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## 2010 CHAPTER 10

### PART 2

#### PROTECTION OF FOREST TREES FROM DAMAGE

##### **Control of animals in forests**

**8.**—(1) This section applies where any trees growing on land falling within subsection (2) are being damaged by deer or hares (other than Irish hares).

(2) Land falls within this subsection if—

- (a) it is land of 0.2 hectares or more in area which is forest; or
- (b) it is land used for rearing young forest trees.

(3) The occupier of the land may take, kill or destroy any deer or hares (other than Irish hares) which are—

- (a) on that land; or
- (b) on any adjoining land which that person also occupies.

##### **Control (with permission of occupier) of animals on land adjacent to forest**

**9.**—(1) In this section—

“land A” means any land falling within section 8(2);

“land B” means any land—

- (a) which adjoins land A; or
- (b) any part of which is within 500 metres of any part of land A.

(2) The following provisions apply where the Department is satisfied that trees growing on land A are being, or are likely to be, damaged by wild animals present on land B.

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- (3) The Department may serve on the occupier of land B a notice—
- (a) stating that trees growing on land A are being, or are likely to be, damaged by wild animals present on land B; and
  - (b) requesting that the occupier—
    - (i) take effective steps, within 3 months of the date of the service of the notice, to prevent the damage; or
    - (ii) grant permission for an authorised person to enter land B and exercise the powers conferred by subsection (4).
- (4) An authorised person may with the permission of the occupier take, kill or destroy any wild animals on land B.
- (5) If land A or land B is unoccupied, subsections (3) and (4) apply with the substitution of references to the owner of that land for references to the occupier.
- (6) In this section “wild animal” means any animal which is living wild and is likely to damage trees, other than—
- (a) a bird;
  - (b) the Irish hare;
  - (c) an animal for the time being included in Schedule 5 to the Wildlife (Northern Ireland) Order 1985 (NI 2).

PROSPECTIVE

### **Control of animals on land adjacent to forest**

**10.—(1)** In this section—

“land A” means any land falling within section 8(2);

“land B” means any land—

- (a) which adjoins land A; or
- (b) any part of which is within 500 metres of any part of land A.

(2) Subsection (3) applies where the Department reasonably suspects that trees growing on land A are being, or are likely to be, damaged by wild animals present on land B.

(3) An authorised person may inspect land B for the purpose of establishing—

- (a) which wild animals (if any) are present on the land;
- (b) the number of wild animals present on the land;
- (c) whether any action should be taken by the Department under any of the following provisions of this section.

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(4) Subsection (5) applies where the Department is satisfied (whether as a result of an inspection under subsection (3) or otherwise) that trees growing on land A are being, or are likely to be, damaged by any wild animals present on land B.

(5) The Department may serve on the occupier of land B a notice—

- (a) stating that trees growing on land A are being, or are likely to be, damaged by wild animals present on land B; and
- (b) requesting that, within 3 months of the date of the service of the notice, effective steps be taken to prevent the damage.

(6) Subsections (7) and (8) apply if the occupier of land B does not comply with a notice served under subsection (5).

(7) An authorised person may kill, take or destroy any wild animals on land B during such period (not exceeding 12 months) as the Department may specify by notice served on the occupier of that land.

(8) Where the occupier of land A is not the Department, any costs incurred by the Department in connection with an authorised person taking action under subsection (7) are recoverable as a civil debt from the occupier of land A.

(9) If land B is unoccupied, subsections (5) to (8) apply with the substitution of references to the owner of that land for references to the occupier.

(10) In this section “wild animal” has the same meaning as in section 9.

### **Removal or destruction of vegetation on adjoining land**

**11.—**(1) Subsection (2) applies where the Department is satisfied that, by reason of the presence of any vegetation on uncultivated land adjoining a forest, the forest is liable to be damaged by fire originating on the uncultivated land.

(2) The Department may serve on the occupier of the uncultivated land a notice—

- (a) stating that the vegetation constitutes a potential danger to the forest; and
- (b) requesting that, within 30 days from the date of service of the notice—
  - (i) any vegetation growing on the part of the land within a distance of 15 metres from the boundary of the forest be removed or destroyed; or
  - (ii) such other measures as are specified in the notice be taken in relation to that vegetation for the purposes of reducing the risk of the forest being damaged by fire.

(3) If the occupier does not comply with a notice served under subsection (2), an authorised person may, within 4 months from the date of the service of the notice, remove or destroy any vegetation growing on the part of the land within a distance of 15 metres from the boundary of the forest or take such other measures

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in relation to that vegetation as the Department considers appropriate for the purposes of reducing the risk of the forest being damaged by fire.

(4) If the uncultivated land is unoccupied, subsections (2) and (3) apply with the substitution of references to the owner of that land for references to the occupier.

### **Protection for persons acting under sections 8 to 11**

**12.**—(1) A person is not guilty of an offence under—

(a) section 7(1)(a) or 7A(1)(a) of the Game Preservation Act (Northern Ireland) 1928 (c. 25), or

(b) Article 19(1) or (4) of the Wildlife (Northern Ireland) Order 1985 (NI 2),  
by reason of any act falling within subsection (2).

(2) An act falls within this subsection if it is done—

(a) in pursuance of the power in section 8(3), 9(4) or 10(7); or

(b) for the purpose of complying with a notice under section 9(3) or 10(5).

(3) A person is not guilty of an offence under—

(a) section 7B or 7E of the Game Preservation Act (Northern Ireland) 1928, or

(b) Article 10(4) or 14 of the Wildlife (Northern Ireland) Order 1985,

by reason of any act falling within subsection (4).

(4) An act falls within this subsection if it is done—

(a) for the purpose of complying with a notice under section 11(2); or

(b) in pursuance of the power in section 11(3).

(5) But nothing in section 8 or 10 affects the operation of any statutory provision relating to game licences or firearm licences.

### **Burning of vegetation**

**13.**—(1) A person shall not burn any vegetation growing within one and a half kilometres of a forest which that person does not own unless that person has, within the period mentioned in subsection (2), served on the owner of the forest notice of that person's intention to burn that vegetation.

(2) That notice must be served not more than one month and not less than 14 days before the date on which it is intended to burn the vegetation.

(3) A person who burns any vegetation in contravention of subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(4) Where a notice has been served under subsection (1) on the owner of a forest, that owner may, within 10 days after receiving the notice, serve on the

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person serving the notice a counter-notice objecting to the proposed burning on the ground that it is liable to cause damage to the forest.

(5) Subsection (6) applies to a person who burns any vegetation—

(a) in contravention of subsection (1); or

(b) after receiving a counter-notice served under subsection (4).

(6) That person is liable for all damage caused by the burning to any forest in respect of which a notice was, or ought to have been, given under subsection (1); and accordingly damages are recoverable by the owner of that forest from the person burning the vegetation.

(7) Subsection (6) does not prejudice any other remedy or the rights of any other person.

### **Protection of forest trees, etc. from pests**

**14.—**(1) The Plant Health Act (Northern Ireland) 1967 (c. 28) is amended as follows.

(2) In section 3B (matters which may be included in orders under the Act) after subsection (1) insert—

“(1A) An order under this Act which contains a statement that it is made for the purpose of protecting forest trees, timber and other forest products from attack by pests, may impose such reasonable fees or other charges as the Department may, with the consent of the Department of Finance and Personnel, prescribe—

(a) in connection with applications for and the issue of any licence or certificate which may be issued in pursuance of such an order in connection with the import or export of any article;

(b) in respect of the performance by the Department of any service without the performance of which any requirement for the issue of such a licence or certificate would not be met.”.

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