

CHAPTER 4

Ownership

In order to qualify for Afforestation Grants and Premiums applicants must own, lease or be in joint management of the lands proposed for planting. All applicants must provide documentary evidence of ownership, leasing or joint management. It is in the interests of the applicant to provide this documentation at approval stage. Payment of grant or 1st premium will not proceed at Form 2 stage until satisfactory proof of ownership has been provided.

4.1 Proof of Ownership

In cases where the applicant is the registered owner of the lands he/she must provide a copy of the folio documents and File Plan (folio map) identifying the applicant as the owner.

In cases where an applicant has recently purchased the lands or had the lands transferred to him/her and is in the process of registering ownership with the Land Registry, the following documentation may be submitted:

- (a) A copy of the Deed of Transfer stamped as received by Land Registry and with the Stamp Duty paid (the Deed must be submitted to the Revenue Commissioners for stamping in the first instance).

If the applicant does not have the Deed of Transfer stamped as described above, a Land Transfer Certificate signed by his/her solicitor along with the unstamped Deed of Transfer will suffice. The form this Certificate must take is shown at Appendix 8

And

- (b) A copy of the folio documents and File Plan (folio map) identifying the previous owners.

As an alternative to the ownership documentation described at (a) and (b) above, the applicant may submit a **Certificate of Title along with a map showing the area of the plantation, both documents having been signed and stamped by a solicitor**. The wording for this Certificate is shown at Appendix 9.

4.2 Commonages

In cases of commonages, consent forms may be submitted allowing one of the owners to apply on behalf of all of the owners for the afforestation grant. Documentary evidence, as defined in 4.1 above, identifying the owners of the planted lands is also required in these cases. It should be noted that each of the owners will be entitled to apply for premiums and will be assessed individually for their eligibility. See Appendix 10 for the wording of the consent form. All consent forms must be witnessed and stamped by a solicitor.

4.3 Leases

In cases where an applicant is leasing lands he/she may receive afforestation grants and premiums provided the lease includes the information listed below and is stamped by the Revenue

Commissioners or registered with the Land Registry. The lease must include the following details:

- a) The term must be at least 40 years, i.e. approximating the crop rotation of the trees.
- b) The lessee (applicant for grants and premiums) must be the beneficiary of the premium.
- c) The beneficiary(s) of the timber crop must be clearly identified. The applicant must own at least 50% of the value of crop.
- d) Documentary evidence, as defined in 4.1 above, identifying the owner of the planted lands is also required.
- e) The monetary value of the lease must be stated. In the event that this amount is not the commercial rate for the lease, an explanation must be provided.

4.4 Joint Management

A joint management arrangement must be between immediate family members, namely, husband and wife, sons, daughters, brothers and sisters. The owner of the lands may give permission to an immediate family member who is jointly managing the lands to claim the afforestation grant and premiums. In these cases the following documentation is required:

Documentary evidence, as defined in 4.1 above, identifying the owner/s of the planted lands.

A joint management consent form (see Appendix 11) completed by the owner/s of the lands and the applicant.

4.5 Constraints on ownership

The Forest Service cannot give approval for afforestation grant aid in respect of lands on which

- turbarry rights
- grazing rights or
- rights of way

exist until evidence is submitted showing that all such rights have been relinquished.

Standard documents for the relinquishment of turbarry and grazing rights are provided in the appendices i.e. Turbarry Rights Consent form (Appendix 12) and the Grazing Rights Consent form (Appendix 13).

Tree planting may not take place on Rights of Way and areas occupied by such should be excluded from proposed plantations. Roads or paths held by parties other than the owner do not qualify for grant aid and must be left unplanted.

4.6 Change of Ownership

The Forest Service must be informed if there is a change of ownership of a forest plantation which has received grant assistance under EU funded schemes. All premium payments will be suspended until the change of ownership has been finalised.

The documentation to be used depends on the reason for the change of ownership:

1. Change of ownership on succession following the death of the owner, or
2. Change of ownership due to sale or transfer of the plantation.

If the premium was paid to the original applicant at the non-farmer rate, this rate will continue to apply to that plantation. The rate cannot be changed to the farmer rate even if the new owner would qualify as a farmer under the terms of the scheme.

4.6.1 Transfer of Ownership due to SUCCESSION:

Documentation required in relation to Ownership:

- a) Copy of Death Certificate;
- b) The Will and Grant of Probate, or Letters of Administration;
- c) Certified copy of Folio Documents and File Plan (Folio maps) showing the new owner (if available) or, if the registration process proves lengthy, a copy of unstamped transfer Deed and Certification of Land Transfer signed and stamped by a solicitor, along with a copy of the earlier Folio documents identifying the previous owner. The wording for this certificate is shown at Appendix 8.

As an alternative to the ownership documentation described at c) above, the applicant may submit a Certificate of Title **along with a map showing the area of the plantation, both documents having been signed and stamped by a solicitor**. The wording of this certificate is shown in Appendix 9.

- d) In addition, for cases under the CAP Afforestation and Premium Scheme (1993- 1999) and the Rural Development Plan 2000 – 2006, Form 5 and Form 5a (Declaration and Undertaking) must be completed by the new owner. For cases falling under the Forestry Operational Programme 1989-1993 a Form of Agreement as prescribed by the Forest Service and a Form FP1 must be completed by the new owner.
- e) A new Mandate, where relevant (i.e. where the 2nd installment grant has not been paid).

Continuation of Premium Payments

In the case of change of ownership following the death of the owner, premium payments due up to date of death may be made to the Representatives of the Estate of the deceased, after which the issues of ownership and qualification for premium must be resolved before any further premium payments may issue.

Premium Qualification following death of the owner/ joint owner:

If the person who assumes ownership of the planted land is **an immediate family member**, namely, husband, wife, son, daughter, brother or sister, who resides in the State within 112 kms of the plantation, the premium will be paid at the same rate as paid to the original owner, provided the ownership documentation is supplied. The new owner's income is not assessed.

If the person who inherits the land is **not an immediate family member** and the previous owner had been in receipt of the farmer rate of premium, the new owner will have to provide full documentary evidence of farmer qualification as defined in Chapter 3. Otherwise the non-farmer

rate will apply, provided such a rate existed under the scheme and provided the new owner undertakes the obligations to maintain and protect the plantation.

4.6.2 Transfer due to the SALE of the plantation

Documentation required in relation to Ownership:

- a) Certified copy of Folio Documents and File Plan (Folio maps) showing the new owner, or if the registration process proves lengthy, a copy of the unstamped transfer Deed along with a Certificate of Land Transfer signed and stamped by a solicitor (see Appendix 8) and a copy of old Folio documents identifying the previous owner (unless already provided).
- b) As an alternative to the ownership documentation described at (a) above, the applicant may submit a Certificate of Title along with a map showing the area of the plantation, both documents having been signed and stamped by a solicitor. The wording of this certificate is shown in Appendix 9.
- c) For cases under the CAP Afforestation Scheme 1993 – 1999 and the Rural Development Plan 2000 – 2006, Form 5 and 5a, (Declaration and Undertaking) must be completed by the new owner. The previous owner must complete a Form of Indemnity on Form 5b. For cases under the Forestry Operational Programme 1989-1993 a Form of Agreement as prescribed by the Forest Service and the new owner must complete a Form FP1. The previous owner must complete a Form of Indemnity.
- d) A new Mandate where relevant (i.e. where the 2nd installment grant has not yet been paid).

Premium Qualification

If the previous owner was in receipt of the farmer rate of premium the new owner may qualify provided full documentary evidence of farmer qualification as defined in Chapter 3 is submitted. Only when all necessary documentation is received is the name changed on file and outstanding premium payments processed.