
STATUTORY INSTRUMENTS

2019 No. 734

**The Forestry and Land Management (Scotland) Act 2018
(Consequential Provisions and Modifications) Order 2019**

Citation, commencement and extent

1.—(1) This Order may be cited as the Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019.

(2) This Order comes into force on the day on which section 81 of the Forestry and Land Management (Scotland) Act 2018(1) comes into force.

(3) Article 5 extends to Scotland only.

(4) Any modification made by the Schedule has the same extent as the provision being modified.

Interpretation

2. In this Order—

“the 2018 Act” means the Forestry and Land Management (Scotland) Act 2018,

“the 1967 Act” means the Plant Health Act 1967(2),

“the 2002 Regulations” means the Forest Reproductive Material (Great Britain) Regulations 2002(3),

“the 2015 Regulations” means the Plant Health (Fees) (Forestry) (England and Scotland) Regulations 2015(4),

“the Forestry Commissioners” means the Forestry Commissioners referred to in section 1(1) of the Forestry Act 1967(5).

Cross-border arrangements: Scottish Ministers

3.—(1) The Scottish Ministers may, for the purposes of carrying out the functions specified in paragraph (3), enter into arrangements with any of the persons or bodies mentioned in paragraph (2) for those functions to be exercised by that person or body on behalf of the Scottish Ministers.

(2) The persons or bodies are—

(a) the Forestry Commissioners,

(b) the Natural Resources Body for Wales(6), and

(c) the Welsh Ministers.

(3) The functions are—

(a) the Scottish Ministers’ functions under the 2018 Act,

(1) 2018 asp 8.

(2) 1967 c.8.

(3) S.I. 2002/3026.

(4) S.I. 2015/350.

(5) 1967 c.10.

(6) The Natural Resources Body for Wales is established by S.I. 2012/1903.

- (b) the Scottish Ministers' functions exercisable by or under any order made under the 1967 Act,
- (c) the Scottish Ministers' functions referred to in Article 5(2)(a),
- (d) the Scottish Ministers' functions under the 2002 Regulations, and
- (e) the Scottish Ministers' functions under the 2015 Regulations.

(4) An arrangement entered into by virtue of paragraph (1) does not affect the Scottish Ministers' responsibility for the exercise of their functions specified in paragraph (3).

(5) The functions in paragraph (3) do not include functions of making, confirming or approving subordinate legislation.

Cross-border arrangements: Forestry Commissioners

4.—(1) The Forestry Commissioners may, for the purposes of carrying out the functions specified in paragraph (2), enter into arrangements with the Scottish Ministers for those functions to be exercised by the Scottish Ministers on behalf of the Forestry Commissioners.

(2) The functions are—

- (a) the Forestry Commissioners' functions under the Forestry Act 1967,
- (b) the Forestry Commissioners' functions under the Forestry Act 1979⁽⁷⁾,
- (c) the Forestry Commissioners' functions exercisable by or under any order made under the 1967 Act,
- (d) the Forestry Commissioners' functions under the 2002 Regulations, and
- (e) the Forestry Commissioners' functions under the 2015 Regulations.

(3) An arrangement entered into by virtue of paragraph (1) does not affect the Forestry Commissioners' responsibility for the exercise of their functions specified in paragraph (2).

(4) The functions in paragraph (2) do not include functions of making, confirming or approving subordinate legislation.

Renewable energy installations

5.—(1) The Scottish Ministers may, for the purposes of, and in connection with, the carrying out of the functions specified in paragraph (2)—

- (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 sub-paragraph (a).

(2) The functions are —

- (a) the Scottish Ministers' functions under section 44 of the Climate Change (Scotland) Act 2009 (duties of public bodies relating to climate change)⁽⁸⁾,
- (b) the Scottish Ministers' functions under section 11 of the 2018 Act (management of forested land),
- (c) the Scottish Ministers' functions under section 15 of the 2018 Act (management of land further to sustainable development).

(3) In paragraph (1), “renewable sources” means sources other than—

⁽⁷⁾ 1979 c.21.

⁽⁸⁾ 2009 asp 12.

- (a) fossil fuel,
 - (b) energy derived from fossil fuel, and
 - (c) nuclear fuel.
- (4) In paragraph (3), “fossil fuel” means—
- (a) coal,
 - (b) lignite,
 - (c) peat,
 - (d) natural gas (within the meaning of the Energy Act 1976)⁽⁹⁾,
 - (e) crude liquid petroleum,
 - (f) petroleum products (within the meaning of the Energy Act 1976), and
 - (g) any substance produced directly or indirectly from a substance mentioned in any of sub-paragraphs (a) to (f).
- (5) Nothing in this article is to be construed as exempting the Scottish Ministers from the requirements of Part 1 of the Electricity Act 1989⁽¹⁰⁾.

Consequential modifications

6. The modifications in the Schedule have effect.

Dover House
London
28th March 2019

David Mundell
Secretary of State
Office of the Secretary of State for Scotland

⁽⁹⁾ 1976 c.76.
⁽¹⁰⁾ 1989 c.29.