

Tree Felling

Getting Permission



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Introduction

The Forestry Commission is the Government Department responsible for forestry in Great Britain. It protects Britain's forests and encourages good forestry practice by setting standards, giving advice, providing information and by offering grants for expanding, regenerating and managing forests and woodlands. It also controls the felling of trees and issues felling licences.

This booklet tells you what you need to know about getting permission to fell any trees for yourself or for someone else. It is for guidance only and is not a legally binding interpretation of the legislation (the Forestry Act 1967 as amended). If you are unsure as to whether you require a licence, speak to your nearest Forestry Commission office for guidance before you start any tree felling.

Felling licences

You normally need to get permission from us to fell growing trees. We give this with a felling licence or with approval under a Dedication Scheme. In certain circumstances you may also need special permission from another organisation for any proposed felling. This sometimes applies even if you do not need a Felling Licence (see page 3).

Everyone involved in the felling of trees, whether doing the work or by engaging others, eg. the owner, agent, timber merchant or contractor, must ensure that a felling licence or approval under a Dedication Scheme has been issued before any felling is carried out or that one of the exemptions apply. They must also ensure that the work is carried out in accordance with the terms of a Forestry Commission permission. **If there is no licence or other valid permission, or if the wrong trees are felled, anyone involved can be prosecuted. Do not begin felling until we have issued a licence or other permission.**

Any felling carried out without either a licence or other permission is an offence, unless it is covered by an exemption.

Felling exemptions

In any calendar quarter*, you may fell up to 5 cubic metres on your property without a licence as long as no more than two cubic metres are sold.

(*1 Jan to 31 March, 1 April to 30 June, 1 July to 30 September and 1 October to 31 December.)

Contact your local Forestry Commission office if you not certain whether these exemptions apply.

Certain types of felling do not need permission from the Forestry Commission. The Forestry Act 1967, as amended, and related regulations gives these exceptions in full. The main categories are listed below:

1. Lopping and topping (which usually includes tree surgery, pruning and pollarding).
2. Felling included in an approved Dedication plan.
3. Felling fruit trees, or trees growing in a garden, orchard, churchyard or designated public open space (eg. under the Commons Act 1899).
4. Felling trees which, when measured at a height of 1.3 metres from the ground:
 - have a diameter 8 centimetres or less; or
 - if thinnings, have a diameter of 10 centimetres or less; or
 - if coppice (ie. managed by cutting to promote multi-stemmed growth arising at or near ground level) or underwood, have a diameter of 15 centimetres or less.
5. Felling trees immediately required for the purpose of carrying out development authorised by planning permission (granted under the Town and Country Planning Act 1990) or for work carried out by certain providers of gas, electricity and water services and which is essential for the provision of these services.
6. Felling necessary for the prevention of danger or the prevention or abatement of a nuisance (eg. which may involve threat of danger to a third party).

*This exemption will only apply if there is a real rather than a perceived danger. We may be able to give you advice that would minimise the danger without felling the trees. **We strongly recommend that you contact us if you are considering felling a tree or trees in these circumstances.** You may be prosecuted for illegal felling if it is shown that the tree did not present a real or immediate danger.*

7. Felling necessary to prevent the spread of a quarantine pest or disease and done in accordance with a notice served by a Forestry Commission Plant Health Officer (under the Plant Health (Forestry) (Great Britain) Order 1993, as amended).
8. The felling is done in compliance with any obligation imposed by or under an Act of Parliament.

Applying for a licence

Who can apply?

You can apply for a licence if you own the land on which the trees are growing or if you are a tenant and your lease entitles you to fell the trees. An agent acting for the owner or tenant may apply to fell the trees but the licence will be issued in the name of the owner or the lessee of the land.

How to apply for a licence

You can get an application form from the Forestry Commission website www.forestry.gov.uk/forestry/infd-5ygrfm or any Forestry Commission office. There are notes on the form to help you fill it in. You must also send us two signed copies of a map of the area showing the location of the trees you wish to fell.

The standard of map that we expect is an Ordnance Survey MasterMap® (OSMM). In England and Wales, you can get free copies of an OSMM by completing the form available from our website or Conservancy Office. You can also use the electronic Map



Felling in grant schemes

Request facility on our website. This service is not yet available in Scotland.

We will aim to issue the licence within ten weeks of receipt.

If you propose to carry out felling or thinning as part of a grant scheme application then you will get a Felling Licence Certificate with your approved contract. After any felling you must comply with the restocking conditions of the licence.

Environmental Impact Assessment

If you intend to fell trees and use the land for another purpose, we will assess the proposals under the Environmental Impact Assessment (Forestry) Regulations. If we decide that the work will have a significant effect on the environment, you must apply for our consent to carry out the work. If this is the case, you will be required to provide an Environmental Statement as part of the consent application.

Considering an application

When we receive your felling licence application, we will acknowledge receipt within three working days. We may need to look at the trees and will usually contact you within three weeks to arrange a site visit.

Unless the application is for thinning only with no other felling, the information from all applications will be put on the Register of New Planting and Felling. The details stay on the register for four weeks to give people the opportunity to comment on the proposals. We cannot issue a licence until this time has elapsed.

We may also consult with the local authority and other organisations to make sure that we take into account any environmental or land use issues affecting your proposals. You can see a copy of the register on the Forestry Commission website www.forestry.gov.uk. Select a country from the map on screen to get access to the Register pages

Restocking after felling

You must explain how you intend to restock the felled area. Under the Forestry Act 1967, (as amended), we usually attach conditions to the licence to secure restocking. We will discuss any proposed restocking conditions with you before a licence is issued. If you propose to clear the area and not restock we will consider your application under the Environmental Impact Assessment (Forestry) Regulations 1999 (see above).

Nature Conservation (Scotland) Act 2004

The introduction of this Act amended the Forestry Act in Scotland. The changes allow conditions to be added to felling licences in addition to the standard conditions (to restock the area with trees and maintain them for ten years). Additional conditions can serve to protect any natural feature specified in an SSSI notification (whether or not they occur in the designated area) but can also be used to set nature conservation conditions to help implement the biodiversity duty imposed by the Act.

Proposed conversion to agriculture

We will not normally agree to land clearance for agricultural use. If this is what you want to do, we may ask the relevant government department* to assess the contribution that the extra land would make to the economy of your agricultural holding before making our decision.

***Rural Affairs/Agriculture Departments:**

- England – Department for Environment, Food and Rural Affairs (DEFRA)
- Scotland – Scottish Executive Environment and Rural Affairs Department (SEERAD)
- Wales – Wales Assembly Government Department for Environment, Planning and Countryside

Right of appeal

Appeal against restocking conditions

If a licence has replanting conditions and you are not happy with them, you can appeal to the appropriate Forestry Minister. The Minister will usually get the advice of a Reference Committee (a group independent of the Forestry Commission and selected to consider the case), before giving a decision on whether the conditions should remain or be amended.

Appeal against refusal of a licence

You may appeal to the Minister only if you have been refused a licence twice for the same area and work proposals. There must be at least three years between our first and subsequent refusal.

Renewal of a licence

A licence carries an expiry date and will usually be valid for two, three, four or five years. The expiry date will vary from case to case depending on the circumstances. If your licence ends before you have done all the felling, you must stop felling when the licence expires. You must apply for and be issued with a new licence before you can fell the rest of the trees. When completing a felling licence application you can indicate how long you would like to carry out the felling before the licence expires

Change of ownership

Please remember to tell us if you sell the land and who the new owner is. If you sell the land that a felling licence covers, **you must tell the new owner about the licence and any conditions that apply whether you have carried out the felling or not.** If you sell the land after felling but before restocking occurs, you must inform the prospective purchaser of this obligation. We will still require restocking to be carried out after felling, including any agreed through a felling licence that covers felling within a grant scheme.

Grants for restocking

Grants are available in each country to help with restocking under a felling licence. Details of the schemes can be found on the Forestry Commission website www.forestry.gov.uk. Select a country from the map on screen to get access to information about grants.

Penalties for felling without a licence

It is an offence to fell licencable trees without having obtained a licence or other valid permission. This can mean, on conviction, a fine of up to £2,500 (level 4 on the standard scale) or twice the value of the trees, whichever is the higher.

In **England** and **Wales**, if we are satisfied that the owner or tenant has committed an offence, we may serve a Restocking Notice to replant trees on the land concerned, or any other land as may be agreed. In addition, we may also seek to prosecute the offender. In **Scotland**, we may only issue the Restocking Notice if the owner or tenant is convicted of an illegal felling.

In addition to restocking the land concerned, all Restocking Notices will stipulate that the replacement trees must be maintained to an acceptable standard for up to ten years.

If you do not comply with the conditions of a Felling Licence or a Restocking Notice, we may issue an Enforcement Notice demanding you take action to meet the conditions. It is an offence not to obey an Enforcement Notice and can mean a possible fine of up to £5,000 (level 5 on the standard scale).

Other controls on the felling of trees

There are a number of other controls on tree felling which you may need to take into account. When you apply for your licence to fell trees you must also ensure that you take account of all other legislation. We draw your attention to the following examples which deal mainly with the need to get permission to fell trees.

Tree Preservation Orders

A Tree Preservation Order (TPO) is made by the Local Planning Authority (LPA) usually a local council to protect specific trees and woodland from deliberate damage and destruction. TPO's prevent the felling, topping, lopping or uprooting of trees without permission from the planning authority. The procedures for applying to fell trees with a TPO or in a Conservation Area are outlined below.

SCOTLAND

When we get an application for a licence to fell trees covered by a TPO we will send it to the local planning authority with our comments about the proposals. The LPA will decide whether to grant the necessary permission. We will tell you that this has been done and you should talk to the LPA.

ENGLAND AND WALES

If you wish to fell trees that are covered by a Tree Preservation Order (TPO) or are in a Conservation Area, we will decide whether to grant a felling licence. We will consult with the local planning authority about your application. If you omit to tell us that there is a TPO present or that the trees are in a Conservation Area, the local planning authority will still be able to check the details of your application from the Forestry Commission's Register of New Planting and Felling. If the local planning authority tell us that there is TPO on the trees or that they are in a Conservation area, we will consult with them about your application before making our decision.

If we issue a felling licence for trees covered by a TPO or which are in a Conservation Area and you have not declared the existence of the TPO or Conservation Area, then the felling licence will not cover the felling of these trees and you may commit an offence by felling them.

If we grant a felling licence and the local planning authority objects to your proposals, the application will be referred to the Secretary of State for the Environment Transport and the Regions.

You can get more information on TPO's in England and Wales in the leaflet "*Protected Trees – A Guide to Tree Preservation Order Procedures*" produced by the Office of the Deputy Prime Minister. Copies are available from Free Literature PO Box 236, Wetherby LS23 7NB. Tel: 0870 1226 236.

Conservation Areas

Unless any of the exceptions apply, before felling trees in a Conservation Area, you must apply for a Felling Licence from the Forestry Commission.

If you are proposing to cut down, top, lop or uproot a tree within a Conservation Area, you must give the local authority six weeks notice before the work is to be carried out. If the work is not finished within two years of the date of first giving notice to the LPA, another notice is needed.

Hedgerow Regulations

If the trees to be felled are within a hedgerow and it is proposed to remove the hedgerow, permission will also be required under the Hedgerow Regulations 1997.

Sites of Special Scientific Interest

If you want to carry out any work that may affect a Site of Special Scientific Interest (SSSI), you must tell English Nature (EN), Scottish Natural Heritage (SNH) or the Countryside Council for Wales (CCW) in writing, so that they can assess the likely effect. A letter of consent may be required from them before any felling is carried out.

We will also discuss the application to fell trees in SSSI's with EN, SNH or the CCW as part of our normal consultation procedures.

Scheduled Ancient Monuments

If you want to carry out any work that may affect a Scheduled Ancient Monument you must tell English Heritage, Historic Scotland or CADW (Welsh Historic Monuments). A letter of consent may be required from them before any felling is carried out.

Plant Health regulations

Movement of timber

Regulations exist to prevent the spread of pests and diseases of trees. Under Plant Health legislation, you may have to attach a Plant Passport to consignments of wood before they can be moved. Only those who are authorised to do so may issue Plant Passports. In many cases, where there is no risk of spreading tree pests, timber movements are exempted from these requirements. If you are in any doubt you must check with the Forestry Commission Plant Health Service (Tel: 0131 314 6414) before you move any wood. You can get further information about the work of the Plant Health Service on the Forestry Commissions website www.forestry.gov.uk/planthealth

Law

The laws governing the Forestry Commission's control of tree felling are listed below. You can get copies from The Stationery Office or through booksellers.

- Forestry Act 1967 (Part II) as amended by the Trees Act 1970 and the Forestry Acts 1979 and 1986.
- The Forestry (Felling of Trees) Regulations 1979 (SI 1979 No 791) as amended by the Forestry (Felling of Trees) (Amendment) Regulations 1987 (SI 1987 No 632).
- The Forestry (Exceptions from Restriction of Felling) Regulations 1979 (SI 1979 No 792) as amended by the Forestry (Exceptions from Restriction of Felling) (Amendments) Regulations 1985 (SI 1985 No 1572) and by the Forestry (Exceptions from Restriction of Felling) (Amendment) Regulations 1988 (SI 1988 No 970).
- The Forestry (Modifications of Felling Restriction) Regulations 1985 (SI 1985 No 1958).
- The Plant Health (Forestry) (Great Britain) Order 1993 (SI 1993 No 1283, as amended by SI 1994 No 3094, SI 1995 No 1989, SI 1996 No 751, SI 1998 No 2206, SI 1998 No 3109, SI 2001 No 299, SI 2002 No 295).
- The Watermark Disease Local Authorities Order 1974 (SI 1974 No 768, as amended by SI 1984 No 688, SI 1986 No 1342 and SI 1992 No 44).
- The Dutch Elm Disease (Local Authorities) Order 1984 (SI 1984 No 687, as amended by SI 1988 No 604).
- Nature Conservation (Scotland) Act 2004.
- Environmental Impact Assessment (Forestry) Regulations 1999.

There are also a number of other laws which give local authorities and other statutory bodies the right to control felling of trees.

