

FORESTRY AND LAND MANAGEMENT (SCOTLAND) ACT 2018

EXPLANATORY NOTES

THE ACT

Part 4 - Felling

Sections 36 and 37 - Restocking directions

57. **Chapter 5** of Part 4 makes provision for the Scottish Ministers to require restocking.
58. **Section 36** makes provision for the issue of directions by the Scottish Ministers requiring an owner of land to stock particular land (“restocking directions”). Subsection (1) sets out the circumstances in which a direction may be given and subsection (2) provides detail on what the Scottish Ministers may require under a direction.
59. The Scottish Ministers must have regard to their duty to promote SFM (under section 2) when deciding to give a restocking direction and may vary or revoke a direction including any conditions imposed on the direction (subsections (4) and (5)). Subsections (6) and (7) make provision enabling an owner who has been served with and complies with a restocking direction to recover the costs of compliance from another person in circumstances where that other person (a) was responsible for the felling to which the restocking direction relates, or (b) failed to comply with the continuing condition on a felling permission to which the restocking direction relates.
60. Subsection (8) enables the Scottish Ministers to, by regulations, make further provision about restocking directions; regulations may include provision about the persons to whom a restocking direction may not be given, the circumstances in which a direction may not be given, requirements to be included in a direction, how directions are to be notified, and the imposition of conditions on a direction (which may include steps that must be taken after the direction is complied with). Section 76(1)(f) provides that regulations under section 36(8) are subject to negative procedure.
61. **Section 37** creates an offence, punishable upon summary conviction by a fine of up to level 5 on the standard scale, of failure, without a reasonable excuse, to comply with a restocking direction (including any condition imposed on it) given to a person.