

## 1979 No. 792

## FORESTRY

## The Forestry (Exceptions from Restriction of Felling)

## Regulations 1979

<i>Made - - - -</i>	9th July 1979
<i>Laid before Parliament</i>	18th July 1979
<i>Coming into Operation</i>	9th August 1979

The Forestry Commissioners, in exercise of the powers conferred upon them by sections 9(5)(a) and 32(1) of the Forestry Act 1967(a), and of every other power enabling them in that behalf, and after consultation with the Home Grown Timber Advisory Committee, hereby make the following Regulations:—

*Citation, commencement and extent*

1.—(1) These Regulations may be cited as the Forestry (Exceptions from Restriction of Felling) Regulations 1979 and shall come into operation on 9th August 1979.

(2) These Regulations shall apply to Great Britain.

*Revocation*

2. The Forestry (Exceptions from Restriction of Felling) Regulations 1951(b), the Forestry (Exception from Restriction of Felling) Regulations 1972(c), the Forestry (Exception from Restriction of Felling) Regulations 1974(d) and the Forestry (Exception from Restriction of Felling) (Amendment) Regulations 1977(e) are hereby revoked.

*Interpretation*

3. In these Regulations, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—

“the Act” means the Forestry Act 1967;

“the Minister” means the Minister of Agriculture, Fisheries and Food as respects England, the Secretary of State for Scotland as respects Scotland and the Secretary of State for Wales as respects Wales;

“the Commissioners” means the Forestry Commissioners;

“aerodrome” means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft;

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(a) 1967 c. 10; section 9 was amended by the Forestry Act 1979 (c. 21), sections 2(1) and 3(2) and Schedules 1 and 2.

(b) S.I. 1951/1725.

(d) S.I. 1974/1817.

(c) S.I. 1972/91.

(e) S.I. 1977/1954.

“licence” means a licence under Part II of the Act authorising the felling of trees; and

“statutory undertakers” means persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, power or lighthouse undertaking, or any undertaking for the supply of electricity, gas, hydraulic power or water.

*Exceptions from restriction of felling*

4. The following shall be exceptions from the application of section 9(1) of the Act (which prohibits the felling of growing trees unless a licence is in force authorising the felling) additional to the exceptions specified in section 9(2), (3) and (4) of the Act and accordingly no licence shall be required in respect of—

(1) the felling of any tree where the Secretary of State for Defence or the Secretary of State for Trade has certified that the tree obstructs the approach of aircraft to, or their departure from, any aerodrome or hinders the safe and efficient use of air navigational or aircraft landing installations;

(2) the felling by statutory undertakers of trees on land in their occupation which obstruct the construction of any works required for the purposes of the undertaking of those undertakers or of trees which interfere with the maintenance or operation of any works vested in those undertakers;

(3) the felling of any tree by, or at the request of, a water authority established under the Water Act 1973(a), or an internal drainage board for the purposes of the Land Drainage Act 1976(b), where the tree interferes or would interfere with the exercise of any functions of that authority or board;

(4) the felling of any tree of the genus *Ulmus* which is affected by the disease in elms caused by the fungus *Ceratocystis ulmi* and commonly known as Dutch elm disease to such an extent that the greater part of the crown of the tree is dead;

(5) the felling of trees on land which is subject to an agreement entered into with the Commissioners, being an agreement to which section 5(1) of the Act refers, namely an agreement to the effect that the land shall not, except with the previous consent in writing of the Commissioners or, in the case of dispute, under direction of the Minister, be used otherwise than for the growing of timber or other forest products in accordance with the rules or practice of good forestry or for purposes connected therewith: provided that this exception shall not apply unless—

(a) the agreement is a forestry dedication covenant or a forestry dedication agreement registered in the General Register of Sasines, and the following conditions are fulfilled, that is to say—

(i) any positive covenants or terms on the part of the owner of the land contained in the same document as the said forestry dedication covenant or agreement are at the time of the felling binding on the person who is then the owner of the land; and

(ii) the felling is in accordance with a plan of operations approved by the Forestry Commissioners under such document;

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(a) 1973 c. 37.

(b) 1976 c. 70.

or

- (b) the agreement, being an agreement relating to land situate in England or Wales, is not made under seal or, being an agreement relating to land situate in Scotland, is a forestry dedication agreement not registered in the General Register of Sasines, and the following conditions are fulfilled, that is to say—
- (i) the land is at the time of the felling owned by the person or persons who entered into the agreement with the Commissioners or by the survivor or survivors of such persons; and
  - (ii) the felling is in accordance with a plan of operations approved by the Commissioners under the agreement.

In Witness whereof the Official Seal of the Forestry Commissioners is hereunto affixed on 9th July 1979.

(L.S.)

*P. J. Clarke,*  
Secretary to the Forestry Commissioners.

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#### EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These Regulations revoke and re-enact the Forestry (Exceptions from Restriction of Felling) Regulations 1951, the Forestry (Exception from Restriction of Felling) Regulations 1972, the Forestry (Exception from Restriction of Felling) Regulations 1974 and the Forestry (Exception from Restriction of Felling) (Amendment) Regulations 1977, but omit the provision contained in the 1951 Regulations relating to the ascertainment of the cubic content of trees which is no longer required following the repeal of the relevant part of section 9(6) of the Forestry Act 1967 by the Forestry Act 1979.

The Forestry Act 1967 repealed and re-enacted, by way of consolidation, the Forestry Act 1951 and other Acts. Under section 9(1) of the 1967 Act, a felling licence granted by the Forestry Commissioners is required for the felling of growing trees except where, by or under that Act, that sub-section does not apply. Exceptions from its application are specified in section 9(2), (3) and (4), and section 9(5) confers powers on the Commissioners to make regulations providing for additional exceptions. These Regulations accordingly provide for five such additional exceptions.

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