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*Number 31 of 2014*

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**Forestry Act 2014**

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*Number 31 of 2014*

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## **FORESTRY ACT 2014**

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An Act to make further and better provision in relation to forestry, to provide for the development and promotion of forestry in a manner that maximises the economic, environmental and social value of forests within the principles of sustainable forest management, to confer power on the Minister for Agriculture, Food and the Marine to make regulations for the effective management of the forestry sector, to make further provision for the giving effect to acts of the institutions of the European Union by regulation made by that Minister in respect of forestry and forestry-related activities, to repeal the Forestry Act 1946, to amend the Wildlife Act 1976, to amend the Agriculture Appeals Act 2001, to amend the Environment (Miscellaneous Provisions) Act 2011 and to provide for related matters. [26th October, 2014]

**Be it enacted by the Oireachtas as follows:**

### PART 1

#### PRELIMINARY AND GENERAL

#### **Short title, collective citation, construction and commencement**

1. (1) This Act may be cited as the Forestry Act 2014.
- (2) The Forestry Act 1988, the Forestry (Amendment) Act 2009 and this Act may be cited as the Forestry Acts 1988 to 2014 and shall be construed together as one Act.
- (3) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

#### **Interpretation**

2. In this Act—
  - “Act of 1946” means the Forestry Act 1946;
  - “Act of 2000” means the Planning and Development Act 2000;
  - “afforestation” means the conversion of land to a forest;

“authorised officer” means a person authorised under this Act to be an authorised officer for the purposes of the relevant statutory provisions;

“carbon sequestration” means the process through which forestry practices remove carbon from the atmosphere and store it in vegetation and soil;

“committee” has the meaning assigned to it by *section 8*;

“coppice” means a forest crop raised from shoots produced from the cut stumps of the previous crop;

“deforestation” means the conversion of a forest into land that is not a forest;

“environmental impact assessment” has the meaning assigned to it by the Forest Consent Regulations;

“environmental impact statement” means an environmental impact statement (EIS) within the meaning of the Forest Consent Regulations;

“exempted tree” means a tree exempted under *section 19*;

“fell” means cut through the trunk of the tree to such an extent that the tree falls or is rendered liable to fall;

“fixed payment notice” means a notice given under *section 24*;

“forest” means land under trees with—

- (a) a minimum area of 0.1 hectare, and
- (b) tree crown cover of more than 20 per cent of the total area, or the potential to achieve this cover at maturity,

and includes all species of trees;

“Forest Consent Regulations” means the European Communities (Forest Consent and Assessment) Regulations 2010 (S.I. No. 558 of 2010), as amended by the European Communities (Forest Consent and Assessment) (Amendment) Regulations 2012 (S.I. No. 442 of 2012);

“forest reproductive material” means reproductive material of tree species and artificial hybrids that are important for forestry purposes;

“forest road” means a road (other than a public road) that serves a forest;

“forest road works” means the construction of a forest road or works ancillary to such construction (whether or not such construction involves the removal of trees), but not where this consists of the provision of access to a public road;

“grant” means any payment made by the Minister for forestry-related activities, other than a loan;

“Habitats Regulations” means the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011);

“Minister” means the Minister for Agriculture, Food and the Marine;



“natural regeneration” means the generation of trees from natural seed fall;

“owner”, in relation to trees or a forest, means—

- (a) the freehold owner,
- (b) the leasehold owner (if any), or
- (c) the occupier for the time being,

of the lands concerned and includes Coillte Teoranta;

“planning authority” has the meaning assigned to it by section 2 of the Act of 2000;

“prescribed” means prescribed by regulations made by the Minister under this Act;

“public road” has the meaning assigned to it by section 2 of the Act of 2000;

“reconstitution” means the restoration of a forest following damage to it;

“reforestation” means restocking by planting, natural regeneration or coppicing of an area from which trees have been felled or otherwise removed;

“relevant statutory provisions” means this Act and regulations made under this Act, including regulations made under *section 30(8)*;

“remove”, in relation to a tree, includes uprooting the tree or applying a treatment to the tree to kill it;

“replant” means to deliberately restock with trees an area from which trees have been felled, removed or otherwise destroyed, or to restock such other land as may be agreed with the Minister, but does not include restocking by means of natural regeneration;

“replanting order” means an order made by the Minister pursuant to *section 26*;

“thinning” means the removal from a forest in accordance with good forest practice of excess or diseased trees, or trees of poor quality in order to improve the growth, health and value of the remaining trees;

“timber” means the wood produced by a tree, whether or not the tree is standing;

“tree” means a free standing woody perennial plant whose species has the potential to have a more or less definite crown and be capable of reaching a minimum height of 5 metres at maturity and includes a sapling and the species of birch and hazel.

### **Laying of regulations**

3. Every regulation under this Act shall be laid by the Minister before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House sits after the order or regulation is laid before it, the regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

### **Expenses**

4. The expenses incurred by the Minister in the administration of this Act shall, to such

extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.

## PART 2

### ADMINISTRATION OF FORESTRY SECTOR

#### **General functions of Minister**

5. (1) Without prejudice to any other functions conferred on the Minister by this Act, the Minister shall have the following functions:
- (a) to promote afforestation;
  - (b) to promote the development of forests and forest-related activities and industries in such a way that forests provide an economically, environmentally and socially sustainable yield of forest goods and services, while maintaining and enhancing their biological diversity;
  - (c) to promote good forest practice within the forestry and forestry-related sectors;
  - (d) to regulate and monitor forestry operations to ensure that forests are properly managed in accordance with this Act and good forest practice;
  - (e) to promote knowledge and awareness of forestry;
  - (f) to promote education and training in forestry and related matters;
  - (g) to promote research in forestry and related matters;
  - (h) to ensure that forests are protected against harmful pests, diseases and invasive species;
  - (i) to regulate the marketing of forest reproductive material and conserve the forest genetic resource;
  - (j) to collect and disseminate information and statistics on forests, forestry and forest-based industry;
  - (k) to promote the development and marketing of a quality-based forest industry sector;
  - (l) to promote the production and use of timber;
  - (m) to promote the development of non-timber forest products;
  - (n) to promote and monitor the protection and enhancement of water quality in all aspects of forestry, including ensuring that forestry operations and forest-based activities regulated under this Act are compatible with the requirements of Directive No. 2000/60/EC of the European Parliament and of the Council of 23 October 2000<sup>1</sup> on water policy;
  - (o) to promote and encourage the development of forests for the purposes of

<sup>1</sup> OJ No. L327, 22.12.2000, p.1.

biodiversity, public amenity and recreation;

- (p) in consultation with the Minister for the Environment, Community and Local Government, to promote and monitor the use of forests in carbon sequestration.
- (2) In performing any relevant function under this Act, the Minister shall have regard to, in addition to any other material matter, the policy of the Minister for the Environment, Community and Local Government on climate change.

### **Specific functions of Minister**

6. Without prejudice to any other functions conferred on the Minister by this Act, the Minister may—
- (a) grant licences and, where appropriate, attach conditions thereto, for—
    - (i) the felling or otherwise removing of a tree or trees and the thinning of a forest,
    - (ii) afforestation,
    - (iii) forest road works, and
    - (iv) aerial fertilisation of forests,
  - (b) give approvals and, where appropriate, attach conditions thereto, for forest management plans,
  - (c) give approval for and provide grants for any activity related to his or her functions under the relevant statutory provisions and may attach conditions thereto,
  - (d) produce and implement guidelines, codes of practice and standards for good forest practice,
  - (e) purchase or otherwise acquire, or dispose of, land suitable for afforestation or for any other forestry-related activities,
  - (f) develop and maintain forest inventories,
  - (g) undertake, participate in or promote any scheme or project related to his or her functions,
  - (h) undertake the collection, preparation, publication and distribution of statistics relating to forestry,
    - (i) prescribe fees pursuant to *section 25*,
    - (j) prescribe forms for the purposes of the *Forestry Acts 1988 to 2014*, and
  - (k) make regulations relating to any of the foregoing functions.

### **Granting of licences, etc. by Minister**

7. (1) Where the Minister, following an application under the relevant statutory provisions—

- (a) grants a licence,
- (b) gives an approval,
- (c) makes a grant, or
- (d) makes an entry in a register,

he or she may grant, give or make it, as appropriate, with or without conditions.

- (2) Where a matter to which *subsection (1)* relates has been granted, given or made, the Minister may where appropriate, in whole or in part, subsequently—

- (a) vary any conditions, or
- (b) suspend or revoke the licence, approval or grant, or remove the entry,

having regard to all the circumstances of the case, including non-compliance with any conditions, but a revocation of a licence or of another foregoing matter shall not take place unless the Minister is satisfied that—

- (i) there are substantial grounds warranting that course of action, and
- (ii) the exercise of none of the other powers under this subsection would remedy the matter.

- (3) Where the Minister, following an application as referred to in *subsection (1)*—

- (a) refuses to grant, give or make it, as appropriate,
- (b) specifies conditions under *subsection (1)*, or
- (c) takes any of the actions specified in *subsection (2)(a)* or *(b)*,

he or she shall provide reasons and inform the applicant of the procedure for appealing the decision.

- (4) Where *subsection (2)(b)* applies, the Minister may specify that any or all of the conditions shall remain in force notwithstanding such revocation or suspension, for such period as the Minister may specify.

- (5) Where *subsection (4)* applies, the Minister may extend the time specified.

- (6) The Minister shall inform the applicant of any action taken under this section.

- (7) Where conditions are attached or varied pursuant to this section and the applicant is not the owner, the conditions shall be binding on the owner.

- (8) A person may, without a licence, fell or otherwise remove an exempted tree.

- (9) In this section “application” includes an application submitted electronically, if available.

### **Minister may appoint committees**

8. (1) The Minister may establish one or more committees to assist and advise him or her in the performance of any of his or her functions under the relevant statutory provisions.

- (2) The Minister may, subject to—
  - (a) *subsection (10)*, and
  - (b) retaining overall responsibility and accountability,delegate in writing to a committee any of his or her functions which, in his or her opinion, can be better or more conveniently exercised or performed by a committee.
- (3) The Minister shall decide the terms of reference for any committee and may regulate the procedure of any such committee.
- (4) The members of a committee shall be appointed by the Minister.
- (5) A committee shall consist of such number of members (including, where appropriate, persons with an expertise relevant to the committee's terms of reference) as the Minister thinks proper; in making appointments to a committee the Minister shall give due consideration to the desirability of the committee's membership reflecting the social, economic and environmental interests concerned and the need for an appropriate balance between members who are men and who are women.
- (6) A member of a committee may be removed at any time for stated reasons by the Minister.
- (7) The Minister may at any time dissolve a committee.
- (8) The Minister may appoint a person to be chairperson of a committee.
- (9) There shall be paid by the Minister to members of a committee such allowances for expenses incurred by them in the discharge of their functions as the Minister, with the consent of the Minister for Public Expenditure and Reform, may determine.
- (10) The Minister shall not delegate the function of delegating under this section, making of an order under *section 1(3)* or prescribing any matter that may be prescribed.

#### **Prohibition on unauthorised disclosure of confidential information**

9. (1) A person shall not disclose confidential information obtained by him or her while performing, or as a result of having performed, duties as a member of a committee unless he or she is authorised to do so by the Minister or as provided by law.
- (2) A person who contravenes *subsection (1)* shall be guilty of an offence and be liable, on summary conviction, to a class E fine.
- (3) In this section “confidential information” includes—
  - (a) information that is expressed by the Minister or the committee, as the case may be, to be confidential either as regards particular information or as regards information of a particular class or description,
  - (b) a report of the committee to the Minister, and
  - (c) information given by the committee to the Minister.
- (4) The Third Schedule to the Freedom of Information Act 1997 is amended by the insertion in Part 1 at the end thereof:

- (a) in column (2) of “*Forestry Act 2014*”, and
- (b) in column (3) of “*section 9*”.

### **Forest management plans**

- 10.** (1) The Minister may, by notice in writing, require an owner of a forest to submit a forest management plan (in this section referred to as a “plan”) in respect of his or her forest to ensure that afforestation, felling, restocking, forest road works and other forestry related activities (including amenity and recreation uses of forestry) are being carried out in accordance with good forest practice.
- (2) Where an owner owns 2 or more forests, the Minister may require the owner to submit a separate plan in respect of each forest or in respect of a specified group of forests, or one plan in respect of all forests.
- (3) The Minister may require that a plan be revised and updated.
- (4) The Minister may, in whole or in part, approve, reject or revoke a plan, or a revised and updated plan, and attach conditions at any time to a plan, or a revised or updated plan.
- (5) The Minister may set or extend time limits within which—
- (a) plans, or revised and updated plans, or parts of them, shall be submitted and implemented, and
  - (b) conditions attached shall be complied with.
- (6) The Minister may make regulations providing for the form, content, duration and implementation of plans.

## PART 3

### PROTECTION OF ENVIRONMENT

#### **Role of Minister in safeguarding environment**

- 11.** The Minister, in performing his or her functions under the relevant statutory provisions, shall—
- (a) have regard to the social, economic and environmental functions of forestry,
  - (b) follow good forest practice,
  - (c) take particular account of—
    - (i) the different habitats and species in forests, and
    - (ii) natural and semi-natural woodland,
  - (d) consider whether the subject matter of the function being performed requires the carrying out of one or more of the following:

- (i) a screening for an environmental impact assessment;
  - (ii) the submission of an environmental impact statement;
  - (iii) an environmental impact assessment;
  - (iv) his or her functions under the Habitats Regulations, including—
    - (I) a screening for an appropriate assessment,
    - (II) the submission of a Natura Impact Statement, and
    - (III) the carrying out of an appropriate assessment,within the meaning of those Regulations,
- and
- (e) where there is such a requirement under *paragraph (d)*, ensure that it is carried out.

#### **Where forest is destroyed or removed**

12. (1) Where a forest is destroyed or removed, in whole or in part, otherwise than in accordance with this Act, by any means (including fire or natural causes), the owner shall notify the Minister in writing of the particulars of the destruction or removal, including the area, location and extent of the destruction or removal, within 6 months of the occurrence.
- (2) Where *subsection (1)* applies and the owner concerned fails to comply with the requirements therein, that owner shall be guilty of an offence and be liable, on summary conviction, to a class A fine.
- (3) Where *subsection (1)* applies, the Minister may serve a replanting order on the owner and *subsections (3) to (6) of section 26* shall apply with any necessary modifications.

#### **Minister may require information**

13. (1) The Minister may, for the purpose of the collection, preparation, publication and distribution of statistics relating to forestry, the investigation of alleged offences or compliance with the relevant statutory provisions, issue and serve a notice on the following persons:
- (a) the owner or manager of a forest, requiring him or her to furnish to the Minister within 28 days or such longer period as may be specified in the notice, such particulars in relation to the forest, including the area, species, numbers and volumes of trees felled during a specified period, and such other information as may be specified in the notice;
  - (b) the owner or manager of a timber processing business, or a dealer in timber, requiring him or her to furnish to the Minister, within 28 days or such longer period as may be specified in the notice such particulars in relation to the source of supply, species, volume, potential end product, variety of timber sawn, converted, processed, bought, sold or otherwise disposed of by him or her during

a specified period at the sawmill, factory or elsewhere, and such other information as may be specified in the notice.

- (2) A statement or admission made by a person pursuant to a requirement under *subsection (1)* shall not be admissible in proceedings brought against that person for an offence.
- (3) A notice under this section may require that any information supplied to the Minister shall be made in a format specified in the notice.
- (4) A person to whom *paragraph (a)* or *(b)* of *subsection (1)* applies who fails to comply with the notice shall be guilty of an offence and be liable, on summary conviction, to a class E fine.

#### **Removal or destruction of vegetation on land**

14. (1) Where the Minister is satisfied that trees in a forest are at significant risk of being damaged by fire originating on uncultivated land in the vicinity of the forest by reason of the presence thereon of vegetation, the Minister may serve on the owner of the land concerned a notice in writing stating that the vegetation constitutes a danger to those trees and directing that the vegetation be removed or destroyed in such manner and within such time as the Minister may specify.
- (2) Where—
  - (a) the land is unoccupied, or
  - (b) the land is occupied and the owner, having been duly served, fails to comply with the notice under *subsection (1)*,the Minister may authorise in writing any person to enter on the land concerned during any specified period, not exceeding 3 months, and remove or destroy any vegetation on the part of that land within a distance of 45 metres from the boundary of the forest.
- (3) A person entering on land under an authority given by the Minister under this section shall, if so required by the owner, produce his or her authority and, if any person obstructs a person so authorised in the due performance of his or her functions under that authority, he or she shall be guilty of an offence and be liable, on summary conviction, to a class A fine or imprisonment for a term not exceeding 6 months or both.
- (4) On proof by the owner of the land concerned that the steps taken in relation to that land by a person authorised under *subsection (2)* needlessly resulted in damage or loss of a significant character to that owner in respect of that land, the person so authorised shall be liable to pay compensation to him or her therefor and, if the person so authorised is not the owner of the trees referred to in *subsection (1)*, the person shall be entitled to be reimbursed by the owner of the trees in respect of any payment the person has properly made to the first-mentioned owner under this subsection.
- (5) In this section “owner”, in relation to land, includes a person in occupation, or appearing to be in occupation, of the land.



- (6) The Minister shall exercise his or her functions under this section subject to the requirements of the Habitats Regulations, and in particular, Part 5 thereof.

### Damage by vermin

15. (1) Where the Minister is satisfied that trees in a forest are being, or are likely to be, damaged by vermin in the vicinity of a forest, the Minister may serve on the owner of the land concerned a notice in writing stating that the trees are being, or are likely to be, damaged by vermin and directing that the vermin be destroyed so far as it is reasonably practicable to do so, or that certain specified steps be taken to prevent such damage within such time as the Minister may specify.
- (2) Where—
- (a) the land is unoccupied, or
  - (b) the land is occupied and the owner, having been duly served, fails to comply with the notice under *subsection (1)*,
- the Minister may authorise in writing any person to enter on the land concerned and kill and take the vermin thereon during any specified period, not exceeding 12 months.
- (3) A person entering on land under an authority given by the Minister under this section shall, if so required by the owner, produce his or her authority and, if any person obstructs a person so authorised in the due performance of his or her functions under that authority, he or she shall be guilty of an offence and be liable, on summary conviction, to a class A fine or imprisonment for a term not exceeding 6 months or both.
- (4) For the purposes of this section the following shall be vermin:
- (a) squirrels (other than red squirrels);
  - (b) wild or feral animals (including rabbits) that are not protected wild animals within the meaning of the Wildlife Acts 1976 to 2012;
  - (c) subject to *subsection (5)*, a species protected under the Wildlife Acts 1976 to 2012 or the Habitats Regulations.
- (5) Notwithstanding *subsection (4)(c)*, where the power under *subsection (1)* is exercised nothing in this section shall be construed as authorising or requiring, on foot of the notice concerned, the destruction of, or the taking of any other steps in relation to, species falling within *subsection (4)(c)* otherwise than in accordance with a licence granted by the Minister for the Arts, Heritage and the Gaeltacht under—
- (a) the Wildlife Acts 1976 to 2012, or
  - (b) the Habitats Regulations.
- (6) On proof by the owner of the land concerned that the steps taken in relation to that land by a person authorised under *subsection (2)* needlessly resulted in damage or loss of a significant character to that owner in respect of that land, the person so authorised shall be liable to pay compensation to him or her therefor and, if the person

so authorised is not the owner of the trees referred to in *subsection (1)*, the person shall be entitled to be reimbursed by the owner of the trees in respect of any payment the person has properly made to the first-mentioned owner under this subsection.

- (7) In this section “owner”, in relation to land, includes a person in occupation, or appearing to be in occupation, of the land.

## PART 4

### FELLING OF TREES

#### **Definitions (*Part 4*)**

**16.** In this Part—

“Act of 2006” means the Registration of Deeds and Title Act 2006;

“Authority” means the Property Registration Authority;

“licence” means a licence granted under *section 7* to fell or otherwise remove one or more trees.

#### **Application for licence under *section 7* to fell trees**

- 17.** (1) Subject to *section 7*, where a person wishes to fell or otherwise remove any tree or trees, he or she shall apply to the Minister for a licence to do so.
- (2) An application for a licence shall specify—
- (a) the name and address of the applicant,
  - (b) the name and address of the owner of the lands (if different from the person referred to in *paragraph (a)*) upon which the tree or trees are located,
  - (c) particulars of the tree or trees concerned, and
  - (d) such other particulars as may be prescribed by the Minister.
- (3) (a) The licence shall be valid for such period as the Minister decides, but shall not exceed 10 years;
- (b) Notwithstanding *paragraph (a)*, the Minister may extend the duration of the licence for one or more further periods, not exceeding a total of 5 years;
- (c) During the period of the licence the licence shall enure for the benefit of the land and any owner thereof.
- (4) The Minister may at any time attach or vary conditions to any licence granted, including any or all of the following conditions:
- (a) requiring the erection of notices in the area of tree felling advising the public that tree felling is being carried out in that area in accordance with the licence;
  - (b) requiring the replanting of trees—

- (i) at such places,
  - (ii) of such species,
  - (iii) in such numbers,
  - (iv) of such surface area and density,
  - (v) within such period of time,
- as may be specified;
- (c) requiring, before and after replanting, effective protection in respect of the trees to be carried out and maintained, including fencing or barriers to prevent trespass by animals, during such period of time as may be specified;
  - (d) requiring the submission of a report to the Minister with such information as the Minister considers appropriate, including such particulars as are specified in *section 13(1)*;
  - (e) requiring the submission of a forest management plan to the Minister and, where such a plan has been approved, in whole or in part, by the Minister, to implement the plan as approved;
  - (f) such other environmental or silvicultural requirements as the Minister considers appropriate.
- (5) In considering applications for a licence, the Minister may—
- (a) consult any person whom he or she considers to be appropriate, and
  - (b) require the applicant to submit any maps or other documentation in such format (including electronic format) as he or she may require.
- (6) A person who—
- (a) fells or otherwise removes one or more trees, or
  - (b) causes or permits one or more trees to be felled or otherwise removed,
- without a licence, or in contravention of a condition of a licence, shall be guilty of an offence and be liable—
- (i) on summary conviction, to a fine not exceeding €200 for every tree in respect of which the offence was committed (but which total penalty shall not exceed €5,000) or imprisonment for a term not exceeding 6 months or both, or
  - (ii) on conviction on indictment, to a fine not exceeding €1,000,000 or imprisonment for a term not exceeding 5 years or both.
- (7) The Minister may require satisfactory evidence demonstrating that the applicant is—
- (a) the owner of the lands where the trees are located, or
  - (b) acting with the consent of, and on behalf of, the owner.
- (8) Where—

- (a) a licence has been granted subject to conditions, and
  - (b) the applicant has appealed against one or more of the conditions,  
no trees shall be felled or otherwise removed and, for the purposes of *subsection (6)*, the licence shall be deemed not to have been granted, pending the final determination of all proceedings in respect of the conditions concerned.
- (9) The Minister may make regulations governing the issuing of licences to fell, uproot or otherwise remove trees, and regulations made by the Minister under this section may—
- (a) prescribe the format of any application for a licence,
  - (b) prescribe the placement of public notices on all sites where felling is taking place advising that the felling is properly licensed,
  - (c) provide for the publication of decisions made in respect of licence applications, and
  - (d) provide for any matters ancillary or incidental to matters in this section.

#### **Time period for decisions on applications for felling licences**

- 18.** (1) It shall be the objective of the Minister to ensure that every application under *section 17* for a licence (a “felling licence application”) is determined within a period of 4 months beginning on the date of receipt by the Minister of the application.
- (2) Where it appears to the Minister that it would not be possible or appropriate, because of the particular circumstances of a felling licence application or because of the number of such applications which have been submitted to the Minister, to determine a felling licence application within the period referred to in *subsection (1)*, the Minister shall, by notice in writing that is served on the applicant for the licence no later than 7 days before the expiry of the period so referred to, inform the applicant of the reasons why it would not be possible or appropriate to determine the application within that period and shall specify the date, being a date, unless an environmental impact assessment or other type of assessment or significant further information is required, that is no later than 3 months from the date of the service of the notice, before which the application shall be determined.
- (3) Where a notice has been served under *subsection (2)*, the Minister shall take all such steps as are open to him or her to ensure that the application is determined before the date specified in the notice.

#### **Exempted trees**

- 19.** (1) A tree—
- (a) in an urban area,
  - (b) within 30 metres of a building (other than a wall or temporary structure), but excluding any building built after the trees were planted,

- (c) that is, in the opinion of the Minister, required to be removed—
  - (i) to control or prevent the spread of fire or a pest or disease,
  - (ii) to protect the integrity of the forest gene pool,
  - (iii) for forest survey purposes, or
  - (iv) to mitigate a threat to a habitat or other important environmental resource,
- (d) that is, in the opinion of the Minister, planted and managed solely for its foliage or for decorative purposes, such as Christmas trees,
- (e) removed by a public authority in the performance of its statutory functions,
- (f) that is, in the opinion of the planning authority, dangerous on account of its age, condition or location,
- (g) that is, in the opinion of the emergency services, required to be removed, including in the aftermath of an accident,
- (h) less than 5 years of age that came about through natural regeneration and removed from a field as part of the normal maintenance of agricultural land (but not where the tree is standing in a hedgerow),
- (i) uprooted in a nursery for the purpose of transplantation,
- (j) of the willow or poplar species planted and maintained solely for fuel under a short rotation coppice,
- (k) removed by or with the permission of the Minister or Teagasc, as part of a demonstration or for scientific purposes,
- (l) on land held or managed by the Minister for the Arts, Heritage and the Gaeltacht for the purposes of the Wildlife Acts 1976 to 2012 and felled, uprooted or removed on his or her behalf,
- (m) outside a forest—
  - (i) within 10 metres of a public road and which, in the opinion of the owner (being an opinion formed on reasonable grounds), is dangerous to persons using the public road on account of its age or condition,
  - (ii) the removal of which is specified in a grant of planning permission,
  - (iii) on an agricultural holding and removed by the owner for use on that holding, provided—
    - (I) it does not form part of a decorative avenue or ring of trees,
    - (II) its volume does not exceed 3 cubic metres, and
    - (III) the removal of it, by the owner for the foregoing purpose, when taken together with the removal of other such trees by the owner for that purpose, would not result in the total volume of trees, on that holding and removed by the owner for that purpose, exceeding 15 cubic metres in any period of 12 months,

- (iv) of the hawthorn or blackthorn species, or
  - (v) in a hedgerow and felled for the purposes of its trimming, provided that the tree does not exceed 20 centimetres in diameter when measured 1.3 metres from the ground,
  - (n) in a burial ground maintained by a burial board or joint burial board under the Local Government (Sanitary Services) Acts 1878 to 2001 or the Local Government Acts 1925 to 2012, or
  - (o) of the apple, pear, plum or damson species,
- shall be an exempted tree.

(2) A tree—

- (a) within the curtilage or attendant grounds of a protected structure under Chapter 1 of Part IV of the Act of 2000,
- (b) within an area subject to a special amenity area order,
- (c) within a landscape conservation area under section 204 of the Act of 2000,
- (d) within—
  - (i) a monument or place recorded under section 12 of the National Monuments (Amendment) Act 1994,
  - (ii) a historic monument or archaeological area entered in the Register of Historic Monuments under section 5 of the National Monuments (Amendment) Act 1987, or
  - (iii) a national monument in the ownership or guardianship of the Minister for the Arts, Heritage and the Gaeltacht under the National Monuments Acts 1930 to 1994,
- (e) within a European Site or a natural heritage area within the meaning of Regulation 2(1) of the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011), or
- (f) which is more than 150 years old,

shall not be an exempted tree, unless it is a tree to which—

- (i) any of *paragraphs (a) to (l)*, or *paragraph (n)*, of *subsection (1)*, or
  - (ii) *subparagraph (i), (ii), (iv) or (v) of subsection (1)(m)*,
- applies.

(3) Nothing in this section shall be construed as removing any restriction on the felling or removal of trees under—

- (a) the Planning and Development Acts 2000 to 2013,
- (b) the Wildlife Acts 1976 to 2000, and in particular section 40 of the Wildlife Act 1976, or

(c) any other enactment.

(4) In this section—

“public authority” does not include Coillte Teoranta;

“urban area” means any area that the Minister prescribes for the purposes of this section and an area that comprised a town or borough under the Local Government Act 2001 before the amendment of that Act by the Local Government Reform Act 2014 may, without prejudice to the Minister’s power to prescribe an area comprising a similar or greater conurbation for those purposes, be prescribed for the purposes of this definition.

### **Preservation orders**

**20.** (1) Notwithstanding any provision in this Act, the Minister may, in any particular case, issue an order prohibiting—

- (a) the felling or otherwise removing, or
- (b) the continued felling or otherwise removing,

of any tree or trees, including exempted trees.

(2) Where an order has been served under *subsection (1)* in respect of any tree, a person who—

- (a) fells or otherwise removes the tree, or
- (b) continues to fell or otherwise remove the tree,

shall be guilty of an offence and be liable, on summary conviction, to a class A fine or imprisonment for a term not for exceeding 6 months or both.

### **Registration under Act of 2006 of conditions and replanting orders**

**21.** (1) Where a replanting order is served on any person (including a variation to such an order under *section 26(9)*), the Minister may, as soon as may be after so serving or varying the order, send a copy thereof to the Authority which shall—

- (a) in the case of registered land, register the replanting order as a burden affecting such land, or
- (b) in the case of unregistered land, register the replanting order as a deed within the meaning of Part 3 of the Act of 2006.

(2) Where—

- (a) *subsection (1)* applies, and
- (b) in whole or in part, the burden has been discharged or modified,

the Minister shall, upon application by the owner, issue to the Authority a certificate stating the extent to which, in his or her opinion, the burden has been discharged, or modified.

- (3) The Authority shall, on receipt of the certificate, register it as proof of the discharge, partial discharge, or modification (according to the terms of the certificate) of the burden.
- (4) The Minister shall send a copy of the certificate to the owner.
- (5) No fees shall be payable to the Authority in respect of any steps taken under this section.

## PART 5

### AFFORESTATION, FOREST ROAD WORKS AND AERIAL FERTILISATION OF FORESTS

#### **Granting of licences by Minister for afforestation and certain other activities**

- 22.** (1) Subject to *section 7*, where a person wishes to undertake afforestation, forest road works or aerial fertilisation of forests, he or she shall apply to the Minister for a licence to do so.
- (2) An application under *subsection (1)* shall specify—
- (a) the name and address of the applicant,
  - (b) the name and address of the owner of the lands concerned (if different from the person referred to in *paragraph (a)*),
  - (c) the location of the lands concerned, and
  - (d) such other particulars as may be prescribed by the Minister.
- (3) (a) The licence shall be valid for such period as is prescribed by the Minister.
- (b) Notwithstanding *paragraph (a)*, the Minister may extend the duration of the licence for one or more further periods.
- (c) During the period of the licence the licence shall enure for the benefit of the land and any owner thereof.
- (4) The Minister may at any time attach or vary conditions to any licence granted.
- (5) In considering applications for a licence, the Minister may—
- (a) consult any person whom the Minister considers to be appropriate, and
  - (b) require the applicant to submit any maps or other documentation in such format (including electronic format) as the Minister may require.
- (6) The Minister may require satisfactory evidence demonstrating that the applicant is—
- (a) the owner of the lands concerned, or
  - (b) acting with the consent of, and on behalf of, the owner.
- (7) A person who—
- (a) undertakes afforestation, forest road works or aerial fertilisation, or



- (b) causes or permits afforestation, forest road works or aerial fertilisation to take place,  
without a licence, or in contravention of a condition of a licence, shall be guilty of an offence and be liable—
- (i) on summary conviction, to a class A fine or imprisonment for a term not exceeding 6 months or both, or
- (ii) on conviction on indictment, to a fine not exceeding €500,000 or imprisonment for a term not exceeding 5 years or both.
- (8) The Minister may make regulations governing the issuing of licences in relation to—
- (a) afforestation,
- (b) forest road works, and
- (c) aerial fertilisation of forests.
- (9) Regulations made by the Minister under this section may—
- (a) prescribe the format of any application for a licence,
- (b) require that—
- (i) specific information relating to the site concerned including location, soil type, elevation, aspect, exposure and vegetation type,
- (ii) details relating to exclusion zones, fertiliser storage areas, all aquatic zones or abstraction points for known sources of water for human consumption, and
- (iii) such other particulars, if any, as the Minister considers necessary for the purpose,
- shall be provided to the Minister,
- (c) prescribe the placement of public notices on all sites where afforestation, forest road works or aerial fertilisation of forests is proposed,
- (d) provide for the publication of decisions made in respect of licence applications, and
- (e) provide for any matters ancillary or incidental to matters in this section.

## PART 6

### ENFORCEMENT

#### **Authorised officers**

- 23.** (1) The Minister may appoint such and so many persons as he or she considers appropriate to be authorised officers for the purposes of the enforcement of all or any of the relevant statutory provisions.

- (2) An authorised officer appointed under *subsection (1)* shall be furnished by the Minister with a warrant of his or her appointment as an authorised officer.
- (3) When exercising a power conferred on him or her by this section, an authorised officer shall, if requested by a person affected, produce the warrant of his or her appointment, or a copy of it, to that person and a form of personal identification.
- (4) An appointment under this section shall cease when the Minister revokes it.
- (5) Members of the Garda Síochána are authorised officers for the purposes of the relevant statutory provisions.

#### **Powers of authorised officers**

- 24.** (1) An authorised officer shall, for the purposes of the relevant statutory provisions, have power to do any one or more of the following:
- (a) subject to *subsection (3)*, at all reasonable times enter, inspect, examine and search any lands or place to which the authorised officer has reasonable grounds for believing that the relevant statutory provisions apply, including for the purpose of surveying or mapping any land for any purpose under those provisions, or for the purpose of inspecting any trees or timber thereon;
  - (b) while on the lands or at the place referred to in *paragraph (a)*, may inquire into, search, examine and inspect—
    - (i) any tree and anything relating to trees, including plants, soil, compost or seeds,
    - (ii) any timber or timber products,
    - (iii) any activity, installation, process, procedure or matter at that place,
    - (iv) any records relating to any of the foregoing matters;
  - (c) take, without payment, samples of anything found at or near that place or on those lands for the purpose of tests, analysis or examination;
  - (d) require that that place or lands and anything at it or on it be left undisturbed for so long as is reasonably necessary for the purpose of any search, examination, investigation, inspection or inquiry under those provisions;
  - (e) remove any material from the place or lands that he or she considers a risk to trees or other plant life, or is otherwise relevant to his or her inspection;
  - (f) inspect and take copies of or extracts from any such records or any electronic information system at that place, including in the case of information in a non-legible form, copies of or extracts from such information in a permanent legible form or require that such copies be provided;
  - (g) require a person at that place by whom or on whose behalf a computer is or has been used to produce or store records or any person having control of, or otherwise concerned with the operation of the computer, to afford the authorised officer access thereto and all reasonable assistance as the authorised officer may

require;

- (h) remove from that place and retain such records (including documents stored in a non-legible form) and copies taken and detain the records for such period as the authorised officer reasonably considers to be necessary for further examination or until the conclusion of any legal proceedings;
  - (i) require the person in charge to give the authorised officer such information as the authorised officer may reasonably require for the purposes of any search, examination, investigation, inspection or inquiry under those provisions, including the name and address of the owner or manager of the lands;
  - (j) examine any person whom the authorised officer reasonably believes to be able to give to the authorised officer information relevant to any search, examination, investigation, inspection or inquiry under those provisions and require the person to answer such questions as the authorised officer may ask relative to the search, examination, investigation, inspection or inquiry and to sign a declaration of the truth of the answers;
  - (k) take any measurements or photographs or make any tape, electrical or other recordings that the authorised officer considers necessary for the purposes of any search, examination, investigation, inspection or inquiry under those provisions;
  - (l) require production of any licence, approval or other document pursuant to which forestry activities are being, or have been carried out.
- (2) Where, under *subsection (1)(c)* or *(e)*, an authorised officer removes material from any place or lands, he or she shall give a signed inventory for such material to the owner or occupier, or to any person on such place or lands, or, if no such person is present, he or she shall, within 3 days of the removal, send the inventory by pre-paid registered post to the person that he or she considers to be the owner of the place or lands.
- (3) An authorised officer shall not enter a dwelling other than—
- (a) with the consent of the occupier, or
  - (b) in accordance with a warrant of the District Court issued under *subsection (6)* authorising such entry.
- (4) The Minister may authorise any other person that he or she considers appropriate to accompany an authorised officer in the performance of his or her functions.
- (5) Where an authorised officer in the exercise of his or her powers under this section is prevented from entering any place or lands, an application may be made to the District Court for a warrant under *subsection (6)* authorising such entry.
- (6) Without prejudice to the powers conferred on an authorised officer under this section, if a judge of the District Court is satisfied by information on oath of an authorised officer that there are reasonable grounds for believing that—
- (a) there is anything at any place or any records (including documents stored in a non-legible form) or information relating to a place or lands that the authorised

officer requires to inspect for the purposes of the relevant statutory provisions, held at any place, or

- (b) there is, or such an inspection is likely to disclose, evidence of a contravention of the relevant statutory provisions,

the judge may issue a warrant authorising an authorised officer, accompanied by such other authorised officers or such other competent persons as may be appropriate, at any time or times, within one month from the date of issue of the warrant, on production of the warrant if requested, to enter the place or lands, if necessary by the use of reasonable force, and perform the functions conferred on an authorised officer under the relevant statutory provisions.

- (7) Where an authorised officer has reasonable grounds for apprehending any serious obstruction in the performance of his or her functions or otherwise considers it necessary, he or she may be accompanied by other authorised officers or any other person authorised by the Minister for this purpose, when performing any functions conferred on him or her by or under the relevant statutory provisions.

- (8) A statement or admission made by a person pursuant to a requirement under *subsection (1)(j)* shall not be admissible in proceedings brought against that person for an offence (other than an offence under *section 27(5)*).

- (9) Where an authorised officer, upon reasonable grounds, believes that a person has committed an offence under the relevant statutory provisions he or she may, in addition to other powers under this section—

- (a) require that person to provide him or her with his or her name and the address at which he or she ordinarily resides,

- (b) excavate soil, and

- (c) seize any material that he or she considers relevant to the prosecution for the offence, including—

- (i) any trees felled or otherwise removed, and

- (ii) timber,

resulting from what he or she reasonably believes to be unlawful actions pending—

- (I) payment in respect of a fixed payment notice, or

- (II) the trial for such an offence.

- (10) In this section—

“person in charge” means, in relation to a place, any of the following:

- (a) the owner;

- (b) the person under whose direction and control the activities at that place are being conducted;

- (c) the person whom the authorised officer has reasonable grounds for believing is in

control of that place;

(d) the driver of the vehicle;

“place” includes a vehicle or any attachment to a vehicle.

**Power to charge and recover fees, etc.**

**25.** (1) The Minister may charge such fees as may be prescribed for the following:

(a) an application for a licence, approval or registration, or

(b) any other service provided under the relevant statutory provisions,

and different fees may be charged for different classes of such licences, approvals, registrations or other services.

(2) The Minister may recover as a simple contract debt, in any court of competent jurisdiction, any amount owed in respect of a fee charged under this section.

(3) If the Minister proposes to make regulations prescribing fees referred to in *subsection (1)*, the Minister shall cause a draft of the proposed regulations to be laid before each House of the Oireachtas, together with a statement of the Minister outlining the content, purpose and likely implications of the proposed regulations and including such other information (if any) as the Minister considers appropriate.

(4) If within such period as the Minister considers reasonable to allow for recommendations of this kind to be made by each such House (not being less than the period specified in *subsection (5)*) either House of the Oireachtas (or a committee of such House) makes recommendations to the Minister in relation to the draft of the proposed regulations, the Minister shall consider the recommendations and may, as he or she thinks appropriate—

(a) make the regulations in the terms of the draft laid pursuant to *subsection (3)*, or

(b) modify the terms of the draft so laid and make the regulations in the terms as so modified.

(5) The period referred to in *subsection (4)* is the period of 21 days on which the House of the Oireachtas concerned next sits after the draft of the regulations is laid before it.

(6) *Subsections (3) to (5)* apply to regulations amending regulations that prescribe fees referred to in *subsection (1)* as they apply to regulations prescribing such fees.

## PART 7

### REPLANTING ORDERS

**Replanting orders**

**26.** (1) Where trees have been—

(a) felled or otherwise removed without a licence under *section 7*,

(b) felled under a licence and, either at the time of such felling or subsequently, a condition of the licence is contravened, or

(c) in the opinion of the Minister, seriously damaged,

the Minister may issue a replanting order in respect of the owner requiring him or her to replant or to fulfil any or all of the conditions that attached to the licence (or, in a case in which no licence was granted, any or all of the conditions that would, in the opinion of the Minister, have been attached to a licence had such been granted) in accordance with the provisions of the order.

- (2) *Subsection (1)* applies whether or not a prosecution has been or may be brought.
- (3) *Section 17(4)* (other than *paragraph (a)*) shall apply to a replanting order with the substitution of “replanting order made” for “licence granted” and any other necessary modifications.
- (4) A replanting order may include any or all of the conditions specified in *section 17(4)* with any necessary modifications.
- (5) Without prejudice to *section 21*, where a replanting order is served on any person its provisions shall be binding on that person and on his or her successors in title to the land concerned.
- (6) An owner who fails to comply with a replanting order shall be guilty of an offence and be liable—
- (a) on summary conviction, to a class D fine, or
- (b) on conviction on indictment, to a fine not exceeding €5,000,
- for every period of 30 days during which such failure continues.
- (7) Where an owner has been convicted under *subsection (6)* and the failure to comply in respect of which he or she was convicted is continued after the conviction, the owner shall be guilty of a further offence on every day on which such failure continues and for each such offence the person shall be liable—
- (a) on summary conviction, to a class E fine, or
- (b) on conviction on indictment, to a fine not exceeding €2,500.
- (8) Where *subsection (7)* applies, the Minister may vary the replanting order by specifying a new replanting date in order to take account of seasonal planting variations.
- (9) The Minister, may, with the consent of the owner, issue a replanting order in respect of other land owned by the owner instead of the land concerned, in which case *subsections (3) to (5)* apply to such replanting order.

## PART 8

## OFFENCES AND PENALTIES

**Offences and penalties**

27. (1) A person who, in applying for a grant, registration, licence or approval under the relevant statutory provisions—
- (a) furnishes information, or
  - (b) makes a statement,
- that he or she knows to be false or misleading in a material respect, shall be guilty of an offence.
- (2) A person who contravenes a condition of a licence granted under the relevant statutory provisions (for which contravention an offence is not provided elsewhere in this Act) shall be guilty of an offence.
- (3) A person who fails to comply with a notice, direction or requirement under the relevant statutory provisions shall be guilty of an offence.
- (4) A person who contravenes a provision of regulations made under this Act that is declared to be a penal provision shall be guilty of an offence.
- (5) A person who obstructs or interferes with an authorised officer in the course of exercising a power conferred on him or her under the relevant statutory provisions or a warrant under *section 24(6)* or impedes the exercise by the authorised officer of such power, or fails or refuses to comply with a requirement of an authorised officer or to answer a question asked by an authorised officer pursuant to a power conferred by the relevant statutory provisions, or in purported compliance with such requirement or in answer to such question gives information to the authorised officer that he or she knows to be false or misleading in any material respect, shall be guilty of an offence.
- (6) A person who falsely represents himself or herself to be an authorised officer shall be guilty of an offence.
- (7) A person who forges or utters knowing it to be forged a record, licence, registration, approval, authorisation, notice, order, certificate or other document purporting to be issued, granted or given under the relevant statutory provisions (in this section referred to as “a forged document”) shall be guilty of an offence.
- (8) A person who alters with intent to defraud or deceive, or utters knowing it to be so altered a record, licence, registration, approval, authorisation, notice, order, certificate or other document purporting to be issued, granted or given under the relevant statutory provisions (in this section referred to as “an altered document”) shall be guilty of an offence.
- (9) A person who has, without lawful authority, a forged document or an altered document in his or her possession shall be guilty of an offence.

- (10) A person who, without the permission of the Minister, causes or permits to be done to any tree (other than an exempted tree) any act or thing that causes or is calculated or likely to cause irremediable damage, death or decay to it, shall be guilty of an offence.
- (11) A person who intentionally or recklessly sets fire to a tree, or otherwise causes a fire in a forest, shall be guilty of an offence.
- (12) A person who is guilty of an offence under this section (other than *subsection (10) or (11)*) shall be liable—
- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 6 months or both, or
  - (b) on conviction on indictment, to a fine not exceeding €25,000 or imprisonment for a term not exceeding 2 years or both.
- (13) A person who is guilty of an offence under *subsection (10) or (11)* shall be liable—
- (a) on summary conviction, to a fine not exceeding €200 for every tree in respect of which the offence was committed (but which total penalty shall not exceed €5,000) or imprisonment for a term not exceeding 6 months or both, or
  - (b) on conviction on indictment, to a fine not exceeding €1,000,000 or imprisonment for a term not exceeding 5 years or both.
- (14) When imposing any penalty the court shall have regard to the risk or extent of damage to trees or the physical, natural or cultural environment arising from the act or omission constituting the offence.
- (15) On conviction for an offence under the relevant statutory provisions, the court, in addition to any other penalty (including any fine imposed)—
- (a) may order any apparatus or equipment used to commit the offence to be forfeited to the Minister, and
  - (b) where trees and timber have been duly seized and, on application to it by the prosecution, may order the forfeiture to the Minister of all such trees and timber resulting from unlawful felling or removal of trees.
- (16) Where a person is convicted of an offence under the relevant statutory provisions the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order the person to pay to the Minister the costs and expenses measured by the court, incurred by the Minister in relation to the investigation, detection and prosecution of the offence, including costs and expenses incurred in the taking of samples, the carrying out of tests, examinations and analyses and in respect of the remuneration and other expenses of employees, consultants and advisers engaged by the Minister.

### **Prosecution of offences**

- 28.** Summary proceedings in relation to an offence under the relevant statutory provisions may be brought and prosecuted by the Minister.



**Offences by body corporate**

29. Where an offence under the relevant statutory provisions has been committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a person being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person as well as the body corporate shall be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

## PART 9

## REGULATIONS

**Regulations**

30. (1) Regulations made by the Minister under this Act may provide for any matter referred to in this Act as prescribed or to be prescribed.
- (2) The Minister may make regulations in respect of trees, forests and forestry-related activities in the State, including—
- (a) the duties of owners of lands in respect of their trees and forests,
  - (b) the establishment and maintenance of such registers and the keeping of such records as may appear to the Minister to be expedient for the purposes of the relevant statutory provisions, and
  - (c) the addition of a paragraph to, or the deletion of a paragraph from, *section 19(1)* in order to update the categories of exempted trees.
- (3) Without prejudice to the generality of *subsection (2)*, regulations under that subsection may relate to any or all of the following:
- (a) afforestation;
  - (b) reforestation;
  - (c) maintenance of forests and trees;
  - (d) planting and harvesting of trees;
  - (e) replanting of trees;
  - (f) forest protection;
  - (g) forest road works;
  - (h) forest plant health;
  - (i) forest nurseries;
  - (j) forest roads and trails;
  - (k) forest reproductive material;

- (l) forest research and statistics;
  - (m) training and education;
  - (n) reconstitution of forests;
  - (o) deforestation;
  - (p) removal of trees, including by felling;
  - (q) forest inventory;
  - (r) amenity use of forests;
  - (s) drainage of forests;
  - (t) application of fertilisers, herbicides and pesticides in forests;
  - (u) Christmas trees;
  - (v) timber;
  - (w) short rotation crops in forests;
  - (x) forest biomass;
  - (y) protection of the environment, habitats and biodiversity;
  - (z) production and disposal (including sale) of timber and non-timber forest products;
  - (aa) wood packaging material;
  - (ab) traceability of forestry-related material from propagation stage to timber and non-timber products.
- (4) When making regulations under *subsection (2)* the Minister shall have regard to the following:
- (a) the promotion of afforestation;
  - (b) promoting the development of forests and forest-related activities and industries in such a way that forests provide an economically, environmentally, and socially sustainable yield of forest goods and services, while maintaining and enhancing their biological diversity;
  - (c) promoting good forest practice within the forestry and forestry-related sectors;
  - (d) the regulation and monitoring of forestry operations (including the construction of forest roads) to ensure that forests are properly managed in accordance with good forest practice;
  - (e) promoting knowledge and awareness of forestry;
  - (f) promoting education and training in forestry and related matters;
  - (g) ensuring that forests are protected against harmful pests, diseases and invasive species;

- (h) the regulation of the marketing of forest reproductive material and conservation of the forest genetic resource;
  - (i) the collection and dissemination of information and statistics on forests, forestry and forest-based industry;
  - (j) the development and marketing of a quality-based forest industry sector;
  - (k) promoting the use of timber;
  - (l) the development of non-timber forest products;
  - (m) the monitoring and enhancement of water quality in all aspects of forestry;
  - (n) promoting the development of forests for the purposes of biodiversity, public amenity and recreation;
  - (o) ensuring that the categories of exempted trees are reconsidered from time to time in the light of silvicultural needs and values.
- (5) Where the Minister is satisfied that there is a risk to trees, he or she may make regulations to protect them, including for the prevention of the introduction into the State, or the control or extermination within the State, of any insect, pest, invasive species, disease or organism.
- (6) Regulations under *subsection (5)* may—
- (a) regulate or restrict the landing in the State of anything which in the opinion of the Minister is likely to introduce a destructive disease, insect, pest, invasive species or organism,
  - (b) direct or authorise the destruction of any such article, if landed,
  - (c) direct the expulsion from the State of anything which in the opinion of the Minister is likely to introduce a destructive disease, insect, pest, invasive species or organism,
  - (d) direct or authorise the destruction of anything (including trees) upon which a destructive disease, insect, pest, invasive species or organism is found in any stage of existence,
  - (e) direct or authorise the destruction of any vegetation (including trees) to prevent the spread of a destructive disease, insect, pest, invasive species or organism, and
  - (f) empower any authorised officer to take such steps as he or she may think expedient to prevent the spread of any such destructive disease, insect, pest, invasive species or organism and to enter on any land and make enquiries in connection with anything in this section.
- (7) The Minister may make regulations with respect to the making of grants in relation to an activity specified in any of *paragraphs (a) to (g)* of *section 5(1)*.
- (8) The Minister may make regulations for the purpose of giving effect to a provision of the treaties governing the European Union, or an act adopted by an institution of or the European Union, relating to forestry and forestry-related activities, including—

- (a) the implementation of Council Directive 1999/105/EC of 22 December 1993<sup>2</sup> on the marketing of forest reproductive material,
  - (b) the establishment of procedures for afforestation and forest road works in respect of development consent (within the meaning of Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011<sup>3</sup> on the assessment of the effects of certain public and private projects on the environment),
  - (c) timber,
  - (d) the prevention of the introduction into the State, or the control or extermination within the State, of any insect, pest, invasive species, disease or organism, which in the opinion of the Minister, may be destructive to trees,
  - (e) the prevention of the destruction of forests by fire, and
  - (f) ensuring that the integrity of the national forest estate is maintained.
- (9) Without prejudice to the generality of *subsection (8)*, regulations under that subsection may—
- (a) contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary for the purposes of the regulations (including provisions repealing, amending or applying, with or without modification, other law, exclusive of this section, the European Communities Act 1972 and the European Communities Act 2007),
  - (b) make provision in relation to the establishment and maintenance of such registers, and keeping of such records, as may be specified in the regulations,
  - (c) apply either generally or to such class or classes of trees, persons, places or activities as may be specified in the regulations, and
  - (d) prescribe persons to perform the functions of a competent authority for the purposes of the regulations and the provision of the treaties governing the European Union or act adopted by an institution of the European Union to which the regulations give effect.

## PART 10

### MISCELLANEOUS

#### **Repeal of Forestry Act 1946, etc.**

**31.** (1) The Forestry Act 1946 is repealed.

(2) Section 39 of the Wildlife Act 1976 is amended by substituting for subsection (6) the following:

“(6) In this section ‘wood’ includes a forest within the meaning of *section 2* of the *Forestry Act 2014*.”.

<sup>2</sup> OJ No. L11, 15.1.2000, p. 17.

<sup>3</sup> OJ No. L 026, 28.1.2012, p.1.

- (3) The Environment (Miscellaneous Provisions) Act 2011 is amended by substituting for section 4(4)(h) the following:

“(h) a licence granted under *section 7* of the *Forestry Act 2014*.”.

**Compensation for refusal of felling licence, etc.**

- 32.** (1) The Minister shall, as soon as practicable after the commencement of this section, make regulations providing for the payment by the Minister of compensation to a person in a case where an application by the person for a licence—

- (a) to fell or otherwise remove trees,
- (b) to undertake forest road works, or
- (c) to undertake afforestation,

is refused, but only if that refusal has been the subject of appeal and that refusal has been upheld on the appeal, or appeals, being finally disposed of.

- (2) Regulations under this section shall not be made otherwise than with the consent of the Minister for Public Expenditure and Reform.

- (3) Without prejudice to the subsequent provisions of this section, a payment of compensation under regulations under this section shall not be made otherwise than on foot of an application in that behalf made to the Minister, being an application that is—

- (a) in the form directed by the Minister to be used for the time being for this purpose, and

- (b) made—

- (i) not earlier than before such time or the happening of such event as is specified in the regulations, nor

- (ii) later than such time or the happening of such event as is so specified,

and, as respects such an application, the regulations may provide that at the time of the making of it or at any subsequent time (and before the determination of the application) the applicant shall furnish to the Minister such documents or information, or such further documents or information, as the Minister may require.

- (4) Without prejudice to *subsections (9) to (11) and (14)*, regulations under this section may contain a provision that no compensation shall be payable under the regulations where the reason for the refusal to grant the licence concerned falls within any description of reason specified in that provision for the purpose.

- (5) No description of reason shall be specified in such a provision for that purpose unless the description of reason either has, as its basis, a basis set out in *subsection (6)* or complies with the requirement of *subsection (8)* (or both has the foregoing basis and complies with that requirement).

- (6) The basis referred to in *subsection (5)* is one that is reasonably related to any of the following:

- (a) the protection of the environment;
  - (b) the ensuring of good forestry practice;
  - (c) the preservation of amenities;
  - (d) public health or safety;
  - (e) protection from flooding;
  - (f) preservation of water quality.
- (7) In *subsection (6)(b)* “good forestry practice” means forestry practice that respects the principle that the diverse activities constituting forestry (including afforestation) must be planned and implemented in a manner that prevents, limits, abates or reduces significant adverse impacts or risks thereof on—
- (a) the environment (and, in particular, on significant ecosystems and important habitats for flora or fauna), and
  - (b) the character of the landscape.
- (8) The requirement referred to in *subsection (5)* is that the description of reason concerned is expressed in terms that are identical or analogous to the terms in which a reason appearing in any paragraph of the Fourth Schedule to the Planning and Development Act 2000 is expressed in that Schedule.
- (9) Regulations under this section shall contain a provision that no compensation shall be payable under the regulations where the reason for the refusal to grant the licence concerned was that—
- (a) the application for the licence was incomplete in any material particular, or
  - (b) any environmental impact statement, natura impact statement or other information submitted for the purposes of the application for the licence was, in the opinion of the Minister, inadequate.
- (10) Subject to any reasonable qualification or modification of the following provisions of this subsection that the Minister considers should be provided for in the regulations to meet particular classes of case (and without prejudice to the provisions of the regulations referred to in *subsections (11)* and *(12)*), regulations under this section shall contain the following provisions with respect to determining the amount of compensation payable under the regulations—
- (a) in the case of a refusal to grant a licence to fell or otherwise remove trees or to undertake forest road works, compensation shall be calculated on the basis of the depreciation in the value of the trees that is attributable to the deterioration in the quality of the timber as a consequence of the refusal,
  - (b) in the case of a refusal to grant a licence to undertake afforestation, compensation shall be calculated on the basis of the reduction in value between the antecedent and subsequent values of the land, where—
    - (i) the antecedent value of the land is the amount which the land, if sold in the open market by a willing seller immediately prior to the relevant decision

(assuming that the relevant application had not been made), might have been expected to realise, and

- (ii) the subsequent value of the land is the amount which the land, if sold in the open market by a willing seller immediately after that decision, might be expected to realise.

(11) Regulations under this section shall contain a provision—

- (a) in relation to a case referred to in *subsection (10)(a)*, that no compensation shall be payable in respect of any deterioration in the quality of the timber that—
  - (i) took place more than 10 years before the date of the application for compensation, or
  - (ii) is due to any unforeseen event of a kind specified in the regulations, or neglect of the trees, occurring subsequent to the refusal of the application for the licence concerned,
- (b) that not more than one application for compensation under the regulations may be made in respect of the same parcel of land (irrespective of the type of licence under this Act applied for) in any period of 40 years.

(12) Regulations under this section shall contain such provisions, by way of enabling abatement of sums or otherwise, as appear to the Minister to be necessary or expedient to prevent the result specified in *subsection (13)* where, under any scheme or administrative arrangement, the payment of public moneys to the applicant is provided in respect of an activity to which this Act relates.

(13) The result mentioned in *subsection (12)* is that in consequence of—

- (a) the applicant's being refused the grant of the licence concerned, and
- (b) the regulations' operation (if the regulations did not contain the foregoing provisions and the applicant were to be paid compensation under the regulations in respect of that refusal),

the applicant would be in receipt of an amount of public moneys that is greater than the amount of such moneys that the applicant would be in receipt of if his or her application for the licence concerned had been granted.

(14) Regulations under this section—

- (a) may provide that if the amount of compensation claimed by the applicant, or the amount of compensation determined under the regulations on foot of his or her application, (in each case after the abatement (if any) required to be made pursuant to the provision of the regulations referred to in *subsection (12)*), is less than such minimum amount as is specified in the regulations for the purpose, no payment of compensation in respect of that application shall be made,
- (b) may contain such incidental, consequential or supplemental provisions as the Minister considers necessary or expedient (including provision for the referral to arbitration of the determination of the amount of any compensation payable or alleged to be payable).

**Transitional provisions**

- 33.** (1) Subject to this section, nothing in this Act shall affect the validity of any act done or proceedings (including court proceedings) taken by the Minister under the Act of 1946.
- (2) A notice under section 37 of the Act of 1946 shall be deemed to be an application for a licence to fell or otherwise remove a tree under *section 7*.
- (3) Where *subsection (2)* applies, a prohibition order issued under the Act of 1946 shall continue in force until the relevant application has been determined.
- (4) An application for a felling licence (whether general or limited) under Part IV of the Act of 1946 shall be deemed to be an application to fell or otherwise remove a tree under *section 7*.
- (5) A felling licence (whether general or limited) granted under Part IV of the Act of 1946 shall be deemed to be a licence granted under this Act and, in particular, *sections 7 and 17* shall apply with any necessary modifications.

**Service of documents**

- 34.** (1) A notice or other document required to be served on, sent or given to a person under the relevant statutory provisions shall, subject to *subsection (2)*, be addressed to the person concerned by name, and may be served on, sent or given to the person in one of the following ways:
- (a) by delivering it to the person;
- (b) by leaving it at the address at which the person ordinarily resides or, in a case where an address for service has been furnished, at that address;
- (c) by sending it by post in a pre-paid registered letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address;
- (d) where the address at which the person ordinarily resides cannot be ascertained by reasonable inquiry and the notice or other document relates to any lands or other place of business, by delivering it to a person over the age of 16 years resident or employed at the lands or other place of business, or by affixing it in a conspicuous position at or near the lands or other place of business;
- (e) if the person concerned has agreed to service of notices by means of an electronic communication (within the meaning assigned by section 2 of the Electronic Commerce Act 2000), service by such means, provided that there is a facility for confirming receipt of electronic communication and that such receipt has been confirmed;
- (f) where there is a machine for receiving a facsimile of the notice by electronic means at the address at which the person ordinarily resides or carries on business, by transmitting a facsimile of the notice by such means to that machine, but only if the sender's machine generates a message confirming successful transmission of the total number of pages of the notice;



- (g) by any other means that may be prescribed.
- (2) Where a notice or other document required or authorised under the relevant statutory provisions is to be served on, sent or given to a person who is the owner of lands or other place of business and the name of the person cannot be ascertained by reasonable inquiry, it may be addressed to the person by using the words, “the owner” or, as the case may require, “the occupier”.
- (3) For the purposes of this section, a company within the meaning of the Companies Acts shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

## PART 11

### AMENDMENT OF AGRICULTURE APPEALS ACT 2001

#### **Amendment of Agriculture Appeals Act 2001**

**35.** The Agriculture Appeals Act 2001 is amended—

- (a) in section 5—
  - (i) in subsection (1), by substituting “Schedule 1” for “the Schedule”, and
  - (ii) by substituting for subsection (2) the following:
    - “(2) The Minister may, for the purpose of—
      - (a) the reorganisation of schemes,
      - (b) deleting spent schemes,
      - (c) giving persons an appeal in respect of applications under schemes that may come into existence, or
      - (d) in the case of any enactments or statutory instruments, giving persons an appeal in respect of applications under enactments or statutory instruments that may be passed or made (and not for the time being set out in Schedule 2),
 amend by regulations Schedule 1 or 2, as appropriate, by adding an item to, or deleting an item from, either of those Schedules.”,
- (b) in section 7(1) by substituting “Schedule 1” for “Schedule”,
- (c) by inserting the following after section 14:

#### **“Establishment of Forestry Appeals Committee and its function**

14A. (1) The Minister shall establish a committee, which shall be known and is in this Act referred to as the Forestry Appeals Committee, consisting of a chairperson and such and so many other members (not being less than 2) as the Minister determines.

- (2) The function of the Forestry Appeals Committee shall be to hear and determine appeals specified in subsection (4).
  - (3) An officer of the Minister shall be eligible for appointment as a member (including as chairperson) of the Forestry Appeals Committee but, in a case where a majority (or all) of the members of the Committee are such officers, a majority of such officers shall be of a grade senior to the grade of the officer who made the decision, the subject of the appeal to the Committee.
  - (4) Where a person is dissatisfied with a decision made by the Minister or an officer of the Minister under an enactment or statutory instrument set out in Schedule 2, he or she may appeal to the Forestry Appeals Committee against the decision and, on the hearing of the appeal, the Committee may confirm, cancel or vary the decision as it thinks fit.
  - (5) The decision of the Forestry Appeals Committee on such an appeal shall, subject to subsection (6), be final and conclusive.
  - (6) Any person dissatisfied with a decision of the Forestry Appeals Committee may appeal that decision to the High Court on any question of law.”,
- (d) by renumbering the Schedule as Schedule 1 and inserting the following Schedule after it:

“Schedule 2

*Section 7 of the Forestry Act 2014*

Regulation 3 of the European Communities (Forest Consent and Assessment) Regulations 2010 (S.I. No. 558 of 2010)

Regulation 3 of the European Communities (Aerial Fertilisation) (Forestry) Regulations 2012 (S.I. No. 125 of 2012)”.