



Llywodraeth Cymru
Welsh Government

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Welsh Government
Consultation Document

Changes to the Forestry (Felling of trees) Regulations 1979

Changes to the Forestry (Felling of Trees) Regulations 1979 due to amendments to the Forestry Act 1967 made by the Agriculture (Wales) Bill 2023

Date of issue: 11 August 2023

Action required: Responses by 08 September 2023

Mae'r ddogfen hon ar gael yn Gymraeg hefyd / This document is also available in Welsh
Rydym yn croesawu gohebiaeth a galwadau ffôn yn Gymraeg / We welcome correspondence and telephone calls in Welsh

Overview

The Agriculture (Wales) Bill amends the Forestry Act 1967 to allow environmental conditions to be added to felling licences, and enables the amendment, suspension or revocation of felling licences already granted. The Bill has passed through the Senedd and is awaiting Royal Assent before becoming law.

A number of forestry provisions in the Bill give rise to new procedural matters, such as “prescribed period” and/or “prescribed manner”.

This necessitates the amendment of the Forestry (Felling of trees) Regulations 1979 (“the 1979 Regulations”) which make provision for various procedural matters under the Forestry Act 1967. These amendments are necessary to enable the forestry provisions of the Bill to function. The amending regulations will be made under existing powers in the Forestry Act 1967, in particular section 32.

How to respond

Submit your comments by 8 September 2023 in either of the following ways:

Complete our response form online.

Or download and complete our response form, and email to PolisiCoedwigaeth.ForestryPolicy@gov.wales

Or download and complete our response form, and post to
Forest Resources Policy
Welsh Government,
Sarn Mynach,
Llandudno Junction
Conwy.
LL31 9RZ

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

Contact details

For further information:

Forest Resources Policy
Welsh Government,
Sarn Mynach,
Llandudno Junction
Conwy.
LL31 9RZ
Email: PolisiCoedwigaeth.ForestryPolicy@gov.wales

This document is also available in Welsh: [hyperlink](#)

UK General Data Protection Regulation (UK GDPR)

The Welsh Government will be data controller for Welsh Government consultations and for any personal data you provide as part of your response to the consultation.

Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. The lawful basis for processing information in this data collection exercise is our public task; that is, exercising our official authority to undertake the core role and functions of the Welsh Government. (Art 6(1)(e))

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. In the case of joint consultations this may also include other public authorities. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation and that the Welsh Government may be under a legal obligation to disclose some information.

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the UK GDPR, please see contact details below:

Data Protection Officer:
Welsh Government
Cathays Park
CARDIFF
CF10 3NQ
e-mail: dataprotectionofficer@gov.wales

The contact details for the Information
Commissioner's Office are:

Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF
Tel: 0303 123 1113
Website: <https://ico.org.uk/>

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Background

The Agriculture (Wales) Bill (“the Bill”) makes a number of amendments to the Forestry Act 1967 (“the 1967 Act”) to enable environmental conditions to be added to felling licences, and to amend, suspend or revoke felling licences already granted. This is to prevent felling that would contradict other environmental legislation, and provide further protection for wildlife and the environment during felling operations.

This is the [Agriculture Wales Bill](#) as passed by the Senedd.

[The Forestry \(Felling of Trees\) Regulations 1979](#) (known as “the 1979 Regulations”) make provision for various procedural matters under the Forestry Act 1967. They were amended by [The Forestry \(Felling of Trees\) \(Amendment\) Regulations 1987](#).

The amendments to the Forestry Act 1967 made by the Bill, give rise to new procedural matters. As the Forestry (Felling of Trees) Regulations 1979 contain procedural matters to support the Forestry Act 1967, they also need to be amended.

Four new procedural instances have been identified in the forestry provisions of the Bill, that require inclusion in the 1979 Regulations. These are:

- Tree Preservation Orders – Sections 38 and 40 of the Bill inserts new sections 10A(3) and 24F(4) into the Forestry Act 1967. Both of these sections relate to Tree Preservation Orders (TPOs) and the prescribed period in which the local authority who made the TPO (“the TPO authority”) may object.
- Appeals – Section 41 of the Bill inserts a new section 26C(1) into the Forestry Act 1967 requiring an appeals prescribed period and manner where an appeal is to be made against a notice served under new sections 24C(3), 24D(2) and 24E(3) of the Forestry Act.
- Compensation – where a claim for compensation is to be made relating to notices served under sections 24C(3), 24D(2) and 24E(3), section 41 of the Bill inserts a new section 26G(2) into the Forestry Act 1967 requiring a prescribed period and manner for compensation claims.

This consultation asks for your comments in relation to the proposed prescribed periods and manner relating to these procedural instances, to be inserted into the Forestry (Felling of trees) Regulations 1979. The amendments are proposed to be made in new amending regulations, the working title being the Forestry (Felling of trees) (Amendment)(Wales) Regulations 2023. These will be provided in both Welsh and English.

Policy proposals

Sections 36 to 44 of the Bill insert a number of new sections into the Forestry Act 1967, which enable Natural Resources Wales to serve notices in order to better protect wildlife and the environment during felling operations. For the purposes of this consultation, these notices are summarised as:

- A notice under new section 24C(3) may be served where the conditions of a felling licence have been breached.
- A notice under new section 24D(2) may be served on a new owner where a previous owner has breached the conditions of a felling licence but has not undertaken the steps required as a result of that breach, before selling the land.
- A notice under new section 24E(2) may be served where no breach of felling licence conditions has taken place but there is a risk of significant harm.

Tree Preservation Orders

Sections 38 and 40 of the Bill insert new sections 10A(3) and 24F(4) into the Forestry Act 1967 introducing a prescribed period in which the TPO authority must respond to Natural Resources Wales' notice in writing if that TPO authority wishes to object to

- a proposal to amend a felling licence by agreement between NRW and the person responsible (section 10A(3) or
- the serving of a notice under new sections 24C(3) or s.24E(2)

in respect of any trees to which a Tree Preservation Order relates.

The prescribed period in both instances is proposed to be **1 month**.

This is in line with prescribed period referred to in sections 15(2) and 19(3) of the Forestry Act 1967 and as set out in Regulations 7 and 9 of the 1979 Regulations.

The Bill provides for exceptions to the prescribed period at sections 38 and 40 of the Bill where "emergency criteria" would apply. This enables action to be taken immediately to prevent further environmental damage.

Question 1: Do you agree that the prescribed period should be 1 month in line with current requirements under the Forestry Act 1967?

If not, what prescribed period do you feel is appropriate and why?

Appeals against notices served under sections 24C(3), 24D(2) and 24E(3)

Section 41 of the Bill inserts a new section 26C(1) into the Forestry Act 1967 which requires a prescribed period and prescribed manner in which appeals against notices served under new sections 24C(3), 24D(2) and 24E(3) must be made.

The prescribed period for such appeals is proposed to be **3 months**.

The prescribed manner is proposed to use an appropriately amended form similar to Form 9 of the 1979 Regulations, to be served on the Welsh Minister.

These proposals are in line with the current prescribed period and prescribed manner for appeals referred to in section 25(1) of the Forestry Act 1967, and set out in Regulation 14 of the 1979 Regulations.

The exception to this is for appeals to which suspension relates as set out at new sections 26A(2)(e) and section 26B(2)(d) to be inserted into the Forestry Act 1967. In these cases, the appeals prescribed period would extend to the period of the suspension, so that the person to whom the notice relates is able to appeal to have the suspension lifted in line with a further suspension notice under new sections 24C(7)(b) or 24E(4)(b).

Question 2: Do you agree with the prescribed manner and that the prescribed period should be 3 months with extension where a notice relates to a suspension?

If not, what prescribed manner or period do you feel is appropriate and why?

Compensation claims

Section 41 of the Bill inserts new sections 26D, 26E and 26F into the Forestry Act 1967 setting out circumstances where compensation is payable. New section 26G sets out that compensation claims must be made in the prescribed period and manner and that this can be set out in regulations.

In relation to claims under new sections 26D, 26E and 26F, the prescribed period for claims is proposed to be **3 months** from the date the Minister's decision is sent to the applicant confirming a successful appeal. As the 1979 Regulations do not currently set out any timeframe for claims to be made, this prescribed period is considered reasonable to obtain a valuation in relation to depreciation in timber value, and collate costs relating to the cancelled notice.

The proposed prescribed manner in which claims should be made is by submitting an appropriately amended form similar to Form 1 of the 1979 Regulations, served on Natural Resources Wales.

Natural Resources Wales and the Welsh Ministers will continue to be able to require a statutory declaration to be made on any claims submitted. This is a formal written statement of fact made in a prescribed manner affirming that something is true to the best of knowledge of the person making the declaration. It must also be signed in the presence of an authorised person, such as a solicitor. Statutory declarations are permitted in respect of claims under the 1979 Regulations in order to ensure that claims are not made speculatively.

Question 3: Do you agree with the prescribed manner and that the prescribed period should be 3 months?

If not, what prescribed manner or period do you feel is appropriate and why?

Consultation Response Form

Your name:

Organisation (if applicable):

email / telephone number:

Your address:

Question 1: Do you agree that the prescribed period should be 1 month in line with current requirements under the Forestry Act 1967?

If not, what prescribed period do you feel is appropriate and why?

Question 2: Do you agree with the prescribed manner and that the prescribed period should be 3 months with extension where a notice relates to a suspension?

If not, what prescribed manner or period do you feel is appropriate and why?

Question 3: Do you agree with the prescribed manner and that the prescribed period should be 3 months?

If not, what prescribed manner or period do you feel is appropriate and why?

Question 4: What, in your opinion, would be the likely effects of the amendments on the Welsh language? We are particularly interested in any likely effects on opportunities to use the Welsh language and on not treating the Welsh language less favourably than English.

Do you think that there are opportunities to promote any positive effects?

Do you think that there are opportunities to mitigate any adverse effects?

Question 5: In your opinion, could the amendments be formulated or changed so as to:

- have positive effects or more positive effects on using the Welsh language and on not treating the Welsh language less favourably than English; or

- mitigate any negative effects on using the Welsh language and on not treating the Welsh language less favourably than English?

Question 6: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Please enter here:

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here.