

Felling and Reforestation Policy



Department of
**Agriculture,
Food and the Marine**

An Roinn
**Talmhaíochta,
Bia agus Mara**

May 2017

The Forest Service of the Department of Agriculture, Food & the Marine is responsible for ensuring the development of forestry within Ireland in a manner and to a scale that maximises its contribution to national socio-economic well-being on a sustainable basis that is compatible with the protection of the environment. Its strategic objectives are:

1. To foster the efficient and sustainable development of forestry
2. To increase quality planting
3. To promote the planting of diverse tree species
4. To improve the level of farmer participation in forestry
5. To promote research and training in the sector
6. To encourage increased employment in the sector

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Section 1

Legislative and Policy Context

1.1 Introduction

The Forest Service of the Department of Agriculture, Food & the Marine (DAFM) is Ireland's national forest authority. It is responsible for (*inter alia*) national forest policy, the promotion of forestry, the administration of the forest consent system and forestry support schemes, forest health and protection, and the control of felling.

This *Felling and Reforestation Policy* document aims to provide a consolidated source of information on the legal and regulatory framework relating to tree felling. Information on the felling licence application process is also described. Finally, where the permanent removal of trees is envisaged, Forest Service policy is outlined for different tree removal scenarios.

This document will be kept under review by the Forest Service.

1.2 Forestry Act 2014

A felling licence granted by the Minister for Agriculture, Food & the Marine provides authority under the Forestry Act 2014 to fell or otherwise remove a tree or trees and to thin a forest for silvicultural reasons. This Act prescribes the functions of the Minister and details the requirements, rights and obligations in relation to felling licences. The principal set of regulations giving further effect to the Forestry Act 2014 are the Forestry Regulations 2017 (S.I. No. 191 of 2017). The main provisions of the Act in relation to felling are outlined in this policy document.

While this document makes reference to the Forestry Act 2014, it does not provide a comprehensive guide to this Act. Readers are referred to the Irish Statute Book for the full legal text of the Forestry Act and associated Forestry Regulations 2017 (see www.irishstatutebook.ie).

Photo 1 Regulated felling is key to realising, on a sustainable basis, previous and ongoing investment in Ireland's forests.



The Forestry Act 2014 sets out the legislation governing the felling of trees, the licences required, offences and penalties for breaches of the legislation, etc. The Forest Service of the DAFM must operate policy and procedures in relation to tree felling which are underpinned by the provisions of the Act. To this end, this document lays out the Forest Service's long-standing policy and relevant procedures which have been updated to take into account the transition from the Forestry Act 1946, which has been repealed and superseded by the Forestry Act 2014. The policy and procedures take into account many considerations and influences.

1.3 Definitions

For the purpose of this document, it is necessary to define the following terms: 'forest'; 'trees outside a forest'; and 'deforestation'.

1.3.1 Forest

Forest land is defined in the Forestry Act 2014 as:

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, ...

1.3.2 Tree outside a forest

A tree outside a forest is defined, by default, as a tree excluded from the above definition of a 'forest' (e.g. a tree in a hedgerow).

1.3.3 Deforestation

Deforestation is defined in the Forestry Act 2014 as "*the conversion of a forest into land that is not a forest.*"

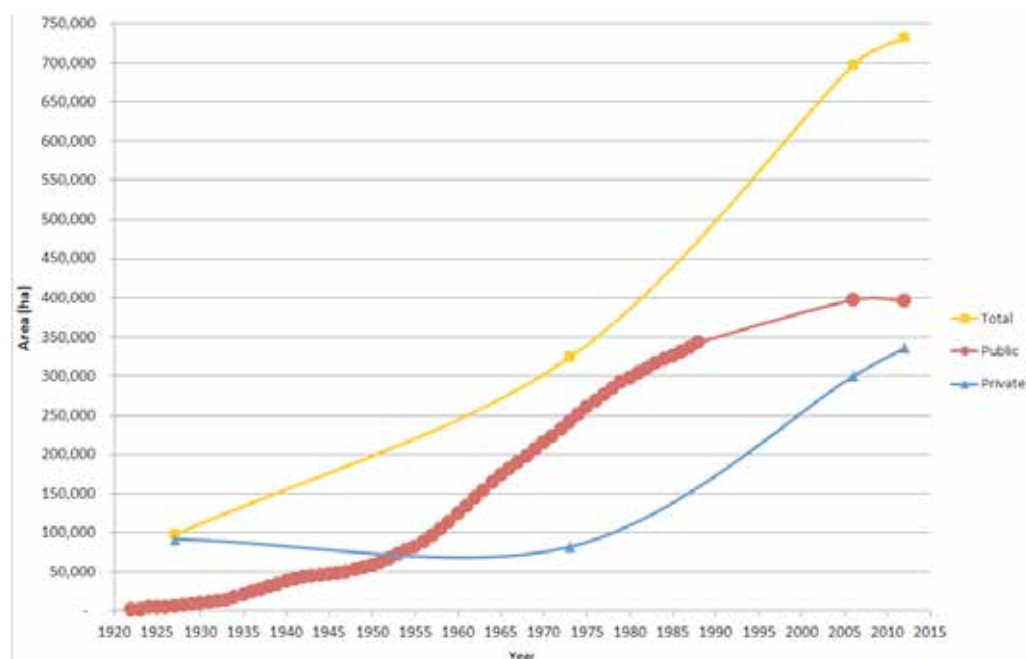
There is obvious need to avoid deforestation in relation to economic and social considerations and environmental considerations such as carbon, landscape and amenity. Reforestation after felling is essential to prevent deforestation, which would otherwise counteract the benefits of Ireland's afforestation programme and associated public expenditure on afforestation, which to date represents a substantial State and European Union investment. Notwithstanding this policy to maintain forest cover, there are circumstances where deforestation can occur and will be permitted.

Note that, as trees outside a forest are excluded from the definition of a forest, the term 'deforestation' does not apply to the felling of trees outside a forest.

1.4 Development of forest cover in Ireland

Since the foundation of the State, the area of land under forest in Ireland has grown from 1.4% of the land area, to its current level of 10.5%. Figure 1 shows the growth in area of both public and private forests over this period. Due mainly to the substantial investment by the private landowner, the State and the European Union, the area of privately-owned forests has undergone a four-fold increase from 81,958 ha in 1973 to 335,900 ha in 2012. Over the same period, the State-owned forest area has also significantly increased, from 242,056 ha to 395,760 ha.

Figure 1 Increase in forest cover (public, private and total) in Ireland, during the period 1920 to 2015.



1.4.1 Current policy on the expansion of the forest estate

Forests, products and people: Ireland's forest policy – a renewed vision (DAFM, 2014), developed by the DAFM with input from the Forest Policy Review Group, sets out an updated national forest policy which takes account of the substantial changes that have occurred in Irish forestry since the publication of its forerunner *Growing for the Future* in 1996, and which will steer and guide the expansion of the forest sector up to the year 2046, in a sustainable and cost-efficient manner.

One key aim is to increase forest cover from 10.5% to 18% by 2046, through the reforestation of existing forest lands and the afforestation of 10,000 ha per annum up to 2015, and 15,000 ha per annum for the period 2016 to 2046. Sustainable forest management and, in particular, a robust reforestation policy, are vital to achieving this long-term aim.

1.4.2 Influences on policy and procedures

Over the years, Forest Service policy in relation to tree felling and reforestation has been influenced by various factors, as outlined below.

- Due to the extent of deforestation by the early 20th Century, legislation was introduced to regulate tree felling. This has facilitated, in part, sustainable forest management, by stipulating the carrying out of reforestation following felling (or the afforestation of

alternative land) in all but the most exceptional cases.

- Environmental legislation, both national and European, has led to strengthened controls on forestry operations, to ensure that important environmental considerations are fully considered by the Forest Service during the assessment of individual felling licence applications. This has included a greater focus on consultation with relevant bodies, the application of various protocols and procedures (including the Forest Service Appropriate Assessment Procedure), and the requirement for applicants on occasion to provide further information (e.g. a Natura Impact Statement).
- Legally-binding international environmental agreements and 'carbon accounting' (e.g. the United Nations Convention on Climate Change) have also necessitated a policy that in general requires reforestation or alternative afforestation to replace trees felled.
- While necessary for job creation and economic expansion, non-forestry related commercial development can conflict with the principles of sustainable forest management. The Forest Service is tasked with developing forestry and related industry in a manner that is in keeping with sustainable forest management and the protection of the environment. In implementing this Government policy, it must try to ensure that commercial developments are facilitated but that this is done, insofar as possible, in a manner that supports the aims and responsibilities of the Forest Service.
- As renewable energy projects, wind farms are commercial developments that contribute greatly to Government targets regarding climate change mitigation. However, the complexity of their development cycle and their effects on forestry warranted specific consultation with the industry. Since 2009, the increased number of wind farms and the need for felling considerable areas of forest to avoid turbulence inefficiencies presented an incompatibility with the principles of sustainable forest management. Acknowledging the value of these renewable energy projects necessitated the development of a specific policy and procedure in relation to tree felling for such projects.
- The removal of forest land to facilitate development, without reforestation as a standard requirement, undermines previous State and EU investment in the creation of that forest. Ongoing investment in afforestation is further undermined, as new afforestation is replacing areas lost instead of expanding the resource nationally. In effect, the State would be subsidising deforestation by developers, and this would be both unsustainable and inappropriate.

Section 2

Regulatory Framework

2.1 Introduction

Forestry in Ireland operates within a legal and regulatory framework. This is necessary in order to protect forests and also to ensure that forestry operations and activities are carried out in compliance with the principles of sustainable forest management. It is important that those involved in the forestry sector are familiar with the various legal and regulatory obligations governing forestry.

While many forestry operations are exempt from the requirement to obtain planning permission, key activities such as afforestation, forest road construction and the aerial fertilisation of forests require, by law, a licence from the Minister for Agriculture, Food & the Marine. (For the purposes of this document, an afforestation licence is referred to as an 'approval'.) The felling of trees is also an activity that may require a licence, in the form of a felling licence. The legislative provisions governing such licences and obligations are set out in the Forestry Act 2014 and accompanying Forestry Regulations 2017 (see www.irishstatutebook.ie/2014/). It is important to also note that certain tree felling activities are exempted from the need to obtain a felling licence.

This document aims to provide a clear understanding of the circumstances where tree removal or felling is permitted, to forest owners and the wider forest sector, and to other stakeholders, including statutory referral bodies and the general public.

2.2 Main felling provisions of the Forestry Act 2014

The following sections of the Forestry Act 2014 are particularly relevant to tree felling.

➤ **Section 7: Granting of licences, etc. by Minister**

This section (*inter alia*) provides the Minister with the power to grant felling licences, to attach conditions to a licence and to amend such conditions. It also specifies that the Minister can refuse to grant a licence, but must provide for a procedure under which decisions can be appealed.

➤ **Section 17: Application for licence under section 7 to fell trees**

This section specifies matters relating to an application for a felling licence under section 7. It provides (*inter alia*) for a validity period of up to 10 years for a licence, with the facility for the Forest Service to extend that validity for an additional 5 years. There is also a provision that the licence will be to benefit the land and thus any owner. This is important where, for example, the licence relates to a large / long-term commercial project.

➤ **Section 18: Time period for decisions on applications for felling licences**

This section acknowledges the objective of providing a decision on a felling licence application within 4 months of receipt by the Forest Service of a complete application; or failing that, notification of an expected date for a decision.

➤ **Section 19: Exempted trees**

For details, see Section 2.3 below.

➤ **Section 26: Replanting orders and Section 27: Offences and penalties**

These sections describe offences under the Act and the penalties that can be imposed by the Courts. Penalties for illegal tree felling, breach of felling licence conditions or failure to reforest in accordance with a replanting order can be severe. These are set out below.

Illegal felling or removal of trees:

(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.

Breach of a felling licence condition:

(a) on summary conviction, to a class A fine [i.e. a maximum fine of €5,000] 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.

Failing to comply with a replanting order made by the Minister:

(a) on summary conviction, to a class D fine [i.e. a maximum fine of €1,000] or

(b) on conviction on indictment, to a fine not exceeding €5,000, for every period of 30 days during which such failure continues.

Where an owner has been convicted [for failing to comply with a replanting order] 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 [i.e. a maximum fine of €500], or

(b) on conviction on indictment, to a fine not exceeding €2,500.

2.3 Scenarios where a felling licence is not required

Under the Forestry Act 2014, there are certain situations where the felling of a tree is exempted from the need to obtain a felling licence (e.g. within 30 metres of a building but excluding any building built after the trees were planted). Section 19 of the Forestry Act 2014 details situations where the felling of a tree is exempted — see Appendix A for extract.

Note that, while some trees are exempted from the need to obtain a felling licence, the Forest Service must still be notified that felling is to take place, and it will decide if the trees in question are exempted. Within the Forestry Act 2014, these scenarios are identified by the use of the text “*in the opinion of the Minister*”.

The highlighted text below details common scenarios whereby the felling of trees is exempted and the Minister does not need to be notified.

Note that under the Planning & Development Acts 2000 to 2011, local authorities have a mandatory responsibility to include objectives in the Development Plan relating to the preserving of amenities. This empowers the planning authority to make provision for tree preservation by establishing a Tree Preservation Order (TPO). No tree covered by a TPO may be felled, topped, lopped or destroyed without the consent of the planning authority. See Appendix B for further details.

Trees planted and managed, in the opinion of the Minister, solely for foliage or for decorative purposes (such as Christmas trees) are exempted from the requirement to apply for a felling licence. See Appendix C for further details.

The following are common scenarios where trees can be felled without the need to submit a felling licence application:

- A tree in an urban area. (An urban area is an area that comprised a city, town or borough specified in Part 2 of Schedule 5 and in Schedule 6 of the Local Government Act 2001, before the enactment of the Local Government Reform Act 2014. See Appendix D for list.)
- A tree within 30 metres of a building (other than a wall or temporary structure), but excluding any building built after the trees were planted.
- A tree 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).
- A tree uprooted in a nursery for the purpose of transplantation.
- A tree of the willow or poplar species planted and maintained solely for fuel under a short rotation coppice.
- A tree outside a forest 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.
- A tree outside a forest, the removal of which is specified in a grant of planning permission.
- A tree outside a forest of the hawthorn or blackthorn species.
- A tree outside a forest in a hedgerow and felled for the purposes of its trimming,

provided that the tree does not exceed 20 cm in diameter when measured 1.3 metres from the ground.

- A tree outside a forest on an agricultural holding and removed by the owner for use on that holding, provided—
 1. it does not form part of a decorative avenue or ring of trees,
 2. its volume does not exceed 3 m³, and
 3. 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 m³ in any period of 12 months.

(Note: Under subsection 2 of section 19, the above exemption regarding a tree outside a forest on an agricultural holding, which also satisfies criteria 1-3 above, does not apply if that tree is:

(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 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, [...]).

2.3.1 Assessing volume and age

Under the Forestry Act 2014, various decisions regarding whether or not a felling licence is required, are based on (*inter alia*) an assessment of volume and age. Table 1 and Table 2 are provided as guidance to assist in this assessment.

Table 1 provides a 'ready-reckoner' to estimate the volume (m³) of individual trees of both conifer and broadleaved species. Table 2 details a method to estimate tree age for those trees with a stem diameter (as measured 1.3 m above the ground) of greater than 50 cm. As this method is based on tree diameter and as many factors influence a tree's growth, any result arising from Table 2 should be treated as being indicative only. (Regarding the 150 year age threshold, it is important to note that the vast majority of such trees will also have a volume exceeding 3 m³).

The methodologies set out in Table 1 and Table 2 are presented as a guidance to the estimation of tree volume and age, and any result should be treated as indicative only. It is the responsibility of the owner or the person felling the tree to ensure that they are acting within the law. If in doubt, apply for a felling licence!

Table 1 Tree Volume Ready-Reckoner.

| Broadleaf | | | Conifer | | |
|--|------------|---|--|------------|---|
| Stem diameter at 1.3 m above ground (cm) | Height (m) | Estimated tree volume (m ³) | Stem diameter at 1.3 m above ground (cm) | Height (m) | Estimated tree volume (m ³) |
| 10 | 5 | 0.024 | 10 | 5 | 0.021 |
| 10 | 8 | 0.034 | 10 | 12 | 0.05 |
| 20 | 10 | 0.168 | 20 | 8 | 0.114 |
| 20 | 18 | 0.287 | 20 | 20 | 0.329 |
| 30 | 10 | 0.381 | 30 | 10 | 0.312 |
| 30 | 20 | 0.7 | 30 | 25 | 0.829 |
| 40 | 10 | 0.67 | 40 | 15 | 0.785 |
| 40 | 21 | 1.274 | 40 | 27 | 1.443 |
| 50 | 13 | 1.295 | 50 | 20 | 1.528 |
| 50 | 25 | 2.271 | 50 | 30 | 2.314 |
| 60 | 15 | 2.078 | 60 | 20 | 2.058 |
| 60 | 27 | 3.438 | 60 | 40 | 4.166 |
| 70 | 16 | 2.949 | 70 | 25 | 3.32 |
| 70 | 28 | 4.76 | 70 | 45 | 6.02 |
| 80 | 17 | 4.009 | 80 | 25 | 4.122 |
| 80 | 29 | 6.327 | 80 | 45 | 7.466 |
| 90 | 18 | 5.269 | 90 | 25 | 4.987 |
| 90 | 30 | 8.151 | 90 | 45 | 9.026 |
| 100 | 20 | 7.048 | 100 | 25 | 5.912 |
| 100 | 31 | 10.245 | 100 | 45 | 10.694 |

Table 2 Tree Age Ready-Reckoner for trees with a stem diameter greater than 50 cm, as measured 1.3 m above the ground.

| Species | Conversion factor | Formula to estimate age |
|----------------|-------------------|---|
| Oak | 2.3 | Estimated age (years) = Stem diameter (cm) (@ 1.3 metres above ground) MULTIPLIED BY Conversion Factor Example: The estimated age of an oak tree with a stem diameter of 70 cm (as measured 1.3 metres above ground) = 70 x 2.3 = 161 years. |
| Beech | 2 | |
| Ash / Sycamore | 1.5 | |
| Conifer | 1.3 | |

2.4 Exempted trees under other legislation

Other legislation also includes provisions to fell trees without the need to obtain a felling licence, e.g. the Electricity Regulation Act 1999. Exempted bodies or national authorities exempted from the requirement for a felling licence include (but may not be limited to) the following:

- Bord Gáis (Gas Act 1976, section 27)
- Aer Rianta (Air Navigation and Transport (Amendment) Act 1998, section 46)
- CIÉ or any other railway undertaking (Transport (Railway Infrastructure) Act 2001, section 49)
- CIÉ (Transport (Dublin Light Rail) Act 1996, section 15)
- Any telephone / mobile network operator (Communications Regulation Act 2002, section 58)
- The ESB (Electricity Regulation Act 1999, section 45)
- NPWS (Wildlife (Amendment) Act 2000, section 72)
- Minister for Defence (Defence (Amendment) Act 1987, section 7)
- Inland Fisheries Ireland (Inland Fisheries Act 2010, section 59).

It is the responsibility of the land owner or the person felling the tree to ensure that they are acting within the law.

2.5 Rotation length

Rotation length is defined as the length of time between planting the trees and clearfelling the final forest. There are many factors that impact on the rotation length, such as species, site productivity, thinning regime and site constraints.

Until recently, the majority of clearfelling in Ireland has been concentrated within the public estate. A significant portion of the private forest estate, particularly conifers, that were afforested in the 1980s and the early 1990s are now approaching a stage where forest owners may be considering the timing of felling operations. In addition, the storm damage of February 2014 and strong market demands have led to increased levels of clearfelling in the private estate. The clearfell management system predominates.

The *Code of Best Forest Practice - Ireland* outlines current forest policy in relation to rotation length. It states:

- *In Ireland, it is generally accepted that rotation lengths should be geared towards ensuring that the regional and national growth potential is not reduced and that each forest stand is managed to achieve its maximum production potential.*
- *In Ireland, where there has been a continuous and substantial annual increase in the forest area, only the most exploitative policies will compromise sustained future production. The issue therefore focuses on the general principle of rotation lengths that will provide a good return to the grower, consistent with the principle of sustained yield.*
- *In most cases the rotation that maximises return (net present value) will be less than the rotation of Maximum Mean Annual Increment (MMAI) For this reason and for the supply and market reasons referred to; it has been customary in Ireland to use rotations of MMAI*

minus 30% for Norway spruce and lodgepole pine, and MMAI minus 20% for Sitka spruce. However, these are indicative and should not be taken as mandatory prescriptions.

- *Exceptions to normal practice usually involve the replacement of unproductive stands with a more productive crop, and the early felling of stands susceptible to windthrow in order to avoid technical problems and to reduce financial loss.*

In addition to the above, consideration will be given to targeted early felling in situations where particular acute sensitivities exist, for example, the protection of freshwater pearl mussel, fire management, clearance around an archaeological site.

2.5.1 Felling Decision Tool

In 2017, the Department of Agriculture, Food & the Marine launched an interactive online tool that assesses the impact of forest felling age on overall financial return. The purpose of the tool is to provide information to make growers and foresters aware of the possible impact of felling age on overall financial return. The provision of this information will inform forest owners and managers on the appropriate felling age, with a view to maximising the return on their investment. It is vital that landowners have a positive experience from their forestry investments and that revenue from the first rotation facilitates reforestation to continue the forest cycle.

For further information on the Felling Decision Tool is available on the Forest Service website: www.agriculture.gov.ie/forests-service/forests-service-general-information/forest-statistics-and-mapping/felling-decision-tool/.

2.6 Felling coupe size

The *Code of Best Forest Practice - Ireland* outlines current forest policy in relation to felling coupe size.

In Ireland, a general distinction is made between coupes under 25 ha and coupes over 25 ha. When felling coupes are extended, consideration should be given to scheduling clearfells so that adjoining reforestation areas are well-established. Other issues to be considered are wind risk on adjoining stands and potential edge effects, particularly with Norway spruce.

Large felling coupes over 25 ha may be acceptable on flat terrain or valley bottoms where visual impact is minimised. Felling in very sensitive landscape areas should be limited to 5-15 ha. While broad guidelines on coupe size are to be considered, size limits should not be absolute but relate to the size of the forest or water catchment unit. In the latter case, the coupe size will influence the likelihood of nutrient pollution. This would be an important issue if a catchment contributes to a drinking water supply.

Section 3

Felling Licence

3.1 Applying for a felling licence

All those involved in tree felling must ensure that a felling licence has been issued before any felling is carried out, unless they are satisfied that the felling is exempted. It is an offence to fell trees without a felling licence if an exemption does not apply. For further details on the application process, see www.agriculture.gov.ie/forests-service/tree-felling/. This website contains the most up-to-date information, including the felling licence application form and guidance notes.

The Forest Service is responsible for the following:

- the administration, evaluation and processing of felling licence applications as required by the Forestry Act 2014;
- consultation with relevant competent authorities and statutory / non-statutory bodies (e.g. local authorities, National Parks & Wildlife Service, Inland Fisheries Ireland, National Monuments Service) where specific environmental sensitivities arise; and
- the setting of felling, preservation and reforestation conditions and the carrying out of subsequent compliance checks, to ensure compatibility with the principles of sustainable forest management and the protection of the environment.

3.1.1 Processing period

Section 18 of the Forestry Act 2014 acknowledges the objective of providing a decision on a felling licence application within 4 months of receipt in the Forest Service of a complete application; or failing that, a notification of an expected date for a decision.

3.2 Public consultation

Where a tree felling licence application is received, the Forest Service will publish a notice of the application before making a decision on the matter. The notice shall state that any person may make a submission to the Forest Service within 30 days from the date of the notice. The notices are published online at www.agriculture.gov.ie/. Any submission on applications for felling licences should be addressed to:

Felling Section, Forest Service, Department of Agriculture, Food & the Marine, Johnstown Castle Estate, Co. Wexford

or by e-mailing felling.forests-service@agriculture.gov.ie

Those that made a submission will be informed of the decision of the Forest Service to grant or refuse the licence.

Where a felling licence has been issued, a 28-day time limit for the receipt of appeals will apply in all cases, regardless of whether or not a submission was received. Third parties may appeal the decision to grant a licence or the conditions associated with a licence. The applicant may also lodge an appeal – see Section 3.3.

3.2.1 Site notices

Where a licence for the felling of trees is granted, the licensee shall erect a site notice at the entrance from the public road (or where the entrance is to be created) prior to the commencement and for the duration of harvesting operations. The purpose of this site notice is to inform members of the public about the nature of the felling and that a felling licence has been issued for the harvesting operations underway. It does not form part of a consultation process.

Further information and a site notice template are available at www.agriculture.gov.ie/forests-service/tree-felling/.

3.3 Appeals

A Forestry Appeals Committee (FAC) has been established on a statutory basis to deal with appeals against decisions of the Forest Service of the Department of Agriculture, Food & the Marine in relation to felling licence applications. In order to allow for third party appeals, no felling operations may commence until 28 days after the licence issue date.

3.3.1 Applicant

An applicant can appeal either a refusal to grant a licence or a condition specified on a licence. After a felling licence has been issued, a 28-day time limit for the receipt of appeals, from the date of decision, will apply.

Where an application for a felling licence has been refused, an applicant can appeal this refusal to grant a licence.

Please note that if a licence has been granted subject to conditions, and 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 17.6 of the Forestry Act 2014, the licence shall be deemed not to have been granted, pending the final determination of all proceedings in respect of the conditions concerned.

Photo 2 A well-thinned stand of ash, with future growth targeted on identified potential final crop trees.



3.3.2 Third parties

Third parties may appeal the decision to grant a licence or the conditions attached to a licence. After a felling licence has been issued, a 28-day time limit for the receipt of appeals, from the date of decision, will apply.

3.3.3 Appeals process

The appeal must be in writing, setting out the grounds and including a statement of the facts and contentions upon which the appellant intends to rely, along with any documentary evidence s/he wishes to submit in support of the appeal. The appeal must be sent to:

Forestry Appeals Committee, Kilminchy Court, Portlaoise, Co. Laois

or by telephoning Lo Call (076) 1064418 or (057) 8631900

If the applicant or third party is still dissatisfied following the decision of the Forestry Appeals Committee, s/he may seek a judicial review and / or contact the Office of the Ombudsman.

3.3.4 Office of the Ombudsman

The Office of the Ombudsman examines complaints from individuals who feel they have been unfairly treated by certain public bodies, including government departments. Further information can be found online (see www.ombudsman.gov.ie).

3.3.5 Judicial review

Article 9 of the Aarhus Convention allows the public access to justice in relation to environmental matters, i.e. the right to seek redress when environmental law is infringed, and the right to access review procedures to challenge public decisions that have been made without due regard to the other two pillars of the Convention, i.e. access to environmental information, and public participation in environmental decision-making.

In Ireland, the requirement to provide a mechanism to challenge the substantive and procedural legality of a decision of a public body is ultimately met by way of a Judicial Review. A number of pieces of legislation were introduced to assist Ireland in meeting its obligations under this pillar, one of the most significant of which is the Environment (Miscellaneous Provisions) Act 2011.

Section 4 of this Act allows a person to take civil proceedings relating to felling licences granted by the Minister –

(a). for the purpose of ensuring compliance with, or the enforcement of, a statutory requirement or condition or other requirement attached to a licence, permit, permission, lease or consent specified in subsection (4), or

(b). in respect of the contravention of, or the failure to comply with such licence, permit, permission, lease or consent,

and where the failure to ensure such compliance with, or enforcement of, such statutory requirement, condition or other requirement referred to in paragraph (a), or such contravention or failure to comply referred to in paragraph (b), has caused, is causing, or is likely to cause, damage to the environment.

3.4 Other relevant statutory requirements

3.4.1 Environmental Impact Assessment and Planning Permission

Deforestation for the purposes of conversion to another type of land use is classified as a form of development in Annex II, Paragraph 1(d) of the EIA Directive, which means at a minimum such development must be screened for the need for an EIS/EIA (pursuant to Article 4(2) of the Directive) either on:

- a case-by-case basis; or
- where they are equal to, exceed or are below thresholds or criteria set by the Member State.

This EU legal requirement is transposed into national Irish planning law *inter alia* by:

- the Planning & Development Acts 2000 to 2015; and
- the Planning & Development Regulations 2001 to 2013.

Under the Planning & Development Act 2000, as amended (Part 1, section 4(1)(i) and (ii)),

(a) development consisting of the thinning, felling or replanting of trees, forests or woodlands or works ancillary to that development, but not including the replacement of broadleaf high forest by conifer species; and

(b) development (other than where the development consists of provision of access to a public road) consisting of the construction, maintenance or improvement of a road (other than a public road) or works ancillary to such road development, where the road serves forests and woodlands;

are classed as ‘exempted development’. This means that they do not require planning permission from the local planning authority. However, both forms of development do require other statutory consents, namely a felling licence and a licence for forest road construction under the Forestry Act 2014, as set out in the Forestry Regulations 2017 (S.I.191 of 2017).

As deforestation is not listed as an ‘exempted development’ in the Planning & Development Acts or Regulations and as there is a mandatory threshold set out in Schedule 5, Part 2, Paragraph 1(d) (iii) of the Planning & Development Regulations 2001, as amended, which requires

deforestation for the purpose of conversion to another type of land use, where the area to be deforested would be greater than 10 hectares of natural woodlands or 70 hectares of conifer forest...

to be subject to an EIA (and developments below that threshold involving deforestation to be screened for EIA), projects involving deforestation must obtain (in addition to a felling licence) planning permission either from the local planning authority or from An Bord Pleanála.

Similarly, under Schedule 5, Part 2, Paragraph 1(d)(ii) of the Planning & Development Regulations 2001, as amended, projects involving the “*replacement of broadleaf high forest by conifer species, where the area involved would be greater than 10 hectares...*” are required to be subject to an EIA, and obtain both planning permission and a felling licence. Developments below that threshold, which will invariably require a felling licence, may also be required to be screened for EIA and / or obtain planning permission.

Forest owners should consider, before commencing any works (in particular where it is their

proposal to replant broadleaf high forest exclusively with conifers), any other obligations arising under the Planning & Development Acts and supplementary regulations. Forest owners are entitled to seek clarification, by means of a request in writing for a formal declaration under section 5 of the Planning & Development Act 2000 (as amended), as to whether the local planning authority considers their proposed project does or does not require planning permission.

3.4.2 Appropriate Assessment

The overall aim of the Habitats Directive (92/43/EEC) is to maintain or restore the favourable conservation status of habitats and species of Community interest. These habitats and species are listed in the Habitats Directive and the Birds Directive (2009/147/EC), and Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) are designated to afford protection to the most vulnerable of these. These two designations are collectively referred to as the 'Natura 2000 network'.

The Habitats and Bird Directives are transposed into Irish law by (*inter alia*) the European Communities (Birds & Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011) (see the Irish Statute Book www.irishstatutebook.ie).

As required under the Habitats Directive and as set out under S.I.477 of 2011, on receipt of an application for a felling licence, the Forest Service must undertake screening to assess whether or not the project is likely to have a significant effect on a SAC or SPA, either individually or in combination with other plans or projects, in view of both the conservation objectives of that Natura site (available at www.npws.ie/protectedsites/) and best scientific knowledge.

If a significant effect is likely or where uncertainty exists, the Forest Service must seek a Natura Impact Statement (NIS) from the applicant, and subsequently undertake an appropriate assessment, primarily to gauge the nature of the impact and the effectiveness of any avoidance, amelioration or mitigation measures proposed to avoid adverse effects on the integrity of a European site.

Screening for appropriate assessment, and the appropriate assessment itself, must both be carried out in accordance with Regulation 42 of the European Communities (Birds & Natural Habitats) Regulations 2011. When carrying out the appropriate assessment (if required), the Forest Service must include a determination under Article 6(3) of the Habitats Directive as to whether the project would adversely affect the integrity of the Natura site. The assessment carried out under Article 6(3) cannot have any deficiencies or data/information gaps, and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of a project on the Natura site.

The Forest Service can approve the application only after it has ascertained – either at screening or at appropriate assessment – that the project will not significantly affect the integrity of the Natura site.

Details of the Forest Service Appropriate Assessment Procedure (AAP) are set out in the *Forestry Standards Manual* (see www.agriculture.gov.ie/forestservice/grantsandpremiumschemes2015-2016/).

It is in the interest of the applicant to review the conservation objectives of any relevant Natura site, and to provide supplementary information (including details of any additional protective measures proposed) with the initial application. Within the context of the Forest Service AAP, this supplementary information on additional protective measures may allow the Forest Service to arrive at a decision at screening stage.

3.4.3 Natural Heritage Areas

Under the 1976 Wildlife Act as amended, Natural Heritage Areas (NHAs) may be designated for areas considered important for the habitats present, or which hold species of plants and animals whose habitat needs protection. To date, 75 raised bogs have been given legal protection, covering some 23,000 ha. These raised bogs are located mainly in the Midlands. A further 73 blanket bogs, covering 37,000 ha and mostly in western areas, are also designated as NHAs.

A dual consent system operates in relation to felling in NHAs, whereby the consent of both the Minister for Arts, Heritage, Regional, Rural & the Gaeltacht Affairs and the Minister for Agriculture, Food & the Marine is required. Tree felling is generally a 'notifiable action' within NHAs. Where the proposed project lies within or partially within a NHA, the owner should refer to the NPWS website www.npws.ie for details, and if required, notify NPWS using the Notifiable Action Form. A completed Notifiable Action Form, signed and dated by NPWS, must then be submitted to the Forest Service with the felling licence application.

Note, the dual consent process does not exist for proposed Natural Heritage Areas (pNHAs), and a completed Notifiable Action Form is not required.

3.4.4 Archaeology

In Ireland, archaeological sites and monuments and archaeological objects or artefacts are legally protected from unauthorised interference or damage by the National Monuments Acts 1930 to 2004, which (*inter alia*) provide for penalties or a fine and / or terms of imprisonment for breaches of the provisions. A monument may be protected in one or more of four ways by being:

- entered on the Record of Monuments and Places (RMP);
- entered onto the Register of Historic Monuments (RHM);
- a National Monument in the ownership or in the guardianship of the Minister for Arts, Heritage & the Gaeltacht or a local authority; or
- a National Monument subject to a Preservation Order (PO) or Temporary Preservation Order (TPO).

Different levels of protection apply to monuments depending on which of the four categories they fall under.

Where the owner or occupier of a property or any other person proposes to carry out, or to cause, or to permit the carrying out of, any work at or in relation to a Recorded Monument, notice in writing must be given to the Minister for Arts, Heritage, Regional, Rural & the Gaeltacht Affairs= two months before commencing that work. This time is to allow the National Monuments Service (NMS) of the Department of Arts, Heritage, Regional, Rural & the Gaeltacht Affairs (DAHRRGA) to advise the landowner, the local authority or other consent authorities on how the work may proceed or be authorised to proceed in tandem with the protection of the monument(s) in question. For National Monuments in the ownership or guardianship of the Minister for Arts, Heritage, Regional, Rural & the Gaeltacht Affairs or a local authority or which are subject to a Preservation Order, the prior written consent of the Minister is required for any interference with the monument.

Given the nature of tree felling operations – in which restricted visibility, falling trees, and the movement of heavy machinery are all combined – the potential for direct or indirect disturbance or impact clearly exists, both to upstanding and sub-surface archaeological sites and monuments

Photo 3 A standing stone within a setback created during thinning, in order to afford the Recorded Monument greater protection during future forest operations, to improve accessibility and to enhance visitor experience. Coillte's Kilpatrick Wood, Co. Westmeath.



and to associated features and artefacts. The early identification of the location, nature and extent of such archaeological sites and monuments or other important built heritage structures or features, the incorporation of these considerations into a site-specific felling plan, and subsequent due care during the execution of the planned operations, will all help to avoid or minimise the risk of any damage.

Consequently, when the Forest Service is considering an application to fell trees, the interaction of these proposed works with designated archaeological sites, monuments and features is assessed, and referral to the National Monuments Service may be required. These assessments and referral to the National Monuments Service may result in the application of one or more of four archaeological conditions:

1. Adherence to the normal standards of the relevant guidelines, i.e. the *Forestry & Archaeology Guidelines* and the *Forest Harvesting & the Environment Guidelines*;
2. A pre-works site inspection of the site or monument by either a suitably qualified professional archaeologist or other relevant specialist;
3. The preparation by a suitably qualified professional archaeologist or other relevant specialist with the forester, of a site-specific plan outlining the most appropriate means to fell and remove trees from, on and around the site or monument, for the consideration of the Forest Service and the National Monuments Service; and / or
4. Refusal / exclusion of either part or all of the area proposed for felling, pending the submission of a more comprehensive archaeological assessment prepared by a suitably qualified professional archaeologist for the consideration of the Forest Service and National Monuments Service.

Furthermore, current Forest Service requirements regarding the establishment of new forests and woodland stipulate (*inter alia*) the creation prior to site development, of an appropriately-sized unplanted setback (i.e. an unplanted exclusion zone) around designated archaeological sites or monuments, together with an unplanted access route. Within existing forests and woodlands where these safeguards were only partially applied or not at all, harvesting presents

an opportunity to establish the appropriate setbacks and access. Consequently, the site-specific plans referred to above will also need to set out the extent of the unplanted setback to be established around the monument at reforestation stage, the future access route, a rudimentary assessment of the current condition of the monument, as well as any other management needs.

3.4.5 EIA (Agriculture) Regulations

The European Communities (Environmental Impact Assessment) (Agriculture) Regulations 2011 (S.I. No. 456 of 2011) apply to three different types of activities:

- the restructuring of rural land holdings;
- the commencement of use of uncultivated land or semi-natural areas for intensive agriculture; and
- land drainage works on lands used for agriculture.

Where an owner intends to undertake any of these activities and where the proposed works exceed the area thresholds for screening set out in the Regulations, s/he must make an application to the DAFM for screening, giving details of the works. Likewise, where the proposed works do not exceed the threshold but where they may have a significant effect on the environment, the owner must also make an application to DAFM.

Further information on the EIA (Agriculture) Regulations is available at: www.agriculture.gov.ie/ruralenvironment/environmentalimpactassessment/.

In some cases, works associated with the three activities above will include tree felling. ***Note that approval obtained under the EIA (Agriculture) Regulations to undertake work does not include a licence to fell trees.*** Where tree felling beyond the scope of the exemptions listed in Section 2.3 is required, an application for a felling licence should be submitted. However, the exemption whereby an owner is permitted to remove trees outside of the forest on their holding for use on that holding, provided the volume does not exceed 15 m³ in any 12 month period, may apply in many cases.

Section 4

Reforestation Objectives

4.1 Overview

The following Reforestation Objective classification system is designed to provide clarity regarding the objectives of the forest owner in relation to the subsequent rotation following clearfelling. It also sets out the standard requirements (silvicultural and other) the Forest Service will apply in relation to each objective. As part of its assessment of the felling licence application, the Forest Service will consider the suitability of the reforestation objective(s) being proposed, thereby informing decisions regarding referrals, the Appropriate Assessment Procedure, conditions to be attached, etc.

The Reforestation Objectives relate primarily to the silvicultural management to be applied onsite, in order to create a future forest / woodland capable of 'delivering' particular products and services, e.g. commercial sawlog, water protection, enhanced biodiversity, landscape improvement and provision for amenity.

The following applies:

- A forest owner wishing to apply for a felling licence is required to specify on the felling licence application and accompanying map the reforestation objective(s) s/he is proposing to pursue for the next rotation. The objective(s) must be indicated on the application, and not sought retrospectively. See Table 3 below for an overview.
- A reforestation plot is an area where a particular reforestation objective is being proposed, down to 0.1 ha in area. Reforestation Objectives must be stated and mapped on the Application for a Licence to Fell Trees.
- Proposed variations to the 'Prescription' details set out below (e.g. spacing) may be considered by the Forest Service, but must be fully detailed in the felling licence application.

Table 3 Overview of the Reforestation Objectives.

| Reforestation Objective | Refor. Code |
|---|-------------|
| Conifer Forest for Wood Production | CF |
| Broadleaf Forest for Wood Production | BF |
| Mixed Forest for Wood Production | MF |
| Reforestation for Continuous Cover Forest | CCF |
| Reforestation for Biodiversity and Water Protection | BIO |
| Alternative as detailed by the Applicant | Other |
| Forest Removal | Defor |

4.2 Conifer Forest for Wood Production (CF)

Appropriate applications

- This objective represents the standard option for reforesting with conifer species, and is applied where silviculturally and environmentally appropriate.
- This objective is generally not appropriate if the current forest to be felled mainly comprises broadleaf species. However, a change to conifers may be considered if reforestation with broadleaves is impractical, due to high deer pressure or some other site factor(s).

Prescription

- The minimum initial planting density required is 2,500 stems / ha, planted at 2 m x 2 m spacing.
- Site conditions (e.g. soil, elevation) permitting, broadleaf and / or conifer species other than Sitka spruce and Lodgepole pine (e.g. Scots pine) should be planted where environmental sensitivities exist, e.g. adjoining setbacks installed alongside aquatic zones, archaeological features, dwellings, public roads and non-forest habitats. Such species can also be used along outer-facing edges of the plot to 'break-up' artificially straight lines, as viewed from the surrounding landscape. The level of planting, either as single trees or as groups, should be at a scale large enough to have the desired effect. Species selection should also reflect the sensitivity involved (e.g. native riparian species should be considered alongside water setbacks). Apply appropriate protection against grazing.
- Appropriate vegetation management and filling-in are required to achieve a minimum of 90% stocking of free-growing trees evenly distributed throughout the plot by Year 4 after planting. Certain species and sites may take longer to establish, and this will be taken into account.
- Where applicable, the reforestation plot is to also include setbacks in relation to watercourses, archaeological features, dwellings, etc. – Section 4.9.



Photo 4 Reforestation with Sitka spruce for wood production (Objective CF). Slieve Blooms, Co. Offaly.

4.3 Broadleaf Forest for Wood Production (BF)

Appropriate applications

This objective represents the standard option for reforesting with broadleaf species.

Prescription

- The minimum initial planting density required is 3,300 stems / ha, planted at 2 m x 1.5 m spacing. This stocking level can include an intimate mixture of up to 10%, comprising appropriate conifer species added to provide silvicultural nursing during the initial years. (Note, nurse conifers to be targeted for removal, to release the broadleaf component of the forest.)
- Appropriate vegetation management and filling-in are required to achieve a minimum of 90% stocking of free-growing trees evenly distributed throughout the plot by Year 6 after planting.
- Where applicable, the reforestation plot is to also include setbacks in relation to watercourses, archaeological features, dwellings, etc. – Section 4.9.

4.4 Mixed Forest for Wood Production (MF)

Appropriate applications

This objective represents the standard option for reforesting with a mixture of broadleaf and conifer species, with each component representing at least 20% of the canopy at maturity.

Prescription

- Planting mixture and spacing to be clearly defined in the Felling Licence application, and must be silviculturally sustainable. The minimum initial planting density required is 2,500 stems / ha (at 2 m x 2 m spacing) for conifers and mixtures, and 3,300 stems / ha (at 2 m x 1.5 m spacing) for broadleaves.
- Appropriate vegetation management and filling-in are required to achieve a minimum of 90% stocking of free-growing trees evenly distributed throughout the plot by Year 6 after planting.
- Where applicable, the reforestation plot is to also include setbacks in relation to watercourses, archaeological features, dwellings, etc. – Section 4.9.

4.5 Reforestation for Continuous Cover Forest (CCF)

Appropriate applications

- This objective applies to situations where reforestation of the clearfelled site is intended to create permanent forest cover (as opposed to a subsequent rotation ending in another clearfell).
- Reforestation species can be conifer and / or broadleaved. Any mixtures used must be silviculturally compatible.
- This objective is generally suitable for sites where timber production will be sought but where other forest objectives (e.g. amenity, biodiversity, water protection, landscape) favour a continuous cover approach.
- This objective may be suitable where reforestation is aimed at replacing an even-aged conifer plantation with high forest native woodland, for example, where water sensitivities are high (e.g. within freshwater pearl mussel catchments or alongside high status objective waterbodies at risk of decline due to forestry, under the Water Framework Directive).

Prescription

- Where planting is undertaken, the minimum initial planting density required is 2,500 stems / ha (at 2 m x 2 m spacing) for conifers and mixtures, and 3,300 stems / ha (at 2 m x 1.5 m spacing) for broadleaves.
- Natural regeneration (NR) may also be acceptable as a component of reforestation under this objective, but only where viable – see Section 4.10. Where NR is being proposed, management details are required regarding safeguards (i.e. maintenance and supplementary planting, if needed) to achieve the required stocking rate at Year 6 (as defined below), should NR prove inadequate.



Photo 5 Reforestation with native woodland, to be managed as permanent forest cover (Objective CCF). Glencrees, Co. Wicklow.

- Appropriate vegetation management and filling-in are required to achieve a minimum of 90% stocking of free-growing trees evenly distributed throughout the plot by Year 6 after planting and / or initial site preparation for NR.
- Where applicable, the reforestation plot is to also include setbacks in relation to watercourses, archaeological features, dwellings, etc. – Section 4.9.

Note, projects under the Native Woodland Conservation Scheme must meet specific scheme requirements in relation to (*inter alia*) stocking density and the origin of planting material. See scheme documentation(*) for further details.

(* www.agriculture.gov.ie/forests-service/grants-and-premium-schemes/2015-2107/)

4.6 Reforestation for Biodiversity and Water Protection (BIO)

Appropriate applications

- This objective applies to situations where the objective is to create a mixture of native woodland and open habitat, predominantly for biodiversity or water protection. This objective involves the creation of woodland cover comprising native broadleaf species and Scots pine, through:
 - planting,
 - planting supplemented by natural regeneration, or
 - natural regeneration alone.
- Note, Objective BIO is generally limited to plots no greater than 1 ha in size, and can be used adjoining unplanted setbacks installed alongside watercourses, in order to reinforce the protection of water. However, it can be applied at a larger scale in situations where water sensitivities are high (e.g. within freshwater pearl mussel catchments or alongside high status objective waterbodies at risk of decline due to forestry, under the Water Framework Directive).
- In general, wood production is not a management objective under BIO. However, small scale wood production may be appropriate, e.g. the occasional felling of individual trees by chainsaw, for domestic firewood use.
- Objective BIO may be pursued where specific case-by-case justification is presented to, and accepted by, the Forest Service.

Prescription

- Felling Licence application to be accompanied by a management plan and map setting out the justification for selecting this objective, site preparation and fencing details, the proposed species composition and details of the future management regime (including provisions for natural regeneration – see below).
- Where planting is undertaken, the minimum initial planting density required is 1,100 stems / ha, planted at 3 m x 3 m spacing, using planting stock derived from sources within Ireland.

Photo 6 Where viable, natural regeneration can form part of Objective BIO.



- Natural regeneration may also be acceptable as a component of the reforestation, but only where viable – see Section 4.10. Where NR is being proposed, the required management plan must detail safeguards (i.e. maintenance and supplementary planting, if needed) to achieve the required stocking (defined below), should NR prove inadequate.
- Projects may include measures to reinstate natural hydrological conditions onsite.
- Appropriate vegetation management and filling-in are required to achieve a minimum of 90% stocking of free-growing trees evenly distributed throughout the plot by Year 6 after planting and / or initial site preparation for NR.
- Where applicable, the reforestation plot is to also include setbacks in relation to watercourses, archaeological features, dwellings, etc. – Section 4.9.

Note, projects under the Native Woodland Conservation Scheme must meet specific scheme requirements in relation to (*inter alia*) stocking density and the origin of planting material. See scheme documentation for further details.

4.7 Alternative as detailed by the Applicant (OTHER)

Appropriate applications

This objective applies to situations where specific types of forestry are proposed for reforestation after clearfell, e.g.

- Agro-forestry, coppicing and short rotation systems (e.g. eucalyptus)
- Conifer regeneration
- On low productivity sites, where the costs associated with managing existing forests are no longer viable, alternative courses of action can be proposed. For example:

- fibre production, e.g. Lodgepole pine planted at 1,600 – 1,800 stems / ha;
- the provision of minimum forest cover, e.g. Lodgepole pine planted at 1,100 stems / ha, evenly spaced (this may also be an option on environmental grounds).

Prescription

- Felling Licence application to be accompanied by a management plan and map setting out the specific reforestation objective being proposed, the justification for selecting this objective, site preparation and fencing details, the proposed species composition and planting density, details of the future management regime, and other information relevant to the objective being proposed.
- Where applicable, the reforestation plot is to also include setbacks in relation to watercourses, archaeological features, dwellings, etc. – Section 4.9.
- Objective OTHER may be pursued where specific case-by-case justification is presented to, and accepted by, the Forest Service.

4.8 Forest Removal (DEFOR)

Appropriate applications

Objective DEFOR may be pursued where specific case-by-case justification is presented to, and accepted by, the Forest Service. In all cases, forest land is converted to non-forest land.

The objective applies to situations where the forest area is being converted to another land use, for reasons set out in Section 5 of this *Felling and Reforestation Policy* document.

4.9 Reforestation setbacks

Setbacks are typically required for watercourses, archaeological features, dwellings, public roads, and non-forest habitats present on site. Setbacks may also be required to soften the external edges of a plantation and to promote sight lines. Setbacks must be left unplanted and generally undisturbed during reforestation and throughout the subsequent rotation.

Table 4 (see over) details the standard setbacks that apply in relation to aquatic zones, as contained in the *Forestry & Water Quality Guidelines*. Other environmental setbacks regarding archaeology, landscape, biodiversity, public roads and dwellings, and in relation to freshwater pearl mussel, are set out in the following documents:

- *Forestry & Archaeology Guidelines*
- *Forestry & the Landscape Guidelines*
- *Forest Biodiversity Guidelines*
- *Forestry & Freshwater Pearl Mussel Requirements*
- *Code of Best Forest Practice - Ireland*

Table 4 Required water setbacks, based on average slope and soil erodibility
(see *Forestry & Water Quality Guidelines* for further details).

| Average slope leading to aquatic zone | Buffer zone width on each side of the aquatic zone | Buffer zone width for highly erodible soils |
|---------------------------------------|--|---|
| Moderate (even to 1-in-7 / 0–15%) | 10 m | 15 m |
| Steep (1-in-7 to 1-in-3 / 15–30%) | 15 m | 20 m |
| Very steep (1-in-3 / >30%) | 20 m | 25 m |

Note that wider setbacks may be prescribed by the Forest Service, due to particular sensitivities that may apply.

Some setbacks may require future management, to maintain as open space. Note also the requirement for an access track in relation to an archaeological feature (see Section 3.4.4 for details).

4.10 Natural regeneration

Natural regeneration (NR) is the establishment of new trees from seed arriving naturally (by animals, wind, water, etc.) onto the plot from overhead, adjoining or nearby seed sources. Areas on the plot where NR is to be actively pursued (primarily under Objective BIO) are to be clearly identified on the reforestation map, and relevant operations described. The following applies:

- Such areas must be limited to where there is a realistic expectation of successful natural regeneration (in terms of area, seed source, etc.) achieving the required restocking target of the Reforestation Objective involved (as set out under ‘Prescription’). This assessment should be based on, for example, evidence of advanced regeneration or the presence of suitable parent trees in the overhead canopy or adjoining hedgerows. (A typical approach on a particular site would involve a mixture of planting and NR, the latter focused in areas nearest to adjoining seed sources.)
- Preparatory operations associated with these NR areas can include scarification, fencing and vegetation control.
- Monitor closely, and undertake supplementary planting, if needed, in order to achieve the required restocking target for the Reforestation Objective involved (as set out under ‘Prescription’).

Section 5

Permanent Forest Removal

5.1 Overview

The Forest Service promotes sustainable forest management as a central principle of Irish forest policy, whereby forests are managed to provide economic, social and environmental benefits on a sustainable basis for both current and future generations. The permanent removal of trees and forests (without reforestation) where a felling licence is required under the Forestry Act 2014 may also be considered under exceptional circumstances. This section sets out the main scenarios whereby the permanent removal of trees and forests may be considered acceptable, and whether or not alternative reforestation is required. However, readers should note that felling licence applications proposing the permanent removal of trees and forests are assessed on a case-by-case basis and considered on their own individual merit.

The permanent removal of trees and forests is permitted in certain circumstances. Mitigating measures form part of the decision-making process, including the afforestation of alternative lands and / or the refunding of grant and premium payments already paid by the Forest Service. Table 5 summarises the six main scenarios where tree removal is permitted, and whether or not alternative afforestation and / or the repayment of grants and premiums are generally required.

Note that Scenarios 1, 2, 3, 4 and 6 require the submission of a felling licence. Tree felling shall not commence until the Forest Service notifies the applicant that the permanent removal of trees is licensed.

Photo 7 Clearfelling, Co. Wicklow. Circumstances exist whereby the permanent removal of trees and forests may be considered acceptable.



Table 5 Scenarios where the permanent removal of forests may be considered, and requirements regarding the need for a Felling Licence application, alternative afforestation, and the refunding of grant and premiums.

| Scenarios | Felling Licence application required? | Alternative afforestation required? (See Note 1) | Refunding of grant & premiums required? (See Note 2) |
|---|---------------------------------------|--|--|
| 1. Overriding environmental considerations (e.g. to protect habitats and species listed as qualifying interests within SACs and SPAs) | Yes | No | No |
| 2. Supporting renewable energy and energy security (e.g. windfarm installation) | Yes | See Table 6 | See Table 6 |
| 3. Commercial development (e.g. development of an industrial park) | Yes | Yes (see Note 3) | Yes |
| 4. Conversion to agricultural land (see Note 4) | Yes | Yes | Yes |
| 5. Public utilities (e.g. erection of an electricity power line) | No (see Note 5) | No | Yes |
| 6. Other land use change (may be considered on a case-by-case basis, on application) | Yes | Case-by-case | Case-by-case |
| <p>Note 1 If 'YES', the alternative site must be of an area equivalent in size. Section 5.7 sets out the procedures required. If the forest area proposed for permanent removal is still in receipt of premiums and / or is still in contract under the Afforestation Grant & Premium Scheme, the alternative site may be eligible under the Afforestation Grant & Premium Scheme.</p> <p>Note 2 If 'YES', the refunding of any afforestation grant and premiums already paid out by the Forest Service is required if the forest area proposed for permanent removal is still in receipt of premiums and / or is still in contract under the Afforestation Grant & Premium Scheme. In addition, if premiums are still being paid, premium payments on the area will cease.</p> <p>Note 3 Alternative afforestation is required except in relation to small community-focused projects and for the purpose of building a home for an immediate family member – see Section 5.4 for details.</p> <p>Note 4 The Forest Service may consider conversion to agricultural land in limited instances, having regard to the scale and character of the area proposed for deforestation.</p> <p>Note 5 Exemptions may apply to various public authorities from the requirement to apply for a Felling Licence – See Section 5.6.</p> | | | |

5.2 Overriding environmental considerations

As set out in Section 3.4.2, certain natural habitat and species of Community interests are protected under the Habitats and Birds Directives. In certain situations, trees and forests may be incompatible with the conservation of protected Annex habitats and species at a site and / or national level, and deforestation may be considered. For example, the continuation (*via* reforestation) of forest cover on a particular site within an SAC may be deemed incompatible with the maintenance and restoration of a particular habitat for which that SAC was designated. Similar situations may also exist under the Water Framework Directive, where provisions under the Reforestation Objectives CCF and BIO may not suffice. In such situations, permanent forest removal may be considered by the Forest Service, on application. This approach was applied within the context of EU LIFE Projects focused on bog restoration – see Case Study 1.

Deforestation will be viewed as an option for such sites where the conversion of the site to an ‘open habitat’ is key to benefiting the habitat or species in question. For other habitats and species, deforestation may not be strictly required. An alternative may be to use low density native woodland planting to create an open mosaic of woodland and open habitats. Each application will be assessed by the Forest Service on a case-by-case basis.

Felling licence applications must be accompanied by a management plan and map setting out the justification for deforestation and details of the future management proposed for the site, including provisions for the control of natural regeneration. As set out in Table 5, in cases where the Forest Service accepts deforestation under this scenario, alternative afforestation and the refunding of grants and premiums are not required.

Case Study 1: EU LIFE Projects

LIFE is the EU's financial instrument supporting environmental, nature conservation and climate action projects throughout the EU.

In 2002, a major blanket bog restoration project commenced on land owned by Coillte Teoranta, which is the largest commercial forestry company in Ireland. The main objective of this project (LIFE02 NAT/IRL/8490) was to restore over 1,200 ha of blanket bog, much of which was damaged, to varying degrees, by afforestation.

A second project (LIFE09 NAT/IE/000222) (2011-2015), managed by Coillte in partnership with National Parks & Wildlife Service, focused on the restoration of 636 ha of raised bog habitat within the Natura 2000 Network and in Natural Heritage Areas.

Both of these projects involved the issuing of Felling Licences facilitating deforestation without the need to afforest alternative lands.



5.3 Supporting renewable energy and energy security

5.3.1 Overview

The development of renewables is at the heart of the Government's energy policy, as laid out in the document *Strategy for Renewable Energy: 2012-2020* (Department of Communications, Energy & Natural Resources, 2012). Under Directive 2009/28/EC, Ireland is legally obliged to ensure that by 2020 at least 16% of all energy consumed in the State is from renewable sources. Ireland must ensure that there is a steady, progressive and measurable increase between now and the year 2020, in the amount of renewable energy consumed in the electricity, heat and transport sectors, commensurate with the achievement of the national target.

Underpinning the Government's energy and economic policy objectives are five Strategic Goals reflecting the key dimensions of the renewable energy challenge to 2020. The first Strategic Goal refers to wind and aims to have "Progressively more renewable electricity from onshore and offshore wind power for the domestic and export markets."

It is Forest Service policy to facilitate wind energy as much as possible within the context of sustainable forest management and efforts to expand the national forest estate.

5.3.2 Policy on felling licences for wind farm development

Where a developer intends to construct a wind farm that is within or partially within a forest or that will require tree felling, it is extremely important that the developer consults the Forest Service at the earliest possible stage of the project. This may help to develop a collaborative approach that will ensure that all forestry issues are identified and mitigated at the earliest opportunity.

In line with general Forest Service policy, where grant-aided forestry is to be used for wind farm development, any grants and premiums already paid out by the Forest Service in relation to the areas felled for the turbine bases, roads and infrastructure must be repaid where the forest is still in receipt of afforestation premiums and / or still in contract under the Afforestation Scheme.



Photo 8 A wind farm within a forest plantation. Forest Service policy is to facilitate wind energy within the context of SFM and the expansion of the national forest estate.

Wind farm construction typically encompasses three categories of tree felling: infrastructure; construction; and turbulence. Each category requires a felling licence. Table 6 and the following sections detail the specific requirements regarding each category. Also, Case Study 2 provides for three worked examples of wind farm development, and associated licensing issues.

5.3.2.1 General requirements

Notwithstanding any requirement for the wind farm developer to produce an Environmental Impact Statement (EIS) in respect of the development and the requirement to assess the impact of tree felling / reforestation proposals in an EIS, when felling licence applications are made, the Forest Service may require the developer to report on the potential loss of soil and biomass CO₂, and the reduction in productivity of the forest area associated with different wind farm forest management and landscape plans. Potential impacts to be reported on and assessed may also include site stability, water quality, habitats and species, landscape, archaeology, and other issues that may be deemed appropriate by the Forest Service.

If Planning Permission has been granted for the development by the local authority or by an Bord Pleanála, a copy of the full Planning Permission should be submitted to support the felling licence application. Also, if an EIS or a Natura Impact Statement have been prepared, these need to be submitted to support the felling licence application.

Table 6 Requirements for each category of felling associated with wind farm development, regarding reforestation, alternative afforestation, and the refunding of grant and premiums.

| Category of tree felling | | Reforestation of felled area required? | Alternative afforestation required? (See Note 1) | Refunding of grant & premiums required? (See Note 2) |
|---|--------|--|---|---|
| Infrastructure felling | | No | Yes | Yes |
| Construction felling | | Yes | No | No |
| Turbulence felling | ≤20 ha | Yes | No | No |
| | >20 ha | Yes | Yes, 10% turbulence fell area – see Section 5.3.2.4 | No |
| <p>Note 1 If 'YES', the alternative site must be of an area equivalent in size. Section 5.7 sets out the procedures required. If the forest area proposed for permanent removal is still in receipt of premiums and / or is still in contract under the Afforestation Grant & Premium Scheme, the alternative site may be eligible under the Afforestation Grant & Premium Scheme.</p> <p>Note 2 If 'YES', the refunding of any afforestation grants and premiums already paid out by the Forest Service is required if the forest area proposed for permanent removal is still in receipt of premiums and / or is still in contract under the Afforestation Grant & Premium Scheme. Also, if 'YES' or 'NO', if premiums are still being paid, premium payments on the area will cease.</p> | | | | |

5.3.2.2 Infrastructure felling

Infrastructural felling relates to trees that are permanently removed from the site in order to make way for infrastructure associated with the wind farm, such as access roads and turbine bases.

For infrastructure felling, the afforestation of alternative land and the repayment of grant and premium payments are required – see Table 6 and Section 5.7 for details. In addition, where the infrastructure fell area is still in receipt of premiums, then premium payments will cease, i.e. the felled area will not continue to receive premium payments.

5.3.2.3 Construction felling

During the construction phase of the wind farm development, there are forest areas that require the temporary removal of tree cover to facilitate construction, e.g. ‘borrow pits’ for stone. Once construction is completed, the land is reforested.

For construction felling, the afforestation of alternative land and the repayment of grant and premium payments are not required – see Table 6. In addition, where the construction fell area is still in receipt of premiums, then premium payments will cease, i.e. the felled area will not continue to receive premium payments.

5.3.2.4 Turbulence felling

Turbulence felling is deemed to be felling in the vicinity of turbines for the purpose of avoiding air turbulence that can be created by the forest canopy. It is carried out in order to increase the efficiency of the turbine by reducing turbulence in the airflow, and to reduce vibrations through the turbine blades, thereby lowering stress on the turbine components.

Turbine manufacturers assess the forest layout, age profile and management plans for the forest along with topography and wind mast data. Based on that assessment, some manufacturers will require turbulence felling as part of the terms of supplying turbines for a particular site. In the case of many wind farms, the manufacturer’s requirements are therefore not known until late in the planning of the project, as no turbine will have been selected. In general, manufacturers recommend that tree height is restricted within 300 metres, in the dominant wind direction.

Turbulence felling may be allowed in certain cases, and subject to reforestation requirements. For completeness and to ensure that the EIS itself is valid, it is important that the EIS takes into account the maximum turbulence felling that could potentially occur under the project.

Felling Licence requirements in relation to turbulence felling include the following:

1. The repayment of afforestation grants and premiums already paid out by the Forest Service is not required. In addition, where the turbulence fell area is still in receipt of premiums, then premium payments will cease, i.e. the felled area will not continue to receive premium payments.
2. The granting of a licence for a turbulence felling will be subject to the normal checks carried out by the Forest Service in respect of silvicultural, environmental and landscape considerations, etc. A felling coupe is defined for this purpose as a contiguous or adjacent area, any part of which is felled in a 2 (calendar) year period.
3. A distinction is made between turbulence felling ≤ 20 ha and >20 ha. Excluding the area

for the turbine bases, etc. from the limit, the 20 ha limit specified in this section is a total limit for the entire wind farm development. The limit is not interpreted as 20 ha per turbine or any other interpretation that is deemed by the Minister to be in excess of a total of 20 ha per wind farm development. In terms of reforestation, the following applies:

- Where the felling coupe area for turbulence felling is less than or equal to 20 ha, this is considered consistent with sustainable forest management. Where the cumulative total area of 20 ha or less is adjacent to one or more turbines and it is proposed to fell this area in accordance with normal good forest practice, such felling will not be considered turbulence felling. There is no requirement to afforest additional land. The area where the trees are being felled must be reforested.

Case Study 2: Windfarm development

The following tables provide examples of typical windfarm applications.

Site 1 Sitka spruce, 10 yrs. Reforest with North Coastal Lodgepole pine.

| Felling type | Area (ha) | Reforest felled site | Alternative afforestation | Refund Afforestation Grant & Premium |
|----------------|-----------|----------------------|---------------------------|--------------------------------------|
| Infrastructure | 10 | No | Yes (10 ha) | Yes |
| Construction | 2 | Yes | No | No |
| Turbulence | 35 | Yes | Yes (3.5 ha) | No |

Site 2 Sitka spruce, 25 yrs. Reforest with Sitka spruce.

| Felling type | Area (ha) | Reforest felled site | Alternative afforestation | Refund Afforestation Grant & Premium |
|----------------|-----------|----------------------|---------------------------|--------------------------------------|
| Infrastructure | 5 | No | Yes (5 ha) | No |
| Construction | 0.5 | Yes | No | No |
| Turbulence | 16 | Yes | No | No |

Site 3 Sitka spruce, 14 yrs. Reforest with Sitka spruce.

| Felling type | Area (ha) | Reforest felled site | Alternative afforestation | Refund Afforestation Grant & Premium |
|----------------|-----------|----------------------|---------------------------|--------------------------------------|
| Infrastructure | 5 | No | Yes (5ha) | Yes |
| Construction | 0.5 | Yes | No | No |
| Turbulence | 16 | Yes | No | No |

- Where the felling coupe area for turbulence felling is greater than 20 ha, the applicant is required to reforest the area. In addition, 10% of the turbulence felling coupe area must be afforested on an alternative site to allow for the increase in soil carbon emissions at afforestation and the loss of potential carbon sequestration due to the proposed method of forest management. See Section 5.7 for details regarding the afforestation procedure.
- Subsequent to a licence being granted for 20 ha or less, any cumulative felling applied for above the 20 ha limit will be considered to be turbulence felling. Therefore, the original area of 20 hectares or less that was licensed will also then be regarded as turbulence felling. For example, if 20 hectares are felled in the first year and a further 12 hectares of felling is applied for in (e.g.) Year 3, then the additional 12 ha (if granted) and the original 20 ha will be treated as 32 ha of turbulence felling. The rules for turbulence felling will then apply to all 32 ha.

5.4 Commercial development

The conversion of forest land to built land (e.g. a housing estate or an industrial park) is considered deforestation, and the owner must first obtain a felling licence. The afforestation of alternative land and the refunding of grant and premium payments are required – see Table 5 and Section 5.7 for details.

The only exceptions to the reforestation requirement relate to small community-based projects and family homes, as set out below:

- The reforestation requirement may not apply in the case of deforestation of less than or equal to 3 ha in area, proposed for the purpose of facilitating a project that provides value to the surrounding community, such as a community centre and a playing field for schools. However, the refunding of grant and premium payments is required – see Table 5.

Where community projects require deforestation of an area greater than 3 ha, these will be assessed on a case-by-case basis, based on the general principle that the portion of the area above 3 ha will need to be matched by afforestation on alternative land.

- Landowners who have afforested their holdings are permitted to deforest an area less than or equal to 0.5 ha, for the purpose of building a home for him- / herself or for an immediate family member (i.e. husband, wife, son, daughter, parents, brother or sister). However, the refunding of grant and premium payments is required – see Table 5.

Note, any subsequent deforestation greater than 0.5 ha in area and within 30 metres of the original fell area, will need to be offset by afforestation of an equivalent area at an alternative site.

5.5 Conversion to agricultural land

The Forest Service may consider conversion to agricultural land in limited instances, having regard to the scale and character of the area proposed for deforestation. The conversion of forest land to agricultural land is considered deforestation, and the owner must first obtain a felling licence. The afforestation of alternative land and the refunding of grant and premium payments are required – see Table 5 and Section 5.7 for details.

Photo 9 A newly-erected power line through felled forest. Various legislation may exempt such felling from the requirement for a Felling Licence.



5.6 Public utilities

Various legislation relating to key public utilities provide for different levels of exemptions from the need to apply for a felling licence: the Gas Act, 1976 (section 27); the Electricity Regulation Act 1999 (section 45); and the Communication Act 2002 (section 58). These Acts provide mainly for the lopping, topping or cutting of trees in connection with maintenance of the distribution network. There is also some provision for tree felling in relation to the planning or provision of transmission or distribution lines / network. It is the responsibility of the utility companies to be aware of the legislation governing their industry in relation to tree felling, and whether or not a felling licence is required.

While the removal of forest areas for public utilities is considered deforestation, the afforestation of alternative land is not required. However, the refunding of grant and premium payments is – see Table 5.

Compensation may sometimes be claimed from the utility company in relation to the amounts refunded to the Forest Service.

5.7 Requirements regarding the afforestation of alternative land

In various tree felling situations described in this section, the afforestation⁽¹⁾ of alternative land(s) is stipulated as a requirement.

The following applies in relation to such afforestation:

1. The proposed afforestation of alternative land must be evaluated and (if deemed suitable) approved by the Forest Service under the Forestry Act 2014 and associated

¹ Afforestation is defined in the Forestry Act 2014 as: “the conversion of land to a forest with a minimum area of 0.1 hectares and tree crown cover of more than 20 per cent of the total area, or the potential to achieve this cover at maturity”

Regulations, *before* the associated felling licence can be granted.

2. The proposed alternative land should be submitted for afforestation approval as early as possible, ideally at the same time as the felling licence application is submitted.
3. Afforestation approval must be applied for using the Afforestation Pre-Approval Form (Form 1) or electronically *via* iNET.
4. If the forest area proposed for permanent removal is still in receipt of premiums and / or is still in contract under the Afforestation Grant & Premium Scheme, the alternative site may be eligible under the Afforestation Grant & Premium Scheme.
5. The standard procedures regarding the evaluation of afforestation applications generally will apply, regarding referrals, protocols (e.g. acid sensitivity protocol), AA Screening, EIA determination, etc.
6. It will be a condition on the felling licence (if issued) that the alternative land approved for afforestation is planted and managed as forest land, in accordance with the relevant standards set out in the *Forestry Standards Manual* (see www.agriculture.gov.ie/media/migration/forestry/grantandpremiumschemes/2015/forestrystandardsandproceduresmanual231214.pdf).

Appendix A

Exempt Trees

Under section 19 of the Forestry Act 2014, exempt trees are described as follows:

(1) A tree—

- (a) in an urban area [also see Appendix D],*
- (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.

Appendix B

Tree Preservation Orders

Under the Planning and Development Acts 2000 to 2011, local authorities have a mandatory responsibility to include objectives in the Development Plan relating to the preserving of amenities. In guidelines issued by the Department of the Environment in 1986, local authorities are encouraged to undertake special tree surveys as part of the general process of preparing the Development Plan. It suggests that trees of amenity interest be mapped and listed and that owners and occupiers of land on which such trees stand be notified. It also suggests that Tree Preservation Orders (TPOs) be made in appropriate cases, taking account of the relative amenity importance and degree of risk to the particular tree(s).

Section 205 of the Planning and Development Act 2000 provides for the making of a TPO by the planning authority where it seems to that authority to be necessary to preserve tree(s) on amenity or environmental grounds. This prevents the cutting down, topping, lopping or wilful destruction of the trees. In addition, the TPO may require the owner and occupier of the land affected by the order to enter into an agreement with the planning authority to ensure the proper management of any trees (including the replanting of trees), subject to the planning authority providing assistance (including financial) towards such management as may be agreed.

TPOs cannot apply to dying, dead or dangerous trees or where felling is otherwise required by statute. Where a TPO has been made, an application may be made under the Act for consent to fell trees covered by that TPO. If consent is given by the local authority, that local authority may also attach conditions.

Regarding TPOs, or indeed Planning Permission, there is no statutory link between the Planning Acts and the Forestry Act 2014. Both operate separately. This means, for example, that Planning Permission may have been obtained to develop an area, which may itself involve felling trees. However, the felling should not take place without a felling licence from the Forest Service of the DAFM. Similarly with TPOs, a felling licence may have issued from the Forest Service for felling, but the trees cannot be cut down unless the local authority also issues consent.

Appendix C

Christmas Trees and Foliage

In 1997, an estimated 1,500 ha of Christmas tree plantations were established in Ireland. Approximately 75% of this is owned by five major groups, and the remainder by an estimated 150 growers (COFORD, 1997). The primary species grown and the age of plantations are both outlined in Table 7. Christmas tree plantations are planted at tight spacing, typically ranging from 1.0 metre square to 1.3 metre square. Working tracks tend to be included at regular intervals across the plantation.

Under the Forestry Act 2014, Christmas trees are trees which, “*in the opinion of the Minister, [are] planted and managed solely for its foliage or for decorative purposes*”.

Tree plantations planted and managed solely for the trees’ foliage or for decorative purposes are not considered as ‘forest land’. For this reason, a felling licence is not required for the felling of trees within these plantations. Furthermore, such plantations may be returned to agricultural land, without any obligation to afforest alternative land.

However, there are some old Christmas tree plantations that were not harvested at the conventional Christmas tree harvest age, and which now form a ‘forest’. The removal of such forests is considered deforestation. Where an owner wishes to convert these forest areas to another land use, s/he must first obtain a felling licence. Also, the owner is required to reforest the forest area felled or to afforest alternative land. Where no reforestation is proposed, it must be demonstrated that the lands were established and managed as a Christmas tree farm.

All grant-aided forests, irrespective of their management, will not be considered as having been planted and managed solely for foliage or for decorative purposes.

Table 7 Area of Christmas trees planted in Ireland, 1987 to 1995.

| Species | Area (ha) per year (1987 - 1995) | | | | | | | | | Total |
|------------------------|----------------------------------|-----------|-----------|------------|------------|------------|------------|------------|------------|-----------------|
| | 1987 | 1988 | 1989 | 1990 | 1991 | 1992 | 1993 | 1994 | 1995 | |
| Noble fir | 19 | 40 | 71 | 134 | 143 | 136 | 100 | 100 | 405 | 1,148 |
| Norway spruce | 1 | 5 | 3 | 3 | 3 | 3 | 4 | 13 | – | 35 |
| Lodgepole pine | – | – | 3 | 6 | 23 | 11 | 2 | 1 | – | 46 |
| Nordmann fir | – | 7 | 2 | 5 | 3 | 4 | 4 | 5 | – | 30 |
| Colorado white fir | – | – | – | – | – | 3 | 6 | – | – | 9 |
| Total area (ha) | 20 | 52 | 79 | 148 | 172 | 157 | 116 | 119 | 405 | 1,268 ha |

Appendix D

Urban Areas

Urban areas for the purposes of section 19(1)(a) of the Forestry Act 2014

| Cities |
|---------------|
| Cork |
| Limerick |
| Dublin |
| Waterford |
| Galway |

| Boroughs |
|-----------------|
| Clonmel |
| Drogheda |
| Kilkenny |
| Sligo |
| Wexford |

| Former Urban Districts | |
|-------------------------------|-------------|
| Arklow | Kilrush |
| Athlone | Kinsale |
| Athy | Letterkenny |
| Ballina | Listowel |
| Ballinasloe | Longford |
| Birr | Macroom |
| Bray | Mallow |
| Buncrana | Middleton |
| Bundoran | Monaghan |
| Carlow | Naas |
| Carrickmacross | Navan |
| Carrick-on-Suir | Nenagh |
| Cashel | New Ross |
| Castlebar | Skibbereen |
| Castleblayney | Templemore |
| Cavan | Thurles |
| Clonakilty | Tipperary |
| Clones | Tralee |
| Cobh | Trim |
| Dundalk | Tullamore |
| Dungarvan | Westport |
| Ennis | Wicklow |
| Enniscorthy | Youghal |
| Fermoy | |
| Kells | |
| Killarney | |

| Former Town Commissioners | |
|----------------------------------|--------------|
| Ardee | Kilkee |
| Balbriggan | Leixlip |
| Ballybay | Lismore |
| Ballyshannon | Loughrea |
| Bandon | Mountmellick |
| Bantry | Muinebheag |
| Belturbet | Mullingar |
| Boyle | Passage West |
| Cootehill | Portlaoise |
| Droichead Nua | Shannon |
| Edenderry | Tramore |
| Gorey | Tuam |
| Granard | |
| Greystones | |

Appendix E

References

COFORD. 1997. Christmas Tree Growing In Ireland. Dublin, Ireland. www.coford.ie/media/coford/content/publications/projectreports/Christmastree-1997.pdf

Department of Agriculture, Food & the Marine. 2014. Forests, products and people. Ireland's forest policy – a renewed vision. www.agriculture.gov.ie/forests/forests-service/general-information/forest-policy-review-forests-products-and-people/

Department of Communications, Energy & Natural Resources. 2012. Strategy for Renewable Energy: 2012-2020. www.dcenr.gov.ie/NR/rdonlyres/9472D68A-40F4-41B8-B8FD-F5F788D4207A/0RenewableEnergyStrategy2012_2020.pdf

