



PROJECTS AND CONSTRUCTION

Forestry Licensing: Changes to the Appeals System May Ease Delays

by **Jamie Ritchie**

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The Forestry (Miscellaneous Provisions) Act 2020 was signed into law on 2 October 2020 and commenced on 6 October 2020.

The Forestry (Miscellaneous Provisions) Act 2020 (2020 Act) aims to address the backlog of appeals in respect of forestry activity that are before the Department of Agriculture, Food and the Marine, the licensing authority for forestry activity such as felling, afforestation, forest road works and aerial fertilisation of forests.

Under the Forestry Act 2014 and the Agriculture Appeals Act 2001, anyone can appeal the grant of such licences to the Forestry Appeals Committee (FAC) and those awarded with licences cannot commence work until a decision has been made on the appeal. It has been acknowledged that the current appeals system is inefficient, ineffective and overwhelmed. The 2020 Act amends the Forestry Act 2014 and the Agriculture Appeals Act 2001.

A number of bodies across the forestry and construction industries had collectively raised concerns about the impact of the delays associated with appeals on forestry jobs and on essential timber supplies to the construction industry.

Key Provisions of the ACT

- Persons dissatisfied with a decision made by the Minister for Agriculture, Food and the Marine to grant a licence still have 28 days to appeal to the FAC, but the Minister can reduce this to between 14 days and 28 days in certain circumstances having regard to the public interest in the efficient conduct and determination of appeals.
- The FAC may now sit in divisions of itself, with only two members required for a quorum. This will enable increased numbers of sittings.
- The Minister may issue directives to the FAC such that certain appeals be heard in priority to others and in doing so, the Minister must have regard to “the need to support economically and environmentally sustainable forest goods and services in the state”.
- The FAC will determine appeals without an oral hearing unless it is necessary in the circumstances to conduct an oral hearing in order to properly and fairly determine the appeal.
- The FAC may dismiss vexatious appeals.
- Parties making an appeal must submit all grounds on which the appeal is made and furnish the FAC with all the documents and evidence upon which they intend to rely and nothing further may be furnished during the course of the appeal itself.
- The FAC may, where it is deemed necessary, carry out a screening for an environmental impact assessment where the proposed activity to which the decision being appealed refers would be likely to have significant effects on the environment.
- The FAC will only vary or set aside a decision of the Minister where it is satisfied that a serious or significant error or a series of errors were made in the making of the decision the subject of the appeal.
- There is no longer a right of appeal to the High Court in respect of a decision of the FAC.

Comment

According to the Department of Agriculture, Food and the Marine, there have been over 400 appeals against forestry licences granted in 2020. This is in comparison to just 14 appeals in 2017.

The 2020 Act will be welcomed by sawmills across Ireland, as fears had been raised in recent months that sawmillers would be left without supplies due to shortages in available timber caused by the appeals backlog. If the 2020 Act is successful in terms of increasing the supply of domestic timber, it is likely to be welcomed by the construction sector where margins may have been impacted by importing timber from the UK and the wider continent.

A no-deal Brexit is still a possibility, so contractors will be eager to rely increasingly on domestic produce in order to ease the impact of regulatory divergence and tariffs on their overall supplies.

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