Forestry and Land Management (Scotland) Act 2018

2018 asp 8

PART 6

GENERAL AND FINAL PROVISIONS

76 Regulations

(1) Regulations under the following provisions are subject to the negative procedure—
- (a) section 14(3),
- (b) section 25(3),
- (c) section 27(8),
- (d) section 32(1),
- (e) section 34(6),
- (f) section 36(8),
- (g) section 47(1),
- (h) section 54(6),
- (i) section 68(2),
- (j) subject to subsection (2)(b), section 77(1).

(2) Regulations under the following provisions are subject to the affirmative procedure—
- (a) section 24(1),
- (b) section 77(1) (if the regulations add to, replace or omit any part of the text of an Act).

(3) Any power conferred by this Act on the Scottish Ministers to make regulations includes the power to make—
- (a) different provision for different purposes, and
- (b) such incidental, supplementary, consequential, transitional, transitory or saving provision as the Scottish Ministers consider appropriate.

(4) Subsection (3) does not apply to regulations under section 85(2).

(5) Subsection (3)(b) does not apply to regulations under section 77(1).

77 Ancillary provision

(1) The Scottish Ministers may by regulations make any incidental, supplementary, consequential, transitional, transitory or saving provision they consider appropriate for the purposes of, in connection with or for giving full effect to this Act or any provision made under it.

(2) Regulations under this section may modify any enactment (including this Act).

78 Interpretation

In this Act—

"forestry dedication agreement" has the meaning given by section 5 of the Forestry Act 1967,

"owner", in relation to any land, means a person who has right to the land whether or not that person has completed title; but if, in relation to the land (or, if the land is held pro indiviso, in relation to any pro indiviso share in it) more than one person comes within that description of owner, then "owner" means such person as most recently acquired such right.

79 Modifications of enactments and repeals

(1) Schedule 1 contains modifications of enactments.

(2) The enactments mentioned in the first column of schedule 2 are repealed to the extent set out in the second column.

Commencement Information

I1 S. 79 in force at 1.4.2019 by S.S.I. 2019/47, **reg. 2** (with regs. 3-22)

80 Saving of existing forestry dedication agreements

The repeal of section 5 and schedule 2 of the Forestry Act 1967 by section 79(2) and schedule 2 does not affect any forestry dedication agreement which is in force immediately before the date on which that repeal has effect.

Commencement Information

I2 S. 80 in force at 1.4.2019 by S.S.I. 2019/47, **reg. 2** (with regs. 3-22)

81 Forestry Commissioners' functions no longer exercisable in Scotland

The functions of the Forestry Commissioners which are exercisable in or as regards Scotland immediately before the date on which this section comes into force are no longer exercisable in or as regards Scotland.

Commencement Information

I3 S. 81 in force at 1.4.2019 by S.S.I. 2019/47, **reg. 2** (with regs. 3-22)

82 Index of defined expressions

Schedule 3 contains an index of expressions defined or otherwise explained in this Act.

83 Crown application: general

(1) Nothing in this Act makes the Crown criminally liable.

(2) But the Court of Session may, on an application by the Lord Advocate, declare unlawful any act or omission for which the Crown would be criminally liable if it were not for subsection (1).

(3) Subsection (1) does not affect the criminal liability of persons in the service of the Crown.

(4) Section 84 makes provision about access to Crown land.

84 Crown application: powers of entry

(1) A power of entry conferred—
  (a) by section 45, 51, 52, 53 or 59,
  (b) by regulations made under section 27(8),
is exercisable in relation to Crown land only with the consent of the appropriate authority.

(2) The following table determines what is "Crown land" and who the "appropriate authority" is in relation to each kind of Crown land.

Crown land	*Appropriate authority*
Land an interest in which belongs to Her Majesty in right of the Crown and which forms part of the Crown Estate	The Crown Estate Commissioners
Land an interest in which belongs to Her Majesty in right of the Crown and to which section 90B(5) of the Scotland Act 1998 applies	The person having the management of the land
Other land an interest in which belongs to Her Majesty in right of the Crown	The office-holder in the Scottish Administration or the Government department having the management of the land
Land an interest in which belongs to Her Majesty in right of Her private estates	The person appointed by Her Majesty in writing under the Royal Sign Manual or, if no such appointment is made, the Scottish Ministers
Land an interest in which belongs to an office-holder in the Scottish Administration	The relevant office-holder in the Scottish Administration
Land an interest in which belongs to a Government department	The relevant Government department

Status: *Point in time view as at 01/04/2019.*
Changes to legislation: *There are currently no known outstanding effects for the Forestry and Land Management (Scotland) Act 2018, PART 6. (See end of Document for details)*

Land an interest in which is held in trust for Her Majesty for the purposes of the Scottish Administration	The relevant office-holder in the Scottish Administration
Land an interest in which is held in trust for Her Majesty for the purposes of a Government department	The relevant Government department

(3) In this section—
- (a) references to Her Majesty's private estates are to be construed in accordance with section 1 of the Crown Private Estates Act 1862,
- (b) "Government department" means a department of the Government of the United Kingdom.

(4) It is for the Scottish Ministers to determine any question that arises as to who in accordance with subsection (2) is the appropriate authority in relation to any land (and their decision is final).

85 Commencement

(1) This section and sections 76 to 78, 82 to 84 and 86 come into force on the day after Royal Assent.

(2) The rest of this Act comes into force on such day as the Scottish Ministers may by regulations appoint.

(3) Regulations under this section may appoint different days for different purposes.

(4) The Scottish Ministers must, no later than 1 April 2019, lay before the Scottish Parliament a report setting out the administrative arrangements they intend to make for the carrying out of their functions under this Act.

(5) The report under subsection (4) must set out in particular the arrangements the Scottish Ministers intend to make for—
- (a) the establishment of any agency or similar body,
- (b) the governance of any such agency or body,
- (c) the roles and responsibilities of senior officers of any such agency or body,
- (d) the financial reporting and accountability of any such agency or body,
- (e) the establishment of any advisory groups to assist them in carrying out their functions,
- (f) the exercise of the powers in section 70 (power to form companies etc.).

(6) Before making any significant change to the arrangements set out in the report under subsection (4), the Scottish Ministers must—
- (a) consult such persons as they consider appropriate,
- (b) notify the Scottish Parliament of any such change.

(7) Regulations under this section may—
- (a) include transitional, transitory or saving provision,
- (b) make different provision for different purposes.

86 Short title

The short title of this Act is the Forestry and Land Management (Scotland) Act 2018.

Status:
Point in time view as at 01/04/2019.

Changes to legislation:
There are currently no known outstanding effects for the Forestry and Land Management (Scotland) Act 2018, PART 6.