Sch 8, paras 1, 6(1), (5).

Date in force (in relation to England): 6 April 2012: see SI 2012/601, art 2(a).

Date in force (in relation to Wales): to be appointed: see the Planning Act 2008, s 241(3), (4)(a), (c).

Para 4: repealed by SI 2002/794, art 5(2), Sch 2.

Date in force: 27 March 2002: see SI 2002/794, art 1(2).

Transfer of Functions

The functions of the Minister of Housing and Local Government were, in relation to Wales and Monmouthshire, transferred (subject to limited exceptions with regard to regulation making powers) to the Secretary of State by the Secretary of State for Wales and Minister of Land and Natural Resources Order 1965, SI 1965/319, art 2(1), Sch 1. Other functions of the Minister of Housing and Local Government were transferred (subject to certain limited exceptions not relevant to this Act) to the Secretary of State by the Secretary of State for the Environment Order 1970, SI 1970/1681, art 2(1).

Functions under this Schedule, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

SCHEDULE 4

PROCEDURE FOR ACQUISITION OF LAND UNDER S 39 BY AGREEMENT

Section 39

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 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.

Scotland

2

(1) For the purpose of any acquisition by the [Scottish Ministers] of land in Scotland, where the acquisition is by agreement, the Lands Clauses Acts, except the following enactments in the 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 subparagraphs.

(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 [Scottish Ministers].

(3) Notices required to be served by the [Scottish Ministers] under any provision of the Lands Clauses Acts as incorporated by this paragraph may, notwithstanding anything in section 8 of the Lands Clauses Consolidation (Scotland) Act 1845, be served and addressed in the manner specified in section 30 of this Act.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Para 2: words “Minister” in italics repealed and subsequent words in square brackets substituted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (40).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Transfer of Functions

Functions of the Minister and the Ministers, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

SCHEDULE 5 COMPULSORY PURCHASE

Section 40

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 [or, as the case may be, the Scottish Ministers] shall—

- (a) publish in one or more newspapers circulating in the locality in which 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)* [every person who is an owner, lessee, tenant (whatever the tenancy period) or occupier] of any land to which the order relates.

[(1A) Before making a compulsory purchase order the Scottish Ministers shall give notice of their intention in that regard to—

- (a) the holder of any personal real burden affecting the land to which the order relates if registration of the conveyance in implement of the order would vary or extinguish the title condition in question;
- (b) the owner of any land which is a benefited property (as defined by section 122(1) of the Title Conditions (Scotland) Act 2003 (asp 9)) in relation to any land comprised in the order if such registration would vary or extinguish the title condition in question; and
- (c) the owners' association of the development in question if a development management scheme applies as respects any land comprised in the order and registration of the conveyance in implement of the order would disapply that scheme.

(1B) Notice under sub-paragraph (1A)(a) or (b) above may be given—

- (a) by sending (that expression being construed in accordance with section 124 of the said Act of 2003 and as if what was being done was being done under that Act);
- (b) by advertisement;
- (c) by affixing a conspicuous notice . . . to—
 - (i) in a case where there exists one, and only one, lamp post which is situated within one hundred metres of that property, that lamp post; or
 - (ii) in a case where there exists more than one lamp post so situated, each of at least two such lamp posts; or
- (d) by such other means as the Scottish Ministers think fit,

and service of notice under sub-paragraph (1A)(c) above shall be by sending (as so construed) or by such other means as the Scottish Ministers think fit.

(1C) Subsections (6) and (7) of section 21 of the said Act of 2003 apply in relation to affixing, and to a notice affixed, under sub-paragraph (1B)(c) above as they apply in relation to affixing, and to a notice affixed, under subsection (2)(b) of that section (the reference in paragraph (a)(ii) of the said subsection (6) to the date specified in the notice as the renewal date being construed as a reference to the last day of the period specified in the notice given under paragraph 2(1)(b) above).]

(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) 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 [or, as the case may be, the Scottish Ministers] to be affected, or if all objections so made are withdrawn, the Minister may, if he thinks fit [and the Scottish Ministers may if they think fit] (but subject to sub-paragraph (3) below), make the order, either with or without modifications.

(2) [Subject to paragraph 6B below,] in any other case the Minister [or the Scottish Ministers] 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 [or the Scottish Ministers] 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* [paragraphs 5 and 6B] 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 Statutory Orders (Special Procedure) Acts 1945 and 1965 shall have effect accordingly.

5

If an objection appears to the Minister [or, as the case may be, the Scottish Ministers] 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 [or, as the case may be, the Scottish Ministers] 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

[Subject to paragraph 6B below,] 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 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;
- (b) the provisions of section 2(1) of that Act with regard to advertisement of notice shall be deemed to have been complied with.

[6A

The Scottish Ministers may require an objector to state in writing whether he objects—

- (a) as a person with title to enforce a title condition and if he does so object then in that statement to—
 - (i) identify the benefited property and burdened property;
 - (ii) identify the title condition (either by setting it out in full or by identifying the constitutive deed, saying where it is registered and giving the date of registration); and
 - (iii) describe his connection with the benefited property.
- (b) as owners' association and if he does so object then in that statement to identify—
 - (i) the development; and
 - (ii) the development management scheme (by identifying the deed of application, saying where it is registered and giving the date of registration).

6B

If in compliance with paragraph 6A above an objector states that he objects as mentioned in subparagraph (a) or (b) of that paragraph, paragraphs 3(2), 4 and 6 above shall not apply as respects that objection provided that the Scottish Ministers give him a written undertaking that any conveyance in implement of the acquisition will provide—

- (a) where the objector is as mentioned in paragraph 6A(a) above, that the title condition in question is not varied or extinguished in respect of the enforcement rights of that person, any such undertaking—
 - (i) identifying the benefited property (if any) and burdened property;
 - (ii) identifying the order; and
 - (iii) setting out the manner in which the conveyance will fulfil the undertaking;
 or
- (b) where the objector is as mentioned in paragraph 6A(b) above, that the development management scheme will not be disapplied, any such undertaking—
 - (i) identifying the development;
 - (ii) identifying the order; and
 - (iii) setting out the manner in which the conveyance will fulfil the undertaking.

6C

The effect, under subsection (1) of section 106 of the Title Conditions (Scotland) Act 2003 (asp 9) (extinction of real burdens and servitudes etc on compulsory acquisition of land), of registering the conveyance after an undertaking given under paragraph 6B above has been registered against the burdened property, or as the case may be against the units of the development, shall be subject to the terms of the undertaking irrespective of the terms of the conveyance.

6D

In this Part, “title condition”, “development management scheme” and “personal real burden” have the same meanings as in that Act; and in paragraphs 6B and 6C above, “conveyance” has the same meaning as in section 106(5) of that Act.]

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Para 2: in sub-para (1) words “or, as the case may be, the Scottish Ministers” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (41)(a).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Para 2: in sub-para (1)(b) words “every owner, lessee and occupier (except tenants for a month or less period than a month)” in italics repealed and subsequent words in square brackets substituted, in relation to England and Wales, by SI 2007/1519, art 2, Schedule, para 7.

Date in force: 24 May 2007 (except in relation to any order of which notice was served before that date): see SI 2007/1519, art 1(1), (3).

Para 2: sub-paras (1A)–(1C) inserted by the Title Conditions (Scotland) Act 2003, s 110(1), (2).

Date in force: 1 November 2003: see SSI 2003/454, art 2(1).

Para 2: in sub-para (1B)(c) words omitted repealed by virtue of SSI 2003/503, art 2, Sch 1, Pt I, paras 6, 14.

Date in force: 22 October 2003: see SSI 2003/503, art 1.

Para 3: in sub-para (1) words “or, as the case may be, the Scottish Ministers” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (41)(a).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Para 3: in sub-para (1) words “and the Scottish Ministers may if they think fit” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (41)(b).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Para 3: in sub-para (2) words “Subject to paragraph 6B below,” in square brackets inserted by the Title Conditions (Scotland) Act 2003, s 110(1), (3).

Date in force: 1 November 2003: see SSI 2003/454, art 2(1).

Para 3: in sub-para (2) words “or the Scottish Ministers” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (41)(c).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Para 3: in sub-para (3) words “or the Scottish Ministers” in square brackets inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (41)(c).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Para 4: words “paragraph 5” in italics repealed and subsequent words in square brackets substituted by the Title Conditions (Scotland) Act 2003, s 110(1), (3).

Date in force: 1 November 2003: see SSI 2003/454, art 2(1).

Para 5: words “or, as the case may be, the Scottish Ministers” in square brackets in both places they occur inserted by SI 1999/1747, art 3, Sch 12, Pt II, para 4(1), (41)(a).

Date in force: 1 July 1999: see SI 1999/1747, art 1, and SI 1998/3178, art 3.

Para 6: words “Subject to paragraph 6B below,” in square brackets inserted by the Title Conditions (Scotland) Act 2003, s 110(1), (3).

Date in force: 1 November 2003: see SSI 2003/454, art 2(1).

Paras 6A–6D: inserted by the Title Conditions (Scotland) Act 2003, s 110(1), (4).

Date in force: 1 November 2003: see SSI 2003/454, art 2(1).

Transfer of Functions

Functions of the Minister and the Ministers, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Part II

Validity and Operation of Compulsory Purchase Orders

- (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 Statutory Orders (Special Procedure) Acts 1945 and 1965.

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.

- (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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Transfer of Functions

Functions of the Minister and the Ministers, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

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 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) . . .
- (b) in section 11 (power of entry after notice to treat), subsection (1) shall not apply and subsection (2) shall apply with the omission of the word “also”;
- (c)–(e) . . .

(4) . . .

12

As regards land in England or Wales, a compulsory purchase order under this Act may provide that section 77 of the 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 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.

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 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 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.

14

As regards land in Scotland, a compulsory purchase order under this Act may provide that section 70 of the 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 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Para 11: words omitted repealed by the Statute Law (Repeals) Act 1974.

Transfer of Functions

Functions of the Minister and the Ministers, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

SCHEDULE 6 TRANSITIONAL PROVISIONS

Section 50

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 provision.

(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 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.

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 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 of Article 9(1) of the 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 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, [but subject to sub-paragraph (3),] 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.

[(3) Any land in Wales which, immediately prior to 1 April 2013, was treated as being placed at the disposal of the Commissioners pursuant to sub-paragraph (2) shall thereafter be treated as being placed at the disposal of the Natural Resources Body for Wales by virtue of section 39(1) of this Act, without prejudice to the power of the Welsh Ministers to make any other disposition with regard to that land.]

5

The references to the Forestry Commissioners in section 48 of the 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 Forestry Act 1919 shall be construed as a reference to this Act.

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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Amendment

Para 4: in sub-para (2) words “but subject to sub-paragraph (3),” in square brackets inserted by virtue of SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 79(1), (2).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

Para 4: sub-para (3) inserted by SI 2013/755, art 4(1), Sch 2, Pt 1, paras 44, 79(1), (3).

Date in force: 1 April 2013: see SI 2013/755, art 1(2); for transitional provisions and savings see art 10, Sch 7 thereto.

SCHEDULE 7 REPEALS AND SAVINGS

Section 50

Part I Repeals

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.

13 & 14 Geo 5 c 21.	The Forestry (Transfer of Woods) Act 1923.	The whole Act.
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 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.

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Part II Savings

1

The repeal of section 2 of the 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.

2

The repeal of section 4(5) of the 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.

3

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

the National Parks and Access to the Countryside Act 1949,

the Highways (Provision of Cattle Grids) Act 1950, or

the Highways Act 1959.

4

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

NOTES

Initial Commencement

Royal Assent

Royal Assent: 22 March 1967: (no specific commencement provision).

Transfer of Functions

Functions of the Minister and the Ministers, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Functions of the Treasury, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.