



# **Isle of Man**

*Ellan Vannin*

**AT 20 of 1984**

## **FORESTRY ACT 1984**





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## FORESTRY ACT 1984

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**Isle of Man***Ellan Vannin*

## FORESTRY ACT 1984

*Received Royal Assent:* 19 September 1984  
*Passed:* 16 October 1984  
*Commenced:* See section 14

**AN ACT** to consolidate with amendments certain enactments with respect to forestry and other matters relating to the Isle of Man Forestry, Mines and Lands Board; to provide for the extinguishment of certain rents payable to that Board; to confer further powers on that Board; and for connected purposes.

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### GENERAL NOTES

1. The maximum fines in this Act are as increased by the Criminal Justice (Penalties, Etc.) Act 1993 s 1.
2. References to the Treasurer are to be construed in accordance with the *Treasury Act 1985* s 7.
3. References to the Church Commissioners are to be construed in accordance with the *Church Act 1992* s 2(4).

### *Forestry*

#### **1 Functions of the Department**

- (1) It shall be the duty of the Department of Environment, Food and Agriculture (in this Act referred to as “the Department”) to promote the interests of forestry, the development of afforestation and the production and supply of timber in the Island.<sup>1</sup>
- (2) Schedule 1 shall have effect as to the powers of the Department, and the further matters relating to the Department set out in that Schedule.<sup>2</sup>

#### **2 Powers of entry, etc**

- (1) Any officer of the Department, or any other person authorised by them in that behalf, may enter on and survey any land for the purpose of ascertaining whether it is suitable for afforestation, or inspecting any

timber thereon, or for any other purpose in connection with the functions of the Department under this Act.<sup>3</sup>

- (2) Before exercising a power to enter on land or to do works thereon conferred by this Act, an officer of the Department or other person authorised by them in that behalf shall, if so required, produce evidence of his authority, and shall not enter on any land which is occupied (except in case of emergency) unless 7 days' notice of the intended entry has been given to the occupier.<sup>4</sup>
- (3) Any person who obstructs an officer of the Department or other person authorised by them in the exercise of any such power shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.<sup>5</sup>

### **3 Prevention of damage**

- (1) This section applies where the Department are satisfied that trees or tree plants are being or likely to be damaged by rabbits or vermin owing to the failure of the occupier of any land to destroy or keep down rabbits or vermin on that land, or otherwise to take steps to prevent such damage.<sup>6</sup>
- (2) Where this section applies the Department, after giving to the owner and the occupier of the land such opportunity of destroying or keeping down the rabbits or vermin, or taking steps to prevent the damage, as the Department consider reasonable, may authorise any competent person to enter on the land and kill and take the rabbits and vermin thereon.<sup>7</sup>
- (3) The person (if any) entitled to kill rabbits or vermin on any common land shall, for the purposes of this section, be deemed to be the occupier of the land.

### **4 Clearance of land near plantations**

- (1) Any person authorised by the Department in that behalf may enter on any land within 100 yards of a plantation vested in or managed by them, and may clear such land of gorse, bracken or anything of an inflammable nature growing or found thereon, so as to reduce the danger of fire to the plantation, and may remove from the land any material cut down or found thereon.<sup>8</sup>
- (2) The Department shall not be liable to pay compensation by reason of the exercise of the powers conferred by this section.<sup>9</sup>

### **5 Forestry covenants**

[P1967/10/5; P1974/44/126]

- (1) The Department may enter into a covenant (in this Act called a "forestry covenant") with a person interested in any land to the effect that the land shall, unless otherwise approved by the Department, be used for the growing of timber (either in accordance with a plan of operations

approved by the Department or otherwise as may be provided by the terms of the covenant) or for purposes connected therewith.<sup>10</sup>

- (2) Schedule 2 shall have effect as to forestry covenants by limited owners and other persons.
- (3) Subject to the provisions of the *Registration of Deeds Act 1961* and the *Land Registration Act 1982*, a forestry covenant shall be enforceable (without any limit as to time) against —
  - (a) any person deriving title from the original covenantor in respect of his interest in the land affected by the covenant, and
  - (b) any person deriving title under the original covenantor in respect of any lesser interest in that land,

as if that person had also been an original covenanting party in respect of the interest for the time being held by him.

- (4) Without prejudice to any other method of enforcement of a forestry covenant, if there is a breach of such a covenant in relation to any of the land to which it relates, the Department may —
  - (a) enter on the land concerned and do anything which the covenant requires to be done, or remedy anything which has been done and which the covenant required not to be done; and
  - (b) recover from any person against whom the covenant is enforceable any expenses incurred by them in the exercise of the powers conferred by this subsection.<sup>11</sup>

## 6 Wayleaves for timber haulage

- (1) If the Department consider that insufficient facilities exist for the haulage of timber from any wood or forest to a road, railway or waterway, they may by order confer upon the Department, or upon such other person as may be specified in the order, such rights for that purpose over such land, and for such period, as may be so specified.<sup>12</sup>
- (2) Not less than 21 days before making an order under this section, the Department shall give notice of their intention so to do to the owner and the occupier of the land affected by the proposed order, and shall before making the order consider any representations made by such owner or occupier within the period of 21 days from the date of service of such notice.<sup>13</sup>
- (3) An order under this section shall come into effect on such day as may be specified therein, being not less than 14 days from the date on which notice of making of the order is served on the owner and the occupier of the land thereby affected, but if before that day a person aggrieved appeals under subsection (4), the order shall not come into effect until it is confirmed by the High Court.

- (4) Any person aggrieved by an order under this section may appeal in summary manner to the High Court, and the Court may quash the order, or may confirm it with or without modifications.
- (5) The Department, or such other person as may be specified in an order under this section, as the case may be, shall pay to the owner and the occupier of the land affected by an order under this section such reasonable rent or wayleave, and such compensation for damage or disturbance, as may in default of agreement be settled by arbitration in accordance with Part III of the *Acquisition of Land Act 1984*.<sup>14</sup>

## 7 Byelaws

[P1967/10/46]

- (1) The Department may make byelaws with respect to any land vested in them or under their management or control and to which the public have or may be permitted to have access —
  - (a) for preserving any trees or timber on the land, or any other property of the Department;<sup>15</sup>
  - (b) for prohibiting or regulating any act or thing tending to injure or disfigure the land or its amenities; and
  - (c) generally for regulating the reasonable use of the land by the public for the purposes of exercise or recreation.<sup>16</sup>
- (2) Byelaws under this section shall not have effect unless they are approved by Tynwald.
- (3) Byelaws under this section shall not —
  - (a) restrict or curtail the exercise of the right of access conferred by section 9; or
  - (b) take away or injuriously affect any estate, interest or right in, over or affecting any land except with the consent of the person entitled thereto.
- (4) Byelaws under this section may provide that any person contravening any such byelaw shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2,500.

### *Turbaries*

## 8 Public turbaries

[1979/22/1/2 and 3]

- (1) The Department shall by order set out in land vested in them such convenient turbaries as they may consider necessary.<sup>17</sup>

- (2) Any person resident in the Island may, subject to compliance with byelaws under this section, cut and remove turf in any such turbarry for use as fuel in his own dwelling.
- (3) The Department may make byelaws regulating the use of such turbarries.<sup>18</sup>
- (4) Byelaws under this section may provide —
  - (a) for the registration by the Department of persons desiring to exercise the right conferred by this section;<sup>19</sup>
  - (b) for the payment by any such person, as a condition of such registration, of an annual fee of an amount specified in the byelaws; and
  - (c) that no person shall exercise the said right unless he is so registered.<sup>20</sup>
- (5) Subsections (2), (3)(b) and (4) of section 7 apply to byelaws under this section as they apply to byelaws under that section.

*Miscellaneous and supplemental*

**9 Access to mountains**

- (1) Subject to subsections (3) to (5), all persons shall be entitled to go upon any uncultivated mountain or moorland for the time being vested in the Department.<sup>21</sup>
- (2) In any action or proceeding at the instance of the Department or any occupier of common land founded on alleged trespass, it shall be a sufficient defence that the land concerned was uncultivated mountain or moorland and that no special damage resulted from the alleged trespass.<sup>22</sup>
- (3) This section does not prevent any person from being excluded from any land from which he could, apart from this section, have been lawfully excluded.
- (4) This section does not enable any such defence to be raised in any case where a person —
  - (a) goes on land in pursuit of game, hares, rabbits or wild birds, or for the purpose of taking eggs, or accompanied by a dog, or carrying a gun, ferret or net;
  - (b) encamps on land, or lights a fire, or causes damage to the surface of land, a tree growing thereon or a building, fence or other erection thereon;
  - (c) takes any vehicle on land;
  - (d) destroys or removes the roots of any vegetation;
  - (e) so disturbs any sheep or cattle as to cause damage to their owner; or

- (f) goes on land with any malicious intent, or deliberately or carelessly disturbs or annoys any person engaged on land in any lawful occupation.
- (5) This section does not apply —
  - (a) to land occupied as a park or garden in connection with and in proximity to a dwelling house; or
  - (b) to a plantation.
- (6) A person going on any land in exercise of the right conferred by this section is not, for the purposes of the *Occupiers' Liability Act 1964*, a visitor of any occupier of that land.

## 10 Occupiers' liability: National Glens, etc

- (1) The Department may by order designate for the purposes of this section, by reference to a map annexed to the order, any area of land which —
  - (a) is vested in the Department;<sup>23</sup>
  - (b) is managed by the Department so that it may be enjoyed by the public in its natural state, and not for the purpose of forestry; and<sup>24</sup>
  - (c) is not land to which section 9 applies.<sup>25</sup>
- (2) An order under subsection (1) shall not have effect unless it is approved by Tynwald.
- (3) A person going on any land designated by an order under subsection (1) (other than a building or structure on the land) is not, for the purposes of the *Occupiers' Liability Act 1964*, a visitor of any occupier of the land.
- (4) Nothing in this section affects any obligation arising otherwise than under the said Act of 1964, whether by virtue of any enactment or of the common law.

## 11 Extinguishment of certain rents

- (1) This section applies to any yearly ground rent reserved on a sale of land pursuant to section 69 of the *Disafforesting (Commoners' Allotment) Act 1866*.
- (2) As from the 12th November 1984 every rent to which this section applies shall be extinguished.
- (3) Nothing in this section affects any liability to pay arrears of any such rent, or an instalment of any such rent falling due before the 12th November 1984.
- (4) The Department, at the request and cost of any person interested in land affected by a rent to which this section applies, and on payment of all arrears of the rent, shall issue a certificate under the common seal of the

Department, specifying the land in question and certifying that the rent has been extinguished.<sup>26</sup>

- (5) A certificate under subsection (4) shall be conclusive evidence that any rent to which this section applies affecting the land specified in the certificate has been extinguished, and that all arrears of such rent have been paid.

## 12 Interpretation

In this Act —

“**afforestation**” includes re-planting;

“**the Board**” [Repealed]<sup>27</sup>

“**the Department**” means the Department of Environment, Food and Agriculture;<sup>28</sup>

“**forestry**” includes the growing of fruit trees and decorative shrubs, and the cultivation of trees in the interests of amenity;

“**forestry covenant**” means a covenant entered into pursuant to section 5(1);

“**timber**” includes all forest products;

“**trees**” includes shrubs.

## 13 Savings and transitional provisions

- (1) The savings and transitional provisions in Schedule 3 shall have effect.
- (2) [Repealed]<sup>29</sup>

## 14 Short title and commencement

- (1) This Act may be cited as the Forestry Act 1984.
- (2) This Act, except section 11, shall come into operation on such day as the Board may by order appoint.<sup>30</sup>
- (3) Section 11 shall come into operation on the 12th November 1984.



## SCHEDULE 1

### FUNCTIONS ETC. OF THE DEPARTMENT

#### Section 1(2)

1. (1) The Department may, subject to the provisions of this Act, —
  - (a) purchase or take on lease any land suitable for afforestation, or required for purposes in connection with afforestation or with the management of any woods and forests;
  - (b) and (c) [Repealed]<sup>31</sup>
  - (d) manage, plant, improve, drain, develop and otherwise utilise any land vested in them, and erect such buildings or execute such works thereon as they may consider necessary;
  - (e) without prejudice to the generality of paragraph (d), plant any such land, lay out, stock and manage nurseries for young trees and manage plantations of trees;
  - (f) introduce and preserve winged game on any such land;
  - (g) acquire standing timber, and sell or otherwise dispose of any timber belonging to them or (upon such terms as may be agreed) to any other person;
  - (h) cut and sell or otherwise dispose of ling, fern, bracken and any other growing produce of land vested in or managed by them;
  - (i) without prejudice to section 8, cut and remove turf belonging to them, and sell or otherwise dispose of it, for the purposes of the Department, for use as fuel or for any industrial, agricultural, horticultural, forestry or other commercial purpose, or permit any other person to cut and remove turf for any such use or purpose, on such terms and conditions (including the payment of charges or royalties) as the Department think fit;<sup>32</sup>
  - (j) lay out, plant and improve any land vested in them, in connection with the use of such land by the public for the purpose of recreation, and in particular erect buildings and carry out works, to provide facilities and services for the enjoyment and convenience of the public, including meals and refreshments, camp-sites, parking places for vehicles, shelters and toilets, and provide facilities and services for open-air recreation;
  - (k) promote the supply, sale, utilisation and conversion of timber;
  - (l) with the consent of the Treasury, authorise the Treasurer —
    - (i) to make advances by way of grant or loan to local authorities; and

- (ii) to make advances by way of loan to other persons, upon such terms as the Treasury may approve;<sup>33</sup>  
in respect of the afforestation of land vested in such authorities or persons;<sup>34</sup>
- (m) undertake the management or supervision, upon such terms as may be agreed, of any woods or forests vested in any person, and give assistance or advice in relation to the planting or management of any such woods or forests;
- (n) make arrangements with any person for the planting by them of any land vested in such person with trees;
- (o) establish and carry on, or aid in the establishment and carrying on, of woodland industries;
- (p) make or aid in making such inquiries, experiments and research, and collect or aid in collecting such information, as they may think appropriate for the purpose of promoting forestry and the teaching of forestry, and publish the results of such inquiries, experiments and research and disseminate such information;
- (q) make or aid in making such inquiries as they may think appropriate for the purpose of securing an adequate supply of timber in the Island; and
- (r) do all such other things as are incidental to the exercise of the above powers, or incidental or conducive to the exercise of the functions of the Department under this Act.<sup>35</sup>

(2) The powers of the Department relating to land and conferred by subparagraph (1) shall be exercisable in relation to land forming part of the Commoners' Allotment in like manner as in relation to other land vested in the Department.<sup>36</sup>

2. No member of the Department shall, except with the approval of Tynwald, be granted a tenancy or licence of any land vested in the Department where the annual rent or royalty exceeds, or the annual rents or royalties in the aggregate exceed, £100.<sup>37</sup>

3. Section 4(3) of the *Misrepresentation and Unfair Contract Terms Act 1980* (which defines the liability, called "business liability", the exclusion or restriction of which is controlled by Part II of that Act) shall have effect in relation to land occupied by the Department for the purpose of forestry subject to the modification that liability of the Department as an occupier of premises for breach of an obligation or duty towards a person obtaining access to that land for recreational or educational purposes, being liability for loss or damage suffered by reason of the dangerous state of the land, is not a business liability of the Department.<sup>38</sup>

## SCHEDULE 2

### FORESTRY COVENANTS

#### Section 5(2)

#### *Settled land*

1. (1) In the case of settled land, the tenant for life may enter into a forestry covenant relating to the land or any part thereof, either for consideration or gratuitously.
- (2) The powers conferred by this paragraph shall be exercised subject to the like consent as is required for a lease of settled land by section 6 of the *Settled Land Act 1891*.
- (3) Where a forestry covenant is entered into by a tenant for life in accordance with this paragraph, any successor of his under the settlement, and any person deriving title from such successor, shall be treated for the purpose of section 5(3)(a) as a person deriving title from the original covenantor in respect of his interest in the land concerned.
- (4) This paragraph shall be construed as one with the *Settled Land Act 1891*.

#### *Local authorities*

2. A local authority may, with the consent of the Department of Infrastructure, enter into a forestry covenant.<sup>39</sup>

#### *Incumbents etc.*

3. The incumbent of a benefice, and any other ecclesiastical corporation, may with the consent of the Church Commissioners enter into a forestry covenant relating to land belonging to the benefice or forming part of the endowment of the corporation, as the case may be.

## SCHEDULE 3

### SAVINGS AND TRANSITIONAL PROVISIONS

#### Section 13(1)

1. Where before the 11th July 1950 any rent was transferred or redeemed in respect of any land under the *Local Government and Common Lands Act 1895* or the *Lord's Rents Purchase Act 1913*, the land —

- (a) if of a Crown manor, barony or lordship, shall continue to be held of such manor, barony or lordship; and
- (b) if of the Bishop's barony, shall continue to be held of such barony;

subject to all customary manorial services, obligations and liabilities, and the tenants of the land shall continue to have the same legal and customary rights, privileges and liberties, as if those Acts had not been passed.

2. (1) Any redemption moneys which at the commencement of this Act were charged on any land shall remain so charged, and may be recovered (with interest, if any) as if this Act had not been passed.

(2) In this paragraph "redemption moneys" means moneys chargeable on lands under section 22 of the *Lord's Rents Purchase Act 1913* or section 3 of the *Lord's Rents Purchase (Amendment) Act 1915*.

3. Nothing in this Act affects prejudicially any estate, right, power, privilege or exemption of the Crown.

4. References in any enactment or other document —

- (a) to the Trustees of the Common Lands, the Common Lands Board, the Forestry Board or the Forestry, Mines and Lands Board; or
- (b) to the Isle of Man Board of Agriculture and Fisheries in relation to property, functions, rights and liabilities transferred to the Board by section 9 of the *Forestry, Mines and Lands Act 1950*;

shall be construed as references to the Department.<sup>40</sup>

## SCHEDULE 4<sup>41</sup>

## ENDNOTES

### Table of Endnote References

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- <sup>1</sup> Subs (1) amended by SD155/10 Sch 3.
- <sup>2</sup> Subs (2) amended by GC121/86.
- <sup>3</sup> Subs (1) amended by GC121/86.
- <sup>4</sup> Subs (2) amended by GC121/86.
- <sup>5</sup> Subs (3) amended by GC121/86.
- <sup>6</sup> Subs (1) amended by GC121/86.
- <sup>7</sup> Subs (2) amended by GC121/86.
- <sup>8</sup> Subs (1) amended by GC121/86.
- <sup>9</sup> Subs (2) amended by GC121/86.
- <sup>10</sup> Subs (1) amended by GC121/86.
- <sup>11</sup> Subs (4) amended by GC121/86.
- <sup>12</sup> Subs (1) amended by GC121/86.
- <sup>13</sup> Subs (2) amended by GC121/86.
- <sup>14</sup> Subs (5) amended by GC121/86.
- <sup>15</sup> Para (a) amended by GC121/86.
- <sup>16</sup> Subs (1) amended by GC121/86.
- <sup>17</sup> Subs (1) amended by GC121/86.
- <sup>18</sup> Subs (3) amended by GC121/86.
- <sup>19</sup> Para (a) amended by GC121/86.
- <sup>20</sup> Subs (4) amended by GC121/86.
- <sup>21</sup> Subs (1) amended by GC121/86.
- <sup>22</sup> Subs (2) amended by GC121/86.
- <sup>23</sup> Para (a) amended by GC121/86.
- <sup>24</sup> Para (b) amended by GC121/86.
- <sup>25</sup> Subs (1) amended by GC121/86.
- <sup>26</sup> Subs (4) amended by GC121/86.
- <sup>27</sup> Definition of “the Board” repealed by GC121/86.
- <sup>28</sup> Definition of “the Department” inserted by GC121/86 and amended by SD155/10 Sch 3.
- <sup>29</sup> Subs (2) repealed by Statute Law Revision Act 1992 Sch 2.
- <sup>30</sup> ADO (whole Act except s 11) 1/4/1985 (GC72/85).
- <sup>31</sup> Items (b) and (c) repealed by Statute Law Revision Act 1989 Sch 2.
- <sup>32</sup> Item (i) amended by GC121/86.
- <sup>33</sup> Subitem (ii) amended by Treasury Act 1985 Sch 2.
- <sup>34</sup> Item (l) amended by Treasury Act 1985 Sch 2.
- <sup>35</sup> Subpara (1) amended by GC121/86. Item (r) amended by GC121/86.
- <sup>36</sup> Subpara (2) amended by GC121/86.
- <sup>37</sup> Para 2 amended by GC121/86.

<sup>38</sup> Para 3 amended by GC121/86.

<sup>39</sup> Para 2 amended by SD155/10 Sch 5.

<sup>40</sup> Para 4 amended by GC121/86.

<sup>41</sup> Sch 4 repealed by Statute Law Revision Act 1992 Sch 2.