STATUTORY RULES OF NORTHERN IRELAND

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(**1**) 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

"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;

(**1**) 2010 c. 10 (N.I)

(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

(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—