

POLICY NOTE

THE FORESTRY AND LAND MANAGEMENT (SCOTLAND) ACT 2018 (CONSEQUENTIAL, SAVING AND TRANSITIONAL PROVISIONS) REGULATIONS 2021

SSI 2021/44

The above instrument was made in exercise of the powers conferred by sections 25(3), 77 and 85(2) and (7) of the Forestry and Land Management (Scotland) Act 2018. The instrument is subject to negative procedure.

Purpose of the instrument

The instrument makes the changes to secondary legislation that are necessary as a consequence of the Forestry and Land Management (Scotland) Act 2018. The instrument also makes saving and transitional provisions.

Policy Objectives

The Forestry and Land Management (Scotland) Act 2018 was given Royal Assent in May 2018. The commencement date for the Act, and for the instruments that supported its commencement, was set for 1 April 2019.

In this note:

‘The 1967 Act’ means the Forestry Act 1967,

‘The 2017 Regulations’ means the Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017,

‘The 2018 Act’ means the Forestry and Land Management (Scotland) Act 2018.

The changes that this instrument makes are as follows:

- The Conservation (Natural Habitats, &c.) Regulations 1994: replaces references to the 1967 Act with the 2018 Act and removes references to the Forestry Commissioners as a result of the devolution of forestry in Scotland.
- The Nature Conservation (Designation of Relevant Regulatory Authorities) (Scotland) Order 2004: removes references to the Forestry Commissioners.
- The Land Management Contracts (Menu Scheme) (Scotland) Regulations 2005: replaces references to the 1967 Act with the 2018 Act and substitutes references to the Forestry Commissioners with Scottish Ministers.
- The Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 2010: replaces references to the 1967 Act with the 2018 Act and substitutes references to the Forestry Commissioners with Scottish Ministers.
- The Disclosure (Persons engaged in the Investigation and Reporting of Crime or Sudden Deaths) (Scotland) Regulations 2011: removes reference to Forestry Commission (Scotland).
- The Water Environment (Relevant Enactments and Designation of Responsible Authorities and Functions) (Scotland) Order 2011: replaces references to the 1967 Act with the 2018 Act.
- The Flood Risk Management (Designated Responsible Authorities) (Scotland) Order 2013: removes references to the Forestry Commissioners.

- The Plant Health (Forestry) (Phytophthora ramorum Management Zone) (Scotland) Order 2014: substitutes references to the Forestry Commissioners with Scottish Ministers.
- The Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017: substitutes references to the Forestry Commissioners with Scottish Ministers and removes redundant references to scoping directions, screening directions and appeals.
- The Forestry and Land Management (Scotland) Act 2018 (Commencement, Transitional and Saving Provisions) Regulations 2019: corrects minor typographical errors
- The Felling (Scotland) Regulations 2019: corrects minor typographical errors
- Saving provision- The Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017: saves appeal procedures for applications made and enforcement notices served prior to 18 March 2021. Makes relevant modifications to appeal provisions in the 2017 Regulations.
- Transitional provisions– arrangements for outstanding screening and scoping directions under the Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017 made prior to 18 March 2021: treats requests for screening and scoping directions made prior to 18 March 2021 as requests for screening and scoping opinions.

Consultation

No formal consultation was carried out on the specific provisions in this instrument as the consequential Regulations are largely technical they either:

- preserve the status quo,
- substitute references to Forestry Commissioners with references to Scottish Ministers
- substitute references to the 1967 Act regime with references to the 2018 Act regime,
- remove certain EIA procedures that are now redundant following forestry devolution, and align with other existing EIA regimes, or
- correct minor errors

Impact Assessments

No impact assessments were carried out for this instrument given that the effect of consequential amendments is largely to preserve the current position or to remove processes that are now unworkable following the transfer of functions from the Forestry Commissioners to the Scottish Ministers.

Financial Effects

The Cabinet Secretary for Rural Economy confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

**Scottish Government
Environment and Forestry Directorate**

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