STATUTORY INSTRUMENTS

1974 No. 1817

FORESTRY

The Forestry (Exception from Restriction of Felling) Regulations 1974

Made - - -	*4th November* 1974
Laid before Parliament	*12th November* 1974
Coming into operation	*4th December* 1974

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

Citation, commencement and extent

1.—(1) These regulations may be cited as the Forestry (Exception from Restriction of Felling) Regulations 1974, and shall come into operation on 4th December 1974.

(2) These regulations shall apply to Great Britain.

Interpretation

2.—(1) In these regulations—

" the Act " means the Forestry Act 1967;

" the Commissioners " means the Forestry Commissioners;

" the Minister " means the Minister of Agriculture, Fisheries and Food as respects England, and a Secretary of State as respects Wales and as respects Scotland.

(2) The Interpretation Act 1889 (**b**) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament and as if these regulations and the regulations hereby revoked were Acts of Parliament.

Revocation

3. The Forestry (Exceptions from Restriction of Felling) (Amendment) Regulations 1959 (**c**) are hereby revoked.

Exception from restriction of felling

4. The exception from the application of subsection (1) of section 9 of the Act (which requires a felling licence to be granted by the Forestry Commissioners for the felling of growing trees) set forth in regulation 5 of these regulations shall be additional to the exceptions from the application of the

(**a**) 1967 c. 10. (**b**) 1889 c. 63. (**c**) S.I. 1959/96 (1959 I, p. 1432).

said subsection (1) specified in subsections (2) to (4) of the said section as modified by the Forestry (Exceptions from Restriction of Felling) Regulations 1951 (a) (which by virtue of section 50(1) of and paragraph 1 of Schedule 6 to, the Act have effect as if made under section 9 (5) of the Act) and by the Forestry (Exception from Restriction of Felling) Regulations 1972 (b).

5. Subsection (1) of section 9 of the Act shall not apply to the felling of trees on land which is subject to an agreement entered into with the Commisioners, being an agreement to which section 5(1) of the Act refers, namely an agreement to the effect that the land shall not, except with the previous consent in writing of the Commissioners or, in the case of dispute, under direction of the Minister, be used otherwise than for the growing of timber or other forest products in accordance with the rules or practice of good forestry or for purposes connected therewith: provided that the foregoing exception shall not apply unless—

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

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

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

or

(b) the agreement, being an agreement relating to land situate in England or Wales, is not made under seal or, being an agreement relating to land situate in Scotland, is a forestry dedication agreement not registered in the General Register of Sasines, and the following conditions are fulfilled, that is to say—

(i) the land is at the time of the felling owned by the person or persons who entered into the agreement with the Commissioners or the survivor or survivors of such persons; and

(ii) the felling is in accordance with a plan of operations approved by the Commissioners under the agreement.

IN WITNESS whereof the Official Seal of the Forestry Commissioners is hereunto affixed on 4th November 1974.

(L.S.)

J. M. Hunter,

Secretary to the Forestry Commissioners.

(a) S.I. 1951/1725 (1951 I, p. 755). (b) S.I. 1972/91 (1972 I, p. 255).

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

Under section 9(1) of the Forestry Act 1967 a felling licence granted by the Forestry Commissioners is required for the felling of growing trees except where by or under the Act that subsection does not apply. Exceptions from its application are specified in section 9(2) to (4) of the Act, and further exceptions have been added by the Forestry (Exceptions from Restriction of Felling) Regulations 1951, the Forestry (Exceptions from Restriction of Felling) (Amendment) Regulations 1959 and the Forestry (Exception from Restriction of Felling) Regulations 1972.

These Regulations revoke and re-enact the 1959 Regulations referred to above, and also add a new exception. They allow the felling of trees without a licence on land which is subject to an agreement such as is described in section 5 of the Act of 1967, but only if

(a) the agreement is one binding on the successors in title of the person who entered into it, being in respect of land in England or Wales a forestry dedication covenant, or in respect of land in Scotland a forestry dedication agreement registered in the General Register of Sasines, and the owner of the land at the time of felling is bound by the positive covenants or terms in the agreement, or

(b) the agreement is, as regards land in England or Wales, not made under seal, or, as regards land in Scotland, not registered in the General Register of Sasines, and the land is at the time of felling owned by the person who entered into the agreement,

and in either case the felling is in accordance with a plan of operations approved by the Commissioners under the agreement.

These Regulations come into operation on 4th December 1974.

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