

# FORESTRY DEVOLUTION IN SCOTLAND

## New Felling Regime: Exemptions

From 1 April 2019, anyone wishing to fell trees in Scotland will require a **felling permission** from Scottish Forestry, unless an exemption applies or another form of felling approval such as a felling licence (including a long term forest plan) or felling direction has been issued. A permission to fell trees issued under the new regime will be called a **felling permission** rather than a felling licence.

Exemptions describe the situation or types of felling for which you do not require permission from the forestry regulator, Scottish Forestry.

The priority of the new regulatory regime, is to provide continuity. Changes have been limited to those where the new Act requires them, or where we have taken opportunities to make improvements.

The new regime will continue to ensure that the forestry regulator is primarily involved in the regulation of felling which could lead to the long-term reduction of woodland cover in Scotland through deforestation. This will enable the regulator to focus on the sustainable management of Scotland's woodlands, ensuring the long term sustainability of the forestry sector.

### Key exemption changes:

- **Move to single diameter for small trees: 10 cm diameter**
- **Five cubic metres per quarter exemption maintained but no longer applies to small native woodlands, including Caledonian Pinewoods**
- **Dead trees are exempt but clearance of windblow requires felling permission**
- **Felling nuisance trees requires felling permission**

### Comparison between old and new exemptions

#### Old

#### SMALL TREES

Felling of the following trees does not require a licence:

- Those with a diameter not exceeding 8 centimetres, or
- in the case of coppice or underwood, with a diameter not exceeding 15 centimetres, or
- a diameter not exceeding 10 centimetres where the felling is carried out in order to improve the growth of other trees.

Diameter is measured over the bark, at a point 1.3 meters above the ground level.

#### New

Felling of the following trees do not require a felling permission:

- Felling of trees with a diameter not exceeding 10 centimetres.

Diameter is measured over the bark, at a point 1.3 metres from the base of the tree.

#### PLACE

Felling of trees within the following places does not require a licence:

- Orchard
- Garden
- Churchyard
- Public open space

Felling of trees within the following places does not require a felling permission:

- Orchard
- Garden
- Churchyard
- Burial ground
- Public open space

Public open space is an area which is designed and maintained for use by the public but does not include any stands of trees which have a canopy cover of more than 20% within an area of 0.1ha or greater.



# FORESTRY DEVOLUTION IN SCOTLAND

## New Felling Regime: Exemptions

|                             | Old  |     | New  |
|-----------------------------|--|-----|--|
| <b>TOPPING</b>              | <ul style="list-style-type: none"> <li>Topping or lopping of trees does not require a licence.</li> </ul>  | ➔➔➔ | <ul style="list-style-type: none"> <li>Topping or lopping of trees do not require a felling permission.</li> </ul>   |
| <b>HEDGES</b>               | <ul style="list-style-type: none"> <li>Trimming or laying of hedges does not require a licence.</li> </ul>   | ➔➔➔ | <ul style="list-style-type: none"> <li>Trimming or laying of hedges do not require a felling permission.</li> </ul>  |
| <b>VOLUME</b>               | <p>Felling of trees in the following situation does not require a licence</p> <ul style="list-style-type: none"> <li>Felling of trees which does not exceed 5 cubic metres per calendar quarter, and</li> <li>no more 2 cubic metres are sold in any quarter.</li> </ul>   | ➔➔➔ | <p>Felling of trees in the following situation does not require a felling permission</p> <ul style="list-style-type: none"> <li>Felling of trees which are not part of a Caledonian Pinewood or a native woodland which is between 0.1ha and 0.5ha in size and does not exceed 5 cubic metres per calendar quarter.</li> </ul>   |
| <b>DANGER</b>               | <p>A felling licence is not required where felling is required for:</p> <ul style="list-style-type: none"> <li>The prevention of danger</li> <li>The abatement of a nuisance.</li> </ul>   | ➔➔➔ | <p>A felling permission is not required where felling is required for:</p> <ul style="list-style-type: none"> <li>The prevention of immediate danger to persons or property.</li> </ul>  |
| <b>COMPLIANCE</b>           | <ul style="list-style-type: none"> <li>Felling which is in compliance with any obligation imposed by or under an Act of Parliament does not require a felling licence.</li> </ul>  | ➔➔➔ | <ul style="list-style-type: none"> <li>Felling which is required by order of a court or tribunal or by any enactment does not require a felling permission.</li> </ul>   |
| <b>ELECTRICITY ACT 1989</b> | <ul style="list-style-type: none"> <li>Felling which is carried out by, or at the request of, an electricity operator, because the tree is, or will be in such close proximity to an electric line or electrical plant which is kept installed or is being installed by the operator as to have the effect mentioned in 9(1)(a) or (b) of schedule 4 of the Electricity Act 1989, does not require a felling licence.</li> </ul> | ➔➔➔ | <ul style="list-style-type: none"> <li>Felling which is carried out by or at the request of an electricity operator, where—the tree is in close proximity to an electric line or electrical plant which is, is being, or is to be, installed by the operator, and the presence of the tree has the effect mentioned in paragraph 9(1)(a) or (b) of schedule 4 of the Electricity Act 1989, does not require a felling permission.</li> </ul> |
| <b>PLANNING</b>             | <ul style="list-style-type: none"> <li>Felling which is authorised by planning permission consent does not require a licence.</li> </ul>   | ➔➔➔ | <ul style="list-style-type: none"> <li>Felling which is authorised by planning permission consent does not require a felling permission.</li> </ul>  |
| <b>AERODROMES</b>           | <ul style="list-style-type: none"> <li>Felling of a tree where the Secretary of State for Defence or the Secretary of State for Trade has certified that it obstructs the approach of aircraft to, or their departure from any aerodrome or hinders the safe and efficient use of air navigational or aircraft landing installations does not require a felling licence.</li> </ul>  | ➔➔➔ | <ul style="list-style-type: none"> <li>Felling of a tree where it obstructs the approach of aircraft to, or their departure from any aerodrome or hinders the safe and efficient use of air navigational or aircraft landing equipment does not require a felling permission.</li> </ul>   |



## FORESTRY DEVOLUTION IN SCOTLAND

### New Felling Regime: Exemptions

|                              | Old   |     | New   |
|------------------------------|---|-----|---|
| <b>STATUTORY UNDERTAKERS</b> | <p>A felling licence is not required for</p> <ul style="list-style-type: none"><li>• The felling by or at the request of, statutory undertakers of trees on land in their occupation which obstruct the construction of any works required for the purposes of those undertakers or;</li><li>• The felling of trees which interfere with the maintenance or operation of any works vested in those undertakers.</li></ul> | ➔➔➔ | <p>A felling permission is not required for</p> <ul style="list-style-type: none"><li>• The felling by or at the request of a statutory undertaker of trees on land in its occupation which would otherwise obstruct the construction of any works required for the undertakers purpose or;</li><li>• The felling of trees which interfere with the maintenance of any works vested in those undertakers.</li></ul>                                   |
| <b>WATER &amp; DRAINAGE</b>  | <p>A felling licence is not required for</p> <ul style="list-style-type: none"><li>• The felling of any tree, by or at the request of a water authority established under the Water Act 1973 or an internal drainage board for the purposes of the Land Drainage Act 1976, where the tree interferes or would interfere with the exercise of any functions of that authority or board.</li></ul>                          | ➔➔➔ | <p>A felling permission is not required for</p> <ul style="list-style-type: none"><li>• The felling of a tree by Scottish Water, where the tree is interfering, or may interfere, with the exercise of any functions of Scottish Water, or</li><li>• a local authority, where done in accordance with the local authority's functions under section 56(1) and (2)(a) to (d) of the Flood Risk Management (Scotland) Act 2009<sup>(1)</sup>.</li></ul> |
| <b>DUTCH ELM DISEASE</b>     | <p>A felling licence is not required for</p> <ul style="list-style-type: none"><li>• The felling an elm tree which has been affected by Dutch Elm Disease to such an extent that the greater part of the crown of the tree is dead.</li></ul>   | ➔➔➔ | <p>A felling permission is not required for</p> <ul style="list-style-type: none"><li>• The felling an elm tree which has been affected by Dutch Elm Disease to such an extent that the greater part of the crown of the tree is dead.</li></ul>  |
| <b>DEDICATION AGREEMENT</b>  | <p>A felling licence is not required for</p> <ul style="list-style-type: none"><li>• Felling on land which is subject to a Forestry Dedication Agreement in positive covenant and the felling is done in accordance with an approved plan of operations.</li></ul>  | ➔➔➔ | <ul style="list-style-type: none"><li>• A felling permission is not required for felling on land which is subject to a Forestry Dedication Agreement in positive covenant and the felling is done in accordance with an approved plan of operations.</li></ul>  |
| <b>DEAD TREES</b>            | <p>A felling licence is not required for</p> <ul style="list-style-type: none"><li>• Felling of trees which are dead</li><li>• Felling of trees which are windblown.</li></ul>  | ➔➔➔ | <p>A felling permission is not required for</p> <ul style="list-style-type: none"><li>• Felling of trees which are dead</li></ul>   |