



2010 CHAPTER 10

PART 3

FELLING OF TREES

Enforcement of felling licence conditions and restocking notice

Notice to require compliance with felling licence conditions or restocking notice

24.—(1) The provisions of this section apply if—

- (a) any condition of a felling licence is not complied with; or
- (b) any restocking notice served by the Department is not complied with.

(2) The Department may give to the person responsible a notice (an “enforcement notice”) requiring such steps as may be specified in the notice to be taken within such time (not being less than the prescribed period after the notice has become operative) as may be so specified for remedying the default.

(3) For purposes of subsection (2) “the person responsible” is—

- (a) in the case of non-compliance with the conditions of a felling licence, the person specified in subsection (4); and
- (b) in the case of non-compliance with a restocking notice, the person on whom the notice was served.

(4) The person referred to in subsection (3)(a) is—

- (a) the applicant for the licence, if on the date the notice is served the applicant has such estate in the land as is referred to in section 16(1); or
- (b) in any other case, the owner of the land.

(5) If after the expiration of the time specified in the enforcement notice any steps required by that notice have not been taken, an authorised person may, subject to section 25, take those steps.

(6) If an authorised person, in the exercise of powers under subsection (5), takes any steps required by an enforcement notice, the Department may recover from the person to whom the notice was given any expenses reasonably incurred by the Department in connection with the authorised person taking those steps.

(7) Any sums recoverable under subsection (6) may be recovered summarily as a civil debt.

(8) A person who without reasonable excuse fails to take any steps required by an enforcement notice given to that person commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(9) A person who is required by an enforcement notice to carry out works or take any other steps may carry out those works or take those steps notwithstanding any lease, covenant or contract relating to the trees or land affected by the notice.

Appeal against enforcement notice

25.—(1) A person to whom an enforcement notice is given in relation to a felling licence may appeal against the enforcement notice to a person appointed under section 26 on the grounds—

- (a) that the conditions of the licence have been complied with; or
- (b) that the steps required by the enforcement notice to be taken are not required for compliance with the conditions of the licence.

(2) A person to whom an enforcement notice is given in relation to a restocking notice may appeal against the enforcement notice to a person appointed under section 26 on the grounds—

- (a) that the restocking notice has been complied with; or
- (b) that the steps required by the enforcement notice to be taken are not required by the restocking notice.

(3) An enforcement notice shall be inoperative—

- (a) until the expiration of the period for bringing an appeal under this section; and
- (b) where an appeal is brought under this section, until the conclusion of any proceedings under this section on that appeal.

(4) On an appeal under this section the person appointed under section 26 may—

- (a) confirm the enforcement notice, or

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- (b) direct the Department to withdraw the notice or modify it in such manner as is specified in the direction.
- (5) It is the duty of the Department to give effect to any direction under subsection (4)(b).