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SCOTTISH STATUTORY INSTRUMENTS

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**2019 No. 49**

**The Felling (Scotland) Regulations 2019**

**PART 2**

**APPLICATIONS FOR FELLING PERMISSION**

**Applications for felling permission**

**2.—(1)** The Scottish Ministers may only accept an application for felling permission if it contains the information specified in paragraph (2).

(2) The information is —

- (a) the name, address and telephone number of the applicant,
- (b) where the applicant is a person mentioned in section 25(2)(b) of the Act<sup>M1</sup>, the name and address of the owner of the land,
- (c) a map of the felling area,
- (d) a statement as to whether or not the felling area is, wholly or partly, within a conservation area,
- (e) the information required by regulation 3,
- (f) where felling of more than one species in the felling area is proposed, the size of the area over which the felling is to occur in relation to each species,
- (g) information specifying whether the proposed felling in the felling area involves—
  - (i) thinning,
  - (ii) clear felling,
  - (iii) selective felling,
  - (iv) coppicing, or
  - (v) the felling of individual trees,
- (h) where thinning is proposed, information indicating—
  - (i) an estimate of the number of trees before and after thinning has occurred and the total number of trees to be removed,
  - (ii) an estimate of the basal area before and after thinning has occurred and the total basal area to be removed, or
  - (iii) an estimate of the volume of trees to be removed expressed in m<sup>3</sup>,
- (i) whether the application includes the proposed felling of any trees that are the subject of a tree preservation order and, if so, information specifying which trees,
- (j) the proposed date of the commencement and the projected date of completion of the felling,
- (k) where the application proposes restocking
  - (i) the type of restocking,

- (ii) the species of tree to be used for restocking, and
  - (iii) the restocking density, or the number of the trees to be replanted in the felling area or in an area other than the felling area as appropriate, and
  - (l) where the application does not involve restocking, a statement of the reasons for that.
- (3) In this regulation —
- “clear felling” means felling most or all of the trees in the felling area,
- “conservation area” means an area designated as a conservation area under section 61 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 <sup>M2</sup> (designation of conservation areas),
- “type of restocking” means any of the following types of activity—
- (a) replanting in the felling area,
  - (b) replanting in an area other than the felling area,
  - (c) natural regeneration in the felling area,
  - (d) natural regeneration in an area other than the felling area, or
  - (e) coppice regrowth in the felling area,
- “selective felling” means the selected removal of groups of trees, identified in the application for felling permission, in the felling area,
- “restocking density” means the number of live trees replanted per hectare in the felling area or in an area other than the felling area,
- “thinning” means the removal of selected live trees to improve the growth of the remaining trees or for the sustainable management of the woodland, and
- “tree preservation order” means an order made or having effect as if made under section 160 of the Town and Country Planning (Scotland) Act 1997 <sup>M3</sup>.

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**Commencement Information**

**II** Reg. 2 in force at 1.4.2019, see **reg. 1(1)**

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**Marginal Citations**

**M1** An occupier of the land on which the tree is located may apply for permission to fell with the written permission of the owner of that land.

**M2** 1997 c. 9

**M3** 1997 c. 8

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**Felling applications: identification of species and coverage**

**3.—(1)** Where the felling area specified in an application for felling permission consists of trees of a species which cover 20% or more of that area (in this regulation, a “main species”), the application must identify—

- (a) each main species and the percentage of the area covered by that species,
- (b) the percentage of the remainder of the area covered by broadleaves, and
- (c) the percentage of the remainder of the area covered by conifers.

(2) Where paragraph (1) does not apply, the application must identify the species of trees to be felled as either “mixed broadleaves” or “mixed conifers” and the percentage of the felling area covered by that species.

#### Commencement Information

**I2** Reg. 3 in force at 1.4.2019, see [reg. 1\(1\)](#)

#### Felling applications: additional information and powers of entry

- 4.—(1) The Scottish Ministers may—
- (a) request from the applicant such additional information, and
  - [<sup>F1</sup>(b) consult such persons and make such other inquiries as they may consider necessary or relevant for the purposes of making a decision on an application for felling permission.]
- (2) The Scottish Ministers may at any reasonable time—
- (a) enter the felling area with the consent of an owner or occupier of that land, and
  - [<sup>F2</sup>(b) take onto the felling area such other persons or such equipment as they consider necessary for the purposes of making a decision on an application for felling permission.]
- (3) An application for felling permission may be rejected by the Scottish Ministers without further consideration if—
- (a) the applicant does not supply information that has been requested under paragraph (1)(a) within such reasonable timescale as the Scottish Ministers may have specified, or
  - (b) the Scottish Ministers are unable to access the felling area because consent under paragraph (2) is not given.

#### Textual Amendments

- F1** Reg. 4(1)(b) substituted for reg. 4(1)(b)(c) (18.3.2021) by [The Forestry and Land Management \(Scotland\) Act 2018 \(Consequential, Saving and Transitional Provisions\) Regulations 2021 \(S.S.I. 2021/44\)](#), regs. 1(1), [12\(2\)\(a\)](#)
- F2** Reg. 4(2)(b) substituted for reg. 4(1)(b)(c) (18.3.2021) by [The Forestry and Land Management \(Scotland\) Act 2018 \(Consequential, Saving and Transitional Provisions\) Regulations 2021 \(S.S.I. 2021/44\)](#), regs. 1(1), [12\(2\)\(b\)](#)

#### Commencement Information

**I3** Reg. 4 in force at 1.4.2019, see [reg. 1\(1\)](#)

#### Felling permission: conditions

- 5.—(1) The Scottish Ministers may only impose conditions on a felling permission which relate to a matter mentioned in paragraph (2).
- (2) The matters are—
- (a) avoidance or mitigation of impact on communities or individuals,
  - (b) avoidance or mitigation of impact on the environment, biodiversity or species,
  - (c) the retention of, or increase in, woodland cover.

#### Commencement Information

**I4** Reg. 5 in force at 1.4.2019, see [reg. 1\(1\)](#)

### Notification of decisions on applications

6.—(1) Where the Scottish Ministers make a decision to grant (with or without conditions), or to refuse, an application for felling permission they must—

- (a) notify the applicant of the decision, with a statement of the reasons for it, and
- (b) inform the applicant of the right of appeal against the decision under section 68(1) of the Act.

(2) Where the Scottish Ministers make a decision to refuse an application for felling permission they must inform the applicant of the restriction on making further applications provided for by regulation 7.

#### Commencement Information

**I5** [Reg. 6](#) in force at 1.4.2019, see [reg. 1\(1\)](#)

### Restriction on further applications

7.—(1) Where the Scottish Ministers have refused an application for felling permission (“the original application”), a further application for felling permission may not be made in relation to the same circumstances.

(2) Where an application is made in contravention of paragraph (1), the Scottish Ministers may reject it without consideration.

(3) Paragraphs (1) and (2) do not apply where the Scottish Ministers are satisfied that the applicant has provided further information, in response to the statement of reasons given for the refusal of the original application, such as to merit the acceptance of a further application for consideration.

#### Commencement Information

**I6** [Reg. 7](#) 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 2.