

<p style="text-align: center;">Afforestation Grant & Premium Scheme</p> <p style="text-align: center;">Guide on Change of Ownership / Change of Applicant</p>

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Contact us about changes of ownership

**Change of Applicant Section,
Forest Service,
Department of Agriculture, Fisheries & Food,
Johnstown Castle Estate,
Wexford.**

Tel. 1890 200 223, Fax 053 9143834.

[www.agriculture.gov.ie/forestry/forest service general information/ change of applicant](http://www.agriculture.gov.ie/forestry/forest%20service%20general%20information/change%20of%20applicant)

PART I : GENERAL ADVICE for owners of a grant-aided plantation

1. General

- The land on which grant-aided forestry was planted remains the property of the owner/s but the Minister retains an interest in it once grant is claimed. The Department is entitled to claw-back the aid paid if the applicant or owner do not keep it in the scheme for the full term (normally 20 years) and observe the rules of the scheme. The trees cannot be removed without the permission of the Department – please see paragraphs 3& 5 below.
- Responsibility for the ultimate success or failure of the grant-aided plantation rests with its owner/s but the Forest Service of the Department will offer advice and guidance. Owners are encouraged to make and maintain contact with their Teagasc Forestry Advisor or their chosen Forestry Company or Consultant – for a list of those registered see <http://www.agriculture.gov.ie/forestry/> forest service general information
- You must notify the Forest Service of any damage to or failure of the trees (para 10, 15)
- Owners are strongly advised to insure their plantations, especially against fire and wind.

2. Important to give notice of any change of ownership

The Forest Service must be notified if there is any change of ownership of any part of a forest plantation on which a grant was paid. This obligation lasts for the full duration of the scheme, normally 20 years. The owner must give advance notice to the Forest Service of any intention to sell or transfer ownership during the term of the scheme. Payments are suspended until a new applicant is registered to participate in the scheme. All documentation to support new claim must be received in Forest Service at least one year before expiry of the term of the scheme, at the latest. Information provided to the Change of Applicant Section will be kept confidential; privacy will be protected.

Solicitors dealing with sale or transfer of ownership should be informed of the terms of the scheme. It is very important that any **Solicitor drawing up a contract for sale** of lands on which forestry grant was paid takes account of the provisions of the Scheme, because if the new owner is not willing to take over participation in the Scheme, all grants and premiums already paid since the date of completion of the plantation **must be repaid to the Department by the previous owner**.

3. Taking land out of the forestry scheme

Prior permission of the Forest Service is needed before removing any trees on which grant was paid and before selling or transferring ownership of planted lands during the term of the scheme. Removing any part of the plantation from the scheme will entail repayment to the Department of all grants and premiums paid since the date of completion of the plantation. Also, please see paragraph 5 below, on the law on felling and uprooting trees.

4. After the scheme ends

At the end of the term of the scheme, payments from the Department cease and there is no further need to give notice of changes of ownership. The only continuing restrictions on the owner's use of their property at that stage are those applying under the Forestry Act 1946 – see paragraph 5. However, the Minister retains an interest in all grant-aided plantations and would be anxious that forest owners would achieve the best returns from the State's investment. Forest owners should keep in contact with their Teagasc Forestry Advisor or their chosen Forestry Company or Consultant.

5. The Legal aspect : The Forestry Act

All plantations are protected by the Forestry Act 1946, which controls the felling of trees. Under Section 37 of the Act, it is illegal to cut down any tree, whether it is in a grant Scheme or not, unless notice of the intention to do so has been given by the landowner in accordance with the Act and a Felling Licence has been granted by the Forest Service. Any new owners of the plantation should be made aware of the law on felling or uprooting of trees.

PART II SUCCESSION / INHERITANCE of a grant-aided plantation
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INHERITANCE – on the death of an Owner / Applicant

6. If the death takes place of the owner or joint owner or joint manager who was claiming forestry premium, the Forest Service must be informed as soon as convenient for the family. The Forest Service (Change of Applicant Section) will assist the beneficiary with the procedures to ensure continuity of the scheme payments .

7. Do the benefits and obligations pass on with inheritance ?

7.1 Any forestry premiums due to the deceased at the date of death will be released to the Representatives of the Estate when the new applicant has registered to participate in the scheme. The documents needed in cases of inheritance are set out at Paragraph 8 below.

7.2 A new owner may claim payments under the scheme when he /she has provided proof of ownership and completed and signed Form 5 to undertake the obligations of the scheme. These must be received at least 1 year before expiry of the term of the scheme, at the latest. The undertakings include the commitment to maintain and protect the plantation to Forest Service standards for commercial forestry for the rest of the term of the scheme, and, in the event of failing to do this, to repay to the Department all grants and premiums paid since the establishment of the plantation.

7.3 If the rate of premium paid to the deceased person was the higher, farmer rate, the new applicant may be eligible to claim it, subject to the conditions in paragraph 9 below. If several members of a family inherit the planted land, there is a *Joint Management Consent* (JMC) facility to allow members of the immediate family to designate one of them to be the sole applicant for premiums. Persons living abroad may claim at the (lower) non-farmer rates only.

7.4 If the rate of premium paid to the deceased was the (lower) non-farmer rate, that rate will apply to that plantation for the full duration of the scheme. It cannot be increased to the farmer rate even if the new applicant would otherwise qualify as a farmer or has that status under other schemes.

8. Paperwork for beneficiary to claim

The documents needed following the death of the owner / joint owner / joint manager are, generally:

- A copy of the Death Certificate and
- A copy of the Will and Grant of Probate, or Grant of Administration.

If these documents have already been supplied to the Department we will access them electronically. If original documents are received, we will make a copy and return the originals if required.

8.1 If the person inheriting the plantation plans to sell it, please see Paragraphs 11 -15 of this Guide.

8.2 If the beneficiary / family intend to keep the planted lands, the following will be required:

8.2 (a) **Proof of Ownership** : •Folio and filed plan in the new owner's name, **or**, if title is not yet registered, the •Deed of Assent and Application along with our Certification of Land Transfer signed and stamped by a solicitor. (A blank form for Certification of Land Transfer is available)

As an alternative to either of these, the Forest Service would accept a •Certificate of Title with a map showing the area of the plantation clearly outlined in red, both documents having been signed and stamped by a solicitor. (A blank Certificate of Title and a copy map will be made available);

8.2 (b) **Form 5** (for Registration details, and to sign the Declaration & Undertakings on the back). A separate Form 5 is to be completed and signed by each owner and applicant.

8.2 (c) For plantations grant-aided 1989-1992 (Farmer's Premium Scheme) the new applicant/s also complete a **Form FP1** and show proof that they earned their living **mainly** from farming.

8.2 (d) A new **Mandate for the 2nd instalment Grant**, if it applies (i.e. where the 2nd instalment if any, has not yet been paid but was mandated by the deceased to a Forestry Company or Contractor).

SUCCESSION / INHERITANCE <u>(continued)</u>
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9. Rate of Premium on inherited plantations

On inheritance of a plantation the rate payable may be either the higher or lower rate - as follows:

9.1 (a) If the deceased person was claiming premiums at the farmer rate and if the new applicant is a **member of the immediate family of the deceased**, (i.e. husband, wife, parent, son, daughter, brother or sister) who lives in Ireland, the premium may be claimed at the farmer rate. Such new applicant does not have to prove their farmer status to qualify for this higher rate. Applicants living abroad may claim only at the (lower) non-farmer rates (if there was a non-farmer rate in the scheme).

9.1 (b) If the deceased person had been in receipt of the farmer rate of premium and the new applicant is **not a member of the immediate family** of the deceased, the new owner/s may claim farmer rate if they qualify as farmers as defined in Paragraphs 18 - 20 of this Guide. Otherwise non-farmer rates will apply (if the scheme had a non-farmer rate). Applicants living abroad may claim only at the non-farmer rates (if the particular scheme applied to non-farmers as well as farmers).

9.2 A Joint Management Consent form (JMC) allows owners who so wish, to designate a member of their immediate family (e.g. one who is farming) to jointly manage the plantation and be the sole claimant for the premium. A JMC form is available on request. (Owners wishing to end a JMC arrangement may do so at any time by writing to the Change of Applicant Section, Forest Service.)

9.3 If the deceased person qualified for premium at the (lower) non-farmer rate, that rate will apply to that plantation for the full duration of the scheme regardless of the farmer status of the new applicant. It cannot be increased to the farmer rate, even if a new applicant would otherwise qualify as a farmer or has that status under other schemes operated by the Department.

10. When change of applicant formalities are completed

10.1 Any arrears accruing while the change of applicant documents were awaited will be released if these are received on time. Annual premium payments continue for the remainder of the term of the scheme provided the conditions of the scheme continue to be fulfilled. Periodic inspections are arranged to ensure that the plantation is being maintained to Forest Service standards.

10.2 Any further changes of ownership or applicant must be notified to the Forest Service – in advance of sale or transfer during the term of the scheme. See paragraphs 11–15 below.

10.3 Damage to the plantation, e.g. by fire or wind, or failure of trees due to frost, drought, disease or damage by insects or animal pests, must be notified to the Forest Service and a plan agreed for the restoration of the plantation. Grant aid for reconstitution is provided in some circumstances, subject to availability of funds. **Insurance against fire and wind** damage is strongly recommended as there is no grant aid to reconstitute forests damaged by fire or wind.

10.3 If the owner wishes to remove any trees during the term of the scheme he/she must obtain prior permission from the Department and repay all grants and premiums paid since the date of completion of planting. A Felling Licence is always required before cutting down any trees – all trees are protected by the Forestry Act 1946 – see paragraph 5 of this Guide. For further information contact Felling Section Tel 1890 200 223.

10.4 Debts registered against a forest owner may be recovered by the Forest Service by netting the money off any payments due to the customer under any scheme administered by the Department.

Part III Sale / Purchase or Transfer of a grant-aided plantation
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11. Advance Notice of sale / transfer will help avoid repayment

11.1 The Forest Service must be notified in advance if the owner of a plantation established with grant aid plans to sell or transfer all or part of the planted land during the term of the scheme, i.e. normally 20 years. We will issue a letter explaining the procedures for continuity of scheme payments and send out the Department's forms (incl Form 5). Payments may be suspended until registration of the new applicant has been finalised. Information received about change of ownership will be kept confidential and customer's privacy will be protected.

11.2 If the new owner is not willing to participate in the scheme, i.e. provide the proof of ownership and sign the Form 5 to undertake the obligations of the scheme, all grants and premiums paid since date of completion of the plantation must be repaid to the Department by the previous applicant. **Solicitors should take this into account when drawing up contracts for sale of forestry land.** See also Point 12.4 below. Debts registered against a customer may be recovered by the Forest Service by netting them off money due to the customer under other schemes administered by the Department.

11.3 If the planted lands are sold for uses other than commercial forestry, in particular for building /development, the Minister will exercise the right to require immediate repayment by the beneficiary.

12. The new owner may claim benefits until end of the term.

12.1 A new owner may claim payments under the scheme if, at least one year before the expiry of the term of the scheme, proof of ownership has been provided to the Forest Service and the new owner has undertaken the obligations to maintain and protect the plantation to Forest Service standards for the remainder of the term, and, in the event of failing to do this, to repay all grants & premiums paid since the date of completion of the plantation.

12.2 If the rate of premium paid to the previous applicant was the farmer rate, the new applicant may be eligible to claim it by fulfilling the criteria for farmer status set out at Part IV of this Guide.

12.3 If premium was paid to the previous owner at the (lower) non-farmer rate that rate will apply to that plantation for the full term of the scheme. The rate cannot be increased to the farmer rate even if the new applicant would otherwise qualify as a farmer or has that status under other schemes.

12.4 Claim forms (Form 4) are issued each year for completion by customers to claim their annual premium. The Forest Service will not apportion the premium money according to ownership for part of a year. The parties to the sale or transfer should take this into account in the timing and the terms of their arrangements and contracts for sale.

13. Paperwork required in sale / transfer cases

13.1 The owner must give prior notice of the intention to sell or transfer ownership. The Forest Service will reply with full details of the procedures and the forms. Payments may be suspended.

13.2 If the sale / transfer does not go ahead, this notice should be cancelled by the owner, in writing. Any suspension of premiums would then be lifted and any arrears of premium would be processed.

13.3 On completion of the purchase or transfer, the new applicant should forward:

13.3 (a) Proof of Ownership : • Folio and file plan, in the new owner's name, **or**, a copy of the • Deed of Transfer plus a Certification of Land Transfer signed and stamped by a solicitor, along with the (old) folio identifying the previous owner, if needed. (A form for Certification of Land Transfer is available)

As an alternative to either of these, Forest Service would accept a • Certificate of Title with a map showing the area of the plantation clearly outlined in red, both documents having been signed and stamped by a solicitor. (A blank form for Certificate of Title and a map will be made available);

13.3 (b) Form 5 (with Registration details, and signed Declaration & Undertakings on the back). A separate Form 5 is to be completed and signed by each owner and applicant.

13.3 (c) For plantations grant-aided 1989-1992 (Farmer's Premium Scheme) new applicant/s complete a **Form FP1**, and show proof that they have earned their living **mainly** from farming.

13.3 (d) Form 5b, an indemnity by the former applicant against any further claims by **him/her**;

13.3 (e) A new **Mandate for the 2nd instalment Grant**, if relevant (i.e. where the 2nd instalment if any, has not yet been paid but was mandated by the previous owner to a Forestry Co. or Contractor).

14. Qualifying for Premiums on plantations bought or transferred

14.1 The new owner may claim payments for the remaining years of the scheme if, at least one year before the expiry of the term of the scheme, he /she has provided all necessary ownership documentation to the Forest Service and has signed the Form 5 undertaking the obligations of the scheme, to maintain and protect the plantation to Forest Service standards for commercial forestry for the remainder of the term of the scheme, and, in the event of failing to do this, to repay all grants and premiums paid since date of completion of planting.

14.2 The rate of premium on purchase / transfer:

14.2 (a) If the previous owner was paid the farmer rate of premium, the new applicant may qualify for it by providing evidence of farmer qualification as defined in Part IV of this Guide. Otherwise the non-farmer rate will apply (except for plantations established under the FP scheme which applied to farmers only). Applicants living abroad may claim only at non-farmer rates, if any.

14.2 (b) A Joint Management Consent form (JMC) allows owners who so wish, to designate a member of their immediate family (e.g. one who is farming) to jointly manage the plantation and be the sole claimant for premium. A JMC form is available on request. Owners wishing to end a JMC arrangement may do so at any time by writing to the Change of Applicant Section, Forest Service.

14.2 (c) If the previous owner was paid premium at the (lower) non-farmer rate, that rate will apply to that plantation for the full term of the scheme. The rate cannot be increased to the farmer rate even if the new applicant would otherwise qualify as a farmer or has that status under other schemes.

15. When the new Applicant is registered

15.1 Any arrears which accrued while change of applicant documents were awaited will be released, if they are received on time. Claims for premium may continue for the remainder of the term of the scheme provided the conditions of the scheme continue to be fulfilled. Periodic inspections are arranged to ensure that the plantation is being maintained to Forest Service standards.

15.2 Any further changes of owner / applicant must be notified to the Department – in advance of sale or transfer, or as soon as possible if the death occurs of an owner / joint owner or joint manager.

15.3 Damage to the plantation, e.g. by fire or wind, or failure of trees due to frost, drought, disease or damage by insects or animal pests, must be notified to the Forest Service and a plan agreed for the restoration of the plantation. Grant aid for reconstitution is provided in some circumstances, subject to availability of funds. **Insurance against fire and wind** damage is strongly recommended as there is no grant aid to reconstitute forests damaged by fire or wind.

15.3 If the owner wishes to remove any trees during the term of the scheme he/she must obtain prior permission from the Department and repay all grants and premiums paid since the date of completion of planting. A Felling Licence is always required before cutting down any trees – all trees are protected by the Forestry Act 1946 – see paragraph 5 of this Guide. For further information contact Felling Section Tel 1890 200 223.

15.4 Debts registered against a forestry customer may be recovered by netting them off money due to the customer under any schemes administered by the Department.

Part IV Criteria for Farmer rate of premium after a Change of Owner /Applicant

16. All Applicants for premium must:

Be 18 years of age or over and have a Personal Public Service Number. (PPS No.)

17. There are two levels of premium on forests completed since 1993.

(Before 1993, premium scheme applied to farmers only and income limits applied.)

- **Farmer rates**, payable for 20 years, apply to applicants who own, lease or jointly manage at least 3 ha of an agricultural holding and fulfil the criteria at paragraph 18 below;
- **Non-farmer rates**, payable for 15 years, to people who do not meet the criteria at para 18. (Note: FP scheme 1989-1992 was for farmers only. There was no non-farmer rate in FP Scheme). Persons **living abroad** are not eligible for farmer rates - they may claim forest premium at non-farmer rates only, if the particular scheme applied to non-farmers as well as farmers.

18. Farming, in the State, in one of the reference years must be proven, as follows:

18.1 If the change of ownership / applicant was **before 01.01.2007**, proof is required that **25% of income was derived from farming**, as at paragraph 18.3(b), in any of the 3 years before the date of planting or any of the 3 years before the change event, e.g. date of the death. For these changes pre-January 2007, Option 18.3(a) does not apply.

18.2 If the change of ownership / applicant was **after 01.01.2007**, the reference years are:

- the year of completion of the plantation, or
- any 1 of the 3 years preceding the date of change of ownership, or
- the period of up to 1 year after the date of the Deed of Transfer / Assent

18.3 Acceptable proofs of farming for changes of applicant after 1 January 2007 are:

Option (a) An active Herd No or registration under another DAFF Scheme. ('Active' means a herd test has been carried out or a valid claim has been processed under the scheme in the relevant reference year);

OR

Option (b) Proof that at least 25% of the applicant's income was derived from farming in the State in the relevant year (as at 18.2), using one of the following:

- A tax assessment, showing level of farming income as well as total income; OR
- A TF1, (Certificate of Farming Income) completed, signed and stamped by a local Teagasc Land Use Advisor; or
- A TF2 (Certificate of Farming Income) completed, signed and stamped by a member of the Agricultural Consultants Association who is based in the locality.

NOTE: The Forest Service may require additional supporting evidence of farming activity and may carry out additional checks to verify farmer status in individual cases.

18.4 Detailed notes on completion of the TF1 and TF2 forms at 18.3(b) are available on [www.agriculture.gov.ie/forestry/ publications/forestry schemes manual chapter 3.2](http://www.agriculture.gov.ie/forestry/publications/forestry_schemes_manual_chapter_3.2)

19. An applicant who previously qualified for farmer rate of premium **on the basis of an income assessment** need not have income re-assessed for plantations acquired afterwards.

20. Participants in the **Farm Retirement Scheme** are eligible for non-farmer rates only on plantations acquired or completed after the date of their retirement from farming.. However, on inheritance from immediate family (para9), criteria on income / occupation do not apply.