
WELSH STATUTORY INSTRUMENTS

2023 No. 1079 (W. 185)

FORESTRY, WALES

**The Forestry (Felling of Trees)
(Amendment) (Wales) Regulations 2023**

<i>Made</i>	- - - -	<i>10 October 2023</i>
<i>Laid before Senedd Cymru</i>		<i>12 October 2023</i>
<i>Coming into force</i>	- -	<i>1 April 2024</i>

The Welsh Ministers, in exercise of the powers conferred upon them by sections 10A(3), 24F(4), 26C(1), 26C(2), 26G(2) and 32(1) and (2) of the Forestry Act 1967⁽¹⁾, make the following regulations.

Title, coming into force, application and interpretation.

1.—(1) The title of these Regulations is the Forestry (Felling of Trees) (Amendment) (Wales) Regulations 2023.

(2) These Regulations come into force on 1 April 2024.

(3) These Regulations apply in relation to Wales.

(4) In these Regulations, “the Act” means the Forestry Act 1967.

Amendments to The Forestry (Felling of Trees) Regulations 1979

2. The Forestry (Felling of Trees) Regulations 1979⁽²⁾ are amended as follows.

Amendments in respect of felling licences or notices regarding trees for which there is a Tree Preservation Order.

3. After regulation 4 insert—

(1) 1967 c. 10. Section 32(1) was amended by the Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755 (W. 90)) Schedule 2(1), paragraph 70(2) and the Public Bodies (Abolition of the Home Grown Timber Advisory Committee) Order (S.I. 2015/475) Schedule 1(1), paragraph.1; There are other amendments to section 32 but none is relevant to these Regulations.

(2) S.I. 1979/791 as amended by S.I. 1987/632.

“Prescribed period for objection to agreement of amendments to a felling licence

4A.—(1) For the purposes of section 10A(3) of the Act, the prescribed period in which the authority by whom the Tree Preservation Order was made may object is one month from the date of receipt of the notice.

(2) The prescribed period in regulation 4A(1) does not apply if the NRBW consider the amendment is necessary to respond to an imminent and serious risk of harm to—

(i) natural beauty, or

(ii) flora, fauna, geological or physiographical features, or natural habitats.”.

4. After regulation 13 insert—

“Prescribed period for objection to notice given under section 24C(3) or 24E(2).

13A.—(1) For the purposes of section 24F(4) of the Act, the prescribed period in which the authority by whom the Tree Preservation Order was made may object to the notice is one month from the date of receipt of the notice.

(2) The prescribed period in regulation 13A(1) does not apply if the NRBW consider that the emergency criteria in section 24F(2) of the Act apply.”.

Amendments relating to appeals against notices served by the NRBW under Sections 24C, 24D and 24E.

5. After regulation 14 insert—

“Appeals under section 26A and 26B of the Act against section 24C, 24D and 24E notices.

14A.—(1) An appeal under section 26A against a notice served under sections 24C(3) and 24D(2) must be in Form 9A and must be served on the Welsh Ministers within three months beginning on the day after receipt of the notice by a person with the right to bring an appeal as set out in Section 26A(1).

(2) An appeal under section 26B against a notice served under section 24E(2) (appeal against a notice where no breach of condition or licence), must be in Form 9A and shall be served on the Welsh Ministers within 3 months beginning on the day after receipt of the notice by a person with the right to bring an appeal as set out in section 26B(1) of the Act.

(3) Where an appeal is made under the grounds in sections 26A(2)(e) or 26B(2)(d), that a suspension should have been brought to an end by a notice, the appeal to the Welsh Ministers may be made at any time during the suspension of the licence even if this falls after the three month period specified in regulations 14A(1) and 14A(2).”.

6. After Form 9 (which appears in Schedule 1 to the Forestry (Felling of Trees) Regulations 1979 (3)) insert Form 9A (appeal against notices served under sections 24C, 24D and 24E) as set out in Schedule 2 to these Regulations.

Amendments relating to claims for compensation arising from notices issued under sections 24C, 24D and 24E.

7. After regulation 15 insert—

“Claims for compensation under sections 26D, 26E and 26F

15A.—(1) A claim for compensation made under sections 26D, and 26F of the Act by the relevant person, or, in the case of a claim made under section 26E, the person to whom the notice was given, must be made to the NRBW on Form 1A.

(2) Where the claim for compensation arises from a successful appeal of a notice given under sections 24C(3), 24D(2) or 24E(2) after which the notice is subsequently cancelled in accordance with 26C(6)(b) of the Act, the prescribed period for claiming expenses reasonably incurred by the relevant person or the person to whom the notice was given, will be eighteen months beginning on the day after the day on which the Welsh Ministers send notification of a successful appeal outcome and cancellation of the notice.

(3) Where a claim for compensation arises from a successful appeal against a suspension of a felling licence given under section 24C(3) or 24E(2), and the NRBW are subsequently directed by the Welsh Ministers to lift the suspension in accordance with 26C(6)(a)(i) of the Act, the prescribed period for claiming expenses reasonably incurred, by the relevant person, will be eighteen months after the date on which the suspension is lifted.

(4) Where a claim for compensation arises for depreciation in the value of the trees, attributable to deterioration in the quality of the timber, as a result of a successful appeal against a notice issued under section 24C(3), which is subsequently cancelled (in accordance with 26C(6)(b), or the suspension of which is lifted in accordance with 26C(6)(a)(i)), the prescribed period for the relevant person to make a claim is set out in 26G(3)(a) of the Act, unless the timber has not been felled, in which case the prescribed period is eighteen months.

(5) Where the relevant person makes a claim solely for compensation for depreciation in the value of the trees, attributable to deterioration in the quality of the timber, arising from a notice given under section 24E(2) of the Act, in accordance with 26F(2), the prescribed periods for claims are those set out in Section 26G(3) to the Act.

(6) For a claim made under section 26D, relevant person has the meaning given by section 26D(4) of the Act.

(7) For a claim made under section 26F, relevant person has the meaning given by section 26F(5) of the Act.”.

8. After Form 1 (which appears in Schedule 1 to the Forestry (Felling of Trees) Regulations 1979) insert Form 1A (compensation arising from notices served under sections 24C, 24D and 24E) as set out in Schedule 1 to these regulations.

10 October 2023

Julie James
Minister for Climate Change, one of the Welsh
Ministers

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SCHEDULES

SCHEDULE 1

Regulation 8

Form 1A

FORM 1A Forestry Act 1967

Claim for Compensation arising from notices given under section 24C, 24D and 24E

1. I.....[full name]
of[address] submit this claim for compensation from the
NRBW in respect of expenses reasonably incurred in connection with the giving to me of a notice
under Section 24C/Section 24D/Section 24E (please delete as appropriate) which has subsequently
been successfully appealed and/or which has resulted in deterioration in the value of the trees
attributable to depreciation in value of the trees attributable to the deterioration in the quality of
timber.

2. The notice was issued on[enter date of issue] and received by me
on..... [enter date of receipt]

3. I appealed the notice on[enter date appeal notified if applicable]

4. The successful appeal was communicated to me on [date notified
of successful appeal if applicable].

5a. I am, therefore, making this claim within eighteen months of the date from the day after the
day on which the appeal decision was communicated to me.

5b. Where the claim is for deterioration in the value of the trees attributable to the depreciation in
the quality of the timber, I am making this claim in accordance with the timescales set out in
section 26G(3) of the Act or in accordance with regulation 15A(4) if the timber has not been felled
[Delete 5a or 5b if not appropriate to the claim].

6. No previous claim for compensation has been made in relation to this notice.

7. A previous claim has been made in respect of this notice on.....[date]

8. The amount of my claim is.....

9. I have calculated my claim as follows (please attach additional sheets where necessary to
evidence costs and calculations):

.....
.....
.....

10. signed..... 4

11. Dated.....

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SCHEDULE 2

Regulation 6

Form 9A

FORM 9A

Forestry Act 1967

Appeal against notices served under section 24C, 24D and 24E of the Act

1. I,[name] of
.....[address]
received a notice from the NRBW on[enter date here] under Section
.....[enter section here] of the Forestry Act 1967.

Appeal against section 24C(3) Notice

2. Pursuant to Section 26A(4) I wish to appeal the notice on the following ground(s) **[please refer to appeal grounds in section 26A(2)]** of the Act and add additional sheets as necessary;

.....
.....
.....

Appeal against section 24D(2) Notice

2. Pursuant to section 26A(4) I wish to appeal the notice on the grounds that I consider the following step specified in the notice to be unreasonable or disproportionate [please delete as appropriate and add additional sheets if necessary].

.....
.....

Appeal against section 24E(2) Notice

3. Pursuant to section 26B(3) I wish to appeal the notice on the following grounds **[please refer to appeal grounds in section 26B(2)]** of the Act and add additional sheets if necessary ;

.....
.....
.....

4. By this notice I hereby appeal the notice referred to above and request the matter of the notice issued under sections 24C(3), 24D(2) or 24E(2) of the Forestry Act 1967[delete as appropriate] be referred to the committee appointed under section 27 of that Act.

5. I confirm I have the right to bring this appeal as the person described in section 26A(1) or 26B(1) of the Act.

6. Signed.....

7. Dated.....

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, made by the Welsh Ministers, amend the Forestry (Felling of Trees) Regulations 1979 in relation to procedural matters (prescribed manner and prescribed period) arising from Part 4 of the Agriculture (Wales) Act 2023. These amendments—

- (1) prescribe a period of one month for the objection to an agreement to amendments to a felling licence which is subject to a Tree Preservation Order by the authority by whom the Tree Preservation Order was made (regulation 3);
- (2) prescribe a period of one month for the objection to a notice given under section 24C and 24E of the Forestry Act 1967 in relation to felling of trees which are subject to a Tree Preservation Order by the authority by whom the Tree Preservation Order was made (regulation 4);
- (3) prescribe a period of three months for appeals made under section 26 of the Forestry Act 1967 against notices given under sections 24C, 24D and 24E of that Act (regulation 5). Different provision is made for appeals against notices which suspend a felling license (regulation 5(3));
- (4) prescribe that appeals against notices under sections 24C, 24D and 24E of the Forestry Act 1967 must be made on Form 9A (Schedule 2);
- (5) prescribe a period of eighteen months to claim for expenses reasonably incurred following a successful appeal against a notice under sections 26D, 26E and 26F (regulation 7) of the Forestry Act 1967 and prescribe that compensation must be claimed on Form 1A (Schedule 1).

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff, CF10 3NQ.