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SCOTTISH STATUTORY INSTRUMENTS

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**2019 No. 49**

**The Felling (Scotland) Regulations 2019**

**PART 7**

**COMPENSATION**

**Refusal of felling permission: compensation**

**17.**—(1) An applicant who—

- (a) was refused felling permission under section 27(1) of the Act, and
- (b) suffered loss in consequence of that refusal,

may claim compensation from the Scottish Ministers under section 32(1) of the Act.

(2) For the purposes of regulations 17 to 19, a person making a claim under paragraph (1) is referred to as a “claimant”.

(3) No compensation is payable in respect of an application for felling permission that has been rejected under regulation 4(3) or regulation 7(2).

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**Commencement Information**

**II** [Reg. 17](#) in force at 1.4.2019, see [reg. 1\(1\)](#)

**Refusal of felling permission: notice of claim for compensation**

**18.**—(1) A claim for compensation under section 32(1) of the Act must be made by giving notice of the claim in accordance with this regulation.

(2) The claim for compensation must be received by the Scottish Ministers within 12 months beginning with the date on which notice of the decision to refuse felling permission was sent to the applicant under regulation 6(1).

(3) The claim for compensation, which must be submitted on a form obtained from the Scottish Ministers, must include or, as the case may be, be accompanied by-

- (a) the name, address and telephone number of the claimant,
- (b) a map of the felling area,
- (c) a statement setting out the full particulars of the claim by reference to the matters set out in regulation 19(1) and (2),
- (d) any supporting evidence on which the claimant wishes to rely, which must include evidence that the claimed losses were suffered by the claimant as a result of the application for felling permission being refused.

**Commencement Information**

**I2** [Reg. 18](#) in force at 1.4.2019, see [reg. 1\(1\)](#)

**Refusal of felling permission: calculation of compensation**

**19.**—(1) The compensation to which a person may be entitled under section 32(1) of the Act is limited to the depreciation in the value of the trees that is attributable to deterioration in the quality of the timber comprised therein, over the period referred to in paragraph (2), in consequence of the refusal of felling permission.

(2) Any compensation payable under section 32(1) of the Act must be calculated by reference to the period beginning with the date that notification of refusal of felling permission under regulation 6(1) was sent to the claimant until—

- (a) the date that the claim for compensation was received by the Scottish Ministers, or
- (b) if earlier, the date that a felling permission was notified to the claimant following a successful appeal against that refusal.

(3) In calculating any compensation that may be payable under section 32(1) of the Act, the Scottish Ministers must—

- (a) take no account of deterioration in the quality of the timber that is attributable to neglect of the trees after the felling permission was refused, and
- (b) ascertain the value of the trees on the basis of current market prices at the date the claim was received by Scottish Ministers in accordance with regulation 18.

(4) The Scottish Ministers may request from the claimant any information that the Scottish Ministers consider to be necessary for the purpose of making a determination in relation to compensation.

(5) The claimant must give the Scottish Ministers any information requested under paragraph (4) within—

- (a) a period of 28 working days beginning with the day on which the request was sent to the claimant, or
- (b) such longer period as the Scottish Ministers may notify to the claimant in writing.

(6) If the claimant fails to provide requested information within a timescale required by or under paragraph (5), the Scottish Ministers may reject the claim for compensation without further consideration.

**Commencement Information**

**I3** [Reg. 19](#) in force at 1.4.2019, see [reg. 1\(1\)](#)

**Temporary stop notice: compensation**

**20.**—(1) A person who is entitled to claim compensation under section 47(1) of the Act may claim compensation from the Scottish Ministers in accordance with regulations 21 and 22.

(2) For the purposes of regulations 20 to 23, a person making a claim under paragraph (1) is referred to as a “claimant”.

**Commencement Information**

**I4** [Reg. 20](#) in force at 1.4.2019, see [reg. 1\(1\)](#)

**Temporary stop notice: notice of claim for compensation**

**21.**—(1) A claim for compensation under regulation 20(1) must be received by the Scottish Ministers within 12 months beginning with the date that the temporary stop notice was revoked under section 45(5) of the Act.

(2) The claim for compensation, which must be submitted on a form obtained on request from the Scottish Ministers, must include or, as the case may be, be accompanied by—

- (a) the name, address and telephone number of the claimant,
- (b) a map of the felling area,
- (c) a statement setting out the full particulars of the claim by reference to the matters set out in regulation 22(1) and (2), and
- (d) any supporting evidence that the claimant wishes to rely on.

**Commencement Information**

**I5** [Reg. 21](#) in force at 1.4.2019, see [reg. 1\(1\)](#)

**Temporary stop notice: calculation of compensation**

**22.**—(1) The compensation to which a person may be entitled under section 47(1) of the Act is limited to losses suffered over the period referred to in paragraph (2) as a consequence of the prohibition of felling effected by the temporary stop notice.

(2) Any compensation payable under section 47(1) of the Act must be calculated by reference to the period beginning on the date that the temporary stop notice had effect under section 45(8) of the Act until the date the temporary stop notice was revoked under section 45(5) of the Act.

(3) In calculating any compensation that may be payable under section 47(1) of the Act, the Scottish Ministers must—

- (a) take no account of deterioration in the quality of the timber that is attributable to neglect of the trees after the temporary stop notice was sent to the applicant, and
- (b) ascertain the value of the trees on the basis of current market prices at the date the claim was received by the Scottish Ministers in accordance with regulation 21.

(4) The Scottish Ministers may request from the claimant any information that the Scottish Ministers consider to be necessary for the purpose of making a determination in relation to the claim for compensation.

(5) The claimant must give the Scottish Ministers any information requested under paragraph (4) within—

- (a) a period of 28 working days beginning with the day on which the request was sent to the claimant, or
- (b) such longer period as the Scottish Ministers may notify to the claimant in writing.

(6) If the claimant fails to provide requested information within a timescale required by or under paragraph (5), the Scottish Ministers may reject the claim for compensation without further consideration.

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**Changes to legislation:** There are currently no known outstanding effects for the  
The Felling (Scotland) Regulations 2019, PART 7. (See end of Document for details)

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**Commencement Information**

**I6** [Reg. 22](#) in force at 1.4.2019, see [reg. 1\(1\)](#)

**Determination of questions of disputed compensation**

**23.** Any question of disputed compensation under this Part is to be determined by the Lands Tribunal for Scotland.

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**Commencement Information**

**I7** [Reg. 23](#) in force at 1.4.2019, see [reg. 1\(1\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Felling (Scotland) Regulations 2019, PART 7.