

Full text of the statutory regulation for the Forest Act 1975, as of 01/09/2024

Full Title

Federal Law regulating forest issues (Forest Act 1975 - ForstG)

Original version: Federal Law Gazette No. 440/1975 (NR: GP XIII RV 1266 AB 1677 p. 150. BR: 1392 AB 1425 p. 344.)

Amendments:

Federal Law Gazette No. 231/1977 (NR: GP XIV RV 401 AB 498 p. 54. BR: AB 1652 p. 362.)

Federal Law Gazette No. 142/1978 (NR: GP XIV RV 644 AB 798 p. 86. BR: AB 1795 p. 373.)

Federal Law Gazette No. 576/1987 (NR: GP XVII IA 67/A AB 285 p. 30. BR: AB 3322 p. 491.)

Federal Law Gazette No. 257/1993 (NR: GP XVIII RV 859 AB 1004 p. 109. BR: 4503 AB 4512 p. 568.)

Federal Law Gazette No. 970/1993 (NR: GP XVIII RV 762 AB 1447 p. 149. BR: AB 4712 p. 578.)

[CELEX No: 367L0654]

Federal Law Gazette No. 505/1994 (NR: GP XVIII RV 1334 AB 1608 p. 168. BR: AB 4818 p. 588.)

Federal Law Gazette No. 532/1995 (NR: GP XIX RV 128 AB 297 p. 46. BR: AB 5070 p. 603.)

[CELEX No: 377L0093]

Federal Law Gazette No. 419/1996 (NR: GP XX RV 200 AB 223 p. 36. BR: AB 5265 p. 616.)

[CELEX No: 366L0404, 371L0161, 375L0445, 389L0048, 392L0051]

Federal Law Gazette I No. 108/2001 (NR: GP XXI RV 592 AB 701 p. 75. BR: AB 6411 p. 679.)

Federal Law Gazette I No. 59/2002 (NR: GP XXI RV 970 AB 991 p. 94. BR: 6575 AB 6581 p. 675.)

Federal Law Gazette I No. 65/2002 (NR: GP XXI RV 772 AB 885 p. 83. BR: 6488 AB 6496 p. 682.)

Federal Law Gazette I No. 78/2003 (NR: GP XXII RV 117 AB 157 p. 27. BR: 6797 AB 6844 p. 700.)

[CELEX No: 32002L0089]

Federal Law Gazette I No. 83/2004 (NR: GP XXII RV 505 AB 530 p. 67. BR: AB 7064 p. 711.)

[CELEX No: 31999L0045, 31998L0095, 32003L0082]

Federal Law Gazette I No. 87/2005 (NR: GP XXII RV 968 AB 1018 p. 115. BR: 7330 AB 7350 p. 724.)

[CELEX No: 32004L0102, 32003L0035]

Federal Law Gazette I No. 55/2007 (NR: GP XXIII RV 37 AB 195 p. 28. BR: AB 7757 p. 747.)

[CELEX No: 32003L0109, 32005L0036, 32006L0100]

Federal Law Gazette I No. 104/2013 (NR: GP XXIV RV 2297 AB 2341 p. 203. BR: AB 9001 p. 821.)

[CELEX No: 32005L0008]

Federal Law Gazette I No. 189/2013 (NR: GP XXIV RV 2291 AB 2340 p. 203. BR: 8975 AB 9000 p. 821.)

Federal Law Gazette I No. 102/2015 (NR: GP XXV IA 1181/A AB 766 p. 85. BR: AB 9438 p. 844.)

Federal Law Gazette I No. 56/2016 (NR: GP XXV RV 1146 AB 1167 p. 134. BR: 9595 AB 9610 p. 855.)

[CELEX No: 32013L0055]

Federal Law Gazette I No. 144/2023 (NR: GP XXVII RV 2205 AB 2264 p. 235. BR: AB

11331 p. 959.)

[CELEX No. 32009L0128, 32014L0066]

Preamble/Promulgation Clause

The National Council has resolved:

Text

SECTION I

FOREST, GENERAL

Sustainability

Article 1. (1) Forests with their effects on habitats of humans, animals and plants constitute an important basis for Austria's ecological, economic and social development. Their sustainable management, tending and their protection lay the foundation for safeguarding their multifunctional - economic, protective, beneficial, and recreational - effects in an environment that is changing due to climate change.

(2) This Federal Act aims at

1. preserving forests and forest soils;
2. ensuring that forests are treated in such a way that the productive capacity of the soil is maintained and its effects as defined in Article 6 para. (2) are sustainably preserved; and
3. guaranteeing sustainable forest management.

(3) Sustainable forest management within the meaning of this Federal Act comprises the tending and use of forests in a way and at a rate that maintains their biodiversity, productivity, regeneration capacity, carbon absorption capacity and carbon storage capacity, their vitality and their potential to fulfil, now and in the future, relevant ecological, economic and social functions on local, national, and global level, and

that does not cause damage to other ecosystems. In particular, when using the forest precautions shall be taken considering the long-term forestry production period and any existing plans to ensure that utilisation is retained for subsequent generations in line with the objectives of forestry.

Definition of Terms

Article 1a. (1) Forest within the meaning of this Federal Act consists of basal areas stocked with woody plants of the categories listed in the Annex or in the ordinance specified in paragraph (1a) (forest plant cover), where the growing stock reaches an area of at least 1,000 m² and an average width of 10 m.

(1a) In agreement with the Federal Minister of Climate Action, Environment, Energy, Innovation and Technology, the Federal Minister of Agriculture, Forestry, Regions and Water Management may, by ordinance, specify further species suitable for the site in the light of climate change in addition to the species listed in the Annex.

(2) Forest within the meaning of paragraph (1) also consists of basal areas of which the forest plant cover has been temporarily reduced or removed as a result of being used or for other reasons.

(3) Notwithstanding its particular use, forest within the meaning of paragraph (1) also includes permanently unstocked basal areas where they are directly connected with forest in terms of space and forestry enterprise and directly contribute to its management (such as forestal hauling systems, wood storage places, forest glades and extraction roads).

(4) The following are not deemed to be forest for the purposes of paragraph (1):

- (a) Notwithstanding other provisions of this Federal Act, basal areas which are used other than for forestry and where the plant cover, aged at least 60 years, has not reached a canopy cover of three tenths,
- (b) stocked areas which, because the structure of their plant cover is that of parks, predominantly serve purposes other than that of forestry,
- (c) shrub areas not used for forestry purposes with the exception of those that have been managed as coppice or that have been classified as protection forest (Article 23) or declared protective forests (Article 30),
- (d) rows of trees where they are not shelterbelts (Article 2 para. (3)),
- (e) border areas within the meaning of Article 1 pt. 2 of the National Border Act (“Staatsgrenzgesetz”), Federal Law Gazette No. 9/1974, insofar as they are to be kept free of plant cover based on national treaties regulating the surveying and demarcation of the national borders.

The provisions of Articles 43 through 46 shall apply.

(5) Areas which are used in short rotation with a rotation period of up to thirty years as well as forest arboretums, forest seed orchards, Christmas tree plantations and agroforestry areas such as multi-benefit hedges or plantations of woody plants for the purpose of obtaining fruits such as walnut or sweet chestnut, where they are not planted on forest soil and their owners have reported the intended operational use to the authority within ten years of carrying out the afforestation or establishing these facilities, shall not be deemed to be forest for the purposes of paragraph (1). Should no such report be made, Article 4 shall apply.

(6) The sites listed in the first sentence of paragraph (5) shall be subject to the provisions of Articles 43 through 45, forest arboretums and forest seed orchards additionally to those of the Forest Reproductive Materials Act (“Forstliches Vermehrungsgesetz”).

(7) Forests whose plant cover have a canopy of less than three-tenths are referred to as sparse stands; forest soil with no plant cover at all is referred to as unstocked area.

Upper Timberline Zone, Shelterbelts

Article 2. (1) The provisions of this Federal Act shall also be applied to forest plant cover in the upper timberline zone (“Kampfzone”) and to shelterbelts, irrespective of the nature of use of the basal areas and the site structure of the plant cover.

(2) The upper timberline zone is deemed to be the zone between the natural border of forest plant cover and the actual border of the closed tree cover.

(3) Shelterbelts are lines or rows of trees or bushes which primarily serve to protect against damage by wind, especially for agricultural plots, and to hold snow. Agroforestry areas reported in accordance with Article 1a paragraph (5) shall not be deemed to be shelterbelts, even if they fulfil the aforementioned protective functions.

Forest in Relationship to the Border Land Register and the Land Tax Register

Article 3. (1) Should a basal area (plot or part of a plot) be classified as forest in terms of use in the Border Land or the Land Tax Register, and should

1. a permanent clearance permit not have been issued for this basal area, or
2. an announced permanent clearance of this basal area not have been carried out in accordance with Article 17a,

it shall be deemed to be forest for the purposes of this Forest Act, unless the authority has determined that it is not forest.

(2) The authority shall transmit a copy of all official notices that are relevant to entering the category of use “forest” in the border land register or in the land tax register, such as clearance permits and/or notices concerning the designation of a plot or part of a plot as forest, to the surveyor’s office after such notices have acquired legal force.

(3) The surveyor’s office shall, if it has decided to make an amendment to the category of use as forest as a consequence of surveys, notify the authority of this and provide suitable documentation.

(4) In the case of agricultural co-operative land or land encumbered with forest rights of use, the authority shall also inform the agricultural authority of the notices referred to in paragraph (2).

(5) Should proceedings for the general re-designation of the border land register be introduced in a cadastral unit, the authority shall issue notification requesting the owners of the plots of this cadastral unit, in case of doubt, to submit applications according to Article 5 para. (1) to the authority within a specified period of time. The period shall be sufficient to allow that decisions on these applications can be taken into account in proceedings concerning the creation of a new border land register. Should an inspection be required in the declaratory proceedings, it should, if possible, be conducted simultaneously with the border negotiation of the surveying authority (Article 24 of the Surveying Act, Federal Law Gazette No. 306/1968 (“Vermessungsgesetz”).

New Afforestation

Article 4. (1) Basal areas which were not previously forest are subject to the provisions of this Federal Act in the case of

1. afforestation (seed or planting) after ten years following the execution,
2. natural regeneration after reaching a canopy of five tenths of its area with a plant cover having a height of at least 3 metres.

However, the provisions of Section IV should be applied as soon as plant cover exists.

(1a) The Federal Minister of Agriculture, Forestry, Environment and Water Management can determine, according to technical requirements in forestry, a plant cover height deviating from the one specified in paragraph (1) sub-para. 2.

(2) Basal areas on which substitute afforestation (Article 18 paragraph (2)) has been carried out shall be deemed to be forest as soon as growth has been ensured for the purposes of Article 13 paragraph (8).

(3) Basal areas for which funding has been granted for afforestation in accordance with the provisions of Section X shall be deemed to be forest soil from the time that promotional funds were paid out; in the case of afforestation in high-altitude areas, the area within five hundred metres below the natural treeline, this shall, however, not apply until growth has been ensured for the purposes of Article 13 paragraph (8).

Declaratory Proceedings

Article 5. (1) Should doubts arise as to whether

- (a) a basal area is forest or
- (b) a certain plant cover in the upper timberline zone, or as a shelterbelt, is subject to the provisions of this Federal Act,

the authority shall conduct declaratory proceedings *ex officio* or on the request of a person entitled to file an application in accordance with Article 19 paragraph (1). Article 19 paragraph (4) shall apply *mutatis mutandis*.

(2) Should the authority determine that the basal area was forest within the meaning of this Federal Act at the time the application was made or within the preceding ten years, it shall issue an official notice stating that this basal area is forest within the meaning of the Federal Act. Should the applicant provide evidence that

1. the requirements of the first sentence do not apply or
2. a permanent clearing permit was issued or notified permanent clearance according to Article 17a was carried out,

and should no new afforestation have taken place in the meantime, the authority shall issue a notice stating that this basal area is not deemed to be forest within the meaning of this Federal Act.

(2a) In the case of basal areas for which a clearing permit for a limited period was granted for the purposes of Article 18 paragraph (4), the duration of the clearing with time limit shall not be taken into account in the period of ten years (para. (2) sub-paragraph 1). This shall apply also to cases where the duration of the clearing with time limit exceeds ten years.

(3) Should such basal areas be encumbered with grazing rights, the agricultural authority shall be given a hearing before the decision is taken.

SECTION II

FOREST AREA PLANNING

Purpose of Forest Area Planning

Article 6 (1) The purpose of area planning for forest habitats (forest area planning) is the description and foresighted planning of forest conditions in the federal territory or in parts thereof.

(2) To fulfil the purpose indicated in paragraph (1), efforts should be taken for forests to be available to an extent and in such a quality that their effects, namely

- (a) the productive effect, i.e. in particular the economically sustained production of wood as a raw material,

- (b) the protective effect, i.e. in particular protecting against elementary risks and harmful environmental influences as well as maintaining the resistance of the soil against rainwash and drift, scree-formation and landslips,
- (c) the beneficial effect, i.e. the influence on the environment, especially on the balance of climate, including the importance for the absorption and storage of carbon, on the balance of the water regime, on the purification and renewal of air and water, and on the preservation of biodiversity,
- (d) the recreational effect, i.e. in particular the effect of forests as recreational areas on those visiting forests,

are at their best and are ensured.

(3) To achieve the objectives of forest area planning, special consideration shall be given to ensuring that

- (a) in areas with a concentration of residential and employment locations as well as of transport areas, the spatial organisation and structure of forests is of such a quality as to guarantee the protective, beneficial and recreational effects of the forest;
- (b) in areas where the protective and beneficial effects of the forest are of particular importance, for example as protection against floods, avalanches or wind or as a water storage facility, the spatial structure of the forest is appropriate to this significance.

(4) Efforts should be made within the scope of forest area planning to co-ordinate all the public interests of relevance and of significance to it.

Scope of Forest Area Planning

Article 7. Area planning for forest habitats shall cover

- (a) the description and planning of forest areas
 1. with a predominantly productive effect, with special consideration for forest areas suited for high production of raw materials,
 2. with predominantly protective, beneficial or recreational effects, such as protection or protective forests, or forests protecting against air pollution including noise, and
 3. recreational areas requiring special measures for air pollution control;
- (b) the description of
 1. torrent and avalanche catchment areas,
 2. hazard zones subject to torrents or avalanches, and
 3. forests with special habitats as set out in Article 32a;
- (c) the planning of
 1. afforestation on areas for which this is prescribed as well as afforestation for the purpose of protection against wind, landscape design and improvements of the water regime, especially in under-forested areas,
 2. separation of forestry, agriculture and alpine farming, where this is advantageous for a better development of the forest effects, for example in the upper timberline zone.

Forest Area Plans

Article 8. (1) In the forest area plans the facts and identifiable developments determining and influencing the status of the forest of the planning area shall, in consideration of the provisions of Articles 6 and 7,

- (a) be presented in a cartographic and textual form (plan drafting), and
- (b) these presentations shall be adjusted to the individual actual developments in the planning area.

(2) Forest area plans include

- (a) the Forest Development Plan (Article 9),
- (b) the Technical Forestry Plan (Article 10),
- (c) the Hazard Zone Plan (Article 11).

(3) Detailed regulations on the contents as well as on the form and structure of the forest area plans shall be decreed by order of the Federal Minister of Agriculture, Forestry, Environment and Water Management.

Forest Development Plan

Article 9. (1) The Forest Development Plan covers the Federal Territory (overall plan) and is made up of partial plans.

(2) The Governor of a Province shall draft the relevant partial plan. The plan shall extend over the area of a Province or parts thereof. Only forest managers ("Forstwirte" according to Article 105 para. (1) sub-para. 3) are authorised to prepare these partial forestry plans.

(3) Should total planning, in order to be sensibly carried out, require that a partial plan is continued in a partial plan of the neighbouring Province, or should an existing partial plan be continued in the neighbouring Province for the same reason, the Federal Minister of Agriculture, Forestry, Environment and Water Management shall be responsible for ensuring that these partial plans have the necessary uniform structure.

(4) The partial plan should set out the effects of the forest, especially in consideration of its significance for the general public in accordance with Articles 6 through 8. The plan shall be subdivided into a textual part (description) and a map section (representation).

(5) The Provincial Governor shall verify the admissibility and expedience of a Technical Forestry Plan in accordance with the provisions of this Section on application and, provided that the result of the verification does not give rise for concern,

- (a) shall include it in the partial plan or, should such a plan not exist,
- (b) shall make it applicable as a partial plan to the area in question.

(6) The partial plan and its adjustments to the respective actual status of development require the consent of the Federal Minister of Agriculture, Forestry, Environment and Water Management. This consent shall be granted if the plan meets the provisions of this Section and takes account of existing partial plans of neighbouring Provinces. Before obtaining consent, the Provincial Governor shall obtain a statement from the Province from the viewpoint of Provincial area planning. Once the consent of the Federal Minister of Agriculture, Forestry, Environment and Water Management has been obtained, the Provincial Governor shall bring the plan to the attention of the relevant district administration authorities. The latter shall display the plan in their offices for general inspection during office hours and shall give notice of this in a suitable fashion. Anyone is entitled to inspect the plan.

Technical Forestry Plan

Article 10. (1) The Technical Forestry Plan is a forestry plan drafted by the owner of the forest or by offices appropriate for this purpose, which includes representations and plans for the area of interest of the planning bodies.

(2) Forest managers and civil engineers for forestry are authorised to devise the Technical Forestry Plan.

Hazard Zone Plans

Article 11. (1) The Minister of Agriculture, Forestry, Environment and Water Management shall be responsible for drafting the Hazard Zone Plans and adjusting them to the relevant levels of development while having recourse to offices in accordance with Article 102 paragraph (1).

(2) The Hazard Zone Plan shall give an account of the areas endangered by torrents and avalanches and their danger level together with those areas for which a special form of management is required or which need to be kept clear for subsequent protective measures.

(3) The draft of the Hazard Zone Plan shall be submitted to the mayor who shall display it for general inspection at the municipal administrative office for four weeks. Its availability shall be publicly announced.

(4) Anyone who can produce *prima facie* evidence of a justified interest shall be entitled to comment on the draft of the Hazard Zone Plan in writing within the period of display. Express reference shall be made to this provision in the announcement (paragraph (3)).

(5) The technical accuracy of the draft of the Hazard Zone Plan shall be checked by a commission (paragraph (6)) and amended, if necessary; comments submitted in time (paragraph (4)) shall be taken into consideration.

(6) The commission shall consist of a representative of the Federal Minister of Agriculture, Forestry, Environment and Water Management as chairman as well as of one representative each of the office responsible in accordance with Article 102 para. (1) point (a), the Federal Province and the municipality. The commission shall pass its resolutions by simple majority; in the case of a tie, the chairman has the casting vote.

(7) The Federal Minister shall approve the draft of the Hazard Zone Plan examined by the commission unless the provisions of this Section specify otherwise.

(8) The offices referred to in Article 102 paragraph (1) point (b) shall display the approved Hazard Zone Plans for inspection and copying. The territorial authorities and district administration authorities concerned shall be provided with a copy of each.

(9) Should basics or their evaluation change, the Hazard Zone Plan shall be adjusted to the change in circumstances. Paragraphs (3) through (8) shall apply analogously to the procedure.

SECTION III

MAINTENANCE OF FORESTS AND THE SUSTAINABILITY OF THEIR EFFECTS

A. Maintenance of Forests;

General provisions

(NB: Article 12 repealed by Federal Law Gazette I No. 59/2002.)

Reforestation

Article 13. (1) The forest owner shall, in accordance with Article 22 paragraph (3), reforest unstocked areas and sparse stands in protection forests in good time using locally suitable forest reproductive material.

(2) Reforestation shall be deemed timely if the measures necessary for this (seeding or planting) have been properly carried out by the end of the fifth calendar year following the materialisation of the clear-felled area or sparse stand.

(3) Reforestation shall take place by means of natural regeneration if, within a period of ten years, there is a natural regeneration by seed, stool shoot or root sucker which gives rise to the expectation that the reforestation area will be fully stocked.

(4) Should, at high altitudes, natural regeneration clearly bring advantages compared with afforestation, the authority may extend the period prescribed according to paragraph (3) by a maximum of five years, provided there are no reservations in respect of such extension for the reasons set out in Article 82 para. (1) point (a).

(5) The authority shall extend the reforestation periods prescribed according to paragraphs (2) and (3) by a maximum of two years if it has been proven that the forest owner has temporarily encountered an emergency situation through illness or a catastrophic situation in his agricultural and forestry enterprise (such as fire or an infectious disease of animals). This provision shall not apply to forests to which Articles 21, 25 para. (1) and 27 para. (1) apply.

(6) Should a large-scale damage situation have arisen, for example by large-scale wind breakage, the reforestation period (paragraph (2)) for the area affected shall start upon completion of the salvaging operations for the damaged timber. The authority may extend this period by a maximum of five years. The extension of the period shall be granted if the forest owner has submitted a reforestation plan within the first year of the reforestation period that provides for reforestation in the shortest possible time, but as a maximum within the extended period.

(7) If necessary, regeneration (regeneration achieved by afforestation or natural regeneration) shall be improved again and again until it has been ensured.

(8) Regeneration shall be deemed to have been ensured if it has struck roots through a minimum of three growth periods, it has an adequate number of plants for forestry requirements, and there is no identifiable risk to further development.

(9) Should there be doubts whether rights pertaining to unstocked areas or sparse stands that are encumbered with forest rights of use or communal rights of use can still be exercised after reforestation, the owner of the forest and the beneficiary shall have the right to apply to the authority for declaratory proceedings. The authority shall decide by official notice on this matter; agreement shall be reached with the agricultural authority before issuing the notice.

(10) Where the position of an energy supply line system excludes the development of growth to full height on the pilot track and an exemption according to Article 81 para. (1) pt. (b) has been granted, the party entitled to establish the line shall ensure the timely reforestation of the pilot track area after each felling.

Treatment of Forests Along Property Boundaries

Article 14. (1) The owner of a plot bordering a forest shall tolerate the overhanging of branches into the air space and the penetration of roots into the earth of his plot from the neighbouring forest, if removal (Article 422 of the Austrian Civil Code) would expose the neighbouring forest to a clear risk from wind or sunburn. Should overhanging branches or root penetration materially impair the use of the neighbouring plot in a manner customary to the area, its owner shall be entitled to appropriate compensation from the owner of the neighbouring forest for the proprietary disadvantages which have arisen as a consequence thereof. The authority shall decide about the amount of the compensation by official notice. The latter shall cease to be valid if, within one year of the notice coming into force, one of the parties applies to the District Court, in whose area of responsibility the forest lies, for the compensation to be assessed. Court proceedings shall be subject to the provisions for non-litigious proceedings. The Railway Expropriation Act 1954 (“Eisenbahnteilungsgesetz 1954”), Federal Law Gazette No. 71, shall be applied analogously. The right to compensation can only be claimed after twenty-five years from the date of the entry-into-force of this Federal Act.

(2) No forest owner shall carry out felling along his property boundary at a distance of less than 40 metres if such felling would expose neighbouring forest to clear danger from wind (protection belt).

(3) The protection belt shall be granted to each owner of the neighbouring forest, and to the owners of any forests bordering it, where the distance from the property boundary of the person obligated to provide the protection belt is less than 40 metres; any basal areas located between the forest areas, not covered by Article 1a paragraph (1), of less than 10 metres in width shall not be included.

(4) Should the protection belt be insufficient to ensure effective protection against the danger of wind in special instances (such as in the case of forests located on sites particularly prone to wind or with structures making them particularly susceptible to wind), the authority shall, on application by the owner whose forest needs the protection belt or *ex officio* issue a notice extending the width of the protection belt to a distance of more than 40 metres, but to no more than 80 metres.

(5) A protection belt is not required if

- (a) the neighbouring forest referred to in paragraphs (2) through (4) has reached an age thirty years beyond the upper limit of stand immaturity (Article 80 paragraphs (3) and (4) as well as Article 95 paragraph (1) pt. (a)) and the party obligated to provide the protection belt has demonstrably notified the owner of the neighbouring forest of the intention to fell at least six months before carrying out the intended felling or
- (b) the felling has been ordered by the authority in connection with measures referred to under Article 44 paragraph (2).
- (c) an exemption as referred to in Article 81 paragraph (1) pt. (b) or Article 82 paragraph (3) pt. (d) has been granted or felling has been carried out in accordance with Article 85 or Article 86 to establish an energy supply line system.

(6) In the case of paragraph (5) pt. (c), the authority shall require the party entitled to establish the line to carry out measures which are appropriate for guarding against or reducing the negative effects on the surrounding forests. The owner of the neighbouring forest (paragraphs (2) and (3)) shall be entitled to compensation from the party authorised to establish the line for the proprietary disadvantages caused by the loss of the protection belt. The provisions of paragraph (1), sentences three to six, shall apply.

Division of Forests

Article 15. (1) Dividing plots that are at least partly used as forest is prohibited if such division involves basal areas of the use type “forest” and plots are created on which the forest area goes below the minimum size required to maintain and appropriately manage the forest.

(2) Divisions to which the requirements specified in Article 15 of the Real Estate Division Act (“Liegenschaftsteilungsgesetz”), Federal Law Gazette No. 3/1930, apply are excluded from the prohibition of division as set out in paragraph (1).

(3) Furthermore, the authority shall, in duly justified cases, grant an exemption from the prohibition of division according to paragraph (1) by official notice.

(4) The Provincial legislature is empowered in accordance with Article 10 para. (2) of the Federal Constitutional Act to determine the minimum size in consideration of the local circumstances as well as the requirements for the exemptions, such as for pilot track lines or establishment of systems for national military defence, according to paragraph (3).

Provisions Relating to the Land Register

Article 15a. (1) The Land Register Court may - with the exception of the cases of Article 15 paragraphs (2) and (3) - grant or order the division of a plot which is at least partly categorised as forest in the Border Land or Land Tax Register only if

1. no basal area of the use-type “forest” is to be divided or
2. a certificate from the competent authority has been provided confirming that the entry does not violate Article 15.

(2) Should a Land Register entry violate Article 15, the authority may *ex officio* issue a notice stating this. On the basis of this notice, the former state of the Land Register shall be restored on application by the authority, unless this affects the registered rights of third parties that were established on the basis of a legal act. The application is admissible only within three years of the entry into the Land Register.

(3) The initiation of a procedure as specified in paragraph (2) shall be recorded in the Land Register on application by the authority. Recording produces the effect that registered rights established after submission of the application for recording an annotation will not impede the restoration of the former state of the Land Register.

Forest Destruction

Article 16. (1) Any destruction of forests is prohibited. This ban is directed against everybody.

(2) There has been destruction of a forest if actions or failure to act result in

- (a) the productive power of the forest soil being materially weakened or entirely destroyed,
- (b) the forest soil being exposed to a clear danger of sliding or erosion,
- (c) prompt reforestation has been rendered impossible or
- (d) the plant growth is clearly exposed to widespread danger, especially that caused by wind, snow, wild animals with the exception of those that are huntable, improper fertilisation, air pollution of all kinds, except those referred to in Article 47, or waste (such as refuse, junk, sewage sludge) is dumped.

(3) Should it be determined that forest destruction has occurred, the authority shall take the necessary measures to terminate the destruction of the forest and to eliminate the consequences of it. In particular it may, in the incidences of paragraph (2), prescribe a particular type of use, make every felling within an appropriate period of time that has to be determined subject to a permit by the authority or order that the party responsible shall put an end to or remove the danger and its impacts on nature. This shall not affect claims by the owner of the forest under private law.

(4) Should refuse have been dumped (para. (2) pt. (d)) or thrown away (Article 174 para. (3) pt. (c)) in the forest, the authority shall find the person who dumped the refuse or who is responsible for it having been dumped and instruct him/her to remove the refuse from the forest. Should it be impossible to identify such a person, the authority shall instruct the municipality in whose locality the depositing of refuse in the forest took place to remove the refuse at its expense. Should the identity of the person be discovered later on, the authority shall obligate him/her to reimburse these costs. The task to be performed by the municipality relates to its own sphere of activity.

(5) **(Constitutional provision)** Should it be determined that the plant cover is subject to widespread endangerment as a result of huntable animals, the competent officer of the forest monitoring service (“Forstaufsichtsdienst”) shall provide an expert report stating the causes, nature and extent of the endangerment, and proposals for dealing with the endangerment, to the hunting authority and to the director of the forest monitoring service the Provincial Government Office. The latter shall have the right of application, and shall be a party, in the proceedings provided for in Provincial legislation to protect forests against forest-endangering damage caused by game.

(6) The Federal Minister of Agriculture, Forestry, Environment and Water Management shall each year publish on the internet a report on the nature and extent of forest destruction and, in particular, the

widespread endangerment of plant cover due to game, the expert activities of the forest authorities and the measures taken by the hunting authorities as well as their success, broken down by Provinces.

(7) This report shall be submitted to the Austrian "Nationalrat" for discussion by 1 September of each subsequent year.

Clearing

Article 17. (1) The use of forest soil for purposes other than those of forest cultivation (clearing) is prohibited.

(2) Notwithstanding the provisions of paragraph (1) the authority may issue a permit for clearing if this is not precluded by any special public interest in the maintenance of this area as forest.

(3) If a permit as referred to in paragraph (2) cannot be issued, the authority may issue a permit for clearing in cases where public interest in another use of the area for which the clearing permit has been applied for outweighs the public interest in maintaining this area as forest.

(4) Public interest in another use for the purposes of paragraph (3) relate in particular to overall national defence, to railway, air or public road transport, to post or public telecommunications, to mining, to hydraulic engineering, to the energy industry, to improving the structure of agriculture, to housing or to nature conservation.

(5) In assessing public interest for the purposes of paragraph (2) or weighing up public interest for the purposes of paragraph (3), the authority shall in particular take account of a forest structure which ensures the required forest effects. The objectives of area planning shall be considered in terms of this requirement.

(6) In areas which are constantly available to the Federal Army as military field exercise sites (training areas), clearing for purposes of national military defence does not require approval. This shall not apply to protection forests or protective forests. The Federal Minister of National Defence shall inform the Federal Minister of Agriculture, Forestry, Environment and Water Management at the beginning of each year of the areas that were cleared in the preceding year.

Clearing Subject to Notification

Article 17a. (1) A clearing permit shall not be required if

1. the area to be cleared does not exceed a dimension of 1,000 m² and
2. the person entitled to file an application notifies the intended clearing with the authority by attaching the documents listed in Article 19 paragraph (2), and
3. the authority does not inform the person filing the application within a period of six weeks following the date of receipt of the notification that, out of consideration for the public interest in maintaining the forest, the clearing shall not be carried out without the granting of a clearing permit in accordance with Article 17. Article 91 paragraph (2) shall apply *mutatis mutandis*.

(2) The dimension of any clearing notified shall be calculated to include any and all clearings carried out immediately adjacent to the area notified and for the same reason as stipulated under paragraph (1), if such clearings have been carried out no longer than ten years ago.

(3) The notification shall become invalid if the clearing notified is not carried out within one year after the date when the authority received the notification.

(4) In case of the notification of a clearing for a limited time, as defined in Article 18 para. (4), which may be carried out according to paragraph (1) sub-para. 3, the forest area has to be reforested by the person entitled to clear the area in question five years after the expiration of the time limit indicated in the application, at the latest, for the purposes of Article 13.

Clearing Permits; Provisions

Article 18. (1) In case of need, a clearing permit must be bound to conditions, deadlines or requirements that ensure that maintenance of the forest is not impaired beyond the approved extent. In particular, after that,

1. a time shall be laid down at which the clearing permit expires if the purpose of the clearing has not been met,
2. the validity of the permit shall be bound to the exclusive use of the area for the purpose applied for, or
3. measures shall be prescribed which are suited
 - (a) to combat negative effects on the surrounding forests or
 - (b) to compensate for the loss of forest effects (compensation).

(2) In order to restore the effects of the forest that have been lost as a consequence of the clearing, the provision concerning the compensation shall put the person applying for the clearing permit under the obligation to afforest a non-wooded area (substitute afforestation) or to take measures to improve the condition of the forest. The provision may also state that the applicant has to carry out the substitute afforestation, or take the measures to improve the forest condition, on plots of another land owner in the close vicinity of the clearing area on the basis of a provably concluded agreement. If no proof of an agreement can be furnished at the time of the granting of the clearing permit, a provision may be laid down requiring substitute performance to the effect that the approved clearing must not be carried out until the holder of the clearing permit has furnished proof to the authority of the written agreement with the land owner on the providing of substitute performance.

(3) Should a provision according to paragraph (2) not be possible or unreasonable, the person applying for the clearing permit shall pay an amount of money equivalent to the cost of re-afforestation of the clearing area, were it to be afforested. The amount shall be prescribed and levied by the authority with analogous

application of the cost provisions of the Administrative Procedures Acts. It shall then form part of the Federal income and shall be used to carry out reforestation or speedier restoration of the effects of forests (Article 6 para. (2)) following catastrophes.

(4) Should it be evident from the application that the intended purpose of the clearing is not to be of unlimited duration, the use applied for shall be expressly declared temporary in the notice of permit and shall be limited in time accordingly (clearing for a limited time). Furthermore, the requirement shall be imposed that the area to be cleared for a limited period shall be reforested after the period set has expired.

(5) The provisions of paragraph (1) sub-para. 3 (b) and paragraphs (2) and (3) do not apply to clearings for a limited time in terms of paragraph (4).

(6) To ensure

1. compliance with a requirement prescribed for the purposes of paragraph (1) or
2. conduct of reforestation following expiry of the specified period in terms of paragraph (4),
payment of a security deposit appropriate to the costs of these measures may be prescribed. Clearing must not commence until this has been lodged. The provisions of Article 89 paragraphs (2) through (4) shall apply analogously.

(7) The following shall apply:

1. all provisions of this Federal Act to clearings with a time limit from the time when the time limit has expired,
2. the provisions of Section IV and of Articles 172 and 174 to all clearings until the plant cover has been removed.

Clearing Proceedings

Article 19. (1) The following are entitled to apply for a clearing permit:

1. the owner of the forest;
2. the party entitled *in rem* or *in personam* to the forest area for which clearing the clearing permit has been requested, in the exercise of its right and subject to furnishing proof of the approval of the forest owner;
3. those responsible for safeguarding the public interest for the purposes of Article 17 paragraph (3);
4. in instances of Article 20 para. (2), the agricultural authority also,
5. in instances of clearings for facilities to produce, conduct, distribute and store energy media, the enterprises operating such facilities where expropriation can take place in their favour or conveyance rights can be justified, subject to the consent of the party responsible in accordance with sub-paragraph 3,
6. in instances of clearing for railway purposes, the owners of concessions in accordance with Article 14 paragraph (1) of the Railway Act 1957 (“Eisenbahngesetz 1957”), Federal Law Gazette no. 60, or in accordance with Article 25 of the Cableways Act 2003 (“Seilbahngesetz 2003”), Federal Law Gazette I No. 103;

(2) The application shall contain:

1. the dimensions of the area for which the clearing permit is requested,
2. the purpose of the clearing,
3. in instances where the clearing area is encumbered with forest rights of use or communal rights of use those entitled to exercise these rights, and
4. the owners of the neighbouring plots (abutting owners).

Attached to the application shall be an extract from the land register, which must not be more than three months old, and a site plan which enables the area for which the clearing permit is requested to be clearly identified in nature. The site plan, the scale of which must not be smaller than that of the cadastral chart, should be submitted in triplicate, or in quadruplicate in instances of Article 20 paragraph (1); the authority shall transmit one of these copies to the surveyor’s office and, in the case of Article 20 paragraph (1), a further copy to the agricultural authority.

(3) The extracts from the land register may also be replaced by a list of the plots for which a clearing permit has been requested, including their total area and the area to be claimed as well as their owners, and at the same time listing rights which encumber the areas for which a clearing permit is requested. This list shall be confirmed by a person of public credibility. In the case of Article 20 paragraph (2) this list, which shall also set down those having interests in rights of way, shall be confirmed by the agricultural authority.

(4) Parties within the meaning of Article 8 of the General Administrative Procedures Act (AVG) are:

1. those entitled to file an application for the purposes of paragraph (1) to the extent of their right to apply,
2. the party entitled *in rem* to the forest area for which a clearing permit is requested,
3. the party entitled to mine insofar as it is authorised to search for or obtain mineral raw materials which are exempt from mining regulations or government property in accordance with the mining provisions,
4. the owner and the party entitled *in rem* to the forest areas bordering the forest area for which a clearing permit is requested, taking into account Article 14 paragraph (3) clause 2, and
5. the military command responsible if the procedure refers to forest areas that serve to ensure the defensive effect of national defence systems.

(5) The clearing proceedings should hear

1. the municipality in which the area for which a clearing permit is requested is located, to look after local public interest, and
2. the authorities which are called in to these proceedings, to look after other public interest.

(6) The municipalities shall look after the right to a hearing in accordance with paragraph (5) sub-para. 1 in their own spheres of activity.

(7) Should objections be made under civil law in the course of the proceedings, the authority shall endeavour to achieve an amicable settlement. Should this prove impossible, the authority shall, when making its decision on the application for the clearing permit, instruct the parties on their rights to take action under civil law, while expressly stating the objections not covered by the ruling.

(8) Should a clearing permit be issued based on an application according to paragraph (1), subparagraphs 3, 5 or 6, the clearing may not be carried out until the party in whose favour the clearing permit was granted has acquired the title or another right of disposal in accordance with the purpose of the clearing for the forest area for which clearing has been permitted.

Relationship to the Agricultural Authorities

Article 20. (1) Should the forest be encumbered with forest or communal rights of use, the authority shall inform the agricultural authority and suspend the clearing proceedings until the agricultural authority has made a decision about the existence and extent of such rights.

(2) If a clearing permit is required for the construction or development of a hauling installation in accordance with Article 1 of the Basic Freight and Cableways Act 1967 (“Güter- und Seilwege-Grundsatzgesetz 1967”), Federal Law Gazette No 198, the agricultural authority shall have powers of representation.

(NB: Paragraph (3) has been repealed by Federal Law Gazette No. 576/1987.)

B. Forests Receiving Special Treatment

Protection Forest, Definition

Article 21. (1) Site-protecting forests (forests located on specific sites, referred to as “Standortschutzwälder”), within the meaning of this Federal Act are forests which are located on sites endangered by the eroding forces of wind, water or gravity, and which require special treatment to protect the soil and the plant cover and to ensure reforestation. Site-protecting forests include:

1. forests on wind-blown sand soil or drifting soil;
2. forests on sites with a tendency towards karstification or on sites that are particularly prone to erosion;
3. forests on rocky, shallow-grounded or steep locations if their reforestation is possible only under difficult conditions;
4. forests on slopes where dangerous slope slides might occur;
5. the forest cover in the upper timberline zone;
6. the forest belt immediately bordering the upper timberline zone.

(2) Object-protecting forests (“Objektschutzwälder”) within the meaning of this Federal Act are forests which protect humans, human settlements or facilities, or cultivated soil, in particular against natural hazards or injuring environmental impacts and which require special treatment to gain and ensure their protective effect.

(3) The provisions on object-protecting forests are also applicable to the forest cover in the upper timberline zone provided that the cover has a high protective effect for the purposes of Article 6 paragraph (2) point (b).

Treatment and Use of Protection Forests

Article 22. (1) The owner of a protection forest shall manage the latter in such a manner under the relevant local conditions that, given timely regeneration, its preservation as a vegetation of optimum stability appropriate to the location and with a strong inner structure is guaranteed.

(2) Should a forest qualify as protection forest in accordance with Article 21, the owner of the forest shall treat the forest as protection forest even if the character of a protection forest has not been officially stated to be regarded as such by notice.

(3) The owner of a site-protecting forest which is not an object-protecting forest within the meaning of Article 21 paragraph (2) shall carry out measures in accordance with paragraphs (1) and (4) insofar as the costs of these measures can be covered from the profits from felling in that site-protecting forest. In addition to this, he shall be obligated to reforest unstocked areas or sparse stands, except in non-productive site-protecting forests, and to carry out forest protection measures in accordance with Articles 40 through 45.

(3a) The owner of an object-protecting forest shall carry out measures in accordance with paragraphs (1) and (4) insofar as the costs of these measures are covered by public means or by payments from beneficiaries. Regardless thereof the owner shall be obligated to reforest unstocked areas or sparse stands and to carry out forest protection measures as provided for in Articles 40 through 45. The remaining obligations of the forest owner provided for in this Federal Act shall remain unaffected.

(4) The Federal Minister of Agriculture, Forestry, Environment and Water Management shall, by ordinance, regulate the details of the treatment and use of protection forests. Such ordinance may in particular provide that

- (a) free felling requires a permit (Article 85) unless Article 96 para. (1) point (a) and Article 97 (a) apply,
- (b) the reforestation period shall be set in derogation of Article 13,
- (c) an age of immaturity for felling differing from an order in accordance with Article 80 para. (4) shall be observed.

Declaratory Proceedings for Protection Forests

Article 23. (1) Should there be doubt whether a forest or parts thereof constitute a protection forest, the authority shall decide upon application by the owner of the forest.

(2) The declaratory proceedings shall be initiated *ex officio*, if this is deemed to be appropriate for guarding against a negative treatment of a protection forest. The authority shall temporarily inhibit forest treatment not in accordance with Article 22.

(3) Should a forest meet the requirements for qualification as protection forest, the authority shall issue a notice stating this fact, if required after carrying out proceedings in combination with an inspection; should those requirements not, or no longer, exist, the authority shall, on application by the forest owner or *ex officio*, issue a notice stating that the forest is not a protection forest.

Measures to Rehabilitate Protection Forests

Article 24. (1) The Governor of a Province shall, if rehabilitation is necessary to safeguard the protection forest, prepare a specially structured forest development plan for the protection forest area in question or adapt an existing Forest Development Plan by designing it in a special fashion.

(2) Rehabilitation measures in accordance with paragraph (1) may in particular be

- (a) the reforestation of protection forests which are insufficiently regenerated and impaired in their protective function,
- (b) the treatment of the protection forest area necessary to maintain the protective effect of the protection forest area, also with regard to its reclamation.

(3) The special layout of the Forest Development Plan shall comprise the following:

- (a) the cartographic recording of protection forests in terms of their condition and the ownership and other legal status,
- (b) the measures necessary to maintain protection forests or to improve their condition in accordance with paragraph (1), the time this will take, and the costs.

(4) Should rehabilitation measures as referred to in paragraph (1) require the felling of over-mature stands, the owner of the forest shall carry out such felling according to marking performed by the authority. Should an executive forest officer have been appointed in an enterprise, he/she too may perform the marking. Article 22 shall apply.

(5) Federal funds may be granted in line with Section X for carrying out the measures described in paragraph (3) pt. (b). This shall not affect the obligation of the forest owner to carry out the measures provided for in Article 22 paragraphs (3) and (3a).

(6) If funding has been secured, the Provincial Governor shall determine the measures for rehabilitating the protection forest based on the particular layout of the Forest Development Plan as well as its timing, and shall order execution of the measures by official notice.

Special Provisions for the Upper Timberline Zone and for Shelterbelts

Article 25. (1) In the upper timberline zone the provisions of Articles 22 through 24 shall apply *mutatis mutandis*. Furthermore, the authority shall, where local circumstances require it and this does not concern salvaging timber from acute forest damage, issue a notice stating that the felling be subject to a permit or prohibiting it completely. In the case of the permit, felling shall be subject to marking performed by the authority. The notice shall be withdrawn as soon as the reasons for issuing it have ceased to apply.

(2) A reduction in the plant cover of the upper timberline zone of the forest for more than a temporary period shall require the official permit. The permit shall be issued if and insofar as the plant cover does not offer a profound protective effect for the purposes of Article 6 para. (2) pt. (b). No permit is required for the removal of plant cover on basal areas classified as Alps or basal areas used for agricultural purposes in the Border Land Register or the Land Tax Register and which have not become forest as a result of new afforestation for the purposes of Article 4, provided the plant cover does not offer a profound protective effect according to Article 6 para. (2) pt. (b).

(3) Official permit shall also be required for changing the location of the plant cover in the upper timberline zone by removing the plant cover and new afforestation at another place, in cases where the plant cover offers a profound protective effect for the purposes of Article 6 para. (2) pt. (b). The permit shall be granted if this change does not reduce the proportion of the sheltered area and the protective effect of the plant cover is not impaired. The permit may, if necessary, be subject to conditions and requirements.

(4) The provisions of Articles 18 through 20 apply *mutatis mutandis* to the procedures to be carried out in accordance with paragraphs (2) and (3).

(5) Shelterbelts shall be handles in a way that their protective function is not impaired.

Empowerment of the Provincial Legislature

Article 26. (1) The Provincial legislature is empowered in accordance with Article 10 para. (2) of the Federal Constitutional Act to issue provisions concerning the execution of Article 25 paragraphs (1) through (3), in co-operation with the responsible authorities of the Province, ensure the full protective effect of the plant cover.

(2) The Provincial legislature is also empowered in accordance with Article 10 para. (2) of the Federal Constitutional Act, notwithstanding the provisions in the matters of ground reform (Article 12 para. (1) sub-para. 3 of the Federal Constitutional Act), to regulate the following in greater detail:

- (a) the preconditions for introducing proceedings for setting up shelterbelts as well as the proceedings themselves, including expropriation proceedings,
- (b) proceedings for determining whether forests already in existence have the character of shelterbelts, and
- (c) the use of shelterbelts, their treatment in detail, as well as the requirements for abandoning a shelterbelt.

Protective Forests Declared by Official Notice (“Bannwald”)

Article 27. (1) Forests of the following kind shall be declared protective forests by official notice:

1. object-protecting forests which serve to ward off directly certain dangers from humans, human settlements or facilities, or from cultivated soil,
2. forests whose beneficial effect take precedence over the productive effect, and
3. forests which serve to directly ward off dangers resulting from the condition of the forest or its management,

where the economic or other public interest to be safeguarded (purpose of declaring a forest a protective forest by official notice) proves more important than the disadvantages associated with the restriction on forest management resulting from such declaration (“Bannwald”).

(2) Purposes of declaring a forest a protective forest, as referred to in paragraph (1), shall be in particular

- (a) protection against avalanches, rockslide, rockfall, snow displacement, landslip, high water, wind or similar dangers,
- (b) warding off dangers caused by emissions,
- (c) the protection of medicinal springs and of tourist locations and conurbations from impairment of the needs of hygiene and recreation, as well as ensuring the necessary afforestation of the environment of such places for these purposes,
- (d) securing a water supply,
- (e) ensuring the usability of traffic facilities and energy supply systems,
- (f) ensuring the defensive effect of national defence systems,
- (g) protection against dangers resulting from the condition of the forest or its management.

Subject-matter of the Official Declaration as “Bannwald”

Article 28. (1) If a forest is declared a protective forest by official notice, this shall imply provision for measures and prohibitions necessary to meet the purpose of such declaration and local circumstances as well as provision for the best possible guarantee that the measures are carried out.

(2) Insofar as it is necessary to fulfil the tasks paraphrased in para. (1), the authority shall in particular

- (a) order measures to maintain or bring about plant growth which may best meet the purpose for which the forest has been declared a protective forest (“Bannwald”), in fact, prohibit or impose a particular treatment of the forest,
- (b) prescribe, restrict or prohibit certain fellings or categories of use,
- (c) restrict or set aside rights of use existing for the protective forest,
- (d) prescribe, limit in place or time or prohibit certain hauling categories or the use of certain hauling facilities,
- (e) put the owner of the protective forest under the obligation, on application by the beneficiary, to tolerate certain measures (such as the establishment or maintenance of protection systems against rockfall, devastation by mudflow and avalanches, carrying out planting and the like) to the necessary extent.

(3) The authority shall also, if necessary,

- (a) make the felling subject to prior notification or marking performed by a forestry expert or to a permit,
- (b) specify that management be conducted in accordance with an officially approved economic plan,
- (c) specify that the beneficiaries shall appoint and nominate a person responsible for monitoring compliance with the measures ordered,
- (d) issue a general prohibition against entry of the protective forest by unauthorised persons and make this known in accordance with Article 34 para. (10).

(4) At the request of the owner of the protective forest, the authority shall charge the execution of the measures provided for in accordance with paragraphs (2) and (3) and necessary for the purpose of declaring the forest a protective forest by official notice to the party benefiting from the protective forest.

Declaring Forests Protective Forests (“Bannwald”) in the Interest of Traffic Facilities

Article 29. (1) Should a forest be declared a protective forest in favour of a traffic facility and should it appear necessary in the interest of safe traffic, the authority shall, notwithstanding the measures provided for in Article 28, paragraphs (2) and (3), also order in the official notice by which the forest is declared a protective forest in particular that notification of the intention to carry out forestry work shall be given to the technical monitoring service locally responsible for the traffic system at least 48 hours before commencement.

(2) The maintainer of the traffic facility shall carry out the measures in protective forests detailed in Article 28 para. (2) pt. (c) at its own expense.

(3) Should forestry work be carried out in a protective forest that necessitates the presence of a supervisory body of the road and/or rail monitoring service in the interest of safety for road traffic or for rail or cable traffic, the maintainer of the road and/or the transport company shall be responsible for the secondment of such a body at its own expense.

(4) The supervisory body shall be entitled, where this is necessary to ensure the undisturbed and safe maintenance of traffic, to provide for the cessation of forestry work before and during traffic, if required also by signalling.

(5) The owner of the forest shall

- (a) tolerate entry of the protective forest by supervisory bodies for the purpose of ascertaining any defects that might endanger the traffic facility or traffic as well as carrying out any action for the purposes of paragraph (2) and
- (b) comply with the orders of the supervisory body (para. (4)).

(6) The obligation set out in paragraph (5) point (b) also concerns the people of the forest owner as well as the purchaser of standing timber, the logging and the hauling contractors and their people.

(7) Before the official notice by which the forest is declared a protective forest is issued, the supervisory authority responsible for the traffic facility shall be heard.

Proceedings to Declare a Forest a “Bannwald”

Article 30. (1) Proceedings to declare a forest a protective forest (“Bannwald”) shall be initiated *ex officio* or on application.

(2) The following are entitled to apply:

- (a) the owner of the forest;
- (b) the Province from the standpoint of Provincial area planning;
- (c) in addition to these, with regard to the purposes of declaring the forest a protective forest according to Article 27 para. (2)
 1. points (a) through (d):
all natural and legal persons that are able to demonstrate a legal interest in the forest being declared a protective forest,
 2. point (a) also:
offices in accordance with Article 102 para. (1),
 3. point (e):
the maintainer of the traffic facilities or the energy supply system,
 4. point (f):
the Federal Minister of National Defence.

(3) The application shall include all information necessary for initiating the proceedings, in particular the purpose of declaring the forest a protective forest by official notice, the precise designation of the forest for which the declaration as protective forest is requested, its owners, the restrictions applied for, and the group of expected beneficiaries.

(4) Should proceedings to declare a forest a protective forest also relate to the catchment area of a torrent or an avalanche, the office referred to in Article 102 para. (1) shall be heard.

(5) The forest shall be declared a protective forest by means of an official notice issued by the authority. Depending on the respective purpose the forest shall be declared a protective forest for a specific period of time or for an indefinite period.

(6) Should the requirements for declaring the forest a protective forest cease to apply, the protection imposed by official notice shall be lifted on application by the forest owner, the beneficiary, or *ex officio*.

(7) In the proceedings referred to in paragraph (6), the persons mentioned there shall have powers of representation.

Compensation

Article 31. (1) The owner of the forest shall be entitled to compensation if he should suffer proprietary disadvantages as a result of the forest being declared a protective forest. The beneficiary shall bear the cost of carrying out the measures ordered, except if public funds were granted for the carrying out of these measures.

(2) The compensation shall not apply where the owner of the forest has to carry out or tolerate measures in accordance with other provisions of this Federal Act or other statutory provisions or based on a title under private law.

(3) If it is probable that the forest concerned will be declared a protective forest permanently according to its purpose and that, at the same time, the protection of that forest will be associated with such problems in terms of management that they permanently exclude proper use by the owner of the forest, the forest shall, at the latter's request, be redeemed in full by the beneficiary instead of compensation being paid.

(4) In assessing compensation, the provisions of Articles 4 through 9 para. (1) of the Railway Expropriation Act 1954, Federal Law Gazette No. 71, shall apply analogously. The total amount of the compensation or the first instalment shall be paid out within two months of the compensation notice requiring legal force. At the forest owner's request, the authority shall provide for in the official notice establishing the protective forest that an appropriate advance payment be made by the beneficiary.

(5) In accordance with the above principles, persons who have rights of use in the protective forest shall also be compensated for any proprietary disadvantages that may be associated with the forest being declared a protective forest.

(6) Compensation is to be paid by the beneficiary; should the fact that the forest has been declared a protective forest be advantageous to several beneficiaries, however, the compensation shall be borne by them in proportion to the advantage achieved or the disadvantage averted. The benefit to the forest owner himself shall also be taken into account.

(7) The level of compensation shall be laid down by notice by the authority on application; should the fact that the forest has been declared a protective forest be advantageous to several beneficiaries, the authority shall also determine the allocation of the compensation in its notice.

(7a) If an order as specified in Article 28 para. (4) is placed after the compensation has been laid down in accordance with paragraph (7), the beneficiary may apply for it to be reassessed.

(8) Within one year of the compensation notice acquiring legal force, either of the parties may apply to the District Court responsible for the protective forest according to its location for the compensation to be set. The compensation notice shall become invalid as a consequence of this application. Should the compensation have been granted in the form of an annuity, either of the parties may at any time apply for it to be reassessed by the District Court.

(9) Applications under paragraph (8) may only be withdrawn with the consent of the opponent.

(10) Article 24 para. (1) of the Railway Expropriation Act shall be applicable to the legal proceedings for determining compensation.

(11) In cases of dispute the authority shall, on application, determine and charge the amount of the cost in accordance with paragraph (1), second sentence.

Forests Subject to Rights of Use

Article 32. (1) Notwithstanding other provisions of this Federal Act, forests encumbered with rights of use (Forest Rights of Use, in Austria "Einförstungsrechte") within the meaning of Article 1 para. (1) of the Basic Law 1951 on the treatment of forest and grazing rights of use as well as to other special field servitudes, Federal Law Gazette No. 103 (forests subject to rights of use), shall be so managed by their owners in consideration of the principles of Article 1 that the exercise of forest rights of use is ensured.

(2) The provisions of paragraph (1) shall also apply to forests which are the property of the municipality (communal forests) and to rights of use with respect to these forests (Communal Rights of Use).

Forests With Special Habitats

Article 32a. (1) Forests with special habitats (biotope protection forests) are natural forest reserves based on private-law agreements, forest areas in national parks, or forest areas located in nature conservation areas or in conservation areas designated by law, ordinance or official notice in accordance with Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (OJ L 206 of 22 July 1992, p. 7) or in accordance with Council Directive 79/409/EEC on the conservation of wild birds (OJ L 103 of 25 April 1979, p. 1).

(2) Upon the request of the forest owner or of an authority responsible for safeguarding the public interest associated with forests under paragraph (1), the authority may, with the approval of the forest owner, issue a notice providing for the following exceptions from the scope of individual provisions of this Federal Law, relating in particular to

1. reforestation in accordance with Article 13;
2. the destruction of a forest in accordance with Article 16;
3. the treatment and use of protection forests in accordance with Article 22;
4. measures to be taken against pest infestation or against the imminent danger of an increase in pests in accordance with Articles 44 and 45; and
5. the protection of immature stands in accordance with Article 80 para. (1),

if this does not conflict with public interests of forest maintenance.

(3) In case of imminent danger or if the conditions are no longer met, the authority shall modify or cancel a notice issued in accordance with paragraph (2) *ex officio* or upon the request of the forest owner and shall revoke the exception granted in accordance with paragraph (2) in full or in part. In case of imminent danger for a forest not covered by paragraph (1) which borders a forest within the meaning of paragraph (1), the authority shall decide also upon the request of the owner of the endangered neighbouring forest.

(4) In procedures according to Article 17, Article 81 and Article 85 concerning forests with special habitats as specified in paragraph (1) the authority shall hear the district administration authority as nature

conservation authority before taking the decision.

Use of Forests for Recreational Purposes

Categories of Use

Article 33. (1) Anyone may, notwithstanding the provisions of paragraphs (2) and (3) and of Article 34, enter a forest for recreational purposes and spend some time there.

(2) The following may not be used for recreational purposes according to paragraph (1):

- (a) forest areas for which the authority has ordered a prohibition of entry for reasons of Article 28 para. (3) pt. (d), Article 41 para. (2) or Article 44 para. (7),
- (b) forest areas with operational facilities, such as arboretums and seeding nurseries, wood-storage and wood-seasoning sites, storage places for material and machinery, buildings, operating sites for hauling facilities, except forest roads, including their areas of risk,
- (c) reforestation areas and areas newly afforested, the latter notwithstanding Article 4 paragraph (1), where their plant growth has not yet achieved a height of 3 metres.

(3) Use going beyond paragraph (1), such as camping in the darkness, tenting, driving or riding vehicles, or horse-riding, is only permissible with the consent of the owner of the forest, and on forest roads only with the consent of the person responsible for maintaining the forest road. Skiing in forests is only permitted in the area of ascending aids on marked pistes or ski routes. Cross-country skiing without marked courses is only permitted if the necessary care is taken; use of the forest extending beyond this, such as laying route markers and using those routes, is however only permitted with the consent of the owner of the forest. Consent may be restricted to certain categories or times of use. Consent shall be deemed to have been granted if the admissibility of use and its extent have been made clear within the meaning of Article 34 paragraph (10).

(4) Where proper management of the forests permits, the maintainer of the forest road shall tolerate its being driven on by vehicles used for emergency purposes or to supply shelter huts accessible via the forest road; it is not necessary to make this evident for the purposes of Article 34 para. (10). Should the forest road be blocked, a reasonable agreement on making the forest road accessible shall be made between the maintainer of the forest road and the office responsible for the emergency service. The maintainer of the forest road shall be entitled to claim appropriate compensation for proprietary disadvantage against the owner of the shelter hut depending on the extent to which the forest road is used. The provisions of Article 14 para. (1), sentences 3 through 6, shall apply analogously.

(5) Use of forests for recreational purposes shall not give rise to usucapion (Articles 1452 ff. of the Austrian Civil Code).

(6) Staff responsible for maintaining public security may ensure compliance with the provisions of paragraph (3).

Restrictions on Use

Article 34. (1) Notwithstanding the provisions of Article 33 para. (2), a forest may be excluded from use for recreational purposes by the owner of the forest temporarily (para. (2)) or permanently (para. (3)) (ban).

(2) Bans subject to a time limit are only permissible for the following areas:

- (a) construction sites of hauling facilities and other forestry engineering structures;
- (b) risk areas for wood felling and hauling up to the hauling point for the period of wood harvesting work;
- (c) forest areas in which a fairly large number of trunks have been thrown or broken as a result of atmospheric effects and which have not yet been processed, until processing has come to an end;
- (d) forest areas in which treatment is being applied to combat forest pests as long as it is necessary for this purpose;
- (e) forest areas if and as long as they serve scientific purposes and this cannot be achieved without a ban.

(3) Permanent bans are only permissible for forest areas

- (a) devoted to special plantations developed for ancillary forest purposes such as growing Christmas trees;
- (b) devoted to viewing animals or plants, such as zoological gardens or alpine gardens or special recreational facilities, irrespective of an entry fee;
- (c) which the owner of the forest retains for himself or his employees in close proximity to their dwellings, and which do not exceed a total of 5% of the total area of that forest to a maximum of 15 hectares; where the total forest area is below 10 hectares, up to 0.5 hectares may be banned.

(4) Should the forest owner intend to have a limited ban of forest area lasting more than four months or a permanent ban on forest areas exceeding 5 hectares, he must apply to the authority for a permit. In this application, to which a site plan should be attached, the plot number, the reason for the ban and the intended duration of the ban and, if appropriate, the size of the forest area to be banned, should be stated. The application will be admitted if this ban is unavoidable to achieve the purpose of the ban.

- (5) A forest which is banned from use for recreational purposes, should be identified in instances
- (a) of paragraph (1) and of Article 33 para. (2)(b) by the owner of the forest,
 - (b) of Article 33 para. (2)(a) by the authority. Areas in accordance with Article 33 para. (2) pt. (c) and areas in respect of which a statement has been made in accordance with Article 41 para. (3) do not require identification.

(6) The identification referred to in paragraph (5) shall be carried out by means of information signs to be put up in those locations where public roads and paths, marked paths, freight paths and forest roads as well as marked ski routes, pistes and cross-country courses go into the banned area to be identified or are immediately adjacent to it.

(7) Should the use of a forest area for recreational purposes not be permissible for the reasons listed in paragraphs (2) and (3) and in Article 33 para. (2) points (a) and (b), the ban shall extend

- (a) in instances of paragraph (2) (a) through (d), and of Article 33 para. (2) (a), also to all non-public paths leading through the forest area,
- (b) in instances of paragraph (2) (e), of paragraph (3), and of Article 33 para. (2) (b), to non-public paths, notwithstanding, however, existing rights of use.

(8) Should there be a ban according to paragraph (3), the owner of the forest shall enable circumvention of the banned area; if necessary he shall lay suitable paths as detours. Should this be impossible because of the position of the banned forest area, he shall, if the ban is identified by information signs, indicate the possibility of using paths leading through the banned forest area by means of indicator boards; should the forest area be fenced in, provisions should be made for this possibility by making ladders or gates available.

(9) In forest areas which must not be used for recreational purposes because of a ban in accordance with paragraph (1), or the entry into which is prohibited in accordance with Article 33 para. (2) (c) paths, where not already included in the ban under paragraph (7), must not be left.

(10) The Federal Minister of Agriculture, Forestry, Environment and Water Management shall pass specific orders on the kinds of identification, form and wording of information signs and the way in which this is made evident. In case of bans with a time limit, the beginning and end of the ban shall be indicated on the information sign or below. If there may be any danger associated with forest work, special reference should be made to this on the signs.

Official Review of Restrictions on Use

Article 35. (1) The authority shall check bans

1. with regard to which there is doubt concerning their admissibility *ex officio*;
2. with regard to which an application for review has been made by a person entitled to do so in accordance with paragraph (4) or
3. in case of application for a permit according to Article 34 paragraph (4)

for their admissibility.

(2) Should the review decide that maintaining a ban is permissible, the authority shall determine this by issuing an official notice where para. (1) sub-paragraphs 1 and 2 apply, and issue the permit in instances of para. (1) sub-para. 3. Should the review show that the ban or the barrier is not permissible, the authority shall issue an official notice to this effect notifying the owner of the forest that he has to remove the ban or the barrier. Should the review indicate that the ban is based on another Federal Law or Provincial Law, the authority may issue an official notice to this effect notifying the owner of the forest that he has to establish gates or ladders insofar as this is in compliance with the purpose and the legal ground of the ban. Should the review indicate that only the extent of the banned area has been exceeded, the authority shall pass an official notice determining the permissible dimensions and notify the owner of the forest to remove existing barriers where they serve to extend the ban beyond the determined extent.

(3) The ban is not permissible if

- (a) there are no grounds in accordance with Articles 33 (2) or 34 para. (2) or (3),
- (b) in instances of Article 34 para. (4) they no longer cover the provable need for recreation in terms of local circumstances, and this cannot be compensated for by structural facilities (Article 36 para. (5)),
- (c) the authority has determined that the owner of the forest has not complied with provisions in accordance with Article 34 (8).

(4) The following are entitled to apply for the purposes of paragraph (1) sub-para. 2,

- (a) the municipality in which the banned area is located,
- (b) the office appointed to look after the interest of tourism according to the provisions of Provincial legislation,
- (c) organisations, the members of which have hitherto regularly entered the banned area,
- (d) the owner of the forest.

Declaration as Recreational Forest

Article 36. (1) Should there be public interest in using the forest for purposes of recreation because

- (a) there is a need for recreation space for the population of certain areas, especially conurbations, which is to be directed into regulated channels because of its extent or,
- (b) the creation, maintenance and formation of recreational areas appears desirable in tourist areas, application can be made for an area to be declared as recreational forest (paragraph (3)), provided that it is not forest area in accordance with Article 34 para. (3), or a locally-required protective effect for the

purposes of Article 6 para. (2) point (b) is not endangered thereby. When a forest shall be declared as recreational forest, forest owned by territorial authorities shall be given priority in case of equal qualification in terms of recreational purposes.

(2) The following are entitled to apply in accordance with paragraph (1):

- (a) the Province from the standpoint of Provincial area planning,
- (b) the municipality in which the forest area is located or from which experience indicates that the overwhelming proportion of visitors to the forest come,
- (c) the office appointed to look after the interest of tourism according to the provisions of Provincial legislation,
- (d) organisations whose members regularly enter the forest area,
- (e) the owner of the forest.

(3) The authority shall investigate the admissibility of the applications taking into consideration that the effects of the forest be ensured (Article 6 para. (2)), that the proper maintenance of structural facilities (para. (5)) be guaranteed and whether mining and trading permits exist, and shall declare by notice the forest area applied for to be a recreational forest, if there are no serious objections regarding this and the requirements set out in paragraphs (1) and (2) apply; after the notice has acquired legal force the Governor of the Province shall identify this forest area in the Forest Development Plan as a declared recreational forest.

(4) Should forest be declared recreational forest in accordance with paragraph (3) and appear as such in the Forest Development Plan, the authority shall, on application by the owner of the forest, or a person entitled to apply in accordance with paragraph (2) points (a) through (d), where the latter can show that the owner of the forest has given his consent to this, for the creation and use of structural facilities (paragraph (5)) permit

- (a) clearings, in particular temporary clearings (Article 18),
- (b) exemptions from a prohibition on felling immature high forest stands (Article 81),
- (c) exemptions from the provisions of Article 13 para. (1), Article 33 para. (2) (a), Article 40 para. (3), and the ordinance to be passed in accordance with Article 45 paragraph (2),

if and insofar as the recreational effect of the forest is raised and public interest in the protective and beneficial effects of the forest (Article 6 para. (2)) is not materially impaired.

(5) Structural facilities within the meaning of paragraph (4) are in particular car parks, playing and resting meadows, seating facilities, foot paths, cycle tracks and bridle paths, huts or other structures for recreational purposes, animal reserves, forest education and forest sports paths and sports facilities, the nature and extent of which shall as much as possible try not to impair the effects of the forest (Article 6 para. (2)).

(6) The provisions of Article 31 and of Section X apply to bearing the cost of measures taken in the recreational forest as well as the cost of proprietary disadvantage suffered by the owner of the forest as a consequence of the declaration.

(7) Should the provisions set out in paragraphs (1), (3) and (4) no longer apply, the authority may, on application or *ex officio*, repeal the declaration as recreational forest as well as permits in accordance with paragraph (4).

D. Forests with Secondary Uses

Woodland Grazing; Snow Refuge

Article 37. (1) Forest grazing must not endanger the maintenance of forests or their effects (Article 6 para. (2)).

(2) Cattle driving shall be carried out with due regard to the necessary preservation of the forest and, if relevant, also following reasonable detours.

(3) Woodland grazing must not be exercised in parts of the forest intended for regeneration, where the grazing stock might damage seedling crops already in existence or to be brought in (protected areas). Grazing animals shall be kept away from the protected areas. On application by the owner of the forest or the owner of grazing rights, the authority shall lay down by notice extent, duration and identification of the protected areas bearing in mind the principles set out in Article 1.

(4) The provisions of regulatory documents applicable to grazing rights in forests subject to forest rights of use are not affected by the rules of paragraphs (1) and (3).

(5) Where there is a threat of elemental danger and while these dangers persist, each forest owner shall be

- (a) entitled to drive grazing cattle into his forest, allow it to shelter and graze there, and
- (b) obligated to permit outside grazing cattle to shelter in his forest (snow refuge).

(6) The forest owner with obligations in accordance with paragraph (5) point (b) shall be entitled to compensation for proprietary disadvantage. As far as compensation for the forest owner with these commitments is concerned, the provisions of Article 14 para. (1) sentences 3 through 6 shall apply analogously.

Production of Forest Litter

Article 38. (1) Ground litter, such as leaf or needle litter and the like, may only be obtained if care is taken of the forest soil. It is permitted to obtain raked litter with a wooden rake and no more than every

fourth year at the same place. In forests where soils tend to suffer nutrient depletion, in protection forests and forest areas where the use of litter would endanger re-afforestation, the obtaining of ground litter is completely prohibited.

(2) Obtaining twigs from standing trees (lopping) is prohibited.

SECTION IV FOREST PROTECTION

A. Protection against Forest Fires

Lighting Fires in Forests

Article 40. (1) Lighting or maintaining a fire by persons not authorised to do so, and incautious use of inflammable items is prohibited in forests, in the upper timberline zone and, where conditions prevail which favour the spread of a forest fire, also near forests (danger area). This also includes throwing away burning or glowing items, such as, in particular, matches and cigarettes.

(2) The following are authorised to light or keep fire in the forest:

- (a) the owner of the forest, his forest officers, forest protection and game-protection officers and forest workers,
- (b) other persons having possession of a written permit from the owner of the forest, and
- (c) in the danger area the owner of the land and his/her agents.

(3) Permanent tent or camping sites may be excluded from the prohibition of paragraph (1), first sentence, provided that the authority permits this. Should the owner of the forest not himself be the applicant, his/her declaration of consent should be attached to the application. The permit should be granted if there is no risk from fire. If necessary, the permit is to be made dependent on conditions and requirements for measures to be taken against the risk of forest fire.

(4) Clearance burning or other blanket burning-off of plant residues (felling refuse and burn residue, frating) is only permissible if it does not endanger the forest, harm the quality of the soil or create the risk of a forest fire. The intention to start such fires shall be reported to the municipality no later than before commencement stating the location and the time.

(5) Persons authorised to light fires must proceed with the greatest caution. The fire should be supervised and carefully extinguished before it is left.

Precautionary Measures

Article 41. (1) In times of particular fire risk, the authority shall prohibit any lighting of fires or smoking in the forest and its area of risk for areas particularly subject to forest fires.

(2) Should there be particular reasons that suggest that prohibitions in accordance with paragraph (1) to guard against forest fires in areas subject to forest fires are inadequate, the authority shall prohibit persons not involved in forest management from entering these areas. Special attention should be given to risks from heavy holiday traffic and forest structures that are unfavourable for this.

(3) The authority shall give notification of prohibitions in accordance with paragraphs (1) and (2) in a suitable fashion. The owner of the forest may make such prohibitions evident.

(4) To guard against forest fires at places exposed to particular fire risk from flying sparks or other fire-inducing effects due to the operation of a railway, the authority shall issue a notice requiring the railway company to carry out suitable protective measures in the forest affected and in its area of risk by mutual agreement with the authority responsible for railway affairs (such as establishing and maintaining fire-restricting measures in the form of safety strips or removing easily-inflammable items from the area at risk). The owner of the forest shall tolerate such action and entry on his land. He shall be entitled to appropriate compensation for proprietary disadvantage suffered as a consequence; the provisions of Article 31 paragraphs (4) through (10) shall apply analogously.

(5) Where new afforestation takes place along railway installations, the authority shall issue a notice requiring the owner of the forest to carry out protective measures in accordance with paragraph (4).

Assumption of the Costs of Fighting Forest Fires

Article 41a. (1) The Federal Government shall bear the costs incurred in fighting forest fires in accordance with the provisions of the following paragraphs. The costs of fighting forest fires are those relating to the fighting of an uncontrolled fire on an area deemed to be forest under Article 1a paragraphs (1) through (3) and paragraph (7) or on plant cover to which the Forest Act applies according to Article 2.

(2) The forest firefighting costs of the fire brigades or of the municipalities or businesses bearing these costs (cost bearers) shall be compensated by the payment of a flat-rate tariff pursuant to para. (4) or compensation pursuant to para. (5).

(3) The flat-rate tariff pursuant to para. (4) refers to a forest fire incident and is calculated according to the size of the fire area and the type and duration of the forest fire fighting, whereby

1. with regard to the size of the fire area, a distinction shall be made between small fires (less than 0.3 hectares), medium fires (0.3 to 3 hectares) and large fires (more than 3 hectares, but less than 30 hectares),

2. with regard to the type of firefighting, a distinction shall be made between normal firefighting (in flat, well-developed terrain) and more difficult firefighting (in impassable, alpine protective forest terrain with a difficult water supply and a slope inclination of over 30°) and
3. with regard to the duration of firefighting, a distinction shall be made between firefighting operations lasting up to 24 hours, firefighting operations lasting over 24 hours and firefighting operations lasting over 48 hours.

(4) The Federal Minister of Agriculture, Forestry, Regions and Water Management shall determine the amount of the flat-rate tariffs for small fires, medium fires and large fires by ordinance.

(5) In the case of extreme fires (30 hectares or more), the following costs shall be compensated:

1. crew and transport costs in accordance with the tariff regulations of the Austrian Federal Fire Brigade Association as amended,
2. operating and extinguishing agents,
3. damage to vehicles, appliances, tools and equipment,
4. catering costs,
5. loss of earnings and
6. accommodation costs.

(6) In the case of services or benefits in kind requested by the authorities in accordance with the provisions of provincial law, the obligated parties shall be entitled to compensation.

This compensation shall include

1. in the case of services, the proven loss of earnings and
2. in the case of benefits in kind
 - (a) the reduction in value suffered by the requested item as a result of its use during the period of the request,
 - (b) the costs of repair made necessary by the use of the requested item,
 - (c) the loss of earnings caused by the withdrawal of the use of the requested item,
 - d) the costs of operating vehicles for the duration of the request, and
 - e) the pro rata personnel costs of the operating personnel required for the operation of vehicles for the duration of the request, unless they are persons obligated to provide assistance free of charge.

(7) In the event of official intervention in property pursuant to the provisions of provincial law, the obligated parties shall be entitled to compensation (indemnification) for the resulting damage. This claim shall not exist insofar as the damaging measure served to prevent damage to the obligated person himself or to persons living in the same household with him or these persons are at fault for the occurrence of the forest fire.

(8) Any pecuniary benefits accruing to the parties involved under paragraphs (6) and (7) as a result of the forest firefighting measures shall be offset against the amount of compensation.

(9) An application for payment of a lump-sum tariff pursuant to paragraph (4) or compensation pursuant to paragraphs (5) through (7) shall be submitted to the Federal Minister of Agriculture, Forestry, Regions and Water Management within six months of the end of the forest firefighting measures, failing which the claim shall be forfeited. The application for payment of a lump-sum tariff pursuant to paragraph (4) or compensation pursuant to paragraph (5) shall be submitted by

1. the fire brigade or the municipality bearing the costs of the fire brigade for the firefighting costs of the fire brigades,
2. the municipality for the firefighting costs of the professional fire brigades, and
3. the company for the firefighting costs of the company fire brigades.

If several legal entities are entitled to submit an application with regard to a forest fire pursuant to para. (3), they shall submit the application jointly and name a joint legal entity as authorised recipient responsible for allocating the lump sum granted to those entitled to submit the application in accordance with their participation in fighting the fire. In the event of an application for payment of compensation pursuant to paragraphs (6) and (7), the obligated party shall be entitled to submit the application.

(10) The application for payment of a flat-rate tariff pursuant to para. (4) shall include information on the size of the fire area and the type and duration of the firefighting. The application shall be accompanied by event documentation from a forest fire reporting system on the respective forest fire and, if applicable, the fire report and the police report. The application for payment of compensation pursuant to paragraphs (5) through (7) shall include the relevant supporting documents to prove the costs incurred or the claim for compensation and, if applicable, the police report.

(11) If an amicable agreement on the amount of the claim cannot be reached within six months of the submission of an application, the Governor of the Federal Province shall determine the amount of the claim by means of an official decision at the request of the person entitled to the claim. The application to the Provincial Governor shall be submitted within one year of the notification that no amicable agreement has been reached. Paragraph (9) shall apply *mutatis mutandis* with regard to the submission of the application.

(12) The above provisions shall not affect civil law claims of the Federal Government, in particular against the party responsible for the fire or an insurance carrier obligated to pay compensation.

Empowerment of Provincial Legislature

Article 42. The Provincial Legislature is empowered in accordance with Article 10 paragraph (2) B-VG to decree detailed regulations on

- (a) reporting forest fires,
- (b) organising measures to combat forest fires,
- (c) providing help with defence measures,
- (d) combative action at the fire location, and
- (e) action to be taken after a forest fire.

NB: Pt. (f) repealed by sub-para. 10 of Federal Law Gazette I No. 144/2023.

B. Protection Against Forest Pests

Forest Pests, Duty to Notify the Authority

Article 43. (1) The owner of the forest, his forest officers and forest protection officers as well as the owners of areas referred to in Article 1a paragraphs (4) and (5) and Article 2 shall direct their attention to an impending risk from forest pests and report immediately to the authority if an increase in forest pests threatening to be a danger occurs.

(2) Forest pests for the purposes of paragraph (1) are animal pests (such as, in particular, insects or mice), plant pests, fungi or viruses which, if their incidence were to increase, could endanger the forest or substantially lower the value of the wood.

(NB: Paragraph (3) has been repealed by Federal Law Gazette I No. 59/2002.)

Measures to be Taken against Pest Infestation or against the Imminent Danger of an Increase in Pests

Article 44. (1) The owner of the forest shall, in a manner that can reasonably be expected from him,

- (a) take precautionary measures against the risk of dangerous damage to the forest by forest pests and
- (b) effectively combat forest pests which are already increasing in a threatening fashion.

(2) Should other forests also be threatened by the risk of pests, the authority shall, if successful preventive or combative measures require it, issue a notice or an order requiring the owners of the forest in the area at risk to carry out joint or simultaneous measures.

(3) Should the size of the danger, the extent of infestation or the nature of the measures to be applied make it seem appropriate, the Governor of the Province may intervene directly and take the necessary action, if appropriate in accordance with a uniform plan, for the purposes of paragraphs (1) and (2). A reasonable area of agricultural land may be requisitioned against compensation to prepare and carry out the combative measures in the immediate vicinity of the forest areas endangered. As regards compensation, Article 14 paragraph (1), sentences 3 through 6, shall apply *mutatis mutandis*.

(4) The cost of the measures to be carried out jointly or simultaneously (paragraphs (2) and (3)) shall, insofar as they are not payable from public funds, be distributed among the individual forest owners in proportion to the size of the forest areas protected thereby or in accordance with another equitable valuation criterion. An expert opinion shall be obtained from the Chamber of Agriculture on the valuation criterion to be applied.

(5) Should the offices concerned with combative measures in accordance with paragraphs (2) and (3) have recourse to third parties or outside vehicles to carry out manual and tractive work, to supervise or to provide assistance, the owners of the property shall bear the resultant costs in proportion to the area covered in paragraph (4); this shall not apply if the owners of the forest do the necessary work themselves.

(6) Land used for agricultural and horticultural purposes shall be included in the action if it is located inside the endangered forest areas and the susceptibility to forest pests of the culture growing on it

necessitates its inclusion. An expert opinion shall be obtained from the Chamber of Agriculture before a decision is taken on the inclusion.

(7) To avoid risk to people and animals the authority shall, in the case of measures in accordance with paragraph (1) point (b) on application by the owner of the forest, or in the case of measures according to paragraphs (2) and (3), the authority responsible thereby, order the necessary restrictions on traffic (ban) in the area included in the combative procedures (combative area). In the case of major combative operations the owners of endangered bee populations, those with hunting and fishery rights as well as the competent agents of water supply systems, shall be notified of the introduction of combative measures in due time.

Other Measures

Article 45. (1) It is prohibited to encourage the imminent danger of an increase in forest pests by action or neglect; this also applies when a mass increase is not immediately threatening. Already-felled wood infested by forest pests to a threatening degree, or which may serve as a breeding ground for such pests, should be treated in good time wherever it is located, to suppress the spread of forest pests. This obligation concerns the owner of the forest or the owner of the wood in question.

(2) The Federal Minister of Agriculture, Forestry, Environment and Water Management shall order the detailed instructions concerning all measures suitable and required to prevent or avoid the imminent danger of an increase in forest pests by ordinance. Such ordinance may in particular provide that

1. tree trunks that are infested or threatened by infestation shall be felled within a period of time in line with the requirement for best possible prevention of a hazardous increase in forest pests, these trunks shall be processed as quick as possible, removed from the forest, de-barked or otherwise made unsuitable for a hazardous increase in forest pests,
2. storing such wood, even outside the forest, shall only be permitted if it is subjected to certain chemical or mechanical treatment such as spraying or debarking.

Use of Plant Protection Products

Article 46. (1) Only products entered in the Plant Protection Register according to Article 4 paragraph (2) of the Plant Protection Products Act 2011, Federal Law Gazette I No. 10/2011 ("Pflanzenschutzmittelgesetz 2011"), may be used as plant protection products - taking into account the use-up period.

(2) Plant protection products may only be used properly for the purposes of Art. 55 of Regulation (EC) No 1107/2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC, OJ L 309, of 24 November 2009, p. 1 ("proper use"), in compliance with the principles of good plant protection practice. Professional users as defined in Article 3 (1) of Directive 2009/128/EC establishing a framework for Community action to achieve the sustainable use of pesticides, OJ No L 309 of 24 November 2009, p. 71, as amended by OJ L 161 of 29 June 2010, p. 2010, shall additionally comply with the general principles of integrated pest management according to Article 14 and Annex III of that Directive.

(3) Aerial spraying of pesticides from an aircraft (plane or helicopter) is prohibited. By way of derogation from this prohibition, the Provincial Governor may only allow aerial spraying provided the conditions laid down in Article 9(2) through (4) of Directive 2009/128/EC are met. The Provincial Governor shall conduct appropriate monitoring and keep records in accordance with Article 9(6) of Directive 2009/128/EC and shall make information available to the public.

Inspection of pesticide application equipment in use

Article 46a. (1) The Federal Minister of Agriculture, Forestry, Regions and Water Management shall, in order to ensure a high level of protection for human life and health and for the environment, or to implement Union law, issue more detailed provisions by ordinance on the requirements for pesticide application equipment and its inspection, in particular on

1. the type of pesticide application equipment to be inspected and the intervals between inspections,
2. the requirements for the inspection of pesticide application equipment,
3. the equipment suitable for carrying out the inspection,
4. the maintenance and handling of pesticide application equipment,
5. the certification of the inspection, and
6. the recognition of the inspections carried out by the Federal Provinces, other EU Member States or equivalent states.

(2) Pesticide application equipment means any apparatus specifically intended for the application of pesticides, including accessories that are essential for the effective operation of such equipment, such as nozzles, manometers, filters, strainers and cleaning devices for the tank.

Article 46b (1) The Federal Minister of Agriculture, Forestry, Regions and Water Management shall draw up the part of the National Action Plan on the Sustainable Use of Plant Protection Products that relates to the responsibility of the Federal Government under this Act.

(2) Taking into account the general principles of integrated pest management, the principles of good plant protection practice and the application of the precautionary principle, the part of the National Action Plan referred to in paragraph (1) shall in particular

1. define quantitative targets, objectives, measures and timetables for reducing the risks and the impact of the use of plant protection products on human health and the environment,
2. define measures to promote the development and introduction of integrated pest management and alternative methods and practices to reduce dependence on the use of plant protection products, and
3. define the indicators to monitor the use of plant protection products containing active substances of particular concern, especially where non-chemical alternatives are available.

(3) The part of the National Action Plan shall be reviewed at least every five years from the date of preparation, taking into account current needs, and shall be amended if necessary.

(4) The draft of the part of the National Action Plan shall be sent to the bodies whose interests are significantly affected by the contribution to the National Action Plan, allowing a period of at least four weeks for comments. It shall also be made available for general inspection at the Federal Ministry of Agriculture, Forestry, Regions and Water Management and made accessible to the general public on the internet.

(5) During the publication period, any person may comment on the draft in writing. The comments received shall be recognised and given due consideration in the decision on the part of the National Action Plan.

(6) The Federal Minister of Agriculture, Forestry, Regions and Water Management shall forward the part of the National Action Plan and its amendments pursuant to paragraph (3) to the European Commission together with the National Action Plan.

(7) The part of the Action Plan does not establish any subjective public rights.

Implementation of Regulations of the European Union

Article 46c. The provisions of Article 46d through Article 46h and Article 174 para. (1) point (a) sub-para. 19b establish accompanying measures for the implementation of the following European Union Regulations:

- (1) Regulation (EU) 2016/2031 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 and repealing Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC, OJ L 317, 23.11.2016 p. 4, last amended by Regulation (EU) 2017/625, OJ L 95, 07.04.2017 p. 1;
- (2) Regulation (EU) 2017/625 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031, Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004, Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Decision 92/438/EEC (Official Controls Regulation), OJ L 95, 7.4.2009 p. 1, OJ L 95 of 07.04.2017 p. 1, last amended by Regulation (EU) 2021/1756, OJ L 357 of 08.10.2021 p. 27, with regard to plant health and plant protection products.

Competence

Article 46d (1) The competent authority shall be:

1. the district administration authority

(a) for the enforcement of Art. 9 para. 3, Articles 10 through 20, 22, 24 and 29, with the exception of the assessment of pests, of Regulation (EU) 2016/2031 and for the conduct of criminal proceedings, and

(b) for the enforcement of Articles 7 through 14, 22, 24, 34 to 36, 137 and 138 of Regulation (EU) 2017/625,

2. the Provincial Governor

- (a) for the enforcement of Articles 23, 27 and 60 through 64 of Regulation (EU) 2016/2031 and
- (b) for the enforcement of Articles 6 and 37 through 42 of Regulation (EU) 2017/625,

3. the Federal Minister of Agriculture, Forestry, Regions and Water Management

- (a) for the enforcement of Art. 9 para. 1 and 2, Art. 25, 26, 28 para. 7, Art. 29 regarding the evaluation of pests, and Art. 31 of Regulation (EU) 2016/2031,
- (b) for the enforcement of Articles 4 and 28 to 33 of Regulation (EU) 2017/625 and
- (c) for fulfilling all reporting obligations to the European Commission and the Member States of the European Union.

(2) Insofar as this is in the interest of expediency, simplicity and economy, tasks within the scope of competence set out in paragraph (1) may, by ordinance, be delegated

1. from the Federal Minister of Agriculture, Forestry, Regions and Water Management to the Provincial Governor and

2. from the Provincial Governor to the district administration authority.

(3) In accordance with paragraph (2), the Provincial Governor may, by ordinance, assign tasks of the district administration authority within the scope of competence under paragraph (1) to himself.

(4) If this is in the interest of economy, efficiency and expediency, the Federal Minister of Agriculture, Forestry, Regions and Water Management may, in accordance with Articles 28 to 30 of Regulation (EU) 2017/625, delegate control tasks relating to plant protection and plant protection products to suitable agencies or natural persons by ordinance. The delegated tasks shall be fulfilled under the supervision of the district administration authority. The delegation shall be revoked if any of the conditions for delegating tasks specified in Regulation (EU) 2017/625 or in legal acts pursuant to para. (5) is no longer met. The delegated persons shall have the rights and obligations of the authority to the extent of the delegation.

(5) The competence of the authorities pursuant to para. (1) shall also include the enforcement of the implementing regulations (implementing acts and delegated acts) of the European Commission for the Regulations referred to in Article 46c.

Control Bodies

Article 46e. (1) Control bodies are

- 1. bodies of the district administration authority or third parties authorised by it when exercising the responsibilities under Article 46d para. (1) sub-para. 1 and para. (2) sub-para. 2 and
- 2. bodies of the delegated agencies pursuant to Art. 46d paragraph (3) when performing the tasks assigned to them pursuant to this provision.

(2) Control bodies shall comply with the requirements of Articles 30 through 32 of Regulation (EU) 2017/625.

Coordination

Article 46f. The authorities pursuant to Article 46d para. (1) sub-paras. 1 and 2 shall submit all relevant records, documents, reports and statistics, in particular regarding multiannual programmes pursuant to Article 23 or action plans pursuant to Art. 27 of Regulation (EU) 2016/2031, to the Federal Minister of Agriculture, Forestry, Regions and Water Management in good time so that the coordination tasks as well as information and reporting obligations to be fulfilled in accordance with Union regulations can be fulfilled and transmission to the European Commission in accordance with Union regulations is possible.

Assumption of Costs Relating to Regulation (EU) 2016/2031

Article 46g. The owners of forest land, owners of basal areas pursuant to Article 1a paragraphs (4) and (5) and Article 18 para. (7) sub-para. 2, owners of plant cover pursuant to Article 2(1) as well as owners and other persons authorised to dispose of means of transport

- 1. on or in which plants, plant products or other objects that may be considered carriers of plant pests pursuant to Art. 1 of Regulation (EU) 2016/2031 are present, and
- 2. which are located on the aforementioned areas,

shall bear the costs of control measures ordered by the authorities or carried out by the authorities themselves, insofar as these are not covered by public funds.

Transmission of Data

Article 46h. The transmission of personal data collected in the enforcement of this Act, the Plant Protection Act 2018, Federal Law Gazette I No. 40/2018, the Plant Protection Products Act 2011, Federal Law Gazette I No. 10/2011, and the provincial laws regulating plant protection and plant protection products is authorised between the authorities entrusted with the enforcement of this Act, the Plant Protection Act 2018, the Plant Protection Products Act 2011 and the provincial laws regulating plant protection and plant protection products, if this is necessary

1. to fulfil obligations under Union or international law or
2. for reasons of overriding public interest in plant protection.

C. Forest-damaging Atmospheric Pollution

Definition of Terms

Article 47. For the purposes of this Federal Act, forest-damaging atmospheric pollution shall be atmospheric pollution which causes measurable damage to the forest soil or plant cover (endangering forest vegetation).

Power to Issue Ordinances

Article 48. (1) The Federal Minister of Agriculture, Forestry, Environment and Water Management shall, in agreement with the Federal Minister of Transport, Innovation and Technology and the Federal Minister of Economy and Labour, by ordinance

- (a) designate the substances (emitted substances) that cause forest-damaging atmospheric pollution,
- (b) determine the maximum levels of these substances which, according to the state of scientific knowledge and experience, do not yet lead to an appropriate endangerment of forest growth corresponding to the susceptibility of the plant cover to damage (air pollution limits),
- (c) regulate the manner of determining
 1. the proportion of these substances in the atmosphere and in the plant cover, the deposit rates of these substances and their accumulation in the soil and
 2. the contribution that individual or several sources of emission make to endangering forest growth,
- (d) designate the documents of relevance for an inspection on the occasion of surveys on forest-damaging air pollution (Article 52 para. 2) and determine the period for which they should be retained,
- (e) determine the types of installations that, according to the state of scientific knowledge and experience, cause forest-damaging atmospheric pollution.

(2) When determining the maximum levels pursuant to para. (1) point (b), a possible combined effect of these substances and their conversion substances shall be taken into account.

Approval of Installations

Article 49. (1) Installations in accordance with Article 48 para. (1) point (e) may, unless Article 50 para. (2) is applicable, only be established with a permit as specified in this Subsection. The owner of the installation shall apply to the authority for the permit.

(2) Paragraph (1) shall also apply if installations are, in their nature, equipment or manner of operation, changed in such a way that an increase in forest-damaging atmospheric pollution may be anticipated compared with the state preceding the change.

(3) The permit according to paragraphs (1) and (2) shall be granted if no risk is to be anticipated to the forest growth or this can be removed or reduced to a bearable extent by prescribing conditions and requirements. In assessing this, the overall economic significance of the installation should be weighed up in consideration of the cost necessary for fulfilling the prescribed conditions and requirements against the extent of the risk to the forest growth to be anticipated (effects of the forest).

(4) Permission for an installation should be denied in any case for which it may be expected that the emissions from this installation will lead to the appropriate air pollution limit being exceeded in protection forests ("Schutzwald") or protective forests ("Bannwald") and this danger cannot be averted by prescribing conditions and requirements. This provision shall not apply to protective forests that are themselves intended to guard against the dangers coming from the installation or to protect the installation itself.

(5) The conditions and requirements shall be prescribed in consideration of the state of the art. As far as this is necessary to prevent an air pollution limit being exceeded, it shall be laid down that the emitted substances reaching the atmosphere must not exceed certain quantities within specific periods of time.

(6) Before making its decision the authority shall, if necessary, obtain expert opinions on the pollution of the soil and the climatological circumstances as well as on the existing effects on the forest and those that may be anticipated for it as a result of the emissions from the installation.

(7) On application by the owner of the installation, the authority shall allow him to enter the forest to take measurements in order to assess the stress on the soil from the forest-damaging atmospheric pollution. The owner of the forest shall tolerate the forest being entered and the measurements taken. He shall be entitled to compensation for proprietary disadvantage. The provisions of Article 14 paragraph (1) sentences 3 through 6 shall apply *mutatis mutandis*.

Approval Procedure

Article 50. (1) The authority shall be responsible for conducting the procedure and issuing the permit.

(2) When installations requiring permit in accordance with trade, mining, railway, energy or steam-engineering provisions are established or changed, no separate approval according to Article 49 is required, but its provisions in terms of substantive law shall apply. A forest expert of the authority shall be called in for the proceedings. Should a permit be granted, this shall also be deemed to be such within the meaning of paragraph (1).

(3) Should it become evident in the course of the proceedings under paragraph (2) that protection forests or protective forests are affected by emissions, approval proceedings shall be conducted separately in accordance with paragraph (1). The proceedings in accordance with paragraph (2) shall be interrupted until a decision has been made on this.

(4) Paragraph (3) does not apply to protective forests which are intended to ward off dangers emanating from the installation or to protect the installation itself.

Special Measures

Article 51. (1) Should it be determined that an appropriate air pollution limit has been exceeded in a forest area and should this be hazardous to forest growth, the authority shall identify the owner of the installation causing danger to forest growth.

(2) The authority responsible for issuing the permit in accordance with Article 50 shall issue an official notice prescribing the measures necessary to remove the danger to forest growth for the further operation of the installation by analogous application of the provisions of Article 49, paragraphs (3) and (5).

(3) Should it be possible to reduce the danger to forest growth by taking appropriate measures in a forest, such as changing the composition of the stand or improving conditions of growth, along with the prescriptions laid down in paragraph (2), or instead of these, the owner of the forest shall be required by official notice to carry out such measures, while the cost of these measures plus the cash equivalent of the reduction in profit from a forestry standpoint must not exceed the costs arising in accordance with paragraph (2).

(4) Measures in accordance with paragraph (2) concerning protection forests or protective forests, as well as those in accordance with paragraph (3), shall be prescribed by the authority. Article 50 para. (4) shall apply *mutatis mutandis*.

(5) The authority that has prescribed measures in accordance with paragraph (3) shall order the owner of the installation to pay compensation for the costs that have arisen for this and the loss in profit resulting from these measures while offsetting contributions paid before the order was issued for measures of the nature referred to in paragraph (3); should the decision in accordance with paragraph (1) relate to several installations, Article 53 paragraph (2) shall apply analogously with regard to the prescription of compensation for cost. Article 31 paragraph (4) last sentence shall apply *mutatis mutandis*.

(6) Should stands be established by way of new afforestation only after an installation in their immediate danger areas, no measures in accordance with paragraphs (2) and (3) shall be prescribed exclusively on account of these stands.

Surveys of Forest-Damaging Atmospheric Pollution

Article 52. (1) If it is to be supposed that forest-damaging atmospheric pollution exists, the authority shall instruct experts to carry out measurements and investigations to determine any forest-damaging atmospheric pollution. Should the experts determine that an appropriate air pollution limit has been exceeded, they shall be entitled to carry out the necessary measurements and investigations also on non-forest areas in and around installations which may be considered as a source of atmospheric pollution to the forest in view of their location and characteristics. The proprietor of the installation and any non-forest areas affected or their representatives shall be notified by the time the installation or land is entered; they shall be entitled to be present when such measurements are carried out. On request they shall be given information on the nature and result of the measurements and investigations carried out. In case of mining companies the mining authority shall be informed before measurements are made.

(2) The proprietors of the installation and any non-forest areas affected shall tolerate the measures provided for in accordance with paragraph (1), second sentence. The proprietor of the installation shall also be obligated to provide the information necessary to clarify the extent of the atmospheric pollution and its consequences and make the documents available for inspection (Article 48 point (d)).

(3) The experts referred to in paragraph (1) shall pay due regard when carrying out the measurements and investigations in installations so as to avoid any disturbance or hindrance to the installation's operation that is not absolutely necessary. Where this is possible according to the nature of the measurements and investigations, provision should be made in the ordinance in accordance with Article 48 point (c) in what way a counter-test of the measurements and investigations should be left with the proprietor of the installation.

(4) Should forest-damaging atmospheric pollution be discovered as a result of surveys within the meaning of paragraph (1) and

- (a) should the proprietor of the installation causing this atmospheric pollution and requiring permit be unable to produce a permit in accordance with Article 49 paragraph (3) or Article 50 paragraph (2) or an official notice in accordance with Article 51, paragraph (2), or
- (b) should he fail to have met conditions and requirements in accordance with Article 49 paragraph (3) or to have carried out measures in accordance with Article 51 paragraph (2),

the proprietor of the installation shall bear the cost of the surveys. Should no atmospheric pollution damaging to forests be determined and the surveys be carried out on application, the applicant shall bear the costs of the surveys; in all other cases the Federal Government shall bear the costs.

(5) Experts in accordance with paragraph (1) shall report to the authority on the result of the surveys and issue a certificate if requested by a party involved, in particular on

- (a) the emission and air pollution values discovered,
- (b) the proportion of the damage to the forest soil or plant cover caused by the air pollution that have been determined and
- (c) where this is possible, the proportions to which the installations that have been investigated have contributed to the damage to forest soil or plant growth caused by air pollution.

These certificates shall be deemed to be public documents.

Liability for Atmospheric Pollution Damaging to Forests

Article 53. (1) Forest-damaging atmospheric pollution which

- (a) emanates from an installation (Article 48 para. (1) point (e)) which was not approved within the meaning of Article 49 para. (1) or (2) or Article 50 paragraph (2) or
- (b) exceeds the extent determined in the permit (Article 49 paragraphs (3) and (5), Article 50 paragraph (2) or Article 51 paragraph (2)),

the owner of the installation which caused this atmospheric pollution is liable in accordance with this subsection for compensation for the resultant loss. Several owners of the same installation shall be jointly liable.

(2) Should several installations cause damage to a forest, even if only as a result of their combined effects, by the atmospheric pollution emanating from them, each owner of an installation shall be liable for the portion which he contributes to the damage; should it be impossible to determine the proportions, several owners shall be liable in equal proportions.

(3) Should negligence on the part of the aggrieved party have contributed to the incidence of the damage, Article 1304 of the Austrian Civil Code (ABGB) shall apply analogously.

(4) There shall be no duty to pay compensation if atmospheric pollution was caused by an inescapable event which was neither due to a fault in the constitution nor in a failure of the installation, and the owner of the installation or his people have shown the appropriate care and caution according to the circumstances of the case.

(5) The aggrieved party shall lose his entitlement to compensation unless he notifies the party responsible for the forest-damaging atmospheric pollution within three months of becoming aware of the damage and the identity of the person obligated to pay compensation. The loss shall not apply if the notification was not made due to a circumstance outside the control of the aggrieved party or the owner of the installation has obtained information on the damage in another fashion within the period referred to.

Assumption of Cause

Article 54. Should forest-damaging atmospheric pollution emanating from various installations be under consideration as a cause of the damage according to the circumstances of the case, it will be assumed that the damage has been caused by these installations jointly. This assumption can be refuted by the owner of the installation if he can prove that it was unlikely that his installation caused the damage.

Statutes of Limitation

Article 55. (1) Compensation claims laid down in this Section shall become invalid three years from the time in which the person entitled to compensation has acquired knowledge of the damage and the identity of the party liable to pay compensation, irrespective of this knowledge thirty years after the atmospheric pollution has been determined.

(2) Otherwise Statutes of Limitation are subject to the provisions of the ABGB.

Regulations under Civil Law

Article 56. (1) The regulations of the Austrian Civil Code (ABGB) and other regulations according to which the owner of the installation shall be liable for damage caused by forest-damaging atmospheric pollution beyond the provisions of Articles 53 and 54, or according to which another party is responsible for the damage, remain unaffected. Should there be a duty to pay compensation in accordance with Article 364a ABGB, Article 53 paragraph (2) and Article 54 shall apply analogously; forest-damaging atmospheric pollution for the purposes of Article 47 shall be regarded as that exceeding the extent customary at the location for the purposes of Article 364, paragraph (2) ABGB.

(2) Also, where compensation claims for damage caused by forest-damaging atmospheric pollution are to be adjudged in accordance with the provisions of the ABGB, the owner of the installation shall be liable for the negligence of the persons who were working on the operation of the plant according to his will, insofar as this work was the cause of the damage that arose.

Compensation Claims, Place of Jurisdiction

Article 57. (1) Compensation claims for forest-damaging atmospheric pollution shall be made through ordinary legal channels, notwithstanding the provision of paragraph (3).

(2) The Court of Law in whose district the damage due to the air pollution arose, shall also be responsible for actions introduced on the basis of this Section.

(3) The provisions of paragraphs (1) and (2) and the provisions of Articles 53 through 56 do not apply to mining installations; these shall be subject to the provisions of mining damage law.

SECTION V

HAULAGE

A. Haulage on Land

Haulage

Article 58. (1) For the purposes of this Federal Act, haulage is the transportation of wood or other forest products from the location from which they were obtained in the forest to a public transport installation.

(2) Haulage also comprises the subsequent temporary storage of forest products as well as transporting persons involved in the haulage and the equipment necessary for this to and from the place at: from which the material was obtained.

(3) Haulage shall be carried out in such a way that

- (a) the forest soil suffers as little damage as possible, new runlets or watercourses do not come into being and the flow of water in existing runlets or watercourses is not impaired;
- (b) the plant cover suffers as little damage as possible, haulage does not hinder prompt re-forestation in accordance with Article 13 and wood stored in areas that are prone to flooding in the course of haulage is taken away as rapidly as possible or otherwise removed as an obstacle to high water flowing away.

(4) Damage within the meaning of paragraph (3) is only permissible where it is unavoidable and remediable. The remedy shall take place immediately after the haulage has come to an end.

(5) The haulage contractor and the forest owner, in the case of existing rights of use the haulage contractor and the party entitled to rights of use, are jointly responsible for remedying damage in accordance with paragraph (3).

(6) Where danger to railway installations may be associated with haulage, haulage may only take place by mutual agreement with the technical supervisory service locally responsible for the traffic installations, notwithstanding the provisions of Article 39 of the Railway Act 1957, Federal Law Gazette No. 70 ("Eisenbahngesetz 1957"). The technical supervisory service shall decide whether it is necessary to appoint a supervisory body. The railway management shall bear the cost of the supervisory body.

Forestry Haulage Installations

Article 59. (1) For the purposes of this Federal Act, forestry haulage installations (briefly referred to as haulage installations) are forest roads (paragraph (2)) and forest material cable railways (paragraph (3)).

(2) A forest road is a non-public road intended for the movement of motor vehicles or carts, together with the associated structures,

1. which serves the purpose of haulage and commercial transport within the forests and their connection to the public transport network, and
2. which is constructed for a period of more than one year, and
3. where the ground movements related to the building account for a change of more than half a metre compared to the earlier level or more than one third of the length if macadamised or paved.

(3) A forest material cable railway is a cable conveyance installation with a carrying cable for haulage purposes without limited public traffic.

General Rules Concerning Haulage Installations

Article 60. (1) Haulage installations shall be planned, built and maintained in such a way that, when technical and economic aspects are taken into account, the forest soil and the plant cover suffer as little damage as possible and, in particular, intervention in the forest is limited to the extent required for its development.

(2) Notwithstanding the provision of paragraph (1), the building, maintenance and use of haulage installations shall, in any case, not

- (a) bring about dangerous erosion;
- (b) impede the run-off of flood water from torrents;
- (c) foster the release of avalanches or increase their damaging effect;
- (d) disturb the balance of areas prone to landslides; or
- (e) influence the run-off of precipitation water so unfavourably that danger or damage to local vegetation is caused or maintenance of the forest is endangered or made impossible.

(3) Interventions of the kind described in paragraph (2) in connection with the building or maintenance of haulage installations are permissible where they are unavoidable, kept as small and short-

term as possible and risks that they give rise to can be remedied at any time. The interventions must, however, be eliminated or excluded as quickly as possible.

Planning and Construction Supervision

Article 61. (1) Haulage installations may only be built on the basis of a plan and under the construction supervision of authorised specialist staff.

(2) For the purposes of paragraph (1), authorised specialists are,

1. for planning, graduates having concluded the training referred to in Article 105 paragraph (1) sub-para. 1 and
2. for construction supervision, the graduates referred to in sub-para. 1 and graduates having concluded the training provided for in Article 105 para. (1) sub-para. 2.

(3) The extension of haulage installations already in use shall not be deemed to be construction if the extension utilises forest soil only to an insignificant extent.

(4) The construction applicant, the specialists authorised to plan and supervise the construction and the persons commissioned to carry out the construction must comply with the provisions regarding forest haulage installations. The construction applicant, the specialist authorised to plan and supervise the construction and those instructed to carry out the construction work shall investigate before work commences whether and, if so, under what conditions and requirements the building of the haulage installation is permissible.

Haulage Installations Requiring Approval

Article 62. (1) The building of the following haulage installations requires approval from the authority (building permit):

- (a) permanent forest material cable railways;
- (b) non-permanent forest material cable railways if they might cross permanent forest material cable railways or endanger third-party buildings;
- (c) forest roads if they lead through an operational field for torrent and avalanche control or through protection forest or protective forest declared by official notice;
- (d) all haulage installations if the construction project affects public interest of national defence, railway management, air transport, mining, post and telecommunications, public roads and power supply facilities.

(1a) A permit according to paragraph (1) point (d) shall not be required, if the applicant submits written approval of the authority responsible for the relevant public interest.

(2) The permit shall be granted if the haulage installation is planned in such a way that

- (a) it meets the provisions of Article 60 and, if appropriate, also those of Article 22 paragraph (1);
- (b) it does not give cause for concern, bearing in mind the special conditions in the forest in accordance with forestry findings;
- (c) in the case of installations in accordance with para. (1) points (a) and (b), there is no cause for concern in terms of operational safety;
- (d) in the case of forest roads in accordance with paragraph (1) point (c), there is no impairment of the interest of torrent and avalanche control or observation of the prescriptions laid down in the official notice by which a protective forest is established appears to be ensured.

(3) In the case of haulage installations pursuant to para. (1) points (a) and (b), the building permit shall prescribe the additional precautions requested and required from the point of view of the safety and orderliness of the operation of the installation, and in the case of haulage installations pursuant to para. (2) points (c) and (d), the precautions requested and required to safeguard the aforementioned public interests. Insofar as the prescription in cases covered by paragraph (1) points (c) and (d) concerns measures which, in observing public interest, also were intended, or at least are appropriate, without the building of the haulage installation applied for, the relevant share of the costs shall be borne by the party who would have had to bear the costs for these measures even without the building of the haulage installation.

(4) The authority shall be notified of the completion and the planned opening of haulage installations requiring approval four weeks before the opening. The authority shall check that the prescriptions contained in the building permit have been adhered to and issue a notice to this effect. If necessary, the authority shall prohibit opening or make it conditional on compliance with specific provisions.

(NB: Paragraph (5) repealed by Federal Law Gazette I No. 59/2002.)

Approval Proceedings

Article 63. (1) The application for a building permit shall contain all necessary information for initiating the proceedings, especially with regard to the intended start and the expected duration of the construction work. A technical report with a scale site plan shall be attached to the application in duplicate.

(2) The owners of properties whose use or productive power might be impaired by the haulage installation shall be involved as a party to the proceedings. If a haulage installation crosses a mining plant or is routed directly along it, the mining licensee shall be a party to the proceedings as well.

(3) Should objections be made under civil law against a construction project against which there is no other outstanding objection, the authority shall endeavour to bring about an amicable settlement between the parties. Should this prove impossible, the authority shall, when making its decision on the application, refer the parties to their rights to take action under civil law, while expressly citing the objections under civil law not covered by the notice.

(4) The building permit shall provide for a deadline for the completion of the haulage installation. This deadline shall be extended by the authority if a justified application is made.

(NB: Paragraph (5) repealed by Federal Law Gazette I No. 59/2002.)

Forest Roads Requiring Registration

Article 64. (1) The construction applicant shall register the construction of forest roads not requiring approval according to Article 62 to the authority six weeks before the pilot tracks are opened up, at the latest. Registration should include the names of the specialists authorised to plan and supervise the construction (Article 61) and information about the construction project, as well as about important technical details, the intended start of construction and the probable duration. A scale site plan shall be attached to the registration.

(2) The authority shall issue a notice prohibiting the construction of the forest road registered if such construction conflicts with the principles of Articles 60 and 61. If such notice has not been issued within six weeks following registration, the construction of the forest road registered shall be considered approved. Article 91 paragraph (2) shall apply *mutatis mutandis*.

Forest Areas Used for Haulage Installations

Article 65. (1) After the building permit has been issued in accordance with Article 63 or after registration has been made in accordance with Article 64, no special approval or notification in accordance with this Federal Act is required to fell any existing plant cover on the area required for constructing a haulage installation; the same shall apply to the areas along a haulage installation used for obtaining material to build this installation. Such areas continue to remain forest land; the obligation concerning afforestation shall remain in abeyance, however, until the time of the conveyance of the haulage installation or until the obtaining of material has come to an end.

(2) Should the construction of a haulage installation finally come to an end or an existing haulage installation be conveyed, the owner of the forest shall restore the forest area used for this installation to productive forest land and reforest it timely (Article 13 paragraph (2)).

(3) Should the owner of the forest think that reforestation of areas used in accordance with paragraph (1), compared with the extent of productive forest land which can be obtained, is uneconomic, or should these areas be transferred to purposes other than those of forest cultivation, a clearing permit shall be applied for in respect of this. Should it be granted, all requirements necessary to guard against risks referred to under Article 60 paragraph (2) shall be provided for.

B. Haulage across Third-Party Land

Temporary Haulage across Third-Party Land

Article 66. (1) Every forest owner or authorised user shall be entitled, in accordance with the provision of paragraph (4), to transport wood or other forest products across third-party land in the least damaging fashion and also to store it there temporarily in case of need (authorised haulier), provided haulage (storage) would otherwise only be possible at unreasonable expense or not at all without access to third-party land. Special consideration should be given to the proportion of increased haulage costs compared to the yield from the forest products and the level of intrusion into third-party property and any devaluation of the wood as a result of inappropriate haulage.

(2) Subject to the requirements of paragraph (1), also the right to use a third-party haulage installation or a non-public road jointly may be claimed.

(3) The right of haulage for the purposes of paragraphs (1) and (2) is also enjoyed by the haulage co-operatives (Article 68).

(4) Should no agreement be reached between the parties on the necessity and the manner of haulage, the authority shall, on application by one party, decide taking into account the requirements set out in paragraph (1) last sentence.

(5) The official notice shall precisely identify the part of the forest from which forest products are to be hauled across third-party land. The permission to haul shall be restricted in quantity to the forest products already gathered or the quantities that are likely to arise in the next five years. A period shall be prescribed for haulage according to the volume of the outturn, the time of the outturn and the haulage circumstances; haulage may be recurrent. The period may be extended if the requirements for haulage have remained unchanged.

(6) Should there be several possibilities for haulage across third-party plots, the owner of the plot the use of which encroaches on third-party property to the least extent shall tolerate haulage. Should the encroachment on third-party property be materially reduced in one or the other of these haulage methods by means of measures which can be removed again and the cost of which are reasonable for the party with haulage rights, this should be taken into account in the choice of the third-party plot. The authorised haulier should, if necessary, be required to employ such measures at his own expense and remove them again after haulage has taken place.

(7) The owner of the land subject to this obligation shall also, temporarily, tolerate the building of haulage installations, if the previous status can essentially be restored after haulage.

Haulage Installations

Article 66a. (1) Should appropriate forest management not, or only at unreasonable cost, be possible owing to the lack of, or the insufficiency, of haulage installations, the authority shall, on application by the owner of the forest or a haulage co-operative, put those land owners whose property will be encroached

upon to the least extent thereby under the obligation to tolerate the building, maintenance and use required for forest management of a permanent haulage installation to the necessary extent. The obligated party shall have a right of joint use; Article 483 of the Austrian General Civil Code (“ABGB”) shall apply.

(2) Should the circumstances on which the toleration of rights is based have changed, the right conferred according to paragraph (1) shall, on application, be appropriately amended or deleted.

Compensation

Article 67. (1) The authorised haulier in accordance with Article 66 shall, as far as this is possible, restore the previous state of affairs and compensate the owner of the land subject to the obligation for all proprietary disadvantages caused by the haulage.

(2) Should the authorised haulier be permitted to use a third-party haulage installation or a non-public road, the compensation will be replaced by an appropriate contribution to the cost of building and maintaining the haulage installation or the non-public road.

(3) The owner and the party entitled to utilise or use the land claimed by a right in the accordance with Article 66a shall be entitled to compensation for any and all proprietary disadvantages caused thereby. Should the exercise of a right cause damage which has not yet been discharged, compensation shall be payable for them as well, following its identifiability and valuability.

(4) Should the parties fail to agree on the compensation or on the contribution, the authority shall, on application, come to a decision on the grounds for and the level of the claim. Compensation shall be assessed in accordance with the provisions of Articles 4 through 9 paragraph (1) of the Railway Expropriation Act 1954 (“Eisenbahnteilnahmeengesetz 1954”), Federal Law Gazette No. 71. Should only the level of contribution (paragraph (2)) be contentious, haulage via the third-party haulage installation or non-public road may be commenced if the authorised haulier makes a contribution to the maintainer of the haulage installation or road of an amount specified in the notice issued by the authority.

(5) Within one year of a notice in accordance with paragraph (4) coming into force either of the two parties may apply to the district court responsible according to the location of the plot to determine the compensation or contribution. As soon as the application reaches this court, the notice issued in accordance with paragraph (4) shall become invalid. The application may only be withdrawn with the consent of the opponent to the application.

(6) Court proceedings shall be subject to the provisions for non-litigious proceedings. The provisions of the Railway Expropriation Act 1954 shall apply analogously.

C. Haulage Co-operatives

Haulage Co-operatives

Article 68. (1) Land owners, including those with rights of use in accordance with Article 32, may, as participants, join together as a haulage co-operative (referred to in brief as co-operative) for the joint setting up, maintenance and use of haulage installations which run across their properties or make them accessible.

(2) At least three parties are necessary to form a co-operative.

(3) A co-operative may be formed

- (a) by a free agreement of all parties involved (voluntary co-operative) and approval of the statutes (Article 70 paragraph (4)) or
- (b) by a resolution from the majority of those involved, official incorporation of the resistant minority (Article 69), and approval of the statutes.

(4) If the property owners across whose properties the haulage installation leads agree, managers of real estate who can provide evidence of having an economic interest in using the haulage installation extending beyond the management of the forest may be included in the co-operative as well.

Co-operatives with Compulsory Membership

Article 69. (1) The authority shall, on application by the majority of those involved, issue a notice obligating a minority to join the co-operative to be formed if

- (a) at least two thirds of the forest areas to be developed via the installation are owned by the majority and
- (b) it is not possible to operate the installation reasonably from a forestry, technical or commercial point of view without including the properties of the reluctant minority.

(1a) Subject to the requirements of paragraph (1) points (a) and (b) a voluntary co-operative can be transformed into a co-operative with compulsory membership.

(2) After having assessed all circumstances of relevance to the formation of the co-operative, the authority shall first of all make clear the scope of the project and determine which properties or installations are to be regarded as being involved in the formation of the co-operative and to what extent. For this purpose the proportion of votes submitted for or against the project shall be assessed; anyone abstaining or not voting shall be counted among those voting for the enterprise.

(3) Should the ballot fail to achieve the majority required by statute or should other requirements not be fulfilled so that compulsion of the minority is not justified, further proceedings shall be cancelled and the decision of the authority shall be restricted to stating that those refusing to join cannot be put under the obligation to do so.

(4) Without prejudice to the provision of Article 1a paragraph (4) point (e), the obligation to join shall not apply to railway enterprises with respect to those areas of land that are to be deemed railway installations for the purposes of Article 10 of the Railway Act 1957, Federal Law Gazette No. 60.

(5) Furthermore, the obligation to join shall not apply to forest owners who have undertaken to make an advance payment of annual user fees in at least the amount of the proportionate construction and maintenance costs that the forest owner would have to pay in the event of his compulsory inclusion as a participant.

Statutes

Article 70. (1) The statutes shall regulate the activities of the co-operative. In the case of a voluntary co-operative, they shall be adopted by its members unanimously at the same time as the free agreement, in the case of a co-operative with compulsory membership after the official notice concerning the inclusion of the minority by the majority laid down in Article 69 para. (1) point (a) has come into force.

(2) At all events the statutes shall contain

1. the name, registered office and purpose of the co-operative, a list of the properties included as well as a site plan of the haulage installations and the areas developed by it;
2. provisions on the maintenance of the co-operative haulage installations and, if applicable, on costs for use by non-members;
3. provisions on liability for losses (security deposit);
4. the rights and duties of members as well as the value of members' votes;
5. provisions concerning the bodies of the co-operative, their composition, election, adoption of decisions, terms of office, the area of effectiveness and the liability for their obligations, external representation of the co-operative as well as the dissolution of the co-operative, and
6. the scale and the formula for allocating costs to members in accordance with Article 72 paragraph (1).

(3) The statutes can also provide for a structure of the co-operative in terms of location or subject-matter.

(4) The statutes shall be approved by official notice from the authority unless they conflict with the provisions of this Article or of any other provisions of this Federal Act. Upon the entry-into-force of the authority's notice or the recognition or decision of the Provincial Administrative Court the co-operative becomes a legal entity.

(5) Unless otherwise provided by the statutes, changes to the statutes shall require the approval of a majority of the members whose property includes at least two thirds of the forest area included in the co-operative. If no decision can be achieved in this way, a two-thirds majority of the members present at the General Assembly as well as the two-thirds majority of their shares of votes shall be decisive. The above-mentioned decisions shall become effective only after official approval according to the requirements set out in paragraph (4).

Bodies of Co-operatives

Article 70a. (1) Bodies of co-operatives shall in any case be the General Assembly, the President and the Vice-President. If the co-operative has more than ten members, also an Executive Committee shall be established which comprises at least the President and the Vice-President.

(2) The meeting of the General Assembly shall be convened at least once in three years. Its tasks are, in particular,

1. to decide about the statutes and any changes to the statutes,
2. to determine or amend the scale and the formula for the distribution of costs to members,
3. to elect the President, his representative and, if appropriate, further members of the Executive Committee, and
4. to audit the conduct and give discharge to the management.

(3) Unless otherwise provided by the statutes, the proportion of the members' votes shall correspond to the cost allocation formula determined in accordance with Article 72 paragraph (1).

(4) Save otherwise provided in the statutes, a simple majority of the total shares of votes shall be sufficient for voting on the occasion of elections as well as for other decisions by the General Assembly. This provision shall be without prejudice to the provisions of Article 70 paragraphs (1) and (5). The results of elections of bodies of a co-operative shall be communicated to the authority within a period of four weeks.

(5) Unless otherwise provided by the statutes, circular resolutions of the General Assembly are permitted.

(6) The President shall

1. chair the meetings of the General Assembly and, if appropriate, of meetings of the Executive Committee,
2. represent the co-operative to the outside world and
3. manage the co-operative, provided that no Executive Committee has to be elected in accordance with paragraph (1).

If the President is unable to attend the meeting, the Vice-President shall represent him in all his rights and obligations.

(7) If, in accordance with paragraph (1), an Executive Committee has to be elected, the latter shall be responsible for the management of the co-operative. Voting at the Executive Committee shall be on a per capita basis. Decisions by the Executive Committee shall require simple majority of all members of the Executive Committee. In the case of a tie, the President shall have the casting vote. Circular decisions of the Executive Committee are permitted.

(8) Unless otherwise provided by the statutes, the term of office of the elected bodies of the co-operative shall be six years. If the term of office ends before the newly elected bodies assume office, the old bodies shall remain in office until the newly elected bodies take office.

Co-operative Relationship

Article 71. (1) Anyone acquiring property or installations included in the co-operative shall become a member of the co-operative and shall have the responsibilities arising from this relationship. The obligation to pay further contributions does not expire until the regular withdrawal of the encumbered property or installation from the co-operative or from the dissolution of the co-operative. The owners of the properties or installations that have been withdrawn shall be liable for the contributions that became due prior to their withdrawal.

(2) The co-operative shall have the right to request new members to pay an appropriate contribution to the expenses hitherto incurred as well as the special costs incurred by it due to the admission or inclusion.

(3) Should there be agreement on this between the co-operative and the property owners, properties or installations may be included or withdrawn subsequently. Article 70 paragraph (5) shall apply.

(4) The co-operative shall be obligated to exclude individual properties or installations at the request of their owner if the latter fails to enjoy a material advantage from participating in the co-operative enterprise and the co-operative suffers no material disadvantage from the exclusion.

Costs

Article 72. (1) The costs that the co-operative incurs from fulfilling its tasks shall be borne by its members in accordance with an allocation formula which is to be determined in the statutes based on

1. the size of the developed area,
2. the economic advantage,
3. haulage installations that have been included, and
4. special services or existing obligations of the individual members towards the co-operative.

(2) If the co-operative is structured in terms of location or subject-matter, as specified in Article 70 paragraph (3), a separate allocation formula can, according to paragraph (1), be determined for each section.

(3) A change in the formula for the allocation of costs by the statutes is not permissible if this, in a haulage co-operative with compulsory membership, would result in the minority obligated to join in being worse off than the majority.

(4) Should traffic circumstances have changed and should the scale or the formula for allocating costs to the members appear inequitable, and should no amendment in accordance with Article 70 paragraph (5) be adopted within a reasonable period of time, the authority shall, on application by a member, determine a distribution of costs appropriate to the change in accordance with paragraph (1).

Supervision

Article 73. (1) It is incumbent on the authority to supervise the co-operative; the authority shall also decide in all disputes between members arising from the co-operative relationship and the obligations of the co-operative. Supervision extends to adhering to the provisions of this Section.

(2) In exercising its supervisory right, the authority shall

1. have the right to monitor the activities of the co-operative, to inspect all documents in connection with the General Assembly as well as to request relevant information and take part in the General Assembly;
2. have the right to convene the General Assembly if the obligation under Article 70a para. (2) first sentence was not complied with or if this is necessary to remedy a deficiency requiring the adoption of a resolution by the General Assembly.
3. be obligated to revoke decisions or orders by the co-operative which are contrary to law or the statutes and to ensure that measures taken on the basis of such decisions or orders are reversed.

(3) On application by the co-operative, overdue co-operative contributions shall be collected in accordance with the provisions of the Administrative Enforcement Act 1991 - VVG ("Verwaltungsvollstreckungsgesetz 1991 - VVG"), Federal Law Gazette No 53/1991.

(4) Should the co-operative fail to provide the funds necessary to fulfil its obligations against third parties in due time, payment of the necessary contributions may be imposed on the co-operative members by official notice.

(5) A co-operative grossly neglecting its tasks can be urged to take the necessary steps within an appropriate period. If the co-operative does not comply with this obligation, the authority may, after prior warning, take the necessary steps at the risk and cost of the defaulting member.

(6) If, and for the period for which, measures according to paragraphs (4) and (5) are not sufficient to ensure the legal or statutory activities of the co-operative, but the requirements for acting in accordance with paragraph (7) are not available, the authority may, by notice, appoint a suitable curator for the time absolutely necessary and may delegate to him individual or all powers of the bodies at the cost of the co-operative.

- (7) The authority shall proclaim the dissolution of a co-operative if
1. the co-operative passes a decision on dissolution in accordance with the provisions of the statutes or
 2. there is no interest from a forestry point of view in the co-operative continuing to exist, considering the existing circumstances.
- (8) In the dissolution the authority shall take account of the interests of the co-operative's creditors and of the obligations incumbent on the co-operative in accordance with paragraph (4) and prescribe the necessary measures.
- (9) A co-operative shall be considered to be dissolved if it has less than three members.

SECTION VI USE OF FORESTS

A. General Restrictions on Use

Protection of Immature Stands

Article 80. (1) In immature high forest stands, clear felling and removal of single trunks going beyond the extent required for tending purposes (paragraph (2)) is prohibited.

(2) The extent required for tending purposes referred to in paragraph (1) is exceeded, if less than six tenths of the full canopy cover would remain after the single trunks had been removed. The figure may drop below this in the case of intervention for tending purposes if

- (a) the age of the stands treated in this fashion does not exceed half of the age stated in paragraphs (3) and (4) and
- (b) it may be expected that a canopy of more than six tenths will again be achieved no later than five years following the tending intervention.

(3) High forest stands of tree species that are not quick-growing are immature

- (a) in stands of the same age with an age of less than sixty years,
- (b) in stands of unequal age averaging less than sixty years if more than half of the number of trunks in the stand has not yet reached an age of 60 years.

(3a) For the tree species of spruce, 50 years is deemed to be the age for the purposes of paragraph (3).

(4) The Federal Minister of Agriculture, Forestry, Environment and Water Management shall determine the rapid-growing tree species by ordinance and, if necessary, determine the age of stand immaturity for these.

(5) In the ordinance referred to in paragraph (4) a minimum diameter may be set to assess the upper limit of immaturity instead of, or along with, an age limit. Should such a diameter have been set, it shall at all events be used to judge whether the criteria indicated in Article 81 para. (1) point (d) are met.

(6) The prohibition according to paragraph (1) does not apply to felling

- (a) on forest soil used for the establishment of a haulage installation or for felling in accordance with Article 86 para. (1) point (c);
- (b) on forest soil that was expressly devoted to growing Christmas trees or to short rotation in accordance with paragraph (7);
- (c) which is necessary for severance cutting such as liberation cutting, release cutting or boundary cutting, if its width is not more than ten metres;
- (d) which is necessary as preparatory measures for re-forestation clear stands.

(7) The authority shall be notified of the intended dedication for the purposes of paragraph (6) point (b) within ten years, calculated from the time of establishment. The authority shall prohibit the dedication within three months if

- (a) it may be assumed from the nature of the plant cover structure that the latter does not accord with the purpose of the dedication, or
- (b) if the area is a protection forest ("Schutzwald"), protective forest ("Bannwald") or plant cover in the upper timberline zone, provided that the plant growth in the upper timberline zone offers a profound protective effect for the purposes of Article 6 para. (2) point (b).

Exemption Permit

Article 81. (1) The authority shall, on application, permit exemptions from the prohibition of Article 80 paragraph (1) if

- (a) cutting with a width of more than ten metres is necessary for forest operation measures such as liberation cutting, release cutting or boundary cutting, or if measures of game management convenient in the interest of forest maintenance are necessary;
- (b) pilot track felling is necessary for the purpose of establishing and for the duration of the proper existence of an energy supply line installation;
- (c) there is an obvious imbalance between the productive power of the forest soil and the yield of the stand covering it that can only be remedied by clearing the stand and using yield-enhancing forestry measures; or
- (d) measures to increase forest increment are carried out (paragraph (4)) and no endangerment of the effects of the forest is to be expected.

The provisions of Article 87 shall apply analogously to the application.

(2) Should the continued existence of agricultural and forestry operation be endangered by extraordinary disasters, the authority may, on application by the owner of the forest, grant an exemption from the prohibition of Article 80 paragraph (1), if this is the only way of averting the danger, if there is no cause for concern on the basis of Article 16 paragraph (2) or Article 82 paragraph (1) point (a), and re-forestation is ensured.

(3) Instances of the kind referred to in paragraph (1) point (c) shall apply in particular if stocking is sparse or of poor quality, or where stocking consists of tree species unsuitable for the location or of inferior tree species, or where stocks have been considerably damaged by game, grazing cattle, forest pests, or red-ring rot.

(4) Measures for the purposes of paragraph (1) point (d) are those by means of which the standing supply of wood of the stock for which felling has been applied for exceeds that of a similar, average-stocked, mature stand in which no measures to increase forest increment, such as forest fertilisation or intensive stand cultivation, have been carried out.

(5) The forestry measures referred to in paragraph (1) point (c) shall be stated in the application. Should the surveys carried out for this purpose indicate that these measures are suitable to achieve the stated purposes, the authority shall prescribe them as requirements in the official notice of permit; otherwise the application has to be rejected. With regard to prescribing a security deposit, Article 89 shall be applied analogously in the instances of paragraph (1) point (c) and paragraph (2).

(6) Article 88 paragraph (4) and Article 92 shall apply to the contents of the notice of permit.

(7) An exemption permit according to paragraph (1) is not required for instances of paragraph (1) point (c), if the intended felling is provided for in a funding agreement as part of a promoted project in accordance with Article 142 para. (2) sub-para. 11.

(8) The provisions of paragraph (1) points (c) and (d) as well as those of paragraph (2) do not apply to protection forests, protective forests or plant cover in the upper timberline zone.

Prohibition of Clear Felling

Article 82. (1) The following are prohibited:

- (a) Clear felling which
 1. permanently reduces the productive power of the forest soil,
 2. considerably or permanently impairs the water regime of the forest soil,
 3. brings about more severe rainwash or drifting of forest soil, or
 4. endangers the effect of protection forests or protective forests;
- (b) Major clear felling in high forest.

(2) Major clear felling in accordance with paragraph (1) point (b) shall apply, if the resultant unstocked area

- (a) with a width of up to 50 metres exceeds a length of 600 metres or
- (b) with a width of more than 50 metres covers an area exceeding 2 hectares.

For this calculation, neighbouring unstocked areas or regeneration not yet secured shall be added without regard to the property borders.

(3) The authority shall, on application, grant exemptions from the prohibition of paragraph (1) point (b) if

- (a) there are reasons in connection with forest management, such as, in particular, severe haulage conditions or the necessity to remove low-producing or endangered stands (Article 81, para. (1) point (c) and para. (3));
- (b) a permit has been granted in accordance with Article 81 para. (1) point (d);
- (c) the continued existence of the agricultural and forestry enterprise would otherwise be endangered; or
- (d) this is necessary to establish an energy supply line installation

and there are no objections to the major clear felling on grounds of paragraph (1) point (a) or Article 16 paragraph (2). The provisions of Article 87 shall apply analogously to the application.

B. Supervision of Felling by the Authority

Felling Subject to Permission

Article 85. (1) For the following, an official permission is required:

- (a) Clear felling and single trunk removal equivalent to it (paragraph (2)) on a coherent area from a size of half a hectare upwards;
- (b) Clear felling and single trunk removal equivalent to it, if the felling area envisaged, irrespective of property boundaries, directly borders unstocked areas or areas where regeneration is not certain and if, in the case of felling, the total unstocked area resulting from it or the envisaged felling area together with the area on which regeneration is not certain would amount to half a hectare or more;
- (c) Felling in forests which because of infringements by the owner of the forest (paragraph (3)) require special supervision by the authority laid down by notice of that authority.

(2) Removal of single trunks is equivalent to clear felling if less than five tenths of the full canopy cover would remain after it had been carried out. For this calculation, secured regeneration on partial areas shall be included as having full canopy cover.

(3) There shall be deemed to have been infringements within the meaning of paragraph (1) point (c), if the owner of the forest has been legally convicted for

- (a) forest destruction (Article 16);
- (b) repeated infringement of Article 13;
- (c) repeated infringement of the requirement for obtaining permission provided for in paragraph (1) or of conditions and requirements prescribed by notice (Article 88 paragraph (4))

and the conviction is no longer than five years old, calculated from the commencement of the intended felling.

Free Felling

Article 86. (1) Free felling includes

- (a) felling which leaves secured regeneration after it has been carried out (clearance);
- (b) felling due to *force majeure*, resulting from the need to deal with fallen timber, including any felling face levelling and the implementation of orders issued by the authority;
- (c) felling of individual trunks and groups of trees on forest areas on which a haulage right is granted in accordance with the Basic Freight and Cableways Act 1967, Federal Law Gazette No 198 without the establishment of a haulage installation, to the extent necessary for haulage;
- (d) all other felling to which Article 85 paragraph (1) is not applicable.

(2) The owner of the forest shall report felling in accordance with paragraph (1) points (a) and (b), where this comprises half a hectare or more, to the authority no later than one week before its commencement. Article 87 paragraph (4) shall apply analogously.

(3) As much as possible should be done to avoid damaging standing trees and young trees during felling and processing.

(4) The provisions for restrictions on felling in protection forests and protective forests and in the upper timberline zone shall remain unaffected.

Application for Felling Licence

Article 87. (1) The owner of the forest shall apply for a felling license to be issued. Should the owner of the forest not have a right of disposal with respect to the forest which is the subject of the license process because the usufructuary right belongs to another party, the person entitled to dispose of it shall make the application.

(2) Together with the persons referred to in paragraph (1) the right to apply is also enjoyed by other parties with a right of disposal where felling is necessary for them to exercise their rights.

(3) Should the right to make application be exercised in the instances of paragraph (1) second sentence or paragraph (2), the owner of the forest shall have the powers of representation in the relevant proceedings.

(4) The application shall include the information necessary for it to be dealt with, such as felling location and area, period of felling.

Felling License

Article 88. (1) The felling license shall be granted if the felling applied for does not conflict with the provisions of this Federal Act.

(2) Should the applicant have repeatedly failed to meet a legal obligation concerning reforestation as provided for in Article 13, the felling license applied for shall in any case be denied so long as he has not met the obligation.

(3) Notwithstanding the provision of paragraph (2), the felling license shall, in case of afforestation arrears, at all events be combined with the requirement to remedy the outstanding reforestation within an appropriate period of time. Article 13 paragraphs (4) through (6) shall apply.

(4) The license shall, if necessary, be accompanied by conditions and requirements appropriate to ensure that the forest is treated in accordance with the provisions of this Federal Act (such as prescriptions regarding reforestation or careful haulage of the felled wood, ordering forest protection measures or marking by an official body and the like of the stands or trunks for which the felling license has been granted). Should official marking be prescribed, the marking hammer (Article 172 paragraph 7) shall be used.

(5) The authority shall endeavour to ensure that other official actions required in accordance with the provisions of federal legislation shall as far as possible be undertaken together with the official actions referred to in this Section.

Security Deposit

Article 89. (1) Should there be reasonable doubt as to the applicant meeting his obligation of reforestation, a security deposit shall be prescribed which is appropriate to the cost of reforestation. Felling must not commence until this has been deposited.

(2) The provision of security may consist in depositing with the authority cash, government bonds or other securities or deposit books of domestic banks declared to be eligible, in providing a fixed-liability mortgage or in an irrevocable declaration by a bank accepting liability to the authority for the prescribed sum as guarantor and payer.

(3) The applicant may also be required to provide security subsequently, if the deadline for reforestation has been exceeded. This also applies to felling not subject to permission.

(4) The security deposit shall be refunded to the depositor according to the reforestation work carried out; should a fixed-liability mortgage have been provided, a cancellation receipt shall be issued. The remaining amount shall be released without delay after the work has properly been carried out, but not later than after afforestation has been established. Should the security deposit have been called upon for covering the costs of a substitute operation, the authority shall render account to the depositor for this and refund any amounts of the security deposit which have not been spent.

Obligations of Other Persons Arising from the License

Article 90. (1) Should the felling license be issued to a party entitled in accordance with Article 87 paragraph (1) or (2), this party shall replace the owner of the forest in terms of rights and obligations arising from the felling license, notwithstanding any civil rights agreements. Should the party entitled in accordance with Article 87 paragraph (1) not meet the obligations, the owner of the forest shall take responsibility for their fulfilment.

(2) Logging contractors and purchasers of standing timber are, like the owner of the forest, responsible for observing the provisions on felling and haulage. It is also their responsibility to find out before felling commences, if a felling license has been granted and, if appropriate, with what conditions and requirements.

Decision on the Application for a Felling License

Article 91. (1) The authority shall decide on the application for the felling license within six weeks of its being submitted. Should it fail to make a decision within this period, the applicant may carry out the felling applied for while adhering to the provisions of this Federal Act.

(2) Should weather conditions prevent the taking of necessary surveys on the spot, the authority may extend the six-week period, until it is anticipated that the reason for prevention no longer applies. The applicant shall be informed of this by official notice.

(3) Should objections be raised under civil law in the course of the proceedings, the authority shall endeavour to achieve an amicable settlement. Should this prove impossible, the authority shall, when making its decision on whether the felling is permissible under forestry law, instruct the parties on their rights to take action under civil law, while expressly stating the objections not covered by the notice.

Period of Validity of the Felling License

Article 92. (1) The period of validity of a felling license expires five years after the notice has acquired legal force.

(2) The period of validity also expires on the change of ownership of the forest, except in the case of transfer due to death or based on transfer agreements.

(3) In the instances of Article 81 para. (1) point (b), the period of validity of the exemption permit expires at the end of the legal existence of the energy supply line installation.

C. Empowerment of Provincial Legislature

General Empowerment of Provincial Legislature

Article 95. (1) The Provincial legislature shall be empowered in accordance with Article 10 paragraph (2) B-VG

- (a) to reduce the upper limit of felling immaturity of high forest stands according to Article 80 paragraph (3) for particular areas of the state to 50 years or increase it to up to 80 years, unless the provision of Article 22 para. (4) point (c) applies;
- (b) to allow applications for a felling license which, up to a time to be determined, are included in the form of an entry in a list to be kept by the municipality, to be regarded as such within the meaning of Article 87 paragraph (4);
- (c) to reduce the period of validity of the felling license to one year.

(2) Should the age limit be lowered or raised in accordance with paragraph (1) point (a), appropriate consideration shall be taken of Article 81 paragraph (4).

Special Provisions for Tyrol, Vorarlberg and Upper Austria

Article 96. (1) The Provincial legislature of the Provinces of Tyrol and Vorarlberg shall be empowered in accordance with Article 10 paragraph (2) B-VG

- (a) to reduce the extent of free felling, except that covered by Article 86 para. (1) point (c),
- (b) to declare all felling in community-owned forests and undivided agricultural co-operative forests as well as in protection forests and protective forests as being subject to permission, and
- (c) to pass detailed regulations on ancillary uses of the forest (such as obtaining forest litter, grazing), and
- (d) to determine additional data for the felling-license application in derogation of Article 87 para. (4).

(2) The Provincial legislature of the Provinces of Tyrol, Vorarlberg and Upper Austria shall be empowered in accordance with Article 10 paragraph (2) B-VG

- (a) to determine the field of duties of the authority's forest supervisory bodies, which are the auxiliaries assigned to the authority to fulfil its tasks;
- (b) where such bodies are entrusted with forest management tasks, to prescribe that they must have successfully attended a training course over several weeks at a forestry school or a forestry training centre, and to lay down the details of the course design.

(3) The Provincial legislature of the Provinces of Tyrol and Vorarlberg is also empowered in accordance with Article 10 paragraph (2) B-VG, where forestry commissions responsible for fixing dates for hearings have been established in municipalities as authorities of the first instance for dealing with matters listed in paragraph (1), to regulate their field of duties and the shortening of the decision-making process.

(4) The Provincial legislature of the Provinces of Tyrol and Vorarlberg shall, in case it provides for forest supervisory bodies, be empowered in accordance with Article 10 paragraph (2) B-VG to determine that the provisions of Article 104 paragraphs (1) through (3) and Articles 113 through 116 do not apply in forest supervision areas.

(5) The provisions of Article 104 paragraphs (1) through (3) and Articles 113 through 116 shall not be affected, unless otherwise provided for by paragraph (4).

Special Provisions for Salzburg

Article 97. The Provincial legislature of the Province of Salzburg shall be empowered in accordance with Article 10 paragraph (2) B-VG

- (a) to reduce the extent of free felling, except that covered by Article 86 para. (1) point (c),
- (b) to declare all felling exceeding that required for normal domestic and estate needs as being subject to permission, and
- (c) to regulate in greater detail ancillary forest uses (such as obtaining forest litter, forest pasturing).

SECTION VII PROTECTION AGAINST TORRENTS AND AVALANCHES

Area of Application

Article 98. Unless otherwise provided, the provisions of this Section shall also be applied to plots that are not forest for the purposes of Article 1a.

Definition of Terms; Determination of the Catchment Areas

Article 99. (1) For the purposes of this Federal Act a torrent is a permanently or temporarily flowing waterway which, as a consequence of its rapid and brief rises in the water level, removes solid material from its catchment area or its bed to a dangerous extent, carries this along and deposits it within or outside its bed or carries it to another stretch of water.

(2) Avalanches within the meaning of this Federal Act are masses of snow which, when falling from steep slopes, ditches and the like, cause danger or damage as a consequence of the kinetic energy or the wave of air pressure caused by them or by their deposition.

(3) The catchment area of a torrent within the meaning of this Federal Act is the area of precipitation that it and its inlets drain and the area on which the torrent deposits its material.

(4) The catchment area of an avalanche within the meaning of this Federal Act is the area which feeds it, the break-off and deposit area, and the path of the avalanche.

(5) The Governor of the Province shall, at the suggestion of the administrative department (Article 102 para. (1) point (a)) and after having heard the Chamber of Agriculture, issue an ordinance specifying the catchment areas of the torrents and avalanches.

(6) Torrent and avalanche control measures within the meaning of this Federal Act are precautions taken in the catchment areas of torrents and avalanches for the following purposes:

1. Prevention of bedload formation and retention of weathering products in the catchment areas of torrents,
2. improvement of the water balance and harmless drainage of water and bedload in the catchment areas of torrents,
3. establishment and maintenance of protection forests including the upper timberline zone of the forest, reforestation of protection forest sites after natural disasters,
4. stabilisation and revegetation of landslides and landslide areas, especially on water-prone mountain slopes (securing the toe of the slope, slope drainage, afforestation and soil-binding measures),
5. prevention against the imminent formation of new gullies, landslides and avalanche areas as well as against rockslide and rockfall,
6. increasing protection against avalanches, rockslide, rockfall and mudflows,

7. management and maintenance of the catchment areas and of existing torrent and avalanche control measures.

(7) The area of operation for torrent and avalanche control is the area to which torrent and avalanche control measures pursuant to para. (6) apply or which is important for the function of these measures.

Treatment of Forests in Catchment Areas

Article 100. (1) Where this appears necessary to guard against dangers from torrents and avalanches, the authority shall, after having heard the administrative department (Article 102 para. (1)), in protection forests in line with the provisions of Article 22 paragraphs (3) and (3a), in catchment areas of torrents or avalanches

- (a) prescribe the use of suitable forest propagation material for the tree species in question, for which the owner of the forest must not suffer any substantial additional costs;
- (b) make felling in the upper timberline zone and in areas of operation for torrent and avalanche control subject to permission;
- (c) in case of doubt conduct declaratory proceedings in accordance with Article 23 to determine whether forests are to be considered protection forests;
- (d) prescribe the treatment of protection forests according to Article 22 para. (1) or according to the ordinance pursuant to Article 22 para. (4),
- (e) propose to the Governor of the Province that a Forest Development Plan be prepared or adapted for the purposes of Article 24;
- (f) declare forests and newly afforested areas in the catchment area protective forests ("Bannwald") in accordance with Article 30;
- (g) prescribe locally limited felling to avoid the direct threat of slides, including those of high forest stands, even if these have not yet exceeded the upper limit of felling immaturity for the purposes of Article 80 paragraphs (3) through (5).

(2) In instances of paragraph (1) point (f) and Article 101 paragraph (2) point (c), the authority may transfer the management of these protective forests to the administrative department if and insofar as this appears necessary to avert or reduce the danger of torrents or avalanches (Article 102 para. (1) point (b)).

(3) Should the necessity for management in accordance with paragraph (2) no longer apply, the authority has to issue an official notice transferring it to the owner of the forest. The notice shall in particular specify the time from which the transfer is to become effective and shall also decide if and, if appropriate, to what extent and with what conditions and requirements, the declaration as protective forest shall remain in force. If necessary, proceedings shall be conducted once again in accordance with Article 31 to compensate for the proprietary disadvantage suffered as a consequence of the transfer and a decision on the conduct of measures for the purposes of Article 28 paragraph (4) or on who shall bear the cost in accordance with Article 31 paragraph (1) sentence 2 shall be made.

(4) If procedures according to paragraphs (1) through (3) are carried out and these relate to areas within an area of operation, the administrative departments (Article 102 para. (1)) must be involved. The latter shall represent the public interest in the protection against torrents and avalanches.

Preventive Measures in Catchment Areas; Clearing Torrents

Article 101. (1) Should the situation threaten to deteriorate in the catchment area of a torrent or an avalanche or should such a circumstance be already underway, so that effective measures against the danger of torrents or avalanches are aggravated or made impossible, the authority shall determine, where it is not already an area of operation in accordance with Article 99 paragraph (7), what preventive measures appear necessary.

(2) For the purposes of paragraph (1) preventive measures may in particular be:

- (a) measures to control the occurrence or extension of erosion,
- (b) reforestation of areas at high altitudes and in the upper timberline zone,
- (c) declaring newly afforested areas protective forests,
- (d) restriction of haulage in accordance with paragraph (4),
- (e) restriction of forest grazing to an extent which ensures that torrent and avalanche control measures provided for or conducted on the basis of this Section are not endangered.

(3) Depending on the type of measure, the provisions of this Federal Act or, as far as protective and regulating hydraulic structures are concerned, the provisions of the Water Rights Act 1959, Federal Law Gazette No. 215/1959, shall apply to the implementation of preventive measures pursuant to paragraph (1).

(4) Should haulage in catchment areas of torrents or avalanches, which is to be carried out without using haulage installations over ditch slopes, through runlets, ditches or water courses or through areas of operation for torrent and avalanche control, threaten to lead to a deterioration as referred to in paragraph (1), the authority shall make this haulage subject to a permit. This may, if necessary, be issued subject to the prescription of conditions and requirements, if it is guaranteed that haulage is carried out in compliance with the provisions of Article 58 para. (3) and effects within the meaning of Article 60 para. (2) are not to be expected.

(5) In case of procedures as set out in paragraphs (1), (3) or (4), the administrative department shall be called in (Article 102 para. (1)). The latter shall represent the public interest in the protection against torrents and avalanches.

(6) Each municipality through whose territory a torrent flows is obligated to monitor the torrent and its inlets and to inspect or have inspected the stretches within its territory that are known to be dangerous at least once a year, preferably in spring after the snow has melted. The removal of any obstructions found, in particular the presence of wood or other objects obstructing the watercourse, shall be arranged immediately. The municipality shall report to the authorities on the result of the inspection, on any actions taken and on their success.

(7) The duty of the municipality to be performed in accordance with paragraph (6) relates to its own sphere of activity.

(8) The Provincial legislature is empowered in accordance with Article 10 para. (2) B-VG to pass detailed regulations concerning the removal of the items referred to in paragraph (6) from torrents as well as the removal of any other grievances and the guarding against damage to banks, bridges, protective and regulating structures, bearing in mind the high-water levels generally experienced.

Organisation and Tasks of the Administrative Departments

Article 102. (1) The Forest Engineering Service in Torrent and Avalanche Control (“Forsttechnischer Dienst für Wildbach- und Lawinenverbauung”) shall be broken down into the following administrative departments:

- (a) into Provincial Headquarters (“Sektionen”) with their spheres of activity extending to the territory of one or several Federal Provinces,
- (b) into Regional Headquarters (“Gebietsbauleitungen”) with their spheres of activity on parts of the area of a Provincial Headquarter.

The administrative departments are subject to the Federal Minister of Agriculture, Forestry, Environment and Water Management, the Regional Headquarters also to the Provincial Headquarters to which its area belongs.

(2) The heads of the administrative departments must be forest managers (“Forstwirte”) meeting the appointment requirements for the higher forest service for torrent and avalanche control as specified in the provisions applicable to this.

(3) Each administrative department must be provided with specialised forestry staff as well as with technical, administrative and auxiliary personnel according to need.

(4) The staff of each administrative department, notwithstanding legal and disciplinary subordination to the Federal Minister of Agriculture, Forestry, Environment and Water Management, is subject to the head of the department in all official matters and is bound to his instructions.

(5) The following tasks in particular are incumbent on the administrative departments:

- (a) planning and implementing measures, including those to protect and raise the upper timberline, according to the provisions of this Section;
- (b) monitoring forestry-biology measures carried out by them in accordance with the provisions of this Section as well as ensuring the maintenance of the installations established by them in connection with these measures;
- (c) administering the appropriated promotional funds and contributions of interested parties for the measures referred to under points (a) and (b);
- (d) drafting and managing a torrent and avalanche register;
- (e) devising hazard zone plans in accordance with Article 11;
- (f) co-operating within the sphere of activity of the authority as experts (Article 173) in matters of torrent and avalanche control;
- (g) issuing proposals in accordance with Article 100 paragraph (1);
- (h) participating in the preparation of plans and monitoring systems that relate to catchment areas within the meaning of Article 99, even where they serve purposes other than guarding against dangers from torrents and avalanches.

(6) For monitoring and surveying work by the administrative departments in the catchment areas of torrents and avalanches, Article 172 para. (1a) shall apply analogously in respect of forest and non-forest areas.

(7) The Federal Minister of Agriculture, Forestry, Environment and Water Management shall issue an ordinance regulating the name, location, area of responsibility and tasks of the administrative departments (paragraph (1)) in consideration of regional and geographical circumstances, such as with regard to the density and location of the catchment areas of torrents and avalanches, and shall indicate those tasks (paragraph (5)) that have to be reserved for the Federal Ministry of Agriculture, Forestry, Environment and Water Management.

Torrent and Avalanche Register

Article 102a. (1) The Torrent and Avalanche Register is a geoinformation-supported IT application system for the standardised, spatial documentation, management and analysis of electronic natural hazard information.

(2) The Federal Minister of Agriculture, Forestry, Regions and Water Management shall be responsible for granting the access rights and the application responsibility. An administrator may be appointed to assign the access rights.

(3) The Torrent and Avalanche Register is based on the current Digital Cadastral Map and includes in particular

1. hazard zone plans
2. the watercourse network
3. measures pursuant to Article 102 para. (5) point (a), which are monitored by the administrative departments, such as in particular structures with regard to their location, condition, effect and maintenance obligation (register of structures),
4. natural hazard events, such as in particular floods from torrents, avalanches, rockfalls, landslides and mudflows (event register),
5. expertises of the employees of the administrative departments,
6. documentation on torrent exploration by the municipalities.

(4) The Torrent and Avalanche Register serves

1. the administrative departments and the Federal Minister of Agriculture, Forestry, Regions and Water Management as a central documentation, information and analysis tool,
2. the Federal Government, the Provinces, municipalities, water co-operatives and water boards by providing processed geodata and information on precautions against torrents and avalanches for the respective municipal area or the respective area of activity of the water co-operatives or water boards (municipal portal) and
3. the public for information on natural hazards.

Proceedings, Responsibility

Article 103. (1) The authorities responsible for the implementation of procedures and projects in accordance with this Section shall,

- (a) insofar as they relate to the provisions of Articles 99 through 101, be the authorities outlined in Article 170 paragraph (1), and
- (b) insofar as protective and regulating hydraulic structures pursuant to Section IV of the Water Rights Act 1959 are concerned, the authorities outlined in Articles 98 et seq. of the Water Rights Act).

(2) Where proceedings under forest law have to be conducted according to this Section, they should where possible be conducted at the same time as the proceedings under water law.

SECTION VIII FOREST STAFF

A. Forest Officers and Forest Protection Officers

Forest Officers and their Areas of Responsibility

Article 104. (1) Forest officers (“Forstorgane”) are specially trained forest workers whose appointment in accordance with the provisions of this Section serves to safeguard the public interest in forest conservation and to ensure compliance with the provisions of the present Federal Act.

(2) Forest officers within the meaning of paragraph (1) include forest managers (“Forstwirte”), forest assistants (“Forstassistenten”), foresters (“Förster”), junior forest officials (“Forstadjunkten”), and forest wardens (“Forstwarte”).

(3) The task of forest officers is the expert management of forests in accordance with paragraph (1). Such officers also fulfil the technical requirements for entrustment with the tasks of a forest protection officer (“Forstschutzorgan”) (Article 110 paragraph (1)).

(4) Forest officers must be Austrian citizens and, unless Article 109 applies, shall furnish proof of having completed the training required according to Article 105. Provided this does not relate to being entrusted with the tasks of a forest protection officer as specified in Article 110, the following persons are equivalent to Austrian citizens:

1. citizens of a European Union member state (EU citizens) or
2. citizens of a signatory state to the Agreement on the European Economic Area not indicated under sub-paragraph 1 or
3. citizens of Switzerland or
4. third-country nationals holding

- (a) a residence permit with unlimited right of establishment in accordance with Articles 45 and 81 para. (2) of the Establishment and Residence Act (“Niederlassungs- und Aufenthaltsgesetz”), Federal Law Gazette I No. 100/2005, or
 - (b) a temporary residence permit as an intra-corporate transferee (‘ICT’) pursuant to Article 58 or as a mobile intra-corporate transferee (‘mobile ICT’) pursuant to Article 58a of the Establishment and Residence Act.
- (5) The Governor of the Federal Province may exempt a person from providing evidence of Austrian citizenship if in the state to which the applicant belongs Austrian citizens are on an equal footing with the citizens of this state for appointment to forest services, the applicant acquired his forest education and training in Austria or his education and training abroad was recognised as being equivalent to the corresponding course of education and training in Austria as laid down in Article 109.

Education and Training for Forest Officers

Article 105. (1) The following certifications shall be required:

1. The forest assistant shall provide evidence of having successfully completed
 - (a) the diploma studies of the branches of study “Forstwirtschaft” (Forestry) or “Wildbach- und Lawinverbauung” (Torrent and Avalanche Control) in the field of study “Forst- und Holzwirtschaft” (Forestry and Wood Management) and the courses indicated in the ordinance in accordance with paragraph (1a) in respect of the branch of study “Forestry” at the Vienna University of Natural Resources and Life Sciences (“Universität für Bodenkultur Wien”) or in accordance with Article 106 para. (3a) sub-para. 2; or
 - (b) the Bachelor’s Degree programme “Forstwirtschaft” (Forestry) and a training indicated in the ordinance in accordance with paragraph (1a) at the Vienna University of Natural Resources and Life Sciences; or
 - (c) a Bachelor’s Degree programme other than “Forestry”, a course of study at the Vienna University of Natural Resources and Life Sciences specified in the ordinance pursuant to para. (1a) and an additional training as specified in the ordinance pursuant to para. (1a) or
 - (d) a Secondary College for Forestry (foresters’ school) in accordance with Article 11 para. (1) sub-para. 7 of the Federal Agricultural and Forestry Schools Act, Federal Law Gazette No. 175/1966 and a training indicated in the ordinance in accordance with paragraph (1a) at the Vienna University of Natural Resources and Life Sciences;
2. the junior forest official shall provide evidence of having successfully completed
 - (a) a Secondary College for Forestry (foresters’ school) in accordance with Article 11 para. (1) sub-para. 7 of the Federal Agricultural and Forestry Schools Act, Federal Law Gazette No 175/1966 or
 - (b) the Bachelor’s Degree programme “Forestry” at the Vienna University of Natural Resources and Life Sciences;
3. the forest manager (“Forstwirt”) shall provide evidence of having successfully completed the training specified in sub-para. 1 and of having passed the State Examination for Executive Forest Services (State Examination for Senior Forest Service);
4. the forester shall provide evidence of having successfully completed the training specified in sub-para 2 and of having passed the State Examination for Executive Forest Services (State Examination for Foresters’ Service);
5. the forest warden shall provide evidence of having successfully completed the technical forestry school (“Forstfachschule”).

(1a) The Federal Minister of Agriculture, Forestry, Environment and Water Management shall designate, by way of ordinance, those Master studies and, if necessary, the courses required to supplement these Master studies or the diploma study programme of the branch “Forestry”, that with their content together with the other trainings referred to in para. (1) sub-para. 1, ensure the expertise required for working as a forest assistant. The Federal Minister of Agriculture, Forestry, Regions and Water Management shall also specify in this ordinance the content and scope of the additional training referred to in paragraph (1) sub-para. 1 point (c) in such a way as to compensate for the significant differences in training compared with the training referred to in para. (1) sub-para. 1 point (b). The provisions of Article 109a paragraphs (5) through (7) shall apply *mutatis mutandis* to the aptitude test to be taken for the additional training.

(2) Anybody who can provide evidence of having undergone an education and training according to paragraph (1) shall be entitled to use the relevant job title referred to in para. (1) sub-para. 1 through 5 in the course of his forest activities.

State Examination for Executive Forest Services

Article 106. (1) The State Examination for Executive Forest Services (“Staatsprüfung für den leitenden Forstdienst”) shall provide the technical qualification for correct application of the forest technical and forest management knowledge acquired in all areas of relevance to carrying out the profession of an executive forest officer. The State Examination for Executive Forest Services shall be held in the form of

1. a state examination for senior forest services (“Staatsprüfung für den höheren Forstdienst”) and
2. a state examination for foresters’ services (“Staatsprüfung für den Försterdienst”).

(2) A state examination committee for senior forest services and a state examination for foresters' services shall be established at the Federal Ministry of Agriculture, Forestry, Environment and Water Management. The Federal Minister of Agriculture, Forestry, Environment and Water Management shall issue an ordinance regulating the contents, organisation and procedure of the state examinations for executive forest services for the purposes of para. (1) sub-paragraphs 1 and 2. In particular, the ordinance shall contain more detailed rules on the composition and appointment of the state examination committees, on the qualification requirements for the members of the state examination committees, further requirements concerning the admission to the state examination, the marking and grading of the results of the examinations, and the consequences of receiving negative grades for the entire examinations or parts thereof, in particular also on opportunities of repeating the examination.

(3) In order to be admitted to the State Examination for Executive Forest Services, the examinee must provide evidence of

1. the successful completion of the education and training provided for in Article 105 para. (1) sub-paragraphs 1 or 2 or a professional qualification recognised as corresponding to these types of education and training in accordance with Article 109 para. (1) and
2. at least two years of practical work in fields relevant to carrying out the profession of an executive forest officer after completion of the education and training referred to in sub-para. 1.

(3a) In the case of successful completion of the diploma of the branch "Forestry" in the study course "Forestry and Wood Management" in accordance with the syllabuses 2000 or 2002 at the Vienna University of Natural Resources and Life Sciences (Universität für Bodenkultur Wien), the following shall be recognised for the admission to the State Examination for Senior Forest Service:

1. in derogation from paragraph (3) the times of practical work within the meaning of para. (3) sub-para. 2, started until 29 February 2008, at the latest, which lie between the completion of the studies and the completion of the supplementary courses, and
2. in derogation from Article 105 para. (1) sub-para. 1 the evidence of the successful completion of
 - (a) the courses conducted by the Federal Research and Training Centre for Forests, Natural Hazards and Landscape or
 - (b) the further education and training courses conducted by the University of Natural Resources and Life Sciences in Vienna, provided that these courses are equivalent in their content to the courses within the meaning of Article 105 para. (1) sub-para. 1 point (a).

(4) The Federal Minister of Agriculture, Forestry, Environment and Water Management shall decide about the admission to the state examination. Examinees are entitled to be admitted to the examination if they meet the statutory requirements.

(5) The Federal Government shall bear the cost of the examination, payment for the members of the examination committee and their travel costs. The work of examiners employed under public law by the Federal Government is an ancillary occupation within the meaning of Article 37 para. (1) Civil Service Rights Act 1979 ("Beamten-Dienstrechtsgesetz 1979") and shall be remunerated in accordance with Article 25 para. (1) of the Salaries Act 1956 ("Gehaltsgesetz 1956"). The work of examiners not employed under public law by the Federal Government shall be remunerated on the same scale.

Recognition of Foreign Professional Qualifications

Article 109. (1) Citizens covered by Article 104 para. (4) sub-paragraphs 1 through 4 shall, upon application, be permitted to take up, or pursue, a forest profession under Article 105 para. (1) sub-paragraphs 1 through 5 by recognising the professional qualifications acquired in these countries (country of origin) by official notice from the Federal Minister of Agriculture, Forestry, Environment and Water Management in accordance with the requirements of paragraphs (2) through (5) or, if necessary, subject to compensation measures as referred to in Article 109a, or otherwise shall be denied such permission.

- (2) The applicant shall in cases where, in the country of origin, the access to or the pursuit of the same profession
 1. is regulated, provide the attestations of competence or the evidence of formal qualifications required in order to gain access to or pursue this profession in the country of origin;
 2. is not regulated, furnish proof that he pursued this profession on a full-time basis for one year in the course of the ten years preceding the filing of the application, or on a part-time basis for a total period corresponding to this, and that he possesses one or several attestations of competence or evidences of formal qualifications issued in another Member State in which this profession is not regulated.

The profession for which the applicant is qualified in the country of origin shall be considered the same profession if the activities it comprises are comparable.

(2a) Furthermore, the person whose professional qualifications are recognised must know the German language required for the pursuit of the profession which is the subject of the recognition. If there is substantial and concrete doubt that the applicant has sufficient language skills in respect of the intended professional activities, the Federal Minister of Agriculture, Forestry, Environment and Water Management shall, by separate official notice, require the applicant to provide evidence of such language qualifications. The requirements concerning language skills shall be proportionate to the activity to be carried out.

(3) The one-year professional experience referred to in para. (2) sub-para. 2 must not be requested if the evidence, or the set of evidence, of formal qualifications presented by the applicant, attests the completion of a regulated training within the meaning of Article 3 para. (1) point (e) of Directive

2005/36/EC with the levels of qualification as described in Article 11 points (b) through (e) of that Directive.

(4) Attestations of competence or evidence of formal qualifications covered by paragraph (2) sub-paragraphs 1 and 2 must

1. have been issued by a competent authority of the country of origin;
2. certify the relevant level of qualification according to Article 11 of Directive 2005/36/EC that corresponds to the education and training the applicant completed in his country of origin; and
3. in the case of paragraph (2) sub-para. 2, certify that the holder has been prepared for the pursuit of the profession concerned.

(4a) In Austria, the professions referred to in Article 105 paragraph (1) correspond to the following levels of qualification:

1. the professions of forest assistant and forest manager to the level of qualification referred to in Article 11 point (e) of Directive 2005/36/EC;
2. the professions of forester and junior forest official to the level of qualification referred to in Article 11 point (c) of Directive 2005/36/EC; and
3. the profession of a forest warden to the level of qualification referred to in Article 11 point (b) of Directive 2005/36/EC.

(5) The Federal Minister of Agriculture, Forestry, Environment and Water Management shall

1. within one month acknowledge receipt of the documents to the applicant or, if necessary, request him/her to remedy the deficiencies and
2. within four months from receipt of the complete documents, at the latest, issue the notice according to paragraph (3).

(6) In individual cases the Federal Minister of Agriculture, Forestry, Environment and Water Management shall, upon application, grant citizens covered by Article 104 para. (4) sub-paragraphs 1 through 4 partial access to a professional activity specified under Article 105 paragraph (1) if

1. the applicant is, without any restrictions, qualified to pursue the activity to which partial access is requested in the country of origin;
2. the differences between the professional activity lawfully exercised in the country of origin and the relevant profession according to Article 105 paragraph (1) are so big that the application of compensation measures would be equal to requesting the applicant to undergo the complete Austrian training programme to obtain access to the entire regulated profession; and
3. the professional activity can be objectively separated from other activities covered by Article 105 paragraph (1) and can be independently pursued in the country of origin.

(7) Partial access may be denied if this is justified on ground of overriding reasons relating to the public interest and is suited to ensure the achievement of the objective pursued and does not go beyond what is necessary to achieve this objective. Overriding reasons relating to the public interest are reasons recognised as such by the Court of Justice of the European Union in its case-law.

Compensation Measures

Article 109a. (1) In the official notice provided for in Article 109 paragraph (1) recognition of the professional qualifications shall be made dependent on the condition that the applicant either successfully completes an adaptation period or takes an aptitude test if

1. the applicant's earlier training covers subjects substantially different from those of the relevant training specified in Article 105 paragraph (1); or
2. in the country of origin the regulated profession does not comprise professional activities which are part of a profession in accordance with Article 105 paragraph (1) sub-paragraphs 1 through 5 and this difference comes from a specific Austrian training or from the different character of the subjects within the meaning of sub-paragraph 1.

Subjects substantially different according to sub-paragraph 1 are those subjects the knowledge, skills and competences of which constitute an essential requirement for the pursuit of the profession and in respect of which the applicant's earlier training shows substantial differences concerning its content compared to the training in Austria.

(1a) By way of derogation from the principle of the right of the applicant to choose, as laid down in paragraph (1), either an adaptation period or an aptitude test may be stipulated if

1. the holder of a professional qualification according to Article 11 point (a) of Directive 2005/36/EC applies for recognition of his/her professional qualification as qualification for the pursuit of the professions of a forester or junior forest official or
2. the holder of a professional qualification according to Article 11 point (b) of Directive 2005/36/EC applies for recognition of his/her professional qualification as qualification for the pursuit of the professions of a forest assistant or forest manager.

Holders of a professional qualification according to Article 11 point (a) of Directive 2005/36/EC applying for recognition of their professional qualifications as qualifications for the pursuit of the professions of a forest assistant or forest manager may be denied the access to, or the pursuit of, these professions without further examination.

(2) If an adaptation period or an aptitude test is requested, the principle of proportionality shall be complied with. In particular, it shall also be checked in advance whether the knowledge, skills and competences that the applicant acquired in the framework of his/her professional practice or by life-long learning in a Member State or a third country that were formally accepted as being valid by a competent

body can partially or entirely compensate the substantial difference in the trainings referred to in paragraph (1) sub-paragraph 1 or 2. If an adaptation period or an aptitude test is requested, this shall be duly justified. In particular, the applicant shall be informed about:

1. the level of the professional qualification required according to Article 109 paragraph (4a) and the level of the professional qualification presented by the applicant in accordance with Article 11 of Directive 2005/36/EC and
2. the substantial differences for the purposes of paragraph (1) as well as the reasons for which these differences cannot be compensated by knowledge, skills and competences that have been acquired by life-long learning and which, for this, were formally accepted as being valid by a competent body.

(3) The adaptation period shall be required in the form of practical work under the responsibility of an executive forest officer, in fields of relevance to the pursuit of the profession to which the recognition relates and, for the profession of a

1. forest manager or forester, shall last for a period of up to two years;
2. forest assistant, shall last for up to one and a half years;
3. junior forest official, shall last for up to one year;
4. forest warden, shall last for up to three months,

if necessary along with an additional training. If the recognition concerns the profession of the forest manager and the forest assistant, the competent executive forest officer shall be a forest manager; otherwise it can be a forest manager or a forester.

(4) After the adaptation period has been completed, the responsible executive forest officer shall, without delay, carry out a written assessment of the applicant's work, which must contain precise statements on the applicant's qualification for exercising the profession and give reasons for the assessment. The Federal Minister of Agriculture, Forestry, Environment and Water Management shall evaluate the applicant's success on the basis of this assessment and the results of the additional training.

(5) The aptitude test shall take account of the applicant's professional knowledge, skills and competences and shall cover subjects

1. the knowledge of which constitutes an essential requirement for the pursuit of the relevant profession according to Article 105 para. (1) and
2. which are not covered by the applicant's training compared to the corresponding training required under Article 105 para. (1).

(6) The aptitude test shall,

1. for the professions of a forest manager and forest assistant, be taken before the examination board of the state examination committee for senior forest service;
2. for the professions of a forester, junior forest official and forest warden, be taken before the examination board of the state examination committee for the foresters' service.

(7) The aptitude test can be taken on the respective dates of the State Examination for Executive Forest Services. The examinee shall notify the Federal Minister of Agriculture, Forestry, Environment and Water Management at least two months in advance in writing about his/her intention to take the test. Four weeks prior to the scheduled date of the test, at the latest, the examinee shall be summoned giving the place and beginning of the test. Before the test starts the examinee shall provide the chairman of the examination board with his/her proof of identity and shall submit the official notice referred to in Article 109 para. (1). If the test is passed, the candidate shall be awarded a certificate; otherwise he/she shall be informed that he/she failed. The test can be repeated twice. Records shall be taken on the examination process.

Freedom of Services

Article 109b. (1) Without prejudice to any other provisions under federal or provincial law as well as specific Union regulations, the following paragraphs shall apply in the event that a citizen referred to in Article 104 para. (4) sub-paragraphs 1 through 3 adjourns to Austria to provide, on a temporary and occasional basis, services which comprise activities of the professions referred to in Article 105 para. (1) sub-paragraphs 1 through 5. In the individual case, the temporary and occasional character of the provision of services shall be determined in particular by the duration, frequency, regularity, and continuity of the provision of the service.

(2) The services referred to in paragraph (1) cannot be restricted due to the professional qualifications if the service provider

1. is legally established in one of the countries listed in Article 104 para. (4) sub-paragraphs 1 through 3 (state of establishment) to pursue that same profession and
2. has pursued this profession in one or several Member States for at least one year during the preceding ten years, provided that the profession or training is not regulated in the state of establishment.

(3) Prior to the first service involving a stay in Austria the service provider shall notify the Federal Minister of Agriculture, Forestry, Environment and Water Management in writing of details of an insurance cover or any other means of personal or collective protection with regard to professional liability. This notification shall be renewed annually if the service provider intends to provide services within the meaning of paragraph (1) in the relevant year. In the cases of first provision of services or of a substantial change concerning the situation certified by the below-mentioned documents, the notification shall comprise also:

1. the certificate of the nationality of the service provider;

2. a certificate proving that the service provider is legally established in the state of establishment to practise the activities concerned and that he/she has not been permanently or temporarily forbidden to practise these activities;
3. evidence of the professional qualifications;
4. if required, the evidence of the pursuit of the profession for the purposes of paragraph (2) sub-para. 2;
5. times and places of the presumable services; and
6. types of the service activity.

(4) The service shall be provided under the professional title of the state of establishment, provided such title exists. The professional title shall be used in the official language of the state of establishment and in a form ensuring that no confusion with the relevant professional title under Article 105 paragraph (1) is possible. Otherwise the service provider shall provide the evidence of training in the official language of the state of establishment. In cases of a check as set out in paragraphs (5) through (8) the service shall be provided under the professional title according to Article 105 paragraph (1), in cases of partial access as set out in Article 109 paragraphs (6) and (7) the service shall be provided under the professional title of the country of origin.

(5) In cases where service activities which might affect public health or safety, such as, in particular, the planning or construction supervision for haulage installations, are to be provided for the first time, the service may be provided only after the Federal Minister of Agriculture, Forestry, Environment and Water Management checked the professional qualifications of the service provider according to the provisions of paragraphs (6) through (8) and permitted the service, or refrained from such a check, or did not react.

(6) The check shall be limited to preventing that public health or safety is seriously affected due to the professional qualification of the service provider. In the case of a check the Federal Minister of Agriculture, Forestry, Environment and Water Management may request information about the education and training courses of the service provider from the competent authorities of the member state of establishment, where this is necessary to assess the difference in qualification according to paragraph (7).

(7) If the check reveals that a difference which is substantial and affects public health or safety exists between the professional qualifications of the service provider and the relevant trainings referred to in Article 105 para. (1), which cannot be compensated by professional experience or by knowledge, skills and competences of the service provider that have been acquired by life-long learning and which, for this, were formally accepted as being valid by a competent body, the service provider shall be given the opportunity to provide evidence of the missing knowledge, skills or competences by requesting him/her to take an aptitude test.

(8) The decision on the check or the notice that no such check will be carried out shall be taken within one month following receipt of the complete notification according to paragraph (3). If it is not possible to take a decision within this period, the service provider shall be informed about the reason of the delay. The decision shall be taken within two months after the difficulties have been resolved, at the latest. If the notice or the decision is not provided within these periods, the service may be performed.

(9) In the event that the service is provided under the professional title of the state of establishment or on the basis of the evidence of training furnished by the service provider, the service provider shall inform the recipient of the service about

1. the entry in a commercial register or a similar public register, consisting of the number or equivalent identification data and the register name, if available;
2. the name and address of the competent supervisory authority, if the activity requires licensing in the state of establishment;
3. the professional society or comparable organisations to which the service provider is a member;
4. the professional title or, in the absence thereof, the evidence of training of the service provider and the Member State which awarded the professional title or issued the evidence of training;
5. the value-added tax identification number, if the service provider practises an activity subject to value added tax;
6. details of the insurance cover or of another form of personal or collective protection with regard to professional liability; and
7. if necessary, the scope of occupational activities for which partial access to a profession under Article 105 para. (1) was granted.

Point 5 does not apply to citizens of EFTA States.

Procedures concerning the Single Point of Contact

Article 109c. (1) In procedures under Article 109 and Article 109b written requests can also be submitted to the Single Point of Contact. In such cases the provisions of Articles 6 through 11 of the Austrian Services Act (“Dienstleistungsgesetz”, DLG), Federal Law Gazette I No. 100/2011, shall apply.

(2) In the event of submission of written requests at the Single Point of Contact the time limits for decision-making specified in Article 109 para. (5) and Article 109b para. (8) shall start upon the time of submission.

Forest Protection Officers

Article 110. (1) Should the Provincial legislature provide for entrusting certain persons with the functions of a forest protection officer, only the following shall be eligible:

- (a) persons who have reached the age of eighteen years and who possess the intellectual and physical qualities as well as the character and trustworthiness required for taking part in the forest protection service and who, in addition,
- (b) are forest officers (Article 104 para. (2)) or forest supervisory bodies (Article 96 para. (2)), or
- (c) are able to present a certificate evidencing the successful completion of a course of 40 hours, or of its parts, for which no recognition in accordance with paragraph (3) was provided, at a forestry school or at the Federal Research and Training Centre for Forest, Natural Hazards and Landscape for advanced training for the tasks of forest protection officers, or
- (d) are forest workers within the meaning of the professional training regulations for agriculture and forestry, but only provided that an interrogation officially conducted before the person is entrusted with the functions of a forest protection officer has demonstrated that the applicant is familiar with the rights and duties of a body of public supervision.

(2) Notwithstanding the provision of paragraph (1) point (a), a forest owner already meets the necessary requirement for being entrusted with the function of a forest protection officer if he/she has the necessary practical and technical knowledge for fulfilling the tasks of a forest protection officer and is familiar with the tasks of a body of public supervision.

(3) Attestations of competence or practical work experience shall be recognised as being partially or completely equivalent to the training according to paragraph (1) point (c).

The Forest Protection Officer as a Body of Public Supervision

Article 111. (1) The forest protection officer has the rights of a body of public supervision granted by Article 112 and is authorised to carry a small firearm in the performance of his/her duties, notwithstanding the provisions of the Weapons Act 1996, Federal Law Gazette I No. 12/1997.

(2) In the performance of his/her duties, the forest protection officer enjoys the protection granted to civil servants (Article 74 point 4 of the Penal Code) if he/she wears the identification badge prescribed by Provincial legislation. The forest protection officer shall show his/her identification badge on request.

Right to Expel Persons from a Forest and Right of Arrest

Article 112. The forest protection officer is entitled

- (a) to expel persons from the forest in his area of service, if they have committed an administrative offence in accordance with Article 174 paragraph (3) or have infringed the provisions of Article 40 paragraph (1) or if their prolonged stay there gives justifiable cause for concern about the protection of the forest, proper forest management or the security of the property;
- (b) in cases of Article 40 paragraph (1) and Article 174 paragraph (3) point (a) last clause, point (b), (c) or (d), to determine the name of the person entering the forest and then notifying the authority;
- (c) in the instances provided for in Article 35 of the Administrative Penalty Act 1950, also to arrest a person for the purpose of taking him/her to the authority and, should this person escape arrest by flight, to pursue him/her beyond his/her area of service and arrest him/her outside this area;
- (d) to confiscate provisionally the forest products and tools normally used to obtain or carry forest products discovered in the possession of the person concerned and to inspect containers and means of transport for this purpose.

Duty to Appoint Forest Officers

Article 113. (1) Owners of forests of at least 1,000 hectares, if they form an economic unit (compulsory operation), shall appoint an executive forest officer and assign to him/her further forest officers in instances of paragraph (3).

- (2) The obligation under paragraph (1) shall be considered fulfilled if for each compulsory operation
 - 1. in the case of a forest area of less than 3,600 hectares one forester,
 - 2. in the case of a forest area of at least 3,600 hectares one forest manager is appointed as an executive forest officer.

(3) The obligation under paragraph (1) regarding the assigning of additional forest officers shall be considered fulfilled if, in the case of compulsory operations of 6,600 hectares or more, further forest officers are assigned, one forest officer for each additional 3,000 hectares.

(4) Within the framework of his/her tasks the executive forest officer shall have the right to represent the forest owner vis-à-vis authorities and corporations under public law.

Forest Officers for Several Compulsory Operations

Article 114. (1) The Governor of a Province shall, on joint application by the forest owners involved, permit a jointly operating executive forest officer to be appointed for several compulsory operations, if the total forest area in terms of location and traffic is located in such a way that joint economic operation in proper form is ensured. The forest areas of the compulsory operations shall be added up to determine the type of the executive forest officer (Article 113 para. (2)) and the obligatory number of forest officers to be assigned (Article 113 para. (3)).

(2) If a forest officer is appointed for several compulsory operations by forest owners without a joint application, the Provincial Governor shall issue a notice not recognising the appointment if the requirements of paragraph (1) and of Article 113 are not fulfilled. The last sentence of paragraph (1) shall apply *mutatis mutandis*.

Appointment Procedure

Article 115. (1) In compulsory operations, the owner of the forest shall appoint the forest officers provided for in accordance with Articles 113 and 114 within six months calculated from the time at which the obligation arose and notify these officers to the authority within one month of appointment and in any case three days after entering service. The notification shall include the area of service assigned and its extent, if appropriate also appointments for other compulsory operations which the forest officer has to notify to the forest owner.

(2) The authority shall extend the six-month period by half a year on application by the owner of the forest made before it expires, if the owner of the forest is able to prove that it is impossible for him to make an appointment within the period laid down in paragraph (1) because appropriate forest officers are not available on the labour market.

General Provisions for Forest Officers and Forest Protection Officers

Article 116. (1) The owner of the forest may also nominate himself to the authority as a forest officer, if he satisfies the requirements for appointment.

(2) The owner of the forest shall inform the authority of the termination of the work of his forest officers (Article 104) or forest protection officers (Article 110) within one month.

B. Technical Forestry School

Establishment of a Technical Forestry School

Article 117. (1) The Federal Minister of Agriculture, Forestry, Environment and Water Management shall, on behalf of the Federal Government in agreement with the Federal Minister of Finance and the Federal Minister of Education and Women's Affairs, establish and maintain a Technical Forestry School (in brief "Technical School") for the purpose of training further forest staff. The Technical School is a vocational secondary school with two school levels.

(2) The Federal Minister of Agriculture, Forestry, Environment and Water Management shall issue an ordinance determining the location of the Technical School in agreement with the Federal Minister of Finance.

(3) The Federal Minister of Agriculture, Forestry, Environment and Water Management shall ensure that

1. there is an opportunity for students to live in a students' hostel attached to the Technical School and
2. an appropriate teaching forest is available which can be used to carry out exercises and training in the forest.

(4) The Technical School is accessible to everybody. Admission of a student may only be rejected

- (a) if the student does not meet the entrance requirements (Article 120),
- (b) if the school is overcrowded.

Task of the Technical School

Article 118. The Technical School is to provide students with the necessary technical knowledge to enable them to co-operate in carrying out forestry and hunting operations and providing forest protection and forest advisory service. Otherwise it shall have the tasks described in Article 2 paragraph (1) of the Federal Agricultural and Forestry Schools Act.

Note for the following provision

Gradual entry into force by classes and school levels (cf. Article 179 para. (11)).

Instruction and Syllabus

Article 119. (1) Theoretical instruction shall be supplemented by exercises and practical instruction. The amount of theoretical and practical instruction and of exercises in compulsory subjects shall be at least 2,800 hours.

(2) The Federal Minister of Education, Science and Research shall lay down the syllabus in agreement with the Federal Minister of Agriculture, Forestry, Regions and Water Management by ordinance, with compulsory subjects as follows:

1. general education subjects (Religious education, German, Living foreign language, History, Geography, Political education, Law as well as Physical education and sports),

- 1a. ethics to the extent of two lessons per week for pupils who do not attend religious education lessons,

2. the mathematical, science, forestry, hunting, economic and other subjects required for future professional activity,
3. practical instruction in the forestry, hunting and economic subjects required for the future professional activity.

The relevant provisions of Articles 5, 7 and 8a of the Federal Agricultural and Forestry Schools Act shall apply *mutatis mutandis*.

(3) Where possible, the compulsory subject of ethics is to be taught at the same time as the religious education lessons of the legally recognised church (religious society) to which the highest number of pupils at the school belong. If churches (religious societies) hold religious education lessons in a co-operative form, the total number of pupils shall be calculated as the sum of all members of the churches participating in the co-operation. If fewer than ten pupils in a class are required to attend ethics lessons, they must first be grouped together with pupils from other classes in the same grade, then from other classes in the school and finally from other schools until the number exceeds ten.

(4) In order to supplement practical teaching, the syllabus shall provide for a compulsory practical training of one month between the two school levels.

(5) The school authority may carry out school trials to test special pedagogical and school organisational measures. Article 6 paragraphs (1) through (5) of the Federal Agricultural and Forestry Schools Act shall apply *mutatis mutandis*.

(6) In order to ensure the high-quality fulfilment of the tasks of the Technical School, an education controlling system shall be set up. Article 21 of the Federal Agricultural and Forestry Schools Act shall apply *mutatis mutandis*.

Admission to the Technical School

Article 120. (1) The requirements for admission to the Technical School are

1. physical and intellectual aptitude and
2. 16 years of age in the calendar year of admission.

(2) The requirement of intellectual aptitude is considered to be met if the applicant has completed

1. the second class, or the second year, of a medium-level or higher-level vocational school or
2. a vocational training after successful completion of the ninth grade or
3. a training which is of higher level than that listed under sub-para.1 or 2.

(3) In exceptional cases the conditions under paragraph (2) need not be fulfilled if, due to special agricultural or forestry knowledge, skills or competences of the applicant, the Director of the school finds that this person will with high probability meet the requirements of the Technical School.

(4) The requirements under paragraph (2) shall also be considered fulfilled

1. if the vocational training
 - (a) as a forest supervisory body for the purposes of Article 96 para. (4) or
 - (b) as a professional hunter
 is completed or
2. if the prevocational traineeship in the course of a training at an agricultural and forestry technical school is to be replaced.

(5) Preference is to be given to those applicants that provide evidence of fulfilling the requirements under paragraph (2) sub-para 1.

Free Education

Article 121. (1) Attendance of the Technical School is free of charge.

(2) It is permissible to charge cost-covering contributions for teaching and working material.

School Authorities, Teachers

Article 122. (1) The Technical School is directly subordinate to the Federal Minister of Education and Women's Affairs, but insofar as it concerns school maintenance and matters relating to teachers' employment law, it is subordinate to the Federal Minister of Agriculture, Forestry, Environment and Water Management.

(2) The management of the Technical School and the management of the students' hostel (Article 117 para. (3) sub-para. 1) in educational matters shall be the responsibility of the Director, who has to be a forest manager ("Forstwirt").

(3) The permanent teaching staff consists of the Director and the teachers. In addition, lecturers may be assigned for a fixed term if required. Specialists who are not assigned as teachers may be considered as lecturers. A teaching assignment does not establish an employment relationship; any existing employment relationships remain unaffected by the teaching assignment. The school must be provided with a sufficient number of specialised staff for the teaching forest and the practical exercises.

SECTION IX

Forest Research, Training and Further Training

Federal Forest Office and Federal Research and Training Centre for Forest, Natural Hazards and Landscape

Article 129. The Federal Minister of Agriculture, Forestry, Environment and Water Management shall, on behalf of the Federal Government, in agreement with the Federal Minister of Finance, set up and maintain a Federal Forest Office and Federal Research and Training Centre for Forests, Natural Hazards and Landscape (Federal Office and Research Centre for Forests), including education and training institutes and accommodation, pursuant to the provisions of the "BFW Act", Federal Law Gazette I No. 83/2004. In this respect, opportunities for training in the forest and for the practical testing of working methods, equipment, machines and resources must also be ensured.

Tasks and Competencies of the Federal Office and Research Centre for Forests

Article 130. (1) The Federal Office and Research Centre for Forests serves the Federal Government as a research, training, further training, information, coordination and extension agency in the field of forests, natural hazards and landscape, and as an official authority in the field of forests. Its tasks and its competencies comprise in particular:

1. Exercising the implementation tasks assigned to the Federal Forest Office according to the Federal Law on Forest Reproductive Material 2002, Federal Law Gazette I No. 110/2002; exercising the implementation tasks assigned to the Federal Forest Office according to the Plant Protection Act 2011, Federal Law Gazette I No. 10/2011, for forest plants according to the Annex to this Federal Act and the ordinance according to Article 1a para. (1a) and their plant products;
2. Surveys of all kinds on the state and the development of the Austrian forest, in particular the forest inventory to be carried out periodically covering the whole territory as well as surveys to be conducted on the basis of obligations under EU law or international agreements;
3. Studies and research in the fields of forest, natural hazards and landscape sciences including their peripheral subjects, in particular the preservation, the protection and the sustainable development of forests as habitats and economic objects, the improvement of the ability of forests to fulfil their functions, the role of the forest as an element of the rural area and forest area planning, the protection against natural hazards and watershed management for the quantitative and qualitative control of the water balance;
4. Establishment, documentation and scientific use of natural forest reserves; co-ordination of natural forest research;
5. Implementation of in-situ and ex-situ measures to safeguard forest-genetic resources;
6. All kinds of surveys to identify the causes and the extent of forest damage, in particular damage caused by game or by forest-damaging air pollution;
7. Design and conduct of long-term experiments as well as monitoring on permanent observation plots, in particular in connection with changes in forest ecosystems;
8. Examination and practical testing of equipment, tools, machinery, operating procedures and methods of application in terms of their suitability in forest operations and watershed management;
9. Testing and giving expert opinions on chemicals and other substances intended for use in forests as well as issuing certificates on this subject-matter;
10. Co-ordination of research activities, monitoring systems and knowledge management in the fields of forest, natural hazards and landscape sciences;
11. Training of forest protection officers and participation in the training of forest workers;
12. Further training for those working in the field of forestry and being interested in the forest by means of appropriate courses;

13. Transfer of knowledge from practical testing of forestry operational procedures, tools or machinery;
14. Providing information, giving expert opinions, providing extension services, as well as drafting planning documents for the Federal Government, local authorities or other natural or legal entities.

(2) The certificates to be issued in accordance with paragraph (1) sub-paragraphs 8, 9 and 12 are public documents.

(3) The Research Centre shall be empowered to set up experimental areas or experimental stations in connection with carrying out scientific tasks, especially for establishing series of experiments, or for studies, and to make the necessary arrangements to this end with the owners of the land required for this. In these arrangements the nature of the co-operation as well as the powers and duties that the parties confer on one another shall be specified.

(4) This shall not affect provisions of this Federal Act or of other Federal Acts for whose implementation the co-operation of the Federal Office and Research Centre for Forests is provided.

SECTION X

SUBSIDISATION IN THE FIELD OF FORESTRY

Task of Forest Subsidisation

Article 141. According to this Federal Act it shall be the task of the Federal Government to support forestry with regard to those effects that are in the public interest.

Objectives and Measures of Subsidisation in the field of Forestry

Article 142. (1) The objectives of the Federal Government according to this Federal Act are:

1. Preservation and sustainable development of the multi-functionality of forests with their effects on the habitats of humans, animals and plants, in particular with respect to their economic, ecological or social functions in an environment that is changing due to climate change,
2. Integration of forestry in the preservation and sustainable development of rural areas;
3. Preservation, development and sustainable management of forests, in particular with a view to strengthening the competitiveness of forestry and to ensuring wood supply.

(2) The following are particularly relevant as measures of the Federal Government according to this Federal Act (support measures): Measures

1. to protect against natural hazards, but excluding those in accordance with Article 44 paragraphs (2) and (3);
2. aimed at safeguarding, improving, or restoring protection forests or forests with increased beneficial effect;
3. aimed at safeguarding or improving the value of forests for society;
4. aimed at safeguarding or improving the ecological stability of forests;
5. to promote information or innovation in favour of a multifunctional forestry;
6. to promote further training and extension for those working in forestry;
7. to safeguard or improve the economic or ecological value of forests;
8. aimed at extending or improving forestry infrastructure or at rationalising forest work;
9. aimed at further developing or improving forest management in the EU;
10. of processing and marketing of wood or to supply biomass;
11. to achieve structural improvements;
12. to establish and ensure balanced forest/game ratios;
13. to increase the carbon absorption and carbon storage capacity of forests.

General Provisions

Article 143. (1) The Federal Minister of Agriculture, Forestry, Environment and Water Management shall be responsible for approving support measures, granting funds from the Federal Government (or the European Union) and for controlling the funding. In this context, he shall also take aspects of area planning or of the environment into account.

(2) The support consists of the granting of subsidies. These may be granted as subsidies towards the costs of the support measures (allowances) or as subsidies towards the loan costs (interest subsidies); both types of support may also be applied in parallel for the same project. If the implementation of a support measure results in benefits for the applicant for support, support may only be granted on condition that the applicant makes an appropriate contribution to the costs. The Federal Government shall grant federal funds for support measures pursuant to Article 142 para. (2) sub-paragraphs 1 through 5 and 7 through 11 if the Federal Province also provides provincial funds amounting to at least half of the federal funds; the respective proportion of provincial funds shall be determined in the guideline pursuant to Article 145.

(3) Measures pursuant to Article 142 para. (2) sub-paras. 7 through 11 are excluded from support if they concern land owned by territorial authorities, unless they concern land encumbered with rights of use pursuant to Article 32 para. (2) or haulage co-operatives formed with persons holding rights of use (Article 32 para. (1)) pursuant to Article 68. The subsidisation of measures pursuant to Article 142 para. (2) sub-paras. 1 through 5 that concern land owned by territorial authorities is permitted.

(4) Subsidisation may only be permitted if

- (a) the projects applied for are in accordance with specialised forestry findings and do not conflict with the provisions of this Federal Act,
- (b) the prerequisites for carrying out the preparatory work are met and the implementation of the support measures and the assurance of their long-term success are guaranteed, and
- (c) measures within the meaning of Article 142 para. (2) would not be carried out or would not be carried out to the required extent without support from federal funds.

(5) The Federal Minister of Agriculture, Forestry, Environment and Water Management may conclude contracts of work with relevant legal entities, such as Chambers of Agriculture or banks, to handle the subsidisation. In accordance with the provisions of Article 104(2) of the Federal Constitution, he may also delegate the management of such transactions to the Governor of the Province and the authorities subordinate to him in the Province.

(6) The Federal Minister of Agriculture, Forestry, Environment and Water Management shall, according to requirements, make support for the implementation of integral measures in catchment areas of torrents and avalanches dependent upon the appointment of a suitable co-ordinator.

Guidelines

Article 145. (1) The Federal Minister of Agriculture, Forestry, Environment and Water Management shall, in agreement with the Federal Minister of Finance, establish guidelines on details of the support and the implementation of support measures.

(2) The guidelines according to paragraph (1) shall in particular also specify provisions concerning the application for subsidisation and the declaration of commitment, on the kind and the extent of subsidisation, on the prerequisites of subsidisation, on the applicants, on the priorities of the Federal Government concerning measures according to Article 142 paragraph (2). Furthermore, it has to be laid down that

1. support measures which have a favourable impact on the maintenance and improvement of a healthy environment, and
2. large-scale projects or projects which involve the total redevelopment of an area (integral projects), will have special significance.

(3) The guidelines may also lay down the subsidisation of minor individual projects in wholesale rates to simplify administration.

(4) The guidelines shall be brought to the attention of the Audit Office and then published in the Official Gazette "Amtsblatt zur Wiener Zeitung".

Federal Subsidy for Insurance against Forest Fires

Article 147. (1) The insurance companies that offer insurance against forest fire in Austria shall be awarded a subsidy from federal funds. This shall be used exclusively to reduce the premiums for insurance against forest fire payable by the owners of the forest as policyholders.

(2) The subsidy shall be set equally for all policyholders as a percentage of the premiums for insurances against forest fire.

(3) The Federal Minister of Agriculture, Forestry, Environment and Water Management shall, in agreement with the Federal Minister of Finance, issue an ordinance setting

- (a) the percentage of the subsidy and
- (b) the details for carrying out the proceedings.

(4) The level of subsidy for individual premiums shall be shown in figures in the premium account.

(5) Territorial authorities and their operations shall not receive premium subsidies.

(6) The Federal Minister of Agriculture, Forestry, Environment and Water Management shall be responsible for checking the use of subsidies in accordance with their dedication. The insurance companies must provide the necessary information and make the relevant documents available for inspection.

SECTION XII

GENERAL, PENAL, RESCISSORY, TRANSITIONAL AND FINAL PROVISIONS

Authorities, Responsibility and Hierarchy of Authority

Article 170. (1) Unless otherwise provided in this Federal Act, the authorities for general state administration are responsible for implementing its provisions. In the first instance, unless otherwise provided, the District Administration Authority (briefly referred to in this Federal Act as authority) shall be responsible.

(2) Should in other matters of the Federal Government that are materially related to procedures to be carried out in accordance with this Federal Act, according to the regulations applicable to these matters, an authority be responsible which is superior to that laid down by the provisions of this Federal Act, the relevant higher authority shall also be responsible for making decisions in accordance with this Federal Act. This shall apply also analogously to the tasks to be addressed by the administrative departments (Article 102 paragraph 1).

(3) In instances of Articles 110, 113, 114 and 173 paragraph (2) point (b), the authority in whose area of responsibility the headquarters of a forest operation is situated shall be responsible, provided this operation forms an economic unit; the headquarters of a central administration of forestry operations does not provide grounds for such a responsibility. In instances of Article 50, the authority in whose area of responsibility the installations requiring a permit are situated shall have local responsibility. In all other cases, local responsibility shall depend on the location of the forest area.

(4) In instances of paragraph (3) sentences 1 and 2, the authority responsible in accordance with this shall come to an agreement with the authority or authorities in whose territory the forest areas are located.

(5) Should the Federal Minister of Agriculture, Forestry, Environment and Water Management or the Governor of a Province be responsible for a matter, they may empower the authority next in ranking to carry out the procedures, including issuing the official notice, where this is in the interest of expediency, speed, simplicity and cost-saving. In this instance, the empowered authority shall completely replace the authority previously responsible. This applies also to procedures according to Article 185 paragraph (6).

(NB: Paragraph (6) has been repealed by Federal Law Gazette I No. 189/2013.)

Tasks of the Authorities

Article 171. (1) The authorities shall in particular

- (a) accomplish the monitoring of forests (forest supervision),
- (b) provide expert opinions based on Article 173 or bring them into effect in accordance with other provisions,
- (c) advise the owners of the forest where possible,
- (d) co-operate in forestry subsidisation and
- (e) assess the timber harvest periodically,
- (f) attend to forest-related education and public relations.

(2) The authorities shall keep records of the tasks referred to in paragraph 1 being carried out.

(3) To achieve comparability of the tasks outlined in paragraph (1), and for statistical information in the framework of the business operations (Article 5 para. (1) of the Federal Statistical Act 1965), the Federal Minister of Agriculture, Forestry, Environment and Water Management shall issue an ordinance determining the nature and form of the records referred to in paragraph (2).

Forest Supervision

Article 172. (1) All forests are subject to official monitoring (forest supervision). This comprises the right and duty of the authorities to monitor compliance with the provisions

1. of this Federal Act, the ordinances issued thereunder and the individual orders and prescriptions issued and
2. of the EU legal acts referred to in Article 46c.

(1a) The officers of the authorities and, insofar as this is necessary for the fulfilment of obligations under Union law, officers of the European Union accompanying them, shall, for the purpose of forest supervision, be authorised

1. to enter any forest and for this purpose also to use the forest roads and paths outside the forest, where they are suited for being used, also by driving on them,
2. to request information and evidence from the forest owner, his forest officers and forest protection officers, insofar as they are of relevance for forest supervision.

(2) In the context of forest supervision the authorities are also entitled to determine all actual and legal circumstances of individual forest ownership that are of significance for carrying out the provisions under forest law (forest investigation). When carrying out surveys for the purposes of this paragraph, the authorities may also carry out the necessary work in the forest, such as performing measurements, taking material to be analysed etc. As far as possible the owner of the forest shall be informed about the conduct of such surveys in the forest.

(2a) When conducting the periodic timber felling surveys the authorities are entitled to require the forest owner or his forest officers to provide the necessary information or evidence.

(3) The rights indicated in paragraph (1a) sub-paragraphs 1 and 2 shall apply *mutatis mutandis* to the bodies entrusted with the realisation of overall forest surveys, such as the Austrian Forest Inventory.

(4) Forest supervision shall also extend to determining damage to the forest (such as that caused by game, insects and air pollution).

(5) The results of surveys conducted pursuant to paragraphs (1) through (4) must not be used for purposes other than those of forestry. Unless otherwise provided by law this applies also to the results of surveys conducted pursuant to Article 52 paragraphs (1) and (2).

(6) If owners of forests, those entitled to forest rights of use or other persons ignore forestry regulations in dealing with forests or their areas of risk (Article 40 para. (1)), the authority shall, notwithstanding the initiation of criminal proceedings, impose an official notice on the party subject to the obligation or, in case of imminent danger, order him directly to take the measures appropriate to restore the condition in accordance with the provisions, including the necessary safety measures, such as in particular

- (a) prompt and appropriate reforestation,
- (b) preventing and guarding against destruction of the forest,
- (c) clearing the forest of damaged timber and other residues endangering the maintenance of the forest and cleaning up torrents,
- (d) preventing and, as far as possible, eliminating the damage to forest soil or plant cover caused by felling or haulage or,
- (e) stopping illegal felling or minor produce,

and, if required, have them carried out against reimbursement of costs by the party responsible.

(7) A marking hammer shall be used for official marking, the mark of which shall be determined by order by the Governor of the Province (official marking hammer). Its imitation and its unauthorised possession or use are prohibited.

Expert Activity by the Authorities

Article 173. (1) The authorities shall submit forestry expert opinions in matters addressed in this Federal Act *ex officio* or on application.

(2) The authority shall in particular, on application by the owner of the forest,

- (a) certify the nature and extent of felling caused by *force majeure*,
- (b) determine whether intended felling as a whole and irrespective of its requiring approval, accords with the capacity of the forest to sustain itself, and
- (c) determine the extent of those areas of his operation that constitute forest within the meaning of Article 1a paragraph (1),

provided the owner of the forest is able to provide evidence of the circumstances to be reviewed and applies sufficiently promptly for the circumstances to be reviewed within the available time. In the instances referred to in points (a) and (b), those entitled to usufructuary rights shall also be entitled to apply.

(3) Where expert opinions in accordance with paragraph (2) relate to individual operations, they may only be conveyed to the applicant. Article 172 paragraph (5) shall apply.

(4) The authority may reject the submission of expert opinions in accordance with paragraph (2) for which extensive surveys would be necessary or for which adequate documentation cannot be supplied.

Penal Provisions

Article 174. (1) Anyone

- (a)
 1. failing to carry out reforestation or restoration of young crops in contravention of Article 13;

2. failing to provide protective cover in contravention of Article 14 para. (2);
3. failing to comply with the prohibition of forest destruction of Article 16 para. (1);
4. contravening official regulations and prescriptions to redress destruction of forests or remove its consequences in accordance with Article 16 para. (3);
5. failing to remove waste from the forest contrary to an official order in accordance with Article 16 para. (4) first sentence;
6. failing to comply with the clearing prohibition of Article 17 para. (1);
- 6a. failing to carry out reforestation or the restoration of young crops in contravention of Article 17a. para. (4);
7. failing to comply with the prescriptions laid down in Article 18 paragraphs (1), (2) and (3) first sentence or commencing with clearing contrary to paragraph (6) before having lodged the security deposit;
8. carrying out clearing in contravention of Article 19 para. (8);
9. handling protection forests contrary to Article 22 para. (1) or contrary to an ordinance in accordance with Article 22 para. (4) or failing to comply with the obligations set out under Article 22 para. (3) sentence 2;
10. treating forests contrary to the official prohibition set out in Article 23 para. (2) sentence 2;
11. failing to comply with the obligation to carry out felling in accordance with Article 24 para. (4) contrary to official order;
12. treating plant cover in the upper timberline zone in contravention of the instruction specified in Article 25 para. (1) sentence 1, carrying out felling in contravention of an official notice issued in accordance with para. (1) sentence 2 or of official marking in accordance with para. (1) sentence 3, reducing or changing plant cover for more than a temporary period contrary to para. (2) sentence 1, or para. (3) sentences 1 and 3 without official approval;
13. contravening prescriptions and orders of Articles 28 and 29 with regard to protective forests;
14. causing a risk to the forest by forest grazing in contravention of Article 37 para. (1);
15. using protected areas for woodland grazing in contravention of Article 37 para. (3) or failing to keep grazing animals away from such areas;
16. contravening the provisions of Article 40 with regard to lighting fires in the forest;
17. contravening the prohibitions, orders and other prescriptions provided for in Article 41 for the purpose of preventing forest fires;
18. failing to combat forest pests in accordance with Article 44 paragraphs (1) through (3) and (6) sentence 1 or contravening an order made in accordance with paragraph (7);
19. contravening the prohibitions and instructions of Article 45 on preventing the increase of forest pests;
- 19a. using plant protection products in contravention of Article 46 or in contravention of an ordinance according to Article 46a;
- 19b. infringing directly applicable provisions
 - (aa) of Regulation (EU) 2016/2031,
 - (ab) of Regulation (EU) 2017/625 or
 - (ac) of the implementing provisions of the European Union adopted on the basis of the Regulations (EU) pursuant to sublit. (aa) and (ab);
20. operating or changing an installation without permit in contravention of Articles 49 and 50 or failing to adhere to the conditions and requirements prescribed in the permit;
21. failing to comply with the prescriptions laid down by official notice in accordance with Article 51 paragraphs (2) and (3);
22. carrying out haulage contrary to Article 58 paragraphs (3) and (4);
23. planning, building or maintaining haulage facilities contrary to Article 60 paragraph (1) or (2);
24. undertaking or permitting intervention beyond the extent referred to in Article 60 para. (3) in connection with para. (2) of this provision or not remedying intervention in accordance with para. (3) sentence 2;
25. establishing a haulage installation requiring approval pursuant to Article 62 para. (1) without that approval or failing to comply with the prescriptions contained in the building permit in accordance with Article 62 para. (3);
26. failing to comply timely with the obligation of reforestation contained in Article 65 para. (2);

27. using areas referred to in Article 65 para. (3) for purposes other than those of forest cultivation without a clearing permit or, should a clearing permit for such areas exist, failing to comply with the arrangements prescribed by this permit;
28. contravening the prohibition on felling provided for in accordance with Article 80 para. (1);
29. carrying out clear felling contrary to the prohibition of Article 82 para. (1);
30. carrying out felling contrary to the provisions of Article 85 para. (1);
31. carrying out felling in the upper timberline zone contrary to or without the permission specified in Article 100 para. (1) point (b);
32. contrary to a prescription in accordance with Article 100 paragraph (1) point (g), not carrying out felling to avoid the direct threat of slides;
33. carrying out haulage subject to permit in accordance with Article 101 para. (4) without official permit or failing to observe prescribed conditions and requirements;
34. as the owner of a forest failing to comply with the prescribed duty to appoint forest officers in accordance with Article 113 paragraphs (1) through (3);

(NB: Sub-paragraphs 35 through 40 repealed by Federal Law Gazette No. 419/1996.)

41. while transitional requirements of Article 184 are in force
 - not reforesting clear areas within the periods provided for in point 1,
 - contravening a notice issued in accordance with point 7 on exceptions to the prohibition against lighting fires,
 - failing to comply with the measures to combat forest pests indicated in point 8 para. (1), or failing to comply with the approvals listed in paragraph (2) of this provision,
 - failing to comply with the provisions of point 9 para. (2) on haulage installations,
 - failing to comply with the provisions in the official notices and approvals detailed in point 10,
 - failing to observe or contravening the measures and orders indicated in point 11,
 - generating, introducing or otherwise marketing propagation material contrary to the transitional regulations detailed in accordance with point 15, contravening the rules listed in accordance with point 16;

(b)

1. failing to tolerate overhanging branches or root penetration in contravention of Article 14 para. (1) sentence 1;
2. treating wind protection facilities contrary to Article 25 paragraph (5);
3. managing forests subject to rights of use contrary to Article 32 para. (1);
4. failing to tolerate driving on forest roads, as provided for in accordance with Article 33 para. (4);
5. setting up blocks in contravention of Article 34 paragraphs (2) through (4);
6. blocking paths beyond the provisions of Article 34 paragraphs (7) and (8);
7. failing to comply with obligations laid down in Article 34 paragraph (8) or (10);
8. maintaining a ban contrary to Article 35 paragraphs (2) and (3) or failing to remove barriers contrary to this provision;
9. failing to drive cattle in consideration of Article 37 para. (2);
10. contravening the provisions of Article 37 para. (5) regarding snow refuge;
11. obtaining ground litter or twigs contrary to Article 38;

(NB: Sub-paragraph 12 repealed by Federal Law Gazette I No. 59/2002.)

13. failing to provide the report to the authority provided for in accordance with Article 43 paragraph (1);
14. failing to comply with the obligations in accordance with Article 52 paragraph (2);
15. constructing or arranging to be constructed or planning or supervising the construction of haulage installations in contravention of Article 61 para. (1) without being authorised to do so in accordance with Article 61 para. (2) or failing to comply with an obligation in accordance with Article 61 para. (4);
16. putting into operation a haulage installation requiring approval in accordance with Article 62 para. (1) without approval;
17. failing to report the completion of haulage installations requiring approval, contravening Article 62 para. (4), or acting in contravention of a notice issued in accordance with that provision;
18. not or not properly registering forest roads requiring registration, contravening Article 64 para. (1), or acting in contravention of a notice issued in accordance with Article 64 para. (2);

(NB: Sub-paragraphs 19 and 20 repealed by Federal Law Gazette I No. 59/2002.)

21. failing to adhere to the requirements provided for in the official notice of permit in accordance with Article 81, paragraph (5) or otherwise failing to comply with the contents of the approval notice provided for in accordance with paragraph (6);

(NB: Sub-paragraphs 22 through 24 repealed by Federal Law Gazette I No. 59/2002.)

25. failing to report felling as required in accordance with Article 86 para. (2), or failing to do so in due time;
26. failing to fulfil the conditions and requirements prescribed in a felling license in accordance with Article 88 para. (3) and para. (4) sentence 1;
27. as an entitled party or owner of a forest failing to comply with the obligation of Article 90 para. (1);
29. continuing to manage, in spite of an official transfer of management to an administrative departments in accordance with Article 102 para. (1) point (b) of a protective forest in accordance with Article 100 para. (2);

(NB: Sub-paragraphs 30 through 32 repealed by Federal Law Gazette No. 419/1996.)

33. preventing or making it difficult for officers of the authorities to carry out tasks provided for in accordance with Article 172 para. (1) sentence 3 and para. (2) sentence 1 within the scope of forest supervision or failing to comply with the arrangements listed in accordance with paragraph (6) or contravening these;
34. copying, possessing without authorisation or using the official marking hammer contrary to the prohibition of Article 172 para. (7);
35. concluding all-in contracts contrary to the prohibition of Article 177 para. (1);

(c)

1. failing to comply with the obligation according to Article 49 para. (7) sentence 2;
2. carrying out haulage contrary to Article 58 para. (6) without consulting the technical supervisory service locally responsible for the traffic installation;
3. carrying out haulage contrary to a notice issued in accordance with Article 66 paragraphs (4) through (6) or as a party entitled to carry out haulage failing to conduct the haulage in accordance with the prescriptions laid down in the notice;
4. failing to tolerate the construction of a haulage installation in accordance with Article 66 para. (7);
5. contravening the decisions regarding supervision of haulage co-operatives in accordance with Article 73;

(NB: Sub-paragraph 6 repealed by Federal Law Gazette I No. 59/2002.)

7. contravening the instruction of Article 86 para. (3);
8. commencing felling before the prescribed security deposit has been lodged contrary to Article 89 para. (1) sentence 2;

(NB: Sub-paragraph 9 repealed by Federal Law Gazette I No. 59/2002.)

10. using a professional title contrary to Article 105 para. (2);
11. failing to adhere to the prescribed deadlines in accordance with Article 115 para. (1) or failing to notify the forest owner as required;
12. failing to comply with the obligations set out in Article 116;
13. failing to provide the information or evidence required in accordance with Article 172 para. (2a); unless the act constitutes a criminal offence, falling under the competence of the courts, or is subject to a more severe penalty according to some other administrative stipulations, has committed an administrative offence. These offences shall in instances

1. of point (a) be punished by a fine of up to EUR 7,270 or detention of up to four weeks,
2. of point (b) be punished by a fine of up to EUR 3,630 or detention of up to two weeks,
3. of point (c) be punished by a fine of up to EUR 360 or detention of up to one week. In the case of point (a) sub-para. 19b, the attempt is punishable.

(2) The authority shall also, in passing sentence whereby a person is adjudged guilty of an offence punishable in accordance with this Federal Act, on application by the injured party, pass judgement with respect to claims under private law made by the injured party against the accused arising from this offence (Article 57 of the Administrative Penalties Act 1950).

(3) An administrative offence is also committed by anyone

- (a) using forests for recreational purposes contrary to the prohibition of Article 33 para. (2) or without the consent provided for in accordance with paragraph (3), contrary to its content or without exercising the necessary care, using forest areas subject to a ban in accordance with Article 34

para. (1) or paths blocked in accordance with paragraph (7) or deviating from paths contrary to the prohibition of paragraph (9) or re-entering the forest within 24 hours in spite of having been expelled in accordance with Article 112 point (a);

- (b) without authorisation, in a forest,
 1. driving on a forest road identifiably cordoned off from general use, parking vehicles, failing to re-close gates or barriers of enclosures or forming new paths,
 2. obtaining fruit or seed of the woody plants listed in the Annex and in the ordinance pursuant to Article (1a) para. (1a) for the purpose of profit or mushrooms to a quantity of more than 2 kilograms per day,
 3. obtaining earth, turf or other soil constituents in more than small quantities or obtaining standing or harvested wood or resin,
 4. damaging standing trees, their roots or branches, fallen trunks, young trees or bushes, or, except from individual twigs without any material damage to the plant, removing them from their location,
 5. removing, destroying or damaging identifications of protected areas, marking made with an official marking hammer, boundary signs, prohibitory or indication signs, forest roads, fences, huts or other operational facilities, machinery or equipment, or setting in motion stationary wood or rocks,
 6. damaging areas dedicated to afforestation or any other form of regeneration;
 7. diverting or introducing water courses or setting up or maintaining fire-places contrary to the provisions of Article 40;
- (c) discarding rubbish;
- (d) conducting or participating in mushroom or berry collection events;
- (e) using forest contrary to the prohibition of Article 33 paragraph (3) in the area of ascending aids outside marked pistes or ski routes.

These offences shall in instances

1. of point (a), point (b) sub-para. 2 and point (c) be punished by a fine of up to EUR 150,
2. of point (b) sub-paragraphs 1, 3 and 4 and points (d) and (e) be punished by a fine of up to EUR 730 or detention of up to one week,
3. of point (b) sub-paragraphs 5 through 7 be punished by a fine of up to EUR 3,630 or detention of up to two weeks.

(4) Where there are particularly aggravating circumstances, the fines listed in paragraphs (1) and (3) may also be imposed together.

(5) Unauthorised persons within the meaning of paragraph (3) point (b) include those who

- (a) are neither owners of the forest, persons entitled to usufructuary rights or rights of use nor persons acting on their behalf or with their knowledge,
- (b) are not members of the group of people covered by Article 87 para. (2) or
- (c) do not have to carry out official acts based on statutory provisions.

(6) Forest protection officers and officers of the forest engineering service of the authorities are included among those officers that may be empowered to issue penal orders according to Article 50 of the Administrative Penalties Act 1950 (“Verwaltungsstrafgesetz 1950”).

(7) The penalty of forfeiture of items to which the punishable act in accordance with paragraph (1) or paragraph (3) point (b) sub-paragraphs 2, 3 and 4 relates or of the proceeds from the realisation of these items as well as of tools and transportation equipment that are usually used to obtain and transport forest products can be imposed; in cases of paragraph (1) if these items, tools or transportation equipment are connected with an administrative offence specified in point (a) sub-paragraphs 4, 7, 12, 19, 28 through 30, or in point (b) sub-para. 34 of paragraph (1).

(8) As a security measure, the forfeiture of plants, plant products, forest pests and other items that might be carriers of forest pests and to which the punishable act relates, whoever they belong to, can be declared if the dangerousness of these items with regard to the spread of forest pests requires this.

(9) To ensure the forfeiture, the plants, plant products, forest pests and other items that could be carriers of forest pests may also be temporarily seized by the control bodies. The control bodies shall immediately notify the district administration authority responsible for criminal prosecution of the temporary seizure.

(10) It is not permitted to order the payment of a sum of money instead of seizure.

- (11) Fines imposed on the basis of this Federal Act and the proceeds from forfeited items shall
- (a) accrue to the municipality which is responsible for removing the waste in the forest in accordance with Article 16 para. (4) insofar as they are due to administrative offences in accordance with paragraph (1) point (a) sub-para. 3, but limited to forest destruction pursuant to Article 16 para. (2) point (d) last clause, and pursuant to paragraph (3) points (c) and (d),
 - (b) in all other cases accrue to the territorial authority which has to bear the expenses of the authority.

Statutes of Limitation

Article 175. It is not permissible to prosecute a person for an offence against this Federal Act or the Provincial implementation acts decreed in connection therewith in accordance with Article 10 paragraph (2) B-VG, if the authority has not undertaken any prosecuting action against him/her within one year.

General Liability Provisions

Article 176. (1) Anyone staying in the forest off public roads and paths shall guard against all dangers threatening him from the forest, especially those due to forest management.

(2) The owner of the forest and his people and any persons co-operating in the management of the forest (such as usufructuaries and those entitled to rights of use or haulage, logging or haulage contractors) and their people have no obligation to avert the danger of damage which might arise from the condition of the forest away from public roads and paths, subject to the provisions of paragraph (4) or the existence of other legal grounds; they are in particular not obligated to change the condition of the forest soil and its plant cover to avert or reduce such dangers.

(3) Should a person not involved in work relating to forest management be killed or his body or his health be injured or property belonging to him be damaged, the owner of the forest or another person co-operating in the management of the forest shall be liable to compensate for the loss if it was premeditated or in cases of gross negligence on his part or of that of his people. Should the loss be due to negligence by the people of the liable party, they shall also only be liable in the case of premeditation or gross negligence. Should the loss occur in a cordoned-off area, liability shall only apply to premeditation. This shall be without prejudice to the Railway and Motor Vehicle Liability Act (“Eisenbahn- und Kraftfahrzeughaftpflichtgesetz”), Federal Law Gazette No. 48/1959.

(4) Article 1319a ABGB shall apply to liability for the condition of a forest road or another path in the forest; the owner of a forest and any persons co-operating in the management of the forest shall be liable for the prescribed avoidance of dangers caused by the poor condition of a path only in the case of forest roads and on any other paths that the forest owner has expressly devoted to use by the general public by means of appropriate identification. Should damage on paths be caused by the condition of the nearby forest, the owner of the forest, other persons co-operating in the management of the forest and their people shall be no more strictly liable than the maintainer of the paths.

Wholesale Wood Purchase

Article 177. (1) Contracts with owners of forests for the wholesale purchase of wood (all-in contracts) in high forest are prohibited.

(2) Contracts concluded contrary to the prohibition of paragraph (1) are not legally valid.

Exemption from Federal Administrative Charges

Article 178. Documents and official acts under this Federal Act are exempt from federal administrative charges.

Gender-Neutral Language

Article 178a. Any and all person-related references used in this Federal Act are applicable equally to persons of male and female sex.

Entry Into Force

Article 179. (1) The present Federal Act shall enter into force on 1 January 1976.

(2) Ordinances based on the provisions of this Federal Act may be issued from the day following its promulgation. They shall not come into force any earlier than the time referred to in paragraph (1).

(3) The Provincial implementation acts for Article 15 para. (2), Articles 26, 42, 95, 96, 97, and Article 101 para. (8) shall be issued within two years of this Federal Act coming into force (Article 15 para. (6) of the Federal Constitution Act as amended in 1929).

(4) Article 170 para. (7), the identification of the previous text of Article 182 as paragraph (1) and Article 182 para. (2) as amended in Federal Law Gazette I No. 257/1993 shall enter into force on 1 July 1993.

(5) Article 174 paragraphs (1) and (4) as amended in Federal Law Gazette I No. 108/2001 shall come into force as of 1 January 2002.

(5a) Article 1, Article 1a, Article 2 para. (3), Article 4 paragraphs (1) and (1a), Article 5 paragraphs (1), (2) and (2a), Article 6 paragraphs (1) and (2) point (c), Article 7, Article 8 (3), Article 9 paragraphs (3) and (6), Article 11 paragraphs (1) and (6), Article 13 paragraphs (2) through (4), Article 14 paragraphs (3) and (5) point (a), Article 16 paragraphs (4) and (6), Article 17, Article 17a, Article 18, Article 19, Article 21, Article 22 paragraphs (3), (3a) and (4), Article 24 para. (5), Article 25 paragraphs (2) and (3), Article 27 para. (1), Article 31 para. (1), Article 32, Article 32a, Article 34 para. (10), Article 35 paragraphs (1) and (2), Article 36 paragraphs (1), (4) and (6), Article 37 para. (3), Article 43 para. (1), Article 44 para. (1) point (a) and para. (3), Article 45, Article 48 para. (1), Article 59 paragraphs (1) through (3), Article 61 para. (2), Article 62 paragraphs (1), (1a) and (2) through (4), Article 64, Article 65 paragraphs (2) and (3), Article 80 paragraphs (4) and (7) point (b), Article 81 para. (7), Article 85 para. (2), Article 87 para. (4), Article 92 para. (1), Article 96 para. (1), Article 98 para. (1), Article 102 paragraphs (1), (4), (5) and (7), Article 104 paragraphs (1) and (2), Article 105, Article 106, Article 109 paragraphs (1) through (3), (5) and (7), Article 110 paragraph (1) points (b) and (c), Article 112, Article 113, Article 114, Article 115 paragraph (2), Article 116 paragraphs (1) and (2), Article 117 paragraphs (1) through (3), Article 119 para. (2), Article 121 para. (2), Article 122 paragraphs (1) and (2), Article 129, Article 130, Article 141, Article 142, Article 143, Article 145 paragraphs (1) through (3), Article 147 paragraphs (3) and (6), Article 170 paragraphs (3) and (8), Article 171 paragraphs (1) and (3), Article 172 para. (3), Article 173 para. (2) points (b) and (c), Article 174 para. (1) point (a) sub-paragraphs 26, 27 and 30, point (b) sub-paragraphs 2, 13 and 16 through 18 and point (c) sub-paragraph 12, Article 174 paragraphs (2) through (7), Article 180 para. (3), Article 185, and the Annex as amended by Federal Law Gazette I No. 59/2002 shall enter into force on 1 June 2002. At the same time Article 12, Article 39, Article 43 para. (3), Article 59 para. (3), Article 62 para. (5), Article 63 para. (5), Article 65 para. (2), Articles 74 through 79, Article 83, Article 84, Article 93, Article 94, Article 107, Article 108, Article 115 para. (2), Article 116 paragraphs (1) through (3), Article 123, Article 124, Articles 129 through 140, Article 143 paragraphs (5) and (6), Article 144, Article 146, Article 174 para. (1) point (a) sub-paragraphs 8 and 12, point (b) sub-paragraphs 12, 19, 20, 22 through 24 and 28, and point (c) sub-paragraphs 6 and 9, and Article 174 (2) of the version applicable at that time shall cease to have effect.

(6) Article 170 paragraphs (5) and (6) as amended in the Administrative Reform Act 2001, Federal Law Gazette I No. 65/2002, shall come into force as of 1 July 2002, but not before the first day of the fourth month following publication of the Administrative Reform Act 2001. At the same time Article 170 paragraphs (5), (7) and (8) as applicable at that time shall cease to have effect. Proceedings pending at that time shall be completed in accordance with the legislation in effect until the coming into force of the Administrative Reform Act 2001.

(7) Article 104 para. (4), Article 106 para. (3) sub-para. 1, Article 109 paragraphs (3) through (7), Article 109a, Article 109b and Article 183b as amended in the Federal Act Federal Law Gazette I No. 55/2007 shall come into force as of 20 October 2007.

(8) The repeal of Article 170 para. (6) by the Federal Act Federal Law Gazette I No. 189/2013 shall come into force as of 1 January 2014.

(9) Article 46 paragraph (2) last sentence as amended in Federal Act Federal Law Gazette I No. 104/2013 shall come into force as of 1 January 2014.

(10) As amended by the Federal Act Federal Law Gazette I No. 56/2016 Article 117 para. (1) second sentence and Article 119 paragraphs (1) through (4) shall come into force on 1 September 2017.

(11) The following shall come into force as amended by the federal act Federal Law Gazette I No. 144/2023:

1. Article 1 paragraphs (1) and (3), Article 1a paragraphs (1), (1a) and (5), Article 2 para. (3), Article 6 para. (2) point (c), Article 32a para. (4), Article 46 para. (3), Articles 46a and 46b including headings, Article 80 para. (3a), Article 98 including heading, Article 99 paragraphs (6) and (7), Article 100 paragraphs (1), (2) and (4), Article 101 paragraphs (1), (3) and (6), Article 102 paragraphs (5) and (6), Article 102a including heading, Article 103 para. (1), Article 104 para. (4) sub-para. 4, Article 105 para. (1) sub-para. 1 points (c) and (d), Article 105 para. (1a), Article 118, Article 119 paragraphs (4) through (6), Article 120 para. (1) sub-para. 2, Article 130 para. 1 sub-para. 1, Article 142 paragraph (1) sub-para. 1 and paragraph (2) sub-paragraphs 12 and 13, Article 172 paragraphs (1), (1a) and (3), Article 174 para. (1) point (a) sub-paragraphs 19a, 19b and 32, Article 174 para. (1) third sentence, para. (3) point (b) sub-para. 2 and para. (8) through (11), Article 183b sub-paragraphs 3 through 7, Article 184b, Article 185 para. (1), and the Annex at the end of the day of promulgation;

2. Article 41a including heading and Article 42 points (d) and (e) as of 1 July 2024;

3. Articles 46c through 46h including headings as of 14 December 2019;
4. Article 119 paragraphs (2) and (3) as of 1 September 2024 in ascending order of classes and school levels.
5. Article 42 point (f) shall expire at the end of 30 June 2024.

Provisions Ceasing to Be in Force

Article 180. (1) Upon the entry into force of this Federal Act the following legal acts cease to be in force:

1. with effect for the entire federal territory
 - (a) Articles 1 through 21 of the Forest Act of 1852, RGBl. (National Law Gazette) No. 250;
 - (b) the Forest Law Regularisation Act (“Forstrechts-Bereinigungsgesetz”), Federal Law Gazette No. 222/1962 as amended by Federal Law Gazette No. 372/1971, subject to the provision of Article 184 point 7 para. 3;
 - (c) the Forest Seeds Act (“Forstsaatgutgesetz”), Federal Law Gazette No. 114/1960;
 - (d) Article 18 paragraphs (1) and (2) of the Basic Freight and Cableways Act 1967 (“Güter- und Seilwege-Grundsatzgesetz”), Federal Law Gazette No. 198;
 - (e) the Federal Law for Improving the Protective and Recreational Effects of the Forest (“Bundesgesetz zur Verbesserung der Schutz- und Erholungswirkungen des Waldes”), Federal Law Gazette No. 371/1971;
2. the following provisions applicable to the Province in question, where they still apply:
 - (a) for the Provinces of Lower Austria, Vienna and Burgenland:
the Act of 13 June 1922, LGBl. (Provincial Law Gazette) for Lower Austria No. 251 concerning measures to protect the forest;
 - (b) for the Province of Carinthia:
the Act of 28 July 1911, LGBl. for Carinthia No. 30/1912, valid for the Dukedom of Carinthia, concerning some measures relating to forest and water police;
 - (c) for the Province of Upper Austria:
the Act of 21 February 1924, LGBl. for Upper Austria No. 36 concerning measures relating to forest and water police for tending waters and restricting damage from high water;
 - (d) for the Province of Salzburg:
the Act of 7 August 1895, LGBl. for Salzburg No. 28 concerning some measures relating to forest and water police and the Act of 11 December 1899, LGBl. for Salzburg No. 3/1900, applicable to the Dukedom of Salzburg, concerning some measures for protecting forests;
 - (e) for the Province of Styria:
the Forest Maintenance Act (“Walderhaltungsgesetz”), LGBl. for Styria No. 348/1921, as amended by LGBl. No. 62/1923.

(2) After two years, calculated from the day on which this Federal Act comes into force, the following provisions become invalid insofar as they are the responsibility of the Federal Government in respect of legislation and implementation:

- (a) for the Province of Burgenland:
the Hungarian G.A.XIX.: 1898 concerning state administration of communal forests and some other forests, also concerning the regulation regarding the management of jointly-used forests and clear-felled areas in the undivided possession of the “Kompossessorate” and former “Urbarialists” and the provisions of the Act of 5 November 1924, LGBl. for Burgenland No. 11/1925 concerning the obligation of forest owners to appoint forest staff;
- (b) for the Province of Tyrol:
the Provisional Forest Order (“Provisorische Waldordnung”) for Tyrol and Vorarlberg, Part II Provincial Statute Book of Tyrol and Vorarlberg for the year 1839, page 621, the Act of 5 June 1897 LGBl. for Tyrol No. 21 concerning the registration and marking of forest use from undistributed communal or local woodland or woodland belonging to foundations or interest groups and from partial and private forests, and the Acts of 29 March 1886, LGBl. for Tyrol and Vorarlberg No. 2 concerning penalties imposed for offences dangerous to the public;
- (c) for the Province of Vorarlberg:

the Act of April 1912, LGBI. for Tyrol and Vorarlberg No. 48/1914, applicable to the Province of Vorarlberg, concerning some measures relating to forest and water police as amended in the Act of 11 July 1921, LGBI. No. 102, and the Forest Supervision Act (“Waldaufsichtsgesetz”), LGBI. for Vorarlberg No. 110/1921, as amended in Article 129 para. (2) point (c) of the Provincial Employees Act of Vorarlberg, LGBI. No. 16/1972, where these regulations relate to provisions of forest law.

(3) the Fir Christmas Trees Ordinance (“Tannenchristbaumverordnung”), Federal Law Gazette No. 536/1976, the Ordinance on the Utilisation of Resins (“Verordnung über die Harznutzung”), Federal Law Gazette No. 126/1978, the Ordinance on the Tariff of the Federal Forest Research Centre (“Verordnung über den Tarif der Forstlichen Bundesversuchsanstalt”), Federal Law Gazette No. 169/1988 as amended in Federal Law Gazette II No. 246/2001, and the Ordinance on the Forestry Training Centres (“Verordnung über die Forstlichen Ausbildungsstätten”), Federal Law Gazette No. 508/1991 as amended in Federal Law Gazette II No. 109/2001, shall become invalid upon the expiry of the last hour of 31 May 2002.

Pending Proceedings

Article 182 (1) For administrative proceedings not yet concluded at the time this Federal Act comes into force and insofar as other regulations regarding responsibility than those of Article 170 paragraphs (1) through (6) have applied before it comes into force, existing regulations on responsibility shall apply; otherwise the provisions of this Federal Act shall be applied, unless otherwise provided for in Article 184.

(2) The previous version of Article 170 para. (7) shall apply to proceedings pending at the time stated in Article 179 para. (4).

Applicability of the Provisions of this Federal Act; Existing Individual Administrative Acts

Article 183. (1) Insofar as reference is made in other federal legal provisions to regulations repealed by this Federal Act, they shall be replaced by the appropriate provisions of this Federal Act.

(2) Individual administrative acts passed on the basis of regulations that are invalidated by this Federal Act shall remain in force unless otherwise provided for in this Federal Act.

Applicability of the Provisions of Other Federal Acts and of Legal Acts of the European Union

Article 183a. References in this Federal Act to other federal legal provisions or to directly applicable law of the European Union shall, unless it is specifically pointed out otherwise, be understood as references to the version then valid.

Reference to the Legislation of the Union

Article 183b. The following legal acts of the European Union are implemented, respectively executed, by the present Federal Act:

1. Directive 2005/36/EC on the recognition of professional qualifications, OJ L 255 of 30/09/ 2005, p. 22, last amended by Directive 2013/55/EU, OJ L 354 of 28/12/2013, p. 132, as amended by Directive OJ L 268 of 15/10 2015, p. 35;
2. Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents, OJ L 16 of 23/01 2004, p. 44;
3. Directive 2009/128/EC establishing a framework for Community action to achieve the sustainable use of pesticides, OJ L 309 of 24/11/2009, p. 71, as last amended by Regulation (EU) No 2019/1243, OJ L 198 of 25/07/2019, p. 241,
4. Regulation (EC) No 1107/2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC, OJ L 309 of 24/11/2009, p. 1,
5. Regulation (EU) No 2016/2031 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 and repealing Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC, OJ L 317 of 23/11/2016, p. 4, as last amended by Regulation (EU) 2017/625, OJ L 95 of 07/04/2017, p. 1,
6. Regulation (EU) No 2017/625 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031, Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004, Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC

and Decision 92/438/EEC (Official Controls Regulation), OJ L 95, of 07/04/2017, p. 1, as last amended by Regulation (EU) No 2021/1756, OJ L 357, of 08/10/2021, p. 27, and

7. Directive 2014/66/EU on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer, OJ L 157, of 27/05/2014, p. 1, as amended by corrigendum OJ L 80 of 25/03/2017, p. 46.

Transitional Provisions

Article 184.

1. (Regarding Article 13):
Sparse stands shall be reforested within twenty years or, in analogous application of the period laid down in Article 13 paragraphs (3) and (4), be restocked naturally. Article 13 paragraphs (5) through (7) shall apply.
2. (Regarding Article 14):
Where the leaving of a wind cover has been prescribed based on a notice passed in accordance with Article 5 of the Forest Act 1852, the authority shall examine the notice within five years of this Federal Act coming into force on application by one party and, if necessary, amend it or rescind it in accordance with the provisions of Article 14 paragraphs (4) and (5).
3. (Regarding Articles 18 and 19):
Official notices on clearing permits legally valid at the time this Federal Act comes into force shall be deemed to be such for the purposes of Article 18; proceedings pending at that time shall be carried out according to the provisions of Article 2 of the Forest Act 1852.
4. (Regarding Articles 27 through 31):
Decisions concerning protective forests in accordance with Articles 19 and 20 of the Forest Act 1852 shall be reviewed for their compliance with Articles 27 through 31 of this Federal Act within five years of this Federal Act coming into force; should they conform, they shall be deemed to be notices declaring forests protective forests within the meaning of Article 30 para. (5), otherwise proceedings to declare a forest a protective forest shall be carried out in accordance with the provisions of this Federal Act.
5. (Regarding Subsection C of Section III):
Should there be enclosures in the forest when this Federal Act comes into force, which are not permissible on the basis of this Federal Act, ladders or gates should be provided on forest roads and paths within six months.
6. (Regarding Article 39):
The duty to obtain a permit provided for in Article 39 paragraph (2) shall cease to apply to resin use exercised at the time at which this Federal Act comes into force.
7. (Regarding Articles 40 through 42):
 - (1) Permits on exemptions from the prohibition of lighting fires issued in accordance with Article 23 para. (3) of the Forest Law Regularisation Act (“Forstrechts-Bereinigungsgesetz”, hereinafter briefly referred to as “FRBG”), shall be deemed to be permits for the purposes of Article 40 para. (3).
 - (2) Precautionary measures in accordance with Article 24 FRBG shall be deemed to be such for the purposes of Article 41.
 - (3) Articles 25 through 29 FRBG shall apply in accordance with Article 42 until the implementation acts come into force.
8. (Regarding Articles 44 through 46):
 - (1) Measures ordered on the basis of Article 31 FRBG by the authorities at the time this Federal Act comes into force shall be deemed to be such for the purposes of Article 44, until new orders are issued.
 - (2) Permits granted on the basis of Article 33 FRBG in connection with the relevant provisions of the Plant Protection Act (“Pflanzenschutzgesetz”), Federal Law Gazette No. 124/1948, shall be deemed to be permits for the purposes of Article 46.
9. (Regarding Articles 59 through 77):
 - (1) Haulage installations that were established according to the provisions of Articles 2 through 4 FRBG shall be deemed to be such for the purposes of Articles 59 through 61. Permits granted for that purpose in accordance with Articles 5 and 6 FRBG shall be deemed to be building and operating permits for the purposes of Articles 62 through 63. Forest paths the construction of which

has not been prohibited by Article 8 FRBG shall be deemed to be registered forest roads for the purposes of Article 64.

(2) The maintenance of haulage installations according to paragraph (1) shall be subject to the provisions of Article 60.

(3) Insofar as decisions under Article 9 paragraphs (4) and (8) FRBG concerning haulage across third-party ground and railway authority decisions on the provision of supervisory bodies as well as under Article 10 FRBG on the determination of compensation have been made, these decisions shall be deemed to be such for the purposes of Article 58 para. (6), Article 66 paragraphs (4) and (7), and Article 67.

(4) Haulage co-operatives formed in accordance with the provisions of Articles 11 through 16 FRBG and the official notices and approvals of statutes issued in this respect shall be deemed to be such for the purposes of Articles 68 through 73 para. (1). Article 73 paragraphs (2) through (5) shall apply to the procedure concerning the collection of outstanding co-operative contributions and the conveyance of haulage co-operatives.

(5) Driftage permits in accordance with Articles 17 through 20 FRBG shall be deemed to be such for the purposes of Articles 74 through 77.

10. (Regarding Articles 80 through 97):

(1) Official notices issued on the basis of the provisions of Article 34 para. (3) and Article 36 FRBG concerning exemptions from the prohibitions of major clear felling in high forest and the felling of immature high forest stands shall, insofar as they have not been rendered irrelevant by the regulation of Section VI, remain in force for a period of three years from the time of the entry-into-force of this Federal Act. The same applies to felling licenses and notifications made to the authority in accordance with Articles 42 through 44 FRBG applicable to the Provinces of Upper Austria and Styria.

(2) Felling licenses issued with regard to the provisions on rights of use in the Provinces and permits and approvals of economic plans shall be deemed to be such for the purposes of Articles 85 through 94.

(3) Proceedings pending in accordance with paragraphs (1) and (2) shall be carried out in accordance with the previously existing regulations.

11. (Regarding Articles 98 through 103):

Measures and decrees carried out or ordered in accordance with the provisions previously applicable to them shall be deemed to be such for the purposes of Section VII. Pending proceedings shall be carried out in accordance with the previously applicable regulations.

12. (Regarding Articles 104 through 108):

(1) Forest managers ("Forstwirte"), forest assistants ("Forstassistenten") and forest protection officers ("Forstschutzorgane") according to Articles 45 and 51 FRBG are agents of the same designation for the purposes of this Federal Act.

(2) Forestry directors in accordance with Article 45 FRBG are executive forest officers for the purposes of Article 104 para. (2) point (a) of this Federal Act.

(3) Foresters within the meaning of this Federal Act are

(a) the district foresters in accordance with Article 47 in connection with Article 87 para. (5) FRBG,

(b) the junior forest officials in accordance with Article 45 FRBG,

(c) the students and graduates of a federal foresters' school (Section VIII FRBG),

in cases of points (b) and (c) after completion of the state examination for foresters' services in accordance with Article 47 FRBG up to the time referred to in sub-para. 13 para. 1.

13. (Regarding Articles 106 and 107):

The Federal Minister of Agriculture, Forestry, Environment and Water Management shall re-establish the examination committee for senior forest services and the examination committee for foresters' services by 1 January 1989. Up to this time the examination committees established on the basis of Articles 106 para. (2) and 107 para. (2) shall be deemed to be such for the purposes of points 58 and 60.

14. (Regarding Article 113):

Persons who, on 31 December 1975, notwithstanding their job title (such as professional hunters or district hunters), worked in the implementation of forest enterprises in support of forest officers and who were confirmed by the authority as forest protection officers, provided they successfully attended a course for forest protection officers for a period of more than ten weeks, are forest wardens for the purposes of Article 113 paragraph (3) point (b).

15. (Regarding Articles 148 through 169):
- (1) In accordance with Article 4 of the Forest Seed Act, Federal Law Gazette No. 114/1960 (in short "FSG") recognised stands are deemed to be recognised stands for the purposes of Article 157 where circumstances have remained unchanged.
 - (2) Seed and generative plant material recognised in accordance with Articles 6 and 7 FSG shall be deemed to be recognised propagation material within the meaning of Articles 159 and 160.
 - (3) Stock plants of poplar recognised in accordance with Article 8 FSG shall be deemed to be recognised stock plants within the meaning of Article 161 where circumstances remain unchanged.
 - (4) The recognition numbers allocated in accordance with Article 4 para. (2) and Article 8 para. (2) FSG shall be deemed to be stock recognition symbols for the purposes of Article 157 para. (6) and as poplar recognition numbers for the purposes of Article 161 para. (4) and arboretum numbers for the purposes of Article 162 para. (3).
 - (5) Seed and plant material specified according to Article 13 FSG may be marketed.
 - (6) Introduction permits issued in accordance with Article 10 FSG will expire after the period of one year calculated from the time that this Federal Act comes into force, of which Articles 164 through 167 shall apply.
 - (7) Operations accounting and site plans provided for according to Article 14 FSG shall be deemed to be such for the purposes of Article 155.
 - (8) In cases of paragraphs (1) through (3) it shall be left to the owner of the forest to make applications for recognition of stock (Article 157), for recognition of propagation material (Articles 159 and 160) or for recognition of the stock material of poplar (Article 161).
16. (Regarding Article 172):
- (1) Measures that have been ordered in accordance with Article 79 paragraph (7) FRBG shall be deemed to be such in accordance with Article 172 paragraph (6).
 - (2) The official marking hammer in accordance with Article 79 paragraph (8) FRBG shall be deemed to be such in accordance with Article 172 paragraph (7).
 - (3) Official certification on use as a consequence of *force majeure* within the meaning of Article 79 paragraph (9) FRBG cease to be valid after ten years calculated from the time at which this Federal Act comes into force.
17. For winter game fencing in use on 31 December 1987, the restrictions on use of Article 34 shall apply in their previous version until 30 June 1988.

Transitional Provisions of the Amendment to the Forest Act of 2013, Federal Law Gazette I No. 104/2013)

Article 184a. Haulage co-operatives formed in accordance with Articles 68 through 73 of the Forest Act 1975, Federal Law Gazette No. 440/1975, last amended by the federal law Federal Law Gazette I No. 55/2007, and the official notices and approvals of statutes issued thereunder shall be deemed to be such for the purposes of Articles 68 through 73.

**Transitional Provision of the Amendment to the Forest Act of 2023,
Federal Law Gazette I No. 144/2023**

Article 184b. Article 1a para. (5) does not apply to agroforestry areas established before 1 January 2023. This does not apply to plantations of woody plants for the purpose of producing fruits such as walnut or sweet chestnut.

Enforcement

Article 185. (1) Unless otherwise stipulated in paragraphs (2) through (6) the Federal Minister of Agriculture, Forestry, Environment and Water Management shall be responsible for the enforcement of this Federal Act and the implementation acts on individual provisions thereof passed by the Provinces, in agreement with

1. the Federal Minister of Economy and Labour with regard to Articles 3 paragraphs (3) and (5), and (48);
2. the Federal Minister of Finance with regard to Article 117 paragraphs (1) and (2), Article 129 para. (1) and Article 147 para. (3);

3. the Federal Minister of the Interior with regard to Article 33 para. (6), insofar as this provision refers to the executive officers or bodies of public security;
 4. the Federal Minister of National Defence with regard to Article 17 para. (6);
 5. the Federal Minister of Education, Arts and Culture with regard to Article 117 para. (1);
 6. the Federal Minister of Climate, Environment, Energy, Mobility, Innovation and Technology with regard to Articles 1a para. (1a), 48 and 58 para. (6).
- (2) The enforcement of Articles 50 para. (2) and 51 para. (2), insofar as their provisions concern proceedings relating to
- (a) trade, mining, steam engineering or energy supply regulations, shall be the responsibility of the Federal Minister of Economy and Labour;
 - (b) railway legislation, shall be the responsibility of the Federal Minister of Transport, Innovation and Technology.
- (3) The Federal Minister of Finance, in agreement with the Federal Minister of Agriculture, Forestry, Environment and Water Management, shall be responsible for the enforcement of Article 18 para. (3) sentence 3.
- (4) The Federal Minister of Justice shall be responsible for the enforcement of Articles 14 para. (1) sentences 4 through 6, 31 paragraphs (8) through (10), 33 paragraph (4) sentences 3 and 4 as well as paragraph (5), 37 paragraph (6) sentence 2, 49 paragraph (7) sentence 4, where these provisions relate to legal proceedings and Articles 53 through 57, with regard to Articles 67 paragraphs (5) and (6), 176 and 177 in agreement with the Federal Minister of Agriculture, Forestry, Environment and Water Management.
- (5) The Federal Minister of Education, Arts and Culture shall be responsible for the enforcement of Article 117 paragraphs (3) and (4), of Articles 118 through 121, of Article 122 para. (1), where it does not relate to the maintenance of schools and official matters of teachers, of Article 122 paragraphs (2) and (3), with regard to Article 119 para. (2) in agreement with the Federal Minister of Agriculture, Forestry, Environment and Water Management.
- (6) The Federal Minister of Transport, Innovation and Technology shall be responsible for the enforcement of Articles 17 through 20, 81 para. (1) (b), 82 para. (3) (d), 85 through 88 and 90 through 92, where this relates to forest which is to be claimed for railway installations, in agreement with the Federal Minister of Agriculture, Forestry, Environment and Water Management. The latter shall pay due attention to the overall impact of the planned installation.

Annex

Woody plants for the purposes of Article 1a paragraph (1) are:

| | |
|----------------------------|-----------------------|
| 1. Conifers | |
| Abies alba | Fir |
| Juniperus communis | Common juniper |
| Larix decidua | Larch |
| Picea abies | Spruce |
| Pinus cembra | Arolla pine |
| Pinus mugo | Dwarf (mountain) pine |
| Pinus nigra var. austriaca | European black pine |
| Pinus silvestris | Scots pine |
| Taxus baccata | Yew |

and non-indigenous stock-forming species for domestic forest utilisation of the genera

Abies
Cedrus
Chamaecyparis
Larix
Metasequoia
Picea
Pinus

Pseudotsuga
Sequoiadendron
Thuja
Tsuga

2. Broadleaved trees

| | |
|------------------------|-----------------------------|
| Acer campestre | Common maple |
| Acer platanoides | Norway maple |
| Acer pseudoplatanus | Mountain maple |
| Aesculus hippocastanum | Horse chestnut |
| Alnus glutinosa | Black (common) alder |
| Alnus incana | White (grey) alder |
| Alnus viridis | Green alder |
| Betula pendula | Birch |
| Betula pubescens | White birch |
| Carpinus betulus | Hornbeam |
| Castanea sativa | Sweet chestnut |
| Corylus avellana | Hazel |
| Fagus sylvatica | Common beech |
| Fraxinus angustifolia | Narrow-leaved ash |
| Fraxinus excelsior | Ash |
| Fraxinus ornus | Manna ash |
| Juglans regia | Walnut |
| Malus sylvestris | European crab apple |
| Ostrya carpinifolia | Hop hornbeam |
| Populus alba | White (silver-leaf) poplar |
| Populus canescens | Grey poplar |
| Populus nigra | Black poplar |
| Populus tremula | Trembling poplar |
| Prunus avium | Mazard, sweet (wild) cherry |
| Prunus padus | Bird cherry |
| Pyrus pyraeaster | Wild pear |
| Quercus cerris | Wainscot oak |
| Quercus petraea | Sessile oak |
| Quercus pubescens | Downy oak |
| Quercus robur | Common (pedunculate) oak |
| Robinia pseudacacia | Robinia |
| Sorbus aria | Whitebeam |
| Sorbus aucuparia | Mountain ash (rowan) |
| Sorbus domestica | Service |
| Sorbus torminalis | Wild service |
| Tilia cordata | Small-leaved lime |
| Tilia platyphyllos | Broad-leaved lime |
| Ulmus glabra | Mountain elm |
| Ulmus laevis | White elm, fluttering elm |
| Ulmus minor | Field (common) elm |

and stock-forming species of the genera

Salix

and non-indigenous stock-forming species, and their hybrids, for domestic forest utilisation of the genera

Acer

Betula

Carya

Corylus

Elaeagnus

Fagus

Fraxinus

Gleditsia

Juglans

Liriodendron

Platanus

Populus

Prunus

Quercus

as well as wild fruit trees and shrub species suitable for the forest edge and biotope design, where they do not occur as stock-building elements.