



# Forestry Act 1967

## 1967 CHAPTER 10

### PART II

#### COMMISSIONERS' POWER TO CONTROL FELLING OF TREES

##### *Restriction of felling*

#### **9 Requirement of licence for felling.**

- (1) A felling licence granted by the Commissioners shall be required for the felling of growing trees, except in a case where by or under the following provisions of this Part of this Act this subsection is expressed not to apply.
- (2) Subsection (1) above does not apply—
  - (a) to the felling of trees with a diameter not exceeding [<sup>F1</sup>8 centimetres] or, in the case of coppice or underwood, with a diameter not exceeding [<sup>F1</sup>15 centimetres]; or
  - (b) to the felling of fruit trees or trees standing or growing on land comprised in an orchard, garden, churchyard or public open space; or
  - (c) to the topping or lopping of trees or the trimming or laying of hedges.
- (3) Subsection (1) above does not apply to the felling by any person of trees on land in his occupation or occupied by a tenant of his—
  - (a) where the trees have a diameter not exceeding [<sup>F1</sup>10 centimetres] and the felling is carried out in order to improve the growth of other trees; or
  - (b) where the following conditions are satisfied, that is to say—
    - (i) the aggregate cubic content of the trees which are felled by that person without a licence (exclusive of trees to whose felling subsection (1) above does not apply) does not exceed [<sup>F2</sup>5 cubic metres] in any quarter; and
    - (ii) the aggregate cubic content of the trees so felled which are sold by that person whether before or after the felling (exclusive as aforesaid) does

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not exceed [<sup>F2</sup>2 cubic metres] in any quarter, or such larger quantity as the Commissioners may in a particular case allow.

- (4) Subsection (1) above does not apply to any felling which—
- (a) is for the prevention of danger or the prevention or abatement of a nuisance;
  - (b) is in compliance with any obligation imposed by or under an Act of Parliament, including this Act;
  - (c) is carried out by, or at the request of, [<sup>F3</sup>an electricity operator, because the tree is or will be in such close proximity to an electric line or electrical plant which is kept installed or is being or is to be installed by the operator as to have the effect mentioned in paragraph 9(1)(a) or (b) of Schedule 4 to the Electricity Act 1989;]
  - (d) is immediately required for the purpose of carrying out development authorised by planning permission granted or deemed to be granted under [<sup>F4</sup>the Town and Country Planning Act 1990] or the enactments replaced by that Act, or under [<sup>F5</sup>the Town and Country Planning (Scotland) Act 1997].
- (5) Regulations made by the Commissioners under this Part of this Act may modify subsections (2) to (4) above as follows, that is to say—
- (a) they may provide for additional exceptions from the application of subsection (1) above and may in particular substitute—
    - (i) in subsection (2)(a), for the reference to [<sup>F18</sup>centimetres] a reference to a larger diameter;
    - (ii) in subsection (3)(a), for the reference to [<sup>F110</sup>centimetres] a reference to a larger diameter;
    - (iii) in subsection (3)(b) for the reference to [<sup>F130</sup>cubic metres] or the reference to [<sup>F15.5</sup>cubic metres] in either case a reference to a larger quantity;
  - (b) they may substitute in subsection (2)(a) for the reference to [<sup>F115</sup>centimetres] a reference to a smaller diameter; and
  - (c) they may restrict or suspend the exception in subsection (3)(b) and may in particular substitute, for the reference in sub-paragraph (i) to [<sup>F130</sup>cubic metres], or for the reference in sub-paragraph (ii) to [<sup>F15.5</sup>cubic metres], in either case a reference to a smaller quantity;

and the said subsections shall have effect with any modification made by regulations under this subsection.

- (6) In this section—

[<sup>F6</sup> “ electricity operator ” means a licence holder within the meaning of Part I of the Electricity Act 1989 by whom the powers conferred by paragraph 9 (tree lopping) of Schedule 4 to that Act are exercisable; ]

[<sup>F6</sup> “ electric line ” and “ electric plant ” have the same meanings as in Part I of the Electricity Act 1989; ]

“public open space” means land laid out as a public garden or used (otherwise than in pursuance of section 193 of the <sup>M1</sup>Law of Property Act 1925 or of Part V of the National Parks and Access to the <sup>M2</sup>Countryside Act 1949 [<sup>F7</sup> or Part I of the Countryside and Rights of Way Act 2000][<sup>F8</sup> or of Part II or section 48 of the <sup>M3</sup>Countryside (Scotland) Act 1967]) for the purpose of public recreation, or land being a disused burial ground;

“quarter” means the period of three months beginning with the 1st January, 1st April, 1st July or 1st October in any year;

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and references to the diameter of trees shall be construed as references to the diameter, measured over the bark, at a point [<sup>F1</sup>1·3 metres] above the ground level; . . . <sup>F9</sup>

#### Textual Amendments

- F1 Words substituted by [Forestry Act 1979 \(c. 21, SIF 54\)](#), s. 2(1), [Sch. 1](#)
- F2 Words substituted by virtue of [S.I. 1985/1958](#), [reg. 2](#)
- F3 Words substituted by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1)(3), [Sch. 16 para. 13\(2\)](#), [Sch. 17 paras. 33, 35\(1\)](#)
- F4 Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2, para. 14\(1\)](#)
- F5 Words in s. 9(4)(d) substituted (27.5.1997) by virtue of [1997 c. 11, ss. 4, 6\(2\)](#), [Sch. 2 para. 13\(1\)](#)
- F6 Definition substituted by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1)(3), [Sch. 16 para. 13\(3\)](#), [Sch. 17 paras. 33, 35\(1\)](#)
- F7 Words in s. 9(6) inserted (19.9.2004 for E., 28.5.2005 for W.) by [Countryside and Rights of Way Act 2000 \(c. 37\)](#), s. 103(3), [Sch. 4 para. 2](#); [S.I. 2004/2173](#), art. 2(1)(i); [S.I. 2005/423](#), art. 2(h)
- F8 Words inserted by [Countryside \(Scotland\) Act 1967 \(c. 86, SIF 46:1\)](#), [s. 58\(5\)](#)
- F9 Words repealed by [Forestry Act 1979 \(c. 21, SIF 54\)](#), s. 3(2), [Sch. 2](#)

#### Modifications etc. (not altering text)

- C1 S. 9 excluded by [S.I. 1979/792](#), [reg. 4](#)
- C2 Definition of “public open space” restricted by [Countryside Act 1968 \(c. 41, SIF 46:1\)](#), [s. 24\(4\)](#)

#### Marginal Citations

- M1 [1925 c. 20\(98:1\)](#)
- M2 [1949 c. 97\(46:1\)](#)
- M3 [1967 c. 86\(46:1\)](#)

## 10 Application for felling licence and decision of Commissioners thereon.

- (1) An application for a felling licence may be made to the Commissioners in the prescribed manner by a person having such an estate or interest in the land on which the trees are growing as enables him, with or without the consent of any other person, to fell the trees.
- (2) Subject to the provisions of this Act (and, in particular, to their duty to take advice under section 37(3), the Commissioners may on any such application grant the licence, or grant it subject to conditions, or refuse it, but shall grant it unconditionally except in a case where it appears to them to be expedient to do otherwise—
  - (a) in the interests of good forestry or agriculture or of the amenities of the district; or
  - (b) for the purpose of complying with their duty of promoting the establishment and maintenance <sup>F10</sup>. . . of adequate reserves of growing trees.
- (3) A felling licence shall continue in force for such period (not being less than one year from the date on which it is granted) as may be specified therein.
- (4) If in the case of any trees the Commissioners refuse an application for a felling licence, the consequences shall be as follows:—
  - (a) except in a case to which section 14(4) below applies, any person who is for the time being the owner of the trees shall be entitled to compensation under and in accordance with the next following section; and

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- (b) if the land on which the trees are growing is, or in the opinion of the Commissioners will be, managed in a manner approved by them, the Commissioners may (subject to section 14(5) below), if they think fit and subject to the approval of the treasury [<sup>F11</sup>as regards land in England and Wales, and the Scottish Ministers as regards land in Scotland], make to persons interested in the land advances by way of loan of such amounts, upon such terms and subject to such conditions, as they may determine.
- (5) At any time after a felling licence has been refused by them in the case of any trees, the Commissioners may, if they think fit, give notice to the owner of the trees that they are prepared to grant a felling licence for the trees either unconditionally or subject to conditions described in the notice; and if the Commissioners give such a notice and an application is duly made to them for a felling licence, they shall grant a licence in accordance with the notice, subject to sections 13(2) and 15 below.
- (6) When the Commissioners refuse to grant a felling licence, they shall give notice in writing to the applicant of the grounds for the refusal.
- (7) Where application is made for a felling licence for trees on land which is subject to a forestry dedication covenant or agreement, and the licence is refused, no breach of the covenant or agreement shall be deemed to have occurred by reason of anything done or omitted in consequence of the refusal.

#### Textual Amendments

- F10** Words in s. 10(2)(b) omitted (1.7.1999) by virtue of S.I. 1999/1747, art. 3, Sch. 12 Pt. II para. 4(9)
- F11** Words in s. 10(4)(b) inserted (1.7.1999) by S.I. 1999/1747, art. 3, Sch. 12 Pt. II para. 4(10)

## 11 Terms of compensation on refusal of licence.

- (1) The compensation to which a person may become entitled under section 10(4)(a) above is for any depreciation in the value of the trees which is attributable to deterioration in the quality of the timber comprised therein in consequence of the refusal of a felling licence for them.
- (2) Compensation under this section shall be recoverable from the Commissioners on a claim made in the prescribed manner.
- (3) Claims for compensation in the case of any trees may be made from time to time in respect of deterioration taking place after the refusal of a felling licence for those trees, but—
- no such claim shall be made in respect of deterioration taking place more than ten years before the date of the claim; and
  - if the trees have been felled, no such claim shall be made after the expiration of one year from the date of the felling.
- (4) In calculating compensation,—
- no account shall be taken of deterioration in the quality of the timber which is attributable to neglect of the trees after the refusal of a felling licence for them; and
  - the value of the trees at any time shall be ascertained on the basis of prices current at the date of the claim.

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- (5) If after refusing a felling licence the Commissioners under section 10(5) above subsequently give notice to the owner of the trees that they are prepared to grant a licence, then in calculating compensation payable in consequence of the previous refusal no account shall be taken of deterioration occurring after the giving of the notice.
- (6) Any question of disputed compensation shall be determined in accordance with section 31 of this Act.

## 12 Conditional licences.

- (1) The conditions which may under section 10(2) above be attached to a felling licence are such as the Commissioners, after consultation with the applicant for the licence, determine to be expedient for securing—
  - (a) the restocking or stocking with trees of the land on which the felling is to take place, or of such other land as may be agreed between the Commissioners and the applicant; and
  - (b) the maintenance of those trees in accordance with the rules and practice of good forestry for a period not exceeding ten years.
- (2) No conditions shall be imposed on the grant of a felling licence where it is for trees on land subject to a forestry dedication covenant or agreement [<sup>F12</sup>and the felling is in accordance with a plan of operations or other working plan approved by the Commissioners and in force under the covenant or agreement].

### Textual Amendments

**F12** Words added by [Trees Act 1970 \(c. 43, SIF 54\)](#), s. 2

## 13 Deferred decision on application.

- (1) Where a person applies for a felling licence and the Commissioners do not within three months after receiving the application, or within such further time as may be agreed with the applicant, give notice to him of their decision on the application (including any reference of the application under section 15 of this Act) the provisions of this Part of this Act shall apply in relation to the application as if it had been refused.
- (2) If on an application for a felling licence—
  - (a) the Commissioners determine to grant the licence subject to conditions; and
  - (b) it appears to them that the applicant is not entitled to an interest in land which would enable him to comply with those conditions;they may give notice in writing to that effect to the applicant and postpone consideration of the application until the person entitled to such an interest is joined as a party thereto.

Where a notice under this subsection is given, subsection (1) above shall apply as if, instead of referring to a period of three months after the Commissioners receive the application, it referred to a period of three months after the date on which the person entitled to such interest in the land as is mentioned in the notice is joined as a party to the application.

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## 14 Tree-felling in accordance with approved working plan etc.

- (1) The following provisions shall apply where application is made to the Commissioners for a felling licence and relates to the felling of trees in accordance with a plan of operations or other working plan approved by the Commissioners under a forestry dedication covenant or agreement, or otherwise approved by them in writing for the purposes of this section.
- (2) The Commissioners shall not refuse the licence unless the Minister [<sup>F13</sup>as regards the felling of trees in England and Wales certifies, and the Scottish Ministers as regards the felling of trees in Scotland certify] that, by reason of an act of God or other emergency which has taken place or arisen since the approval of the plan, the granting of a felling licence in respect of those trees, or in respect of trees of any class which comprises those trees, would be detrimental to the national interest.
- (3) If the Commissioners refuse the licence, the applicant may by notice given to the Commissioners in the prescribed manner and within the prescribed time require them to buy the trees or such of them as may be specified in the notice.
- (4) If a notice is served under the foregoing subsection,—
  - (a) no compensation shall be payable under section 11 in respect of any trees to which the notice relates; and
  - (b) the Commissioners shall be deemed to have contracted with the applicant to buy the trees on the date of the service of the notice at such prices as may in default of agreement be determined in accordance with section 31 of this Act, and shall fell and remove the trees at such time or times as they may determine.
- (5) Where such a notice is served, and the land on which the trees are growing is subject to a forestry dedication covenant or agreement, the power of the Commissioners under section 10(4)(b) above to make an advance by way of loan shall not be exercisable in respect of the trees, but this subsection shall not prejudice their power to make an advance in respect of any other trees on the land.

### Textual Amendments

**F13** Words in s. 14(2) substituted (1.7.1999) by [S.I. 1999/1747](#), art. 3, [Sch. 12 Pt. II para. 4\(11\)](#)

## 15 Trees subject to preservation order under Planning Acts.

- (1) If an application is made to the Commissioners for a felling licence in respect of trees to which a tree preservation order relates, and consent under the order is required for the felling of those trees, then—
  - (a) the Commissioners, if they propose to grant the licence, shall give notice in writing to the authority by whom the order was made; and
  - (b) the Commissioners may in any case refer the application to the said authority.
- (2) Where the Commissioners give the notice required by subsection (1)(a) above and the authority within the prescribed period after receipt of the notice object to the Commissioners' proposal to grant a felling licence and do not withdraw their objection, then—
  - (a) the Commissioners shall not deal with the application, but shall refer it to the Minister, and the application shall then be dealt with under the Town and Country Planning Acts; and

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- (b) if in pursuance of the application the Minister consents to the felling, section 9(1) of this Act shall not apply so as to require a felling licence for the felling of any trees in accordance with the consent.
- (3) Where the Commissioners refer an application under subsection (1)(b) above,—
  - (a) the application shall be dealt with under the Town and Country Planning Acts; and
  - (b) so long as the tree preservation order applying to the trees remains in force, section 9(1) shall not apply so as to require a felling licence for the felling of any trees to which the application relates.
- (4) Where in the case of any trees—
  - (a) the Commissioners under this section refer an application for a felling licence to the Minister or an authority who have made a tree preservation order relating to the trees; and
  - (b) a felling licence in respect of the trees has been previously refused by the Commissioners,  
no account shall be taken, in calculating any compensation payable under section 11 of this Act in consequence of the previous refusal, of deterioration occurring after the date of the reference.  
  
This subsection shall be without prejudice to section 11(5) of this Act, in a case to which that subsection applies.
- (5) Except as provided by the foregoing provisions of this section, no application shall be entertained under a tree preservation order for consent thereunder in respect of the felling of trees in the case of which section 9(1) of this Act applies so as to require a felling licence.
- (6) Where, in the case of trees to which a tree preservation order relates, a felling licence is granted by the Commissioners after the date on which the order comes into force, the licence shall, notwithstanding anything in that order, be sufficient authority for the felling of any trees to which the order relates.
- (7) Schedule 3 to this Act shall have effect for explaining the procedure applicable where this section requires an application to be dealt with under the Town and Country Planning Acts.
- (8) <sup>F14</sup> .....

**Textual Amendments**

**F14** S. 15(8) repealed (27.3.2002) by [The Ministry of Agriculture, Fisheries and Food \(Dissolution\) Order 2002 \(S.I. 2002/794\)](#), art. 5(2), [Sch. 2](#) (with art. 6)

**16 Review of refusal or conditions of licence.**

- (1) The following provisions shall have effect for enabling the decision of the Commissioners on an application for a felling licence to be reviewed where they refuse to grant a felling licence or grant it subject to conditions.
- (2) A person aggrieved by the refusal or conditions may by a notice served within the prescribed time and in the prescribed manner request the Minister <sup>F15</sup> where the

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application was to fell trees in England and Wales, and the Scottish Ministers where the application was to fell trees in Scotland] to refer the matter to a committee appointed in accordance with section 27 below and—

- (a) the Minister [<sup>F16</sup>or, as the case may be, the Scottish Ministers] shall, unless he is [<sup>F17</sup>or they are] of opinion that the grounds for the request are frivolous, refer the matter accordingly;
  - (b) the committee, after compliance with section 27(3), shall thereupon make a report on the reference to the Minister [<sup>F16</sup>or, as the case may be, the Scottish Ministers].
- (3) The Minister [<sup>F16</sup>or, as the case may be, the Scottish Ministers] shall, after considering the committee's report, confirm the decision of the Commissioners on the application, or reverse or modify that decision and direct the Commissioners to give effect to the reversal or modification.
- (4) No request may be made under this section in respect of a refusal to grant a felling licence unless a previous application for a licence in respect of the trees has been refused and the application to which the request relates is made after the following date, that is to say—
- (a) where a reference under this section has been made in respect of a previous application, the third anniversary of the last such application in respect of which such a reference has been made; and
  - (b) in any other case, the third anniversary of the first previous application.

#### Textual Amendments

- F15** Words in s. 16(2) inserted (1.7.1999) by S.I. 1999/1747, art. 3, Sch. 12 Pt. II para. 4(12)(a)
- F16** Words in s. 2(2)(a)(b)(3) inserted (1.7.1999) by S.I. 1999/1747, art. 3, Sch. 12 Pt. II para. 4(12)(b)
- F17** Words in s. 2(2)(a) inserted (1.7.1999) by S.I. 1999/1747, art. 3, Sch. 12 Pt. II para. 4(12)(c)

## 17 Penalty for felling without licence.

- (1) Anyone who fells a tree without the authority of a felling licence, the case being one in which section 9(1) of this Act applies so as to require such a licence, shall be guilty of an offence and liable on summary conviction to a fine not exceeding [<sup>F18</sup>level 4 on the standard scale] or twice the sum which appears to the court to be the value of the tree, whichever is the higher.
- (2) Proceedings for an offence under this section may be instituted within six months from the first discovery of the offence by the person taking the proceedings, provided that no proceedings shall be instituted more than two years after the date of the offence.

#### Textual Amendments

- F18** Words substituted (E.W.) by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46; and (S.) by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1); ss. 289F, 289G

## [<sup>F19</sup>17A Power of Commissioners to require restocking notice after unauthorised felling.

- (1) Where a person is convicted of an offence under section 17 of this Act and he is a person having, as regards the land on which the felling which gave rise to the



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conviction took place, such estate or interest as is mentioned in section 10(1) of this Act, the Commissioners may serve on him a notice (in this Act referred to as a “restocking notice”) requiring him—

- (a) to restock or stock with trees the land or such other land as may be agreed between the Commissioners and him; and
  - (b) to maintain those trees in accordance with the rules and practice of good forestry for a period, not exceeding ten years, specified in the notice.
- (2) A restocking notice shall be served within three months after the date of the conviction or of the dismissal or withdrawal of any appeal against the conviction.
- (3) Subject to the provisions of this Act, in considering whether to issue a restocking notice the Commissioners shall—
- (a) have regard to the interests of good forestry and agriculture and of the amenities of the district;
  - (b) have regard to their duty of promoting the establishment and maintenance<sup>F20</sup> . . . of adequate reserves of growing trees; and
  - (c) take into account any advice tendered by the regional advisory committee for the conservancy comprising the land to which the restocking notice would relate.
- (4) This section shall not apply in relation to trees to which a tree preservation order relates or in relation to trees the felling of which took place before the date of coming into force of the Forestry Act 1986.

#### Textual Amendments

**F19** Ss. 17A–17C inserted by [Forestry Act 1986 \(c. 30, SIF 54\), s. 1\(a\)](#)

**F20** Words in s. 17A(3)(b) omitted (1.7.1999) by virtue of [S.I. 1999/1747, art. 3, Sch. 12 Pt. II para. 4\(9\)](#)

### 17B Appeal against restocking notice.

- (1) A person on whom a restocking notice has been served who objects to the notice or to any condition contained therein may by notice served within the prescribed time and in the prescribed manner request the Minister [<sup>F21</sup>where the restocking notice relates to land in England and Wales, and the Scottish Ministers where the restocking notice relates to land in Scotland] to refer the matter to a committee appointed in accordance with section 27 of this Act; and—
- (a) the Minister [<sup>F22</sup>or, as the case may be, the Scottish Ministers] shall, unless he is [<sup>F23</sup>or they are] of the opinion that the grounds of the request are frivolous, refer the matter accordingly; and
  - (b) the committee, after compliance with subsection (3) of that section, shall thereupon make a report to the Minister [<sup>F22</sup>or, as the case may be, the Scottish Ministers].
- (2) The Minister [<sup>F22</sup>or, as the case may be, the Scottish Ministers] may, after considering the committee’s report, direct the Commissioners to withdraw the notice or to notify the objector that it shall have effect subject to such modification as the Minister [<sup>F22</sup>or, as the case may be, the Scottish Ministers] shall direct.

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#### Textual Amendments

- F19** Ss. 17A–17C inserted by [Forestry Act 1986 \(c. 30, SIF 54\)](#), [s. 1\(a\)](#)
- F21** Words in s. 17B(1) inserted (1.7.1999) by [S.I. 1999/1747](#), art. 3, [Sch. 12 Pt. II para. 4\(13\)\(a\)](#)
- F22** Words in s. 17B(1)(a)(b)(2) inserted (1.7.1999) by [S.I. 1999/1747](#), art. 3, [Sch. 12 Pt. II para. 4\(13\)\(b\)](#)
- F23** Words in s. 17B(1)(a) inserted (1.7.1999) by [S.I. 1999/1747](#), art. 3, [Sch. 12 Pt. II para. 4\(13\)\(c\)](#)

### 17C Enforcement of restocking notice.

The provisions of sections 24 (notice to require compliance with conditions or directions), 25 (appeal against notice under section 24) and 26(1), (3) and (4) (expenses) of this Act shall apply in relation to a restocking notice as they apply in relation to a felling licence; and for the purposes of such application—

- (a) references in those sections to a felling licence shall be construed as references to a restocking notice; and
- (b) the reference in the said subsection (3) to the applicant for the licence shall be construed as a reference to the person on whom the restocking notice has been served.]

#### Textual Amendments

- F19** Ss. 17A–17C inserted by [Forestry Act 1986 \(c. 30, SIF 54\)](#), [s. 1\(a\)](#)

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