

AGRICULTURE (WALES) ACT 2023

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4 - Forestry

Section 38 - Amendment of tree felling licences by agreement

209. [Section 38\(1\)](#) inserts new subsections (3A) and (3B) into section 10 of the Forestry Act 1967 to enable NRW (as the appropriate forestry authority for Wales under that Act) and the “person responsible” to agree (at any time) to amend a felling licence.
210. New subsection (3B) makes it clear that the “person responsible” is the applicant for the licence if the applicant still has an estate or interest in the land that would enable him/her, with or without consent of any other person, to fell the trees that are the subject of the licence. If the applicant no longer has such an interest, the “person responsible” is a person who has such an estate or interest.
211. The ability to amend a felling licence by mutual agreement is intended to help address or reflect changes in circumstances, for example where boundaries have changed or a need to replant with a different tree species or other sensitivities which may come to light after the licence has been granted, or alternatively where a breach of a condition of the felling licence has occurred.
212. [Section 38\(2\)](#) inserts a new section 10A after section 10 of the Forestry Act 1967. New section 10A only applies if the trees that are subject to the felling licence are subject to a tree preservation order (a “TPO”), and NRW and the person responsible are proposing to amend a felling licence under section 10(3A).
213. In those circumstances, NRW must give the authority by whom the TPO was made written notice of the proposed amendment, unless the exception set out in section 10A(1)(b) applies. The effect of section 10A(1)(b) is that, if NRW considers that the amendment to the licence is necessary to respond to an imminent and serious risk of harm to natural beauty, or to flora, fauna, geological or physiographical features, or natural habitats, the requirements set out in section 10A do not apply. This enables amendments that are necessary to prevent an imminent and serious risk of environmental harm to be made without delay.
214. [Section 10A\(3\)](#) gives the TPO authority, once it has been informed about a proposed amendment, an opportunity to object to the amendment within a prescribed period (to be set out in regulations). If the TPO authority do not withdraw their objection, NRW must refer the matter to the Welsh Ministers. The Welsh Ministers must then grant consent to the amendment or refuse to grant consent, and must consult those set out in 10A(6) before making their decision.