



Introducing tree felling licensing

Response from RSPB Northern Ireland, June 2011 to the proposed Forestry (Felling of Trees) Regulations (Northern Ireland) 2011.

RSPB Northern Ireland welcomed the commitment to introduce felling licensing under the Forestry Act (Northern Ireland) 2010. We therefore wish to comment in detail on the proposed enabling secondary legislation, the draft Forestry (Felling of Trees) Regulations (Northern Ireland) 2011, which will implement felling licensing. We also have comments on the effective operation of the felling licensing system, including guidance for woodland owners and managers.

The RSPB considers that that the new felling licensing system for Northern Ireland must:

- ensure sustainable forest management, including protection and enhancement of biodiversity: priority species, priority habitats and designated wildlife sites;
- ensure that disturbance to wildlife is avoided, including by the appropriate design of forest management, the type and timing of forestry/woodland management operations;
- permit the restoration of open priority ground habitats, such a blanket peatland, breeding wading bird sites, semi-natural grassland and areas for raptors;
- encourage the creation and retention of deadwood habitats of high biodiversity quality for priority wildlife species;
- apply to all woodland, of all sizes, types, ownerships and management objectives;
- cover all operations that kill or damage woodland trees, not just conventional tree felling by chainsaw or machine harvester;
- have a public consultation period for applications for a felling licence. This could be implemented by felling licensing proposals being added to Forest Service's existing Public Register;
- include the NI Environment Agency and local planning authorities as statutory consultees;
- connect with the existing forestry Environmental Impact Assessment consenting process for woodland removal; &
- have felling management plans considered as part of a forestry/woodland management plan.

Our comments in detail

1. Sustainable forest management, including protection and enhancement of biodiversity

Felling licensing must only consent operations that improve biodiversity quality of priority woodland and non-woodland habitats, sites for priority species as well as NI, UK, EU and Internationally designated wildlife sites (including ASSI, SAC, SPA and Ramsar sites).

The RSPB welcomes the identification of designated wildlife sites in Schedule 1(9) of the proposed (Felling of Trees) Regulations (Northern Ireland) 2011, but applicants must also be required to detail protected and priority species present, including those sensitive to disturbance and detail measures to avoid such disturbance.

A condition of felling licensing must be to meet the UK Forestry Standard and its associated Forest Guidelines. This should be written into consent approval letters, with particular site-specific requirements being written in as consent conditions, as well as in guidance to applicants¹.

¹ A leaflet similar to the Forestry Commission's *Tree Felling – Getting Permission*, might be useful; see: [http://www.forestry.gov.uk/pdf/treefellingaugust.pdf/\\$FILE/treefellingaugust.pdf](http://www.forestry.gov.uk/pdf/treefellingaugust.pdf/$FILE/treefellingaugust.pdf)

The RSPB welcomes the introduction of felling management plans as a prior approval mechanism for granting of felling licenses. It would, however, be helpful if felling management plans were considered as part of a complete forestry and woodland management plan that Forest Service approved.

2. Wildlife disturbance avoidance

The proposed Forestry (Felling of Trees) Regulations (Northern Ireland) and the operation of the felling licence system need to ensure that disturbance to wildlife is avoided, including by the appropriate design of forest management and the type and timing of forestry operations.

The RSPB welcomes the identification of designated wildlife sites in Schedule 1(9) of the proposed (Felling of Trees) Regulations (Northern Ireland) 2011, but applicants must also be required to detail protected and priority species present, including those sensitive to disturbance and measures detailed to avoid this. The proposed Forestry (Felling of Trees) Regulations (Northern Ireland) need to include a requirement to avoid disturbance to wildlife species: statutory protected species under Northern Ireland Wildlife and Natural Environment Bill and EU Birds and Habitats Directive, and those identified as priorities under the Northern Ireland biodiversity strategy and the UK Biodiversity Action Plan.

The RSPB also welcomes the requirement to detail the type, timing and management purpose of felling operations in Schedule 1(9) of the proposed (Felling of Trees) Regulations (Northern Ireland) 2011, but applicants must also be required to detail the timing and period of felling operations in the felling management plan/felling and regeneration plan in Schedule 3 for each felling site/compartiment, not just the fell year. We welcome the felling and regeneration plan in Schedule 3 including the felling type and felling site/compartiment number but this location needs to be detailed on a map and applicants required to do so.

There also needs to be guidance developed to guide woodland owners and managers on the appropriate design and timing of forestry and woodland management operations, including tree felling and associated operations, to avoid disturbance to wildlife species. The RSPB would wish to assist on the development of such guidance for birds, including the timing and location of forestry and woodland operations in relation to the breeding seasons of birds.

3. Restoration of open ground habitats

It is important that the Forestry (Felling of Trees) Regulations (Northern Ireland) regulations permit the restoration of open priority ground habitats, such as blanket peat bogs, breeding wading bird sites, semi-natural grassland and areas for raptors.

The RSPB considers that there needs to be clearly stated exemption within these regulations from on-site compulsory restocking for the restoration of priority open ground habitats, and sites for priority open ground species. We note that Section 18(2b) of the Forestry Act (Northern Ireland) 2010 allows for conditions to be placed in the Felling License, which could include woodland removal with no restocking of trees, and onward site management for restoration of priority open ground habitats, subject to approval under the forestry Environmental Impact Assessment process.

The forestry Environmental Impact Assessment (EIA) process - under the Environmental Impact Assessment (Forestry) Regulations (Northern Ireland) 2006 - allows such restoration to be carried

out in a sustainable manner, taking account of significant environmental impacts as well as carrying out public consultation.

See later comments on connection between forestry EIA and felling licensing consenting processes.

4. Deadwood habitats

Felling licensing must ensure the retention and creation of deadwood habitats of high biodiversity quality for priority wildlife species. The UK Forestry Standard and associated Forest Guidelines outlines deadwood habitat creation and retention related to biodiversity value, for example generating suitable type and diversity of deadwood habitats, increasing deadwood volume and location for priority wildlife species.

Deadwood retention and creation is also an important part of native woodland restoration and conversion to lower impact woodland management approaches and systems. Veteran trees may have historic environment and cultural values in addition to their wildlife value and potential.

5. Apply to all woodland

Felling licensing should apply to all woodland, of all sizes, types, ownerships and management objectives. This includes on farms, in towns as well as in the countryside, and under all ownerships – state, public and private. This means all Forest Service and other Crown Land.

The RSPB supports felling licensing for all woodland in all ownerships in Northern Ireland.

The RSPB considers the exemption of Forest Service and all Crown land from felling licensing under Part 3 of Forestry Act (Northern Ireland) 2010 as unhelpful, as this means that the majority of Northern Ireland's woodland will not be subject to felling licensing. The RSPB is not convinced by Forest Service's position that as it is UK Woodland Assurance Standard (UKWAS) certified it should be exempt from felling licensing, because this applies a different level of felling conditions to state forestry. The exemption from felling licensing due to UKWAS certification that Forest Service state for their land, could be applied to a number of non-state woodland owners who are also UKWAS certified, but under current proposal will be required to have their felling licensed.

The other reason given for Forest Service being exempt from felling licensing is that government cannot regulate itself – if this principle were followed throughout government then health and safety, pollution control, wildlife law and environmental health would not apply to government's own operations either. We note that Forest Service currently approves its own forest plans for the state forest. We therefore ask that Forest Service reconsider this position so as to ensure felling licensing is as open and accountable as possible.

6. Cover all operations that kill or damage trees

The regulations need to cover all operations that kill or damage woodland trees, including burning, ring barking, stem injection of herbicides, herbicide application to tree roots or foliage, pushing/pulling over by lorry, mechanical excavator, tractor or winch, soil removal or contamination, as well as conventional tree felling by chainsaw, machine harvester, axe or saw.

Amending wording in Section 2(1), 'Interpretation' of the draft Forestry (Felling of Trees) Regulations (Northern Ireland) would be a way of achieving this, for example by the inclusion of the following definition: ' "felling" includes wilfully destroying by any means '².

7. Public consultation

There needs to be a public consultation period for felling licence applications to allow individuals and non-statutory consultees to scrutinise and comment proposals, including suitable conditions such as the timing of felling operations. This could be implemented by establishing a Public Register of proposals for felling licensing, which could be added to the existing Forest Service Public Register for Environmental Impact Assessment.

Such a Public Register should also include all proposals for woodland planting and management grants, draft Forest Service forest management and felling and regeneration plans, as well as draft forestry Environmental Statements for woodland expansion and removal, in addition to felling licence applications. A Public Register for public consultation of all of Forest Service's consenting processes would be consistent with current regulatory practice in Great Britain by the Forestry Commission³.

8. Statutory consultees

The licensing proposals need to include the Northern Ireland Environment Agency and local planning authorities as statutory consultees. NIEA has a key role in commenting on biodiversity and historic environment impacts of felling proposals on non-designated sites, as well as its role on designated sites.

9. Connection with forestry Environmental Impact Assessment

The felling regulations, as well as subsequent guidance to applicants, should make a clear connection between the current forestry Environmental Impact Assessment consent process and the new felling licensing regime.

For woodland removal that requires a forestry Environmental Impact Assessment under the Environmental Impact Assessment (Forestry) Regulations (Northern Ireland) 2006 for 'deforestation', it would be helpful to clarify that:

- a Forest Service approved Felling License is the final condition before felling can commence; &
- a Forest Service approved Environmental Statement is a pre-condition before a Felling Licence can be granted.

This would be consistent with forestry regulation in Great Britain.

² This wording is used in Great Britain for the same purposes in felling licensing, see Section 35 of the Forestry Act 1967: <http://www.legislation.gov.uk/ukpga/1967/10/part/II>.

³ Forestry Commission Wales, noting information on confidentially: <http://www.forestry.gov.uk/forestry/inf-d-6j2ht6>; <http://www.forestry.gov.uk/website/forestry.nsf/byunique/inf-d-6j2hwz> & information on how they consult: [http://www.forestry.gov.uk/pdf/consult.pdf/\\$FILE/consult.pdf](http://www.forestry.gov.uk/pdf/consult.pdf/$FILE/consult.pdf)

Forestry Commission Scotland Public Register information: <http://www.forestry.gov.uk/website/forestry.nsf/byunique/inf-d-5zadt9> & Forestry Commission England Public Register information: <http://www.forestry.gov.uk/forestry/inf-d-6dfk86>

10. Management planning

The RSPB welcomes the introduction of felling management plans as a prior approval mechanism for granting of felling licenses. It would, however, be helpful if felling management plans were considered as part of a complete forestry and woodland management plan that Forest Service approved.

The felling management plan needs to stipulate the location and timing of forest felling and associated operations to help determine and avoid negative environmental impacts, for example bird disturbance during the breeding season, or water and soil conservation issues.

The RSPB welcomes the identification of designated wildlife sites in Schedule 1(9) of the proposed (Felling of Trees) Regulations (Northern Ireland) 2011, but applicants must also be required to detail protected and priority species present, including those sensitive to disturbance and measures detailed to avoid this.

The RSPB also welcomes the requirement to detail the type, timing and management purpose of felling operations in Schedule 1(9) of the proposed (Felling of Trees) Regulations (Northern Ireland) 2011, but applicants must also be required to detail the timing and period of felling operations in the felling management plan/felling and regeneration plan in Schedule 3 for each felling site/compartment, not just the fell year. We welcome the felling and regeneration plan in Schedule 3 including the felling type and felling site/compartment number but this location needs to be detailed on a map and applicants required to do so.

As Forest Service has been exempted from felling licensing process, it is important that it meets similar conditions to those outlined in the felling licensing regulations, through the scrutiny, design and operation of its forest management and felling/restocking plans. Forest Service's forest plans, as well as felling and replanting plans, need an approval process that includes public consultation and input from NIEA.

RSPB Northern Ireland, June 2011.

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