



---

**AN BILLE FORAOISEACHTA, 2013  
FORESTRY BILL 2013**

---

**EXPLANATORY MEMORANDUM**

---

The purpose of this Bill is to reform and update the legislative framework relating to forestry in order to support the development of a modern forestry sector which reflects good forest practice and protection of the environment. The Bill will repeal the Forestry Act 1946 (as amended).

The Bill sets down both the general and specific functions of the Minister and provides the Minister with powers to protect forests from a range of potential threats, including from fire, disease and vermin, and to take the necessary enforcement measures through penalties and prosecutions, to achieve this objective. The Bill also provides a framework for licensing of felling operations and provides for exemptions from such licensing requirement in specified cases. The Minister has discretion to set conditions to the felling licence which can include the waiving of the requirement to replant following clearfelling. A further feature of the Bill is the amendment of the Agriculture Appeals Act 2001, to include within its remit appeals against decisions relating to the granting of licences and other approvals by the Minister.

**Costs and Impacts of Forestry Bill**

It is not envisaged that the new Forestry Bill will result in any significant additional cost to the Exchequer or business. There is unlikely to be a significant increase in costs associated with enforcement and compliance by the State. It is envisaged that enforcement and compliance can be accommodated within existing resources.

**PART 1**

**Preliminary and General**

*Section 1* cites the Short title as the Forestry Act 2013 and contains standard provisions relating to commencement.

*Section 2* contains standard provisions relating to interpretation and definitions of terms used within the Bill.

*Section 3* provides for the laying of Regulations before the Houses of the Oireachtas.

*Section 4* contains standard provisions relating to expenses incurred by the Minister in the administration of the Act.

## **PART 2**

### **Administration of Forestry Sector**

*Section 5* describes the general functions of the Minister.

*Section 6* describes the specific functions of the Minister which include the granting of licences for felling and uprooting of trees.

*Section 7* relates to the granting of licences, approvals, grants or loans and entry in a register by the Minister, and his/her ability to grant such licences and approvals, with or without conditions or to refuse them. It also provides for notification to the applicant and other procedural arrangements.

*Section 8* enables the Minister to establish Committees for the purpose of assisting and advising him or her in the performance of his or her functions.

*Section 9* prohibits a member of a committee from disclosing confidential information without the permission of the Minister and makes it an offence to do so. It also provides for an amendment to the Third Schedule to the Freedom of Information Act 1997, to include reference to this Section.

*Section 10* provides that the Minister may, by notice in writing, require forest owners to submit management plans to ensure that all forestry related activities are carried out in compliance with good forest practice.

## **PART 3**

### **Protection of the Environment**

*Section 11* requires the Minister in the exercise of his or her functions to have regard to the social, economic and environmental functions of forestry. This includes the consideration of the necessity for environmental assessments of projects in accordance with a range of environmental regulations.

*Section 12* requires the forest owner to notify the Minister in writing within six months where a forest is destroyed or removed by any means (other than under licence) including fire or natural causes. Failure to comply is an offence and the Minister may serve a replanting order.

*Section 13* enables the Minister to require forest owners or managers, timber processors and dealers in timber, to provide specified information.

*Section 14* enables the Minister to serve a notice on a landowner of uncultivated land in the vicinity of a forest to remove any vegetation from that land that is considered to pose a significant fire risk to the forest. The Minister may also authorise a person to enter the land to remove the vegetation if the land is unoccupied or the owner fails to comply with the notice.

*Section 15* enables the Minister to serve a notice on an owner of land in the vicinity of a forest to destroy vermin on that land within a specified time, if it is considered likely that the vermin will cause damage to the forest. The Minister may also authorise a person to enter the land to destroy the vermin if the land is unoccupied, or the owner fails to comply with the notice.

## **PART 4**

### **Felling of Trees**

*Section 16* sets out definitions applicable within Part 4.

*Section 17* requires that where a person wishes to fell a tree or trees, other than exempted trees, s/he must apply to the Minister for a licence to do so. The application process is set out in detail as are the conditions that may apply to the grant of a licence, including replanting.

*Section 18* lists trees that are exempted from the requirement to have a felling licence.

*Section 19* enables the Minister to issue an order prohibiting the felling or removing of trees, including exempted trees, and makes it an offence not to comply with the order.

*Section 20* provides that where conditions are attached to a felling licence, or a replanting order is served on any person, the Minister may send a copy thereof to the registering authority who shall register these conditions/orders as a burden where the land is registered or as a deed within the meaning of Part 3 of the Act of 2006 in the case of unregistered land. This is to make any purchaser of this land aware of any obligations on land for sale.

*Section 21* enables the Minister to appoint authorised officers for the purposes of enforcement of any or all of the relevant statutory provisions and to provide him/her with a warrant of such appointment.

*Section 22* outlines the powers of an authorised officer.

*Section 23* relates to Fixed Payment notices which apply where an authorised officer has reasonable grounds for believing that a person has felled or removed a tree without a licence and is liable to summary prosecution. This provision would be used in relatively minor cases and, subject to payment by the person of the amount required and compliance with a replanting order, no further prosecution would be instituted.

*Section 24* gives the Minister power to charge fees as may be prescribed.

## **PART 6**

### **Replanting Orders**

*Section 25* enables the Minister to issue replanting orders requiring owners to replant where trees have been felled or removed without a licence or where in the opinion of the Minister, trees have been seriously damaged.

## **PART 7**

### **Offences and Penalties**

*Section 26* sets out the offences under this legislation and outlines the additional penalties that can be applied for offences committed under the provisions of this Act, including forfeiture of equipment and timber seized resulting from unlawful felling or removal of trees.

*Section 27* deals with the prosecution of offences.

*Section 28* enables prosecutions to be taken against a corporate body and a person operating on its behalf.

## **PART 8**

### **Regulations**

*Section 29* provides for the making by the Minister of regulations in respect of a wide range of forestry related activities including regulations to give effect to provisions of treaties of the European Union.

## **PART 9**

### **Miscellaneous**

*Section 30* provides for the repeal of the 1946 Act and Section 39 of the Wildlife Act 1976, and the amendment of the Environment (Miscellaneous Provisions) Act 2011.

*Section 31* sets out the transitional arrangements relating to any act or proceeding, including court proceedings, and licences initiated or issued under the 1946 Act.

*Section 32* sets out the position in relation to the Statutes of Limitations.

*Section 33* sets down the requirements for the service of documents on persons under the relevant statutory provision.

## **PART 10**

### **Amendment of Agriculture Appeals Act 2001**

*Section 34* provides for a statutory appeals system for forestry licences and approvals as well as appeals by applicants under the various schemes.

*Department of Agriculture, Food and the Marine,  
April, 2013.*