

**2013 No. 139**

**FORESTRY**

**The Forestry (Felling of Trees) Regulations (Northern Ireland)  
2013**

*Made* - - - - *15th May 2013*

*Coming into operation* - *17th June 2013*

The Department of Agriculture and Rural Development, in exercise of the powers conferred by sections 16(1), 17(2), 18(6), 24(2), 26(3), 28 and 35(3) of the Forestry Act (Northern Ireland) 2010(a) makes the following Regulations.

**Citation and commencement**

1. These Regulations may be cited as The Forestry (Felling of Trees) Regulations (Northern Ireland) 2013 and shall come into operation on 17th June 2013.

**Interpretation**

2. “the Act” means the Forestry Act (Northern Ireland) 2010;  
“appointed person” means a person appointed under section 26 of the Act;  
“the Department” means the Department of Agriculture and Rural Development;  
“enforcement notice” has the meaning given in section 24(2) of the Act;  
“felling licence” means a licence granted under Part 3 of the Act authorising the felling of trees;  
“interested persons” means those persons who notify the Department in accordance with regulation 10(3) that they wish to make representations in respect of an appeal;  
“person responsible” has the meaning given in section 24(3) of the Act;  
“restocking notice” has the meaning given in section 22(1) of the Act.

**Application for felling licence**

3. An application for a felling licence made under section 16(1) of the Act shall—
- (a) be made to the Department in writing;
  - (b) be signed and dated by the applicant;
  - (c) contain the particulars specified in Schedule 1;
  - (d) be accompanied by the proposals for a felling management plan in accordance with regulation 5; and

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(a) 2010 c. 10 (N.I)

- (e) be accompanied by a map signed and dated by the applicant showing the location of the land to which the application relates and the boundaries of the land on which the trees are to be felled on a scale not smaller than one to ten thousand.

### **Claims for compensation**

4. A claim for compensation made under section 17(2) of the Act (compensation on refusal of felling licence) shall—

- (a) be made to the Department in writing by the person who is for the time being the owner of the trees;
- (b) be signed and dated by that person;
- (c) contain the particulars specified in Schedule 2; and
- (d) be accompanied by a map signed and dated by that person showing the boundaries of the land on which the trees are or were growing on a scale not smaller than one to ten thousand.

### **Felling management plans**

5.—(1) The applicant for a licence under section 16(1) of the Act shall draw up proposals for a felling management plan containing the particulars and maps specified in Schedule 3 in relation to the land which is the subject of the licence.

(2) The Department may, if it thinks fit, approve the proposals referred to in paragraph (1) subject to any conditions regulating the felling of trees on that land and those approved proposals shall be the felling management plan for the purpose of section 18(3) of the Act.

(3) The Department may, from time to time, review, amend or revoke any provision or condition of a felling management plan under section 18(3) of the Act.

### **Appeal against refusal of felling licence or conditions of felling licence**

6. A notice of an appeal under section 20(1) of the Act shall be signed and dated by the appellant and served on the Department within three months beginning with—

- (a) in the case of a refusal of which notice has been given under section 16(3) of the Act, the receipt of that notice by the applicant for the licence;
- (b) (i) in the case where a refusal is deemed to take place by virtue of section 19(1) of the Act, the expiration of the period specified in that section; and  
(ii) in the case where the Department has given a notice under section 19(3) of the Act, the expiration of the period specified in section 19(4); and
- (c) in the case of the grant of a licence under section 16(2)(a) the receipt of the licence by the applicant for the licence.

### **Appeal against restocking notice**

7. A notice of an appeal under section 23(1) of the Act shall be signed and dated by the appellant and served on the Department within three months beginning with the receipt of a restocking notice by the person upon whom the notice has been served under section 22(1) of the Act.

### **Prescribed period under section 24(2) of the Act**

8. For the purposes of section 24(2) of the Act the prescribed period shall be—

- (a) three months after the notice has become operative in the case of a notice to require compliance with conditions; and
- (b) twelve months after the notice has become operative in the case of a notice to require compliance with a restocking notice.

### **Appeal against enforcement notice**

9. A notice of an appeal under section 25(1) or (2) of the Act shall be signed and dated by the appellant and served on the Department within three months beginning with the receipt of that enforcement notice by the person responsible.

### **Appeals (general provisions)**

10.—(1) A notice of an appeal served on the Department under regulation 6, 7 or 9 shall—

- (a) include a statement of the grounds of appeal;
- (b) include a statement indicating whether the appellant wishes the appeal to be—
  - (i) in the form of a hearing; or
  - (ii) to be disposed of on the basis of written representations; and
- (c) be accompanied by such other information or documentation as the Department may require.

(2) As soon as is reasonably practicable after receipt of notice of an appeal, the Department shall serve copies of the notice on such persons who appear to have an interest in the matter.

(3) A person on whom a copy of a notice of appeal is served in accordance with paragraph (2) may not make representations in respect of the appeal unless he notifies the Department that he wishes to do so within 28 days of the date on which a copy of the notice was served on him.

(4) As soon as is reasonably practicable after the appointment of a person under section 26 of the Act to determine an appeal under section 20, 23 or 25 of the Act, the Department shall send to that person—

- (a) a copy of a notice of appeal served on it under regulation 6, 7 or 9; and
- (b) the documents set out in regulation 10(1).

(5) Before determining an appeal—

- (a) if the appellant has indicated that he wishes to be heard, the appointed person shall arrange a hearing, or if the appellant has not indicated that he wishes to be heard, the appointed person shall decide whether the appeal shall proceed by way of written representations or a hearing;
- (b) the appointed person shall notify his decision in that behalf to the appellant, the Department and to any persons who notified the Department under paragraph (3).

(6) Except as otherwise provided by this regulation or by regulation 11, 12 or 13 the appointed person shall determine the procedure for deciding any matter arising in the appeal.

(7) Any representations, statements or other documents to be submitted to the appointed person in accordance with regulation 11 or 12 shall be accompanied by such number of copies as he may specify.

### **Determination of appeals by written representations**

11.—(1) This regulation shall apply to an appeal which is to proceed by written representations.

(2) Within six weeks of receiving notice that the appeal is to be determined by written representations, the appellant shall either serve on the appointed person any further representations that he wishes to be considered by him, or notify the appointed person that he wishes to rely on the information already supplied by him; and the appointed person shall either send to the Department and other interested persons copies of any further representations made by the appellant, or shall notify them that the appellant does not intend to make further representations, as the case may be.

(3) The Department and any interested persons who wish to make representations in respect of the appeal shall, within 28 days of receipt of further representations made by the appellant, or of notification that the appellant does not wish to make further representations, as the case may be, serve such representations on the appointed person; and the appointed person shall send copies of the representations served upon him to the appellant and to the other interested persons.

(4) The appointed person shall allow the appellant, the Department and the other interested persons a period of not less than 14 days in which to respond to the representations made in accordance with paragraph (3).

(5) No earlier than the expiry of the period specified in paragraph (4), the appointed person shall determine the appeal and shall notify the decision and the reasons for it to the appellant, the Department and to the interested persons.

### **Determination of appeals by hearing**

**12.**—(1) This regulation shall apply to an appeal which is to proceed by way of a hearing.

(2) Within six weeks of receiving notice that the appeal is to proceed by way of a hearing, the appellant shall serve on the appointed person a statement which contains full particulars of his case, and copies of any documents to which he wishes to refer at the hearing; and the appointed person shall send copies of the statement and documents to the Department and other interested persons.

(3) The appointed person shall give the appellant, the Department and other interested persons at least six weeks notice of the date, time and place fixed for the hearing and shall give, not less than 21 days before the date fixed for the hearing, such notice to the public as he may think fit.

(4) The appointed person may vary the time or place for the holding of the hearing and shall give such notice of such variation as he may think fit.

(5) Any of the interested persons (other than the appellant and the Department) who wish to be heard at the hearing shall, within 28 days of receipt of the appellant's statement pursuant to paragraph (2), notify the appointed person that they wish to appear, and the appointed person may require any such persons to serve upon him a statement containing the particulars of their case, together with copies of any documents to which they wish to refer at the hearing within five weeks of being so required; and the appointed person shall send copies of such statements to the appellant, the Department and to the other interested persons.

(6) The appointed person may by notice require the appellant, the Department or any other person who has provided a statement in accordance with paragraph (5), to provide such further information about the matters contained in the statement as he may specify; and shall send a copy of such information to the interested persons or to the appellant, the Department and the other interested persons, as the case may be.

(7) Before a hearing takes place, the appointed person shall make all of the documents submitted by the appellant, the Department or any interested persons in respect of the hearing available for inspection by any person who so requests.

(8) The persons entitled to be heard at a hearing are—

- (a) the appellant;
- (b) the Department;
- (c) any interested persons; and
- (d) any other person whom the appointed person shall permit to be heard.

(9) A person entitled to appear at a hearing, who proposes to give evidence at the hearing by reading a proof of evidence, shall send a copy of the proof of evidence to the appointed person, together with a written summary, not less than three weeks before the date fixed for the hearing; and the appointed person shall send copies of the proof and summary to the appellant, the Department and the other interested persons as the case may be.

### **Site visits**

**13.** In determining any matter arising in an appeal under section 20, 23 or 25 of the Act the appointed person may carry out site visits.

## Determination of appeals

14.—(1) After the conclusion of the hearing or after receiving all written representations, the appointed person shall determine the appeal and give direction to the Department in accordance with section 20(2), 23(2) or 25(4) of the Act.

(2) The appointed person who determines an appeal shall notify his decision under this regulation and the reasons for it to the appellant, the Department, to other interested parties and to any other persons who appeared at the hearing (if any) and asked to be notified of the decision.

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 15th May 2013.



*Malcolm Beatty*

A senior officer of the Department of Agriculture and Rural Development

## SCHEDULES

### SCHEDULE 1

Regulation 3(c)

#### Particulars to be included in an application for a licence

1. Full name and address of applicant.
2. Location of trees to be felled.
3. Details of the applicant's right, estate or interest in the land on which the trees are present for which a felling licence is sought.

### SCHEDULE 2

Regulation 4(c)

#### Particulars to be included in a claim for compensation

1. Full name and address of the person who is for the time being the owner of the trees.
2. Location of the trees in respect of which the claim is being made.
3. Details of any previous claim for compensation in respect of the trees.
4. Details of the amount of the claim and how it is calculated.
5. Description of the trees—
  - (a) species;
  - (b) number;
  - (c) age; and
  - (d) volume.

### Particulars to be included in proposals for a felling management plan

1. A map of the land provided for in regulation 3(e) showing numbered individual blocks of trees to be felled within the boundaries of that land.
2. Description of the characteristics of each block of trees—
  - (a) ancient or long-established woodland;
  - (b) semi-natural and native woodland;
  - (c) plantations;
  - (d) coppice.
3. Details of any social use of the woodland.
4. Details of the number of the felling block, month and year of the start and finish date of the proposed operation, area in hectares, type of felling operation, species, approximate age of trees, estimated number of trees and estimated volume of trees in respect of each numbered block of trees to be felled.
5. Details of the total area in hectares, and total estimated number and volume of trees in respect of all the numbered blocks of trees to be felled.
6. With regard to the replanting of trees, details of—
  - (a) the number of the felling block to be replanted, the month and year of the start and finish date, area in hectares, species, estimated number of trees and proposed density per hectare, in respect of each felling block number;
  - (b) in respect of all of the felling block numbers, the total area in hectares.
7. With regard to regeneration, details of—
  - (a) the number of the felling block to be regenerated, the month and year of the start and finish date, area in hectares, proposed target species and proposed density per hectare, in respect of each felling block number;
  - (b) in respect of all of the felling block numbers, the total area in hectares.
8. Proposals for the use of any area which is not to be replanted or regenerated.
9. With regard to the manner of re-establishment by replanting or regeneration, details of tree protection (for example, fencing), scrub or vegetation management and any other manner of regeneration in respect of each felling block to be re-established.
10. A statement of the primary objective for woodland after completion of the felling and re-establishment proposals.

#### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Part 3 of the Forestry Act (Northern Ireland) 2010 (“the Act”) applies to the felling of trees.

Section 16 of the Act makes provision for applications for a felling licence. Regulation 3 of these Regulations prescribes the manner of such an application and regulation 4 prescribes the manner of a claim for compensation on refusal of such a licence.

By virtue of section 18(3) of the Act, a felling licence authorises the felling of trees on any land in accordance with and subject to the felling management plan for the time being in force in relation to that land. Regulation 5 of these Regulations provides for the drawing up, content, amendment of and other matters relating to management plans.

Sections 20 and 23 of the Act provide for appeals against a decision of the Department on an application for a licence and against a restocking notice served by the Department after unauthorised felling. Regulations 6 and 7 prescribe the manner and time within which such appeals are to be made.

Section 24 of the Act enables the Department to give to the person responsible an enforcement notice requiring such steps as may be specified in the notice to be taken within such time (not being less than the prescribed period after the notice has become operative) as may be specified in the notice. Regulation 8 of these Regulations prescribes the period after which the notice has become operative.

Regulation 9 of these Regulations prescribes the manner and the time within which an appeal against an enforcement notice shall be made.

Regulation 10 provides for the documents to be included in a notice of appeal under regulations 6, 7 and 9, the persons on whom copies are to be served and for the person appointed under section 26(1) of the Act to arrange a hearing or decide whether or not to proceed by way of written representations or a hearing.

Regulations 11, 12, 13 and 14 of these Regulations provide for the procedure to be followed and for the powers exercisable by a person appointed under section 26(1) of the Act in relation to the determination of an appeal under section 20, 23 or 25 of the Act.

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