



Department of  
**Agriculture,  
Food and the Marine**

An Roinn  
**Talmhaíochta,  
Bia agus Mara**

## *Reconstitution Scheme (Chalara Ash Dieback)* **2014-2020**



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## 1.1 Introduction

*Chalara fraxinea*, known as ash dieback disease, is a relatively newly described fungal disease of ash which was first named in 2006 although dieback symptoms in ash had been first noted in Poland in the early 1990s. The harmful reproducing stage of the fungus, a new species *Hymenoscyphus pseudoalbidus*, was later discovered in 2010.

The disease has spread rapidly across much of Europe, with the majority of European countries where ash is present now reporting the disease.

Common ash (*Fraxinus excelsior*) is susceptible to *Chalara* ash dieback disease, as are a number of other species of ash. The disease can affect ash trees of any age and in any setting. Death of the trees can occur, with younger trees (less than 10 years old) succumbing more rapidly.

The Reconstitution Scheme (Chalara) supports the reconstitution of Ash plantations which have suffered from or are associated with Ash Dieback disease caused by the fungus *Hymenoscyphus fraxineus*. The objective of this scheme is to restore forests affected by *Hymenoscyphus fraxineus* by supporting the removal and destruction of trees and leaf litter affected by the disease and the reconstitution of the forest with an alternative species to Ash. It is important that all leaf litter must be adequately destroyed. Research indicates that spore production from the leaf litter of infected trees poses a significant risk of re-infection in the following growing season. Consequently, all operations must be undertaken in strict compliance with the **Sanitation Action Plan** approved by the Department.

## 2.1 General Outline and Legal Basis

The scheme is 100% Exchequer funded under the following legal framework;

- i. European Union guidelines for State aid in the agriculture and forestry sector and in rural areas 2014 – 2020;
- 2.2 The Scheme is administered by the Department of Agriculture, Food and the Marine and operates throughout the State. The Scheme shall be operational from 1<sup>st</sup> January 2015 for a period to be determined by the Minister for Agriculture, Food and the Marine.
- 2.3 Participation in the Scheme is voluntary.

## 3.1 State Aid requirements

The detailed State Aid requirements are set out in **Annex 3**. The main elements that require input by the applicant are:

### 3.2 Incentive Effect

This applies where the applicant is a small/medium enterprise SME and/or the immediate beneficiary. The applicant/enterprise must indicate on the application form for aid that “The work described herein would not have been undertaken without the financial support provided under State Aid rules. Without this aid there would be no change to current activities.” For large companies documentary evidence must be submitted in relation to the counterfactual for each of the measures proposed (i.e. what would happen without the aid?).

### 3.3 Proportionality of the aid

Large companies must provide documentary evidence that the aid is proportionate. Only applications which are deemed proportionate will be grant-aided by the Forest Service.

### 3.4 Transparency

Ireland must publish on its website at national level certain information on the State Aid schemes.

## 4.1 Objectives of the Scheme

The objective of this scheme is to;

- Restore forests affected by *Hymenoscyphus fraxineus* by supporting the removal and destruction of trees and leaf litter affected by the disease.
- Reconstitution of the forest with an alternative species to Ash.
- Ensure that all leaf litter must be adequately destroyed.

Research indicates that spore production from the leaf litter of infected trees poses a significant risk of re-infection in the following growing season.

Consequently, all operations must be undertaken in strict compliance with the Sanitation Action Plan approved by the Department.

## **5.1 Eligibility**

Individuals applying for participation in the scheme must be over 18 years of age and hold a Personal Public Service Number (PPSN). Companies must provide their company registration details (CRO number).

5.2 Applicants for approval must be the owner, leaseholder or joint manager of the land at the time of the application. Exceptions to this rule will only apply where: (i) the owner is deceased and his/her legal representative submits the application; or (ii) the owner consents in writing to the submission of the application in the name of a designated third party.

5.3 In order to qualify for payment of reconstitution grants, the applicant must own, lease or be in joint management of the lands. Applicants must provide documentary evidence of ownership and of leasing or joint management where relevant if requested, as detailed in the *Forestry Standards and Procedures Manual*.

5.4 The Department will refuse applications for grant aid where it is found that an application was made by a person other than a person that meets the above criteria.

5.5 Every effort should be made by registered foresters to ensure that multiple applications by the same applicant are not submitted. If more than one application is submitted for the same piece of land, the Department may decide to process just one application selected by the applicant within any 12 month period.

## **6.1 Grant Rates**

This grant scheme is cost-based, subject to the costs approved by the Department at Form 1 stage or the maximum rates detailed in Annex 1, whichever is the lower. As a result, evidence of costs expended and receipts for items purchased must be retained and produced on the request of the Minister.

6.2 Grant aid will be paid exclusive of VAT, regardless of the applicant's VAT status.

6.3 Payments will be paid subject to works being carried out to the satisfaction of the Minister and based on costs incurred subject to the maximum costs approved.

6.4 Management costs may be charged to a maximum of 30% of direct costs subject to the maximum grant rates applicable.

- 6.5 Annex 1 details the grants rates payable under the Scheme. The Minister reserves the right to alter these rates at any time. Beneficiaries of grant aid under this Scheme are required to retain all receipts and invoices relating to work undertaken to establish and maintain the plantation for a period of 6 years following payment of the 1<sup>st</sup> instalment grant. The Minister may, at his or her discretion, require the submission to the Department of such receipts and/or invoices at any time during this period.
- 6.6 The Minister reserves the right to alter the grant rates from time to time.
- 6.7 The grant shall be payable in 3 instalments and shall not exceed the following rates in Annex 1.
- 6.8 Additional broadleaves in conifer plots that must be removed and replaced can claim eligible costs up the maximum GPC5 grant rate based on the area treated. The premium rate will remain the same as the original contract.

## 7.1 Conditions of Aid

Where an applicant makes an application for aid that is deemed valid and is approved by the Department, a contract then exists under the Scheme between the applicant and the Minister. The terms and conditions of this Scheme as set out in this document (which may be revised from time to time by the Minister), any circulars amending the scheme requirements, all application forms including Form 1, letters of approval and, where appropriate, remedial works notifications, form the terms and conditions of this contract. The contract will be identified by the contract number (CN) assigned to it by the Department when the application for approval (Form 1) is received.

- 7.2 Payments will be based on either the area claimed as eligible for payment by the applicant (on Form 2 and associated maps) **or** the area determined by the Department to be eligible for payment, whichever is the lesser.
- i. The Department's computerised mapping and payment system (iFORIS) is used by the Department to capture a digital representation of the payment area based on the applicant's claim map. Capturing the claim map in a digital form allows for the accurate measurement and calculation of the payment area. The process of electronically capturing the claim map is referred to as **digitisation**. The **digitised area** of a contract (i.e. the entire plantation) is the sum of the areas of the individual forest plots (excluding biodiversity) comprising that contract number or plantation. For each plot contained in an application for payment, the **digitised area** is the entire area of the forest plot within the perimeter boundary of that plot measured by the Department's iFORIS system.
  - ii. The **determined area** of a contract number or plantation is the sum of the areas, determined by the Department to be eligible for

payment, of the individual forest plots comprising that contract number or plantation. The determined area is calculated by excluding any ineligible areas (e.g. power line corridors, rock, gas lines, ineligible areas of biodiversity).

- iii. The **claimed area** is the total area of the forest plots specified by the applicant in the application as being claimed for payment of a reconstitution grant payment. The claimed area is calculated by the applicant by deducting any part of the plot that is not eligible to receive a reconstitution grant (e.g. power line corridors, rock, gas line and eligible biodiversity areas) from the digitised area.
- iv. Whichever is the lesser of the claimed area or the determined area is deemed to be the area eligible for payment, known as the payable area. This is the area on which payments of reconstitution grants will be based, subject to compliance with the requirements of the scheme as regards submission of proof of ownership, if requested.

7.3 Where an area delineated as the payable area on a map submitted by the applicant differs from the area specified on the species plot table attached to a map or the area specified on the Form 2 the lesser of these areas will be deemed to be the area claimed by the applicant.

7.4 Support is only available for plantations that are affected by, or associated with trees affected by, the fungus *Chalara fraxinea*.

7.5 All grant aided private forest owners shall be eligible to apply for the scheme.

7.6 Support shall be granted only for the reconstitution of forests which were established under one of the following Department schemes:

- Afforestation Grant Schemes,
- Native Woodland (Establishment) Scheme,
- NeighbourWood Scheme
- Forest Environment Protection Scheme

7.7 Payments shall be made to applicants who make a valid application in accordance with the written approval granted by the Department and have carried out the site clearance operations and reconstitution work to their plantation in accordance with the written approval granted by the Department and in compliance with:

- The Sanitation Action Plan approved by the Department
- All relevant national legislation for the time being in force,
- The Department's specifications for registered foresters,
- The conditions set out in this document,
- The requirements set down in the Forestry Standards and Procedures Manual, where applicable,

- The Forest Service Code of Best Forest Practice – Ireland,
  - The principles of Sustainable Forest Management; and
  - The Forest Service Environmental Guidelines.
- 7.8 Costs eligible for the site clearance grant are those approved costs necessary to carry out site clearance operations, subject to the maximum grant allowable.
- 7.9 Cost eligible for the reconstitution grant aid are those approved costs necessary to carry out the remedial establishment work required to get the plantation back to the stage it was at before the disease outbreak occurred.
- 7.10 Where a 2<sup>nd</sup> Instalment afforestation grant is still pending on the area to be reconstituted, the maintenance costs allowable will be those costs necessary to get the reconstituted area back to the stage it was at before the plantation was cleared.
- 7.11 Plantations where the 2<sup>nd</sup> instalment afforestation grant has been paid are eligible for all related costs to re-establish the crop to year 4 stage
- 7.12 The removal and destruction of trees and leaf litter affected by *Chalara fraxinea* must be completed in compliance with the Sanitation Action Plan approved by the Department and within the period specified in the approval.
- 7.13 Responsibility for the removal and destruction of trees and leaf litter rests with the forest owner.
- 7.14 No replanting shall be undertaken within 12 months (or other time specified by the Minister) following the removal and destruction of affected trees and leaf litter.
- 7.15 Where the replacement species results in a change of GPC, the annual premium will be adjusted to reflect the new GPC with effect from 2015. This will not impact on the grant-aid and premiums already paid.
- 7.16 Failure to reconstitute a damaged grant-aided plantation is a breach of the afforestation grant and premium schemes and may result in recoupment of all grants and premiums paid.
- 7.17 The following are the operations eligible for grant aid:
- i. Removal and destruction of trees and leaf litter affected by *Chalara fraxinea*, in compliance with the Sanitation Action Plan
  - ii. Replacement plants
  - iii. Planting
  - iv. Ground Preparation (if applicable)
  - v. Vegetation control (1 - 4years, if applicable)
  - vi. Shaping
  - vii. Other operations may be approved upon application
- 7.18 The reconstitution grant will be paid in 3 instalments as follows:

- i. Application for the **Site Clearance Grant** may be made following the removal and destruction of trees and leaf litter affected by *Chalara fraxinea*, in accordance with the Sanitation Action Plan and area treated,
  - ii. Application for the **1<sup>st</sup> Instalment Grant** may be made following the reconstitution (replanting) of the treated area.
  - iii. Application for the **2<sup>nd</sup> Instalment Grant** may be made 4 years after the site is successfully reconstituted.
- 7.19 Where a notification (i.e. a remedial works letter) is issued to the applicant specifying remedial works required to bring his/her plantation up to standard, the date specified in that letter by which the works must be completed is binding on the applicant. In exceptional circumstances, the Minister may grant an extension to that date. Requests for such extensions must be submitted in writing by the applicant and registered forester at least 30 days before the expiry of the original deadline for completion. Failure to complete the specified works to the satisfaction of the Forest Service will result in a penalty, as set out in the document titled *Forestry Schemes Penalty Schedules (DAFM 2015)*.
- 7.20 Grants will be paid only when the entire plantation is up to the required standard. If part of the plantation fails inspection, payment will be withheld on the entire area until remedial works are carried out and the plantation is thinned /and or tended to the required standard.
- 7.21 Where the Forest Service decides that it is not possible to bring the plantation, or part thereof, up to the required standard, no further payment will be made for that area. Where the grant and/or part thereof, is not to be paid, the Forest Service may also require repayment of the amount paid in respect of the plantation or in respect of the area that does not meet the required standard.
- 7.22 Payments shall be made in respect of applicants who make valid applications prepared by a registered forester and who have established their forest in accordance with the pre-planting approval (i.e. both technical and financial) and in compliance with:
  - i. All relevant EU requirements and national legislation for the time being in force
  - ii. The terms and conditions of this Scheme as set out in this document (and any revisions thereof), any circulars amending the scheme requirements, the application forms, letters of approval and, where appropriate, remedial works notifications;
  - iii. *Forestry Standards and Procedures Manual*;
  - iv. *Code of Best Forest Practice – Ireland*;
  - v. *National Forest Standard*;
  - vi. *Forest Service Environmental Guidelines*.

## 8.1 Application Procedure

The relevant application forms, as described in this paragraph, are available from the Forest Service, Department of Agriculture, Food and the Marine, Johnstown Castle Estate, Co. Wexford. Lo-call 1890 200 509. Alternatively you can contact the relevant section by email.

Email Addresses	Queries
forestryappenq@agriculture.gov.ie	Form 1, approvals, application procedures
1stgrant@agriculture.gov.ie	Form 2, 1 <sup>st</sup> Grant and 1 <sup>st</sup> premium
ForestPremiums@agriculture.gov.ie	Form 3, 2 <sup>nd</sup> Grant and subsequent premiums
felling.forestservice@agriculture.gov.ie	Felling licences

- 8.2 The appropriate application form and all supporting documentation and maps must be submitted to the Forest Service within the timeframes indicated below for each stage.

### **Form 1 - Application for Approval**

An application for approval must be made using the Reconstitution Scheme (Chalara Ash Dieback) Application for Approval (Form 1). The applicant and a Registered Forester must complete the application. Applications must be accompanied by a detailed estimate of costs (see Annex 5). The estimate of costs shall only include costs associated with the removal and destruction of affected trees and leaf litter, and the cost of re-establishing the parts of the plantation affected by *Chalara fraxinea*, or other areas of ash deemed necessary by the Forest Service to be removed to reduce the risk of disease spread.

*NOTE: No work should commence until formal written approval has been granted by the Department*

- 8.3 Approval is only valid up to and including the expiry date specified in the letter of approval.

## 8.4 Form 2 - Application for Site Clearance Grant

Application for payment of the Site Clearance Grant may be made following the removal and destruction of trees and leaf litter affected by *Chalara fraxinea* in accordance with the Sanitation Action Plan. Application for payment must be made on a 'Form 2'. The applicant and a Registered Forester must complete the application. Payment of the Site Clearance Grant shall cover the costs approved by the Department at Form 1 stage, subject to the maximum rates detailed below and will be conditional on the work being satisfactorily completed. Application for payment of the Site Clearance Grant must be made using the standard for. The time limit for receipt of the Site Clearance Grant application in the Department shall be 12 weeks after the date of completion of the reconstitution works. Where a Site Clearance Grant Application is received after the prescribed

period, the applicant must submit a written explanation for its late submission and it will be at the discretion of the Department as to whether or not the application can be accepted. The applicant and his/her Registered Forester must complete the application following a site visit and a detailed field and forest plot assessment by the registered forester. The application form sets out the requirements to be met to make a valid application. Where supporting documentation could relate to more than one contract, individual copies of the documentation must be submitted with each separate Site clearance grant claim.

- 8.5 Where a Form 2 application is lodged with the Department within the required 12 weeks time-frame but supporting documentation remains to be submitted, the application will be held open for a maximum of 2 calendar years from the date of completion of the plantation. Payment of the grant may be made on receipt of supporting documentation up to 6 years after the date of completion. After year 6 the grant will be forfeited and the contract considered terminated if a fully valid claim with all necessary documentation has not been lodged in the Department. Non-payment of a forester or forestry company for works carried out will be a matter for resolution between the plantation owner and the forester or forestry company and the Minister shall bear no liability.

#### **8.6 Form 2(a) - Application for 1<sup>st</sup> Instalment Grant**

Application for payment of the 1<sup>st</sup> Instalment Grant may be made following reconstitution (replanting) of the trees previously removed, to the satisfaction of the Minister. Application for payment must be made using 'Form 2(a)'. The applicant and a Registered Forester must complete the application. Payment of the 1<sup>st</sup> instalment grant shall be based on the cost approved subject to the maximum rates detailed below, and will be conditional on the work being satisfactorily completed, and the application for payment (Form 2(a)) being received, within the time specified in the letter of approval, if applicable.

#### **8.7 Form 3 - Application for 2<sup>nd</sup> Instalment Grant**

Application for payment of the 2<sup>nd</sup> Instalment Grant may be made 4 years after the site has been successfully reconstituted. Application for payment of the 2<sup>nd</sup> Instalment Grant must be made using 'Form 3'. The applicant and a Registered Forester must complete the application. Payment of the 2<sup>nd</sup> instalment grant shall be based on the cost approved subject to the maximum rates detailed below, and will be conditional on the satisfactory maintenance of the plantation.

- 8.8 Where a 2<sup>nd</sup> instalment afforestation grant is due for payment, and the area not being reconstituted has been successfully established, the 2<sup>nd</sup> instalment afforestation grant will be payable.

#### **9.1 Other Information**

The Department may also, at its discretion, require other forms of technical investigation and reports to be submitted to facilitate its assessment of the project. These may include, in alia, an ecological assessment and report by a suitably qualified ecologist.

## **10.1 Consultations and Public Notification Procedure**

The Department may consult with relevant consultation bodies including National Parks and Wildlife Service, the National Monuments Service, the Environmental Protection Agency, Inland Fisheries Ireland, the relevant local authority as part of the felling licence process. Other bodies may also be consulted with, as required.

## **11.1 Pre-Approval**

A pre-approval issued under this Scheme may be subject to additional conditions as laid down by the Minister. These may be of a silvicultural or environmental nature, or may relate to other requirements. It is the responsibility of the applicant to ensure that all works are undertaken in compliance with the requirements of the Scheme. The Department accepts no responsibility or liability for costs incurred by an applicant on foot of pre-planting approval or at all.

**NOTE:** It is the responsibility of the applicant to inform the Forest Service in writing of any proposed material change to the approval issued and to seek approval for any such change before thinning and/or tending works commence. Failure to obtain approval from the Department for proposed changes may render the pre-approval null and void.

## **12.1 Silvicultural Standards**

An applicant must comply with all scheme requirements as detailed in the *Forestry Standards and Procedures Manual*.

## **13.1 Eligibility for Direct Payments (2015-2019), Cross Compliance, Land Use Reconciliation Requirements**

As an accredited EU paying agency, the Department of Agriculture, Food and the Marine is obliged to carry out checks and controls on all applications. Under Cross Compliance requirements, a farmer receiving direct payments must respect the various statutory management requirements set down in EU legislation (Directives and Regulations) on the environment, food safety, animal health and welfare, and plant health; and must maintain the lands in good agricultural and environmental condition (GAEC). Regulation (EU) 1306/2013 sets out rules on cross compliance pursuant to article 93 which includes the Statutory Management Requirements (SMRs) and standards for GAEC that must be observed on lands in receipt of Direct Payments. Detailed documents setting out the requirements and penalties applicable for each area based scheme under CAP 2015-2019 are available from the relevant section of the Department. Contact details and further information are available on the Department's website ([www.agriculture.gov.ie](http://www.agriculture.gov.ie)).

## **14.1 Good Practice and SFM**

Adherence to good forestry practice and the principles of sustainable forest management (SFM) is mandatory and applies across all operations of the Scheme. Guidance on how forestry operations should be carried out so as to ensure compliance with SFM is provided in the *Code of Best Forest Practice – Ireland*, which can be downloaded from the Department’s website at <http://www.agriculture.gov.ie/forests/service/publications/>

## **15.1 Payment**

As the contract under this Scheme is between the applicant and the Department, payment is made to the applicant. However, applicants may mandate grant payments to a registered forester or forestry company using a mandate document that satisfies the requirements of the Minister as set out in the *Forestry Standards and Procedures Manual*. Such mandates are a voluntary arrangement between the applicant and his/her registered forester or company. Mandates to other parties e.g. Contractors or Foresters not registered with the Forest Service, will not be facilitated. In the event that a payment fails to be made in accordance with a valid mandate no liability shall be attached to the Minister.

- 15.2 If it is subsequently found that any undue payment or overpayment has occurred in respect of any grant or other payment made under the scheme, the Department will recover the entire amount of the undue payment or overpayment from the applicant, regardless of how the undue payment or overpayment or arose.
- 15.3 The Department may offset the amount owed from any other monies due to the applicant by the Department. The Department may also recover the monies as a simple contract debt in a court of competent jurisdiction.

## **16.1 Penalties**

Failure to comply with the terms and conditions of the Scheme, incorporating *The Code of Best Forest Practice – Ireland; Forestry Standards and Procedures Manual*; circulars amending scheme requirements; and the relevant environmental guidelines and requirements may result in an appropriate penalty or sanction being applied.

- 16.2 Penalties which shall apply to certain specific breaches of the Scheme are set out in the document titled *Forestry Schemes Penalty Schedules (DAFM 2015)* which are a condition of grant aid. Other breaches of the Scheme not specified in the Scheme Penalties Schedules may also incur a penalty. However, all or any failure to comply with the scheme or any breaches of its terms and conditions may result in a penalty.
- 16.3 Penalties may include the repayment of all or part of the grant.
- 16.4 Monetary penalties shall include interest payable at the rate provided for under *S.I. No. 13 of 2006*. Interest shall be calculated for the period elapsing between

a date specified in a notification to the applicant of the repayment obligation and either repayment or recovery by deduction.

- 17.5 Penalty amounts may be deducted from future payments due to the Applicant under the forestry schemes or from payments due under other schemes administered by the Department. Where monetary penalties are not paid or recovered within the period requested, the Department may take whatever action is deemed necessary for their recovery. The Department may also recover the monies as a simple contract debt in a court of competent jurisdiction.
- 16.6 The principle of proportionality will apply. Penalties may be imposed that are, in the opinion of the Minister, proportionate to the alleged breach of the Scheme.
- 16.7 The imposition of a penalty shall not relieve an Applicant of an obligation to comply with an instruction from the Minister to undertake remedial works in respect of a forest.

### **17.1 Appeals**

The applicant, or a registered forester acting on behalf and with the written permission of the applicant, may appeal against a decision of the Department regarding (i) an application for a pre-approval; (ii) a grant or (iii) a penalty.

- 17.2 In the course of re-examining a decision by a deciding officer, the Appeals Committee shall not be confined to the grounds on which the decision of the deciding officer was based, but may decide the question as if it were being decided for the first time.
- 17.3 A person who made a submission to the Department in relation to an application for approval may appeal the Department's decision to approve or refuse the application.
- 17.4 Appeals should be made in writing, giving detailed grounds for the appeal, to the Appeals Section, Forest Service, Department of Agriculture, Food and the Marine, Johnstown Castle Estate, Co. Wexford. Appeals are currently considered by the Forestry Appeals Committee. The issue of appeals is currently under review.

### **18.1 Change of Applicant**

The Department must be notified in advance if:

- i. a grant-aided forest is transferred, sold, leased or otherwise disposed of by the applicant during the term of the reconstitution contract; or

- ii. a judgement mortgage or an inhibition or similar restriction is placed on the Folio for the afforested land during the term of the contract.
- 18.2 In the event of the death of the applicant i.e. owner, joint owner or joint manager who was claiming the reconstitution grant, the Forest Service must be notified as soon as possible by the deceased's next-of-kin, legal personal representatives or registered forester.
- 18.3 When notice of a change of ownership is received by the Department, payment will be suspended until a new applicant is registered in the scheme. The new owner will be entitled to apply for the reconstitution grant.
- 18.4 New applicants must submit all necessary documentation as early as possible and no later than one year after the date of the deed of transfer for the land ownership change, or the date that a deceased applicant's estate is settled. Failure to meet these deadlines may result in a new owner not being admitted to the scheme and the contract will, in effect, be terminated.
  - i. In every case, all documentation relating to change of ownership and applications for payments must be submitted before the expiry of the term of the contract. In exceptional circumstances (e.g. delays in finalising a deceased person's estate), the date by which documents must be submitted may be extended at the discretion of the Minister.
  - ii. All decisions regarding eligibility for payment of grant will be made by reference to the level of compliance with the conditions of the Scheme, including the completion of outstanding remedial works, on the date of the deed of transfer of a plantation or the date that a deceased applicant's estate is settled. For example, where remedial works have not been satisfactorily completed by the date of the deed of transfer, the new owner will be responsible for completion of the remedial works and, once satisfactorily completed, s/he will be eligible to apply for payment of grants due for the period after the date of the deed if not already paid.
  - iii. The Minister will refuse payment of grant to the previous owner(s) if s/he has failed to maintain the plantation to the standard required under the Scheme for the period of the reconstitution contract under his/her ownership.
  - iv. The Department will not divide grant payments according to ownership for part of a year; individual grant payments will not be split or subdivided. The parties to any sale or transfer should take these payments into account in the timing and terms of their legal arrangements and/or contracts for sale.
  - v. In exceptional circumstances affecting a change of ownership process, at his or her discretion, the Minister may extend the

closing date of a contract subject to such conditions as may be specified by the Minister.

- vi. Where a debt is accrued under a contract for any reason and the cause of the debt has existed and/or continued during the ownership of more than one owner, the debt will be allocated in accordance with the amount of overpayment received by each owner; each owner will be responsible for repaying the overpayment s/he received.

**18.5 Further information** about the procedures involved when a grant-aided forest is being transferred, sold, leased or otherwise disposed of during the term of the contract is available at:

<http://www.agriculture.gov.ie/forests/forests-service-general-information>

18.6 The Minister reserves the right to alter these procedures from time to time.

### **19.1 Joint Management Consent**

A landowner may enter into a joint management arrangement with an immediate family member to jointly manage the forest and assign the reconstitution grants to that family member. A joint management arrangement may only be made between immediate family members, namely the spouse, children, parents and/or siblings of the landowner. Joint Management Consent forms are available in the *Forestry Standards and Procedures Manual* (on the website under Forestry Publications).

19.2 The owner of the land and the applicant are both liable for the repayment of grants paid if the applicant fails to abide by the conditions of the scheme.

19.3 A joint management arrangement may be cancelled at any time provided the owner takes over the obligations of the scheme.

### **20.1 Right of Entry**

The Minister reserves the right to carry out inspections at reasonable times on any land submitted for pre-approval or on any land for which Reconstitution grants have been paid or claimed under this Scheme or any other forest-related Scheme. Applicants are obliged to ensure that, where required, adequate access to the land and forests is provided to allow inspections by the Department.

### **21.1 Responsibility for Forest Management**

Responsibility for the successful reconstitution of the forest rests with the applicant. Where an applicant contracts the services of a third party to carry out works, and to prepare and submit claims, it is the applicant's responsibility to ensure that the third party contracted has sufficient insurances to indemnify the

work undertaken. Any issue arising under this contract due to the detriment of the applicant, such as inadequate work, or preparing an inaccurate claim, etc., is a matter for the owner to resolve with the forester.

- 21.2 The inspection of a forest by the Department shall not relieve the Applicant of responsibility for the accuracy of applications submitted, the successful reconstitution of the forest, or any responsibility to meet the required standards or terms and conditions of the scheme. The Department is not liable for errors (or financial loss) as a result of inaccurate claims or faulty workmanship by the applicant or his/her forester. The Department does not guarantee the success of any reconstitution works or bear any liability in respect of any plantation for which it has granted pre-approval in any circumstances. It is the sole responsibility of the applicant who submits land for reconstitution that the plantation will successfully be reconstituted. If the Department subsequently determines that a plantation, or any part thereof, has not been reconstituted in accordance with the approval issued, the applicant will be required to repay all grants in respect of the works or any part of the plantation which has not been reconstituted as approved.

## **22.1 Insurance**

Applicants should ensure that their forest has adequate insurance cover against damage from, inter alia, fire, and windblow, etc.

## **23.1 Failure to abide by the terms and conditions of the scheme**

Where, for the purposes of obtaining payment under this Scheme, the applicant or a person acting on his/her behalf knowingly makes a false or misleading statement or withholds essential information, the applicant's participation in the Scheme may be terminated and all or part of the aid paid shall be repaid.

- 23.2 Where an Applicant or a person acting on his/her behalf fails to abide by the terms and conditions of the Scheme, or there is any material change in the circumstances of the applicant which would be in conflict with the letter or the spirit of the Scheme, the applicant's participation in the Scheme may be terminated and all or part of the aid paid shall be recovered by the Department. The Department may offset the amount owed from any other monies due to the applicant by the Department or it may seek to recover the amount as a simple contract debt in a court of competent jurisdiction.

- 23.3 The obtaining of aid under the Scheme by fraudulent means by the applicant or others acting alone or together may render such persons liable to prosecution.

## **24.1 Overpayments made in relation to a scheme contract**

Where any overpayment is made due, inter alia, to over claim or over declaration by the applicant or his/her agent, or to error or miscalculation by the applicant, his/her agent, or the Department, the money overpaid may at the

discretion of the Minister be recouped from the applicant who received the overpayment. Such recoupment will be decided on a case by case basis, taking into account any mitigating factors, including culpability.

- 24.2 Amounts to be recouped may be deducted from future payments due to the Applicant under the forestry schemes or from payments due under other schemes administered by the Department. Where debts are not recovered within the period specified, the Department may take whatever action is deemed necessary for their recovery. The Department may also seek to recover the amount as a simple contract debt in a court of competent jurisdiction.

### **25.1 Review of Financial Aids**

The Minister reserves the right in his absolute discretion to vary, where occasion so demands, the amount of financial aid wherever specified in the Scheme.

### **26.1 Procedures**

The Minister reserves the right to alter from time to time the procedures to be followed in the operation of this Scheme.

### **27.1 Tax Clearance Requirement**

It is a condition of this Scheme that all grant-aided activities shall be conducted in compliance with the laws of the State relating, inter alia, to tax and employment. Proof of compliance, such as the provision of Tax Clearance Certificates, may be required by the Department.

### **27.2 Value Added Tax:**

All grants paid under the Fixed Grant Scheme are exclusive of VAT.

### **28.1 Information and Data Protection**

The Minister reserves the right to make information available to the public regarding the areas covered by the Scheme including the number of participants, farms, historical and archaeological sites, hectares covered, forest location etc. while continuing to observe the terms of the Data Protection Act.

- 28.2 Under State Aid rules (see Annex 3) the Department will publish details of beneficiaries that fall within the categories described.

- 28.3 By declaring their eligibility and consent to apply for the reconstitution scheme, applicants must agree to the release of non-personal information supplied by them in respect of their application to comply with current environmental consultation procedures. Furthermore, applicants consent to be contacted by the

Department in respect of approved forestry training courses. Applicants must also consent to the release of their details to Teagasc and Timber Producer Groups who may subsequently communicate with applicants in relation to the forestry training and development and the harvesting of timber.

- 28.4 All information supplied by applicants in respect of a reconstitution approval and/or grant claim and any supporting documentation shall be made available to any other Department or Agency or Local Authority for the purposes of consultation, Audits, Cross Compliance Controls and all Rural Development measures, and, as appropriate, in accordance with the requirements under the Freedom of Information Acts.

### **29.1 Further Conditions**

The Minister may at any time lay down further conditions under this Scheme.

### **30.1 Forestry Act, 1946**

All plantations are protected by the Forestry Act, 1946 (and any Act that succeeds or replaces that Act), which controls felling of trees. Under this Act, with certain exceptions, it is illegal to cut down any tree, grant-aided or not, unless a Felling Licence has been obtained from the Forest Service. Reconstitution works approved under the *Reconstitution Scheme* which involves tree felling must not commence until a felling licence has been granted.

## Annex 1

### GRANT RATES

	<b>Crop Type</b>	<b>Rates per treated hectare</b>
<b>Site Clearance Grant</b> (Removal and destruction)		Cost to a maximum of €1,500 /ha
<b>1<sup>st</sup> Instalment</b> (Replanting)	Conifers	Cost to max of €2,500 /ha
	Broadleaf	Cost to max of €3,800/ha
<b>2<sup>nd</sup> Instalment</b> (Maintenance)	Conifers	2 <sup>nd</sup> inst cost to max of €800/ha
	Broadleaf	2 <sup>nd</sup> inst cost to max of €1,200/ha

*NOTE: The maximum grant payable in respect of the 1<sup>st</sup> and 2<sup>nd</sup> instalments shall be determined by the species planted by reference to the Grant and Premium Category (GPC) as described in the Afforestation Grant Scheme in the Forestry Standards and Procedures Manual. There is no fencing allowance.*

## **Annex 2**

### **Penalties**

**As detailed in the *Forestry Scheme Penalty Schedules (DAFM 2015)***

## Annex 3

### State Aid Requirements

#### 1. The incentive effect

SMEs and beneficiaries must indicate on the application form for aid under the measures proposed that “The work described herein, would not have been undertaken if it wasn’t for the financial support provided under state aid rules. Without this aid there would be no change to current activities.” For large companies documentary evidence must be submitted in relation to the counterfactual (what would happen without the aid) for each of the measures proposed. This involves a credibility check of the counterfactual to establish that the company would not plant for example if aid wasn’t available. A counterfactual is credible if it is genuine and relates to the decision-making factors prevalent at the time of the decision by the beneficiary regarding the activity. Large companies must submit an internal company document (separate to the application form) showing that the company has analysed the viability of the project – with and without aid – and showing the “incentive effect”. The document must clearly state what would have happened without the support available under this scheme. That means that the documentation (internal report) produced by the company must establish that the aid will cause at least one of the following:

- i. A material increase in the size of the project, or
- ii. A material increase in the scope of the project, or
- iii. A material increase in the total amount spent on the project,

#### 2. The Forest Service will require that the company document shows a credible analysis and demonstration of the incentive effect. The document should contain an analysis which answers the following questions:

- i. Would the project proceed without State Aid assistance?
- ii. Would the level of project expenditure be less without State Aid support? If so, indicate by how much?

#### 3. This information should indicate changes in the project size, scope and total spend. This incentive effect document should be submitted with the Form 1a. The application will only be deemed to have been accepted as valid once the company has been advised by the Forest Service that the incentive document meets the requirements set out above and is fully compliant with the European Union Guidelines for state aid in the agriculture and forestry sector and in rural areas 2014 – 2020.

#### 4. Proportionality of the aid

Large Companies must provide documentary evidence that the aid is proportionate. This can be achieved by submitting an Internal Rate of Return (IRR) and Net Present Value (NPV) analysis of the investment with aid and without aid with the Form 1a. Only applications which are deemed proportionate will be grant aided by the Forest Service.

**5. Transparency**

Ireland shall publish on its website at national level the following information on the State aid schemes: the full text of the notified aid scheme and its implementing provisions, the granting authority, the names of the individual beneficiaries, the form (in particular the aid instrument) and amount of aid granted to each beneficiary, the date of granting, the type of undertaking (SME/ large enterprise), the region (at Nomenclature of Units for Territorial Statistics or NUTS level II) in which the beneficiary is located and the principal economic sector in which the beneficiary has its activities, at NACE group level. This requirement only applies to individual aid awards greater than €60,000 for beneficiaries active in primary agriculture production and €500,000 for others.

6. The beneficiaries table for the previous calendar year will appear on this Department's website and will be replaced annually with the updated table. This will be done before March of that year.

## Annex 4

### Definitions

For the purposes of this Scheme:

- **‘Applicant’** means a person who has applied for Approval under the Scheme or has carried out reconstitution work to a plantation following an Approval under the Scheme;
- **‘Approval’** means a Reconstitution of Woodlands (*Chalara* Ash Dieback) Scheme Pre- Approval granted by the Minister;
- **‘Application, Pre-Approval – Form 1’** shall mean an application for the Minister’s approval to carry out site clearance works and reconstitute a forestry plantation under the terms of all current legislation, guidelines and the conditions of this scheme.
- **‘Application – Site Clearance Grant – Form 2’** shall mean an application to receive a grant following the removal and destruction of affected trees and leaf litter in accordance with the Sanitation Action Plan and the terms of the written approval granted by the Department.
- **‘Application – 1<sup>st</sup> Instalment Grant – Form2(a)’** shall mean an application to receive a 1<sup>st</sup> instalment grant following the reconstitution (replanting) of a forestry plantation within the terms of the written approval granted by the Department.
- **‘Application – Second Instalment Grant – Form 3’** shall mean an application to received a 2<sup>nd</sup> instalment grant, 4 years after the completion date of the reconstitution of the plantation.
- **‘Appropriate Assessment’** means an assessment in accordance with the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011)
- **‘Completion Date’** shall mean the date the reconstitution works are completed to the required standard. This date shall be the base line date by which all subsequent payments are based.
- **‘Department’** means the Department of Agriculture, Food and the Marine.
- **‘Disposal Notice’** shall mean a direction under Regulation 5 of S.I. No. 411/2012.
- **‘Environmental Impact Assessment (EIA)’** means an assessment in accordance with the European Communities (Forest Consent and Assessment) Regulations 2010 (S.I. No. 558 of 2010), as amended.
- **‘Farm’** or **‘Holding’** means all the land parcel production units in the State (owned, leased or rented) that are under the control of the applicant.
- **‘Farmer’** is defined as a person who carries out an agricultural activity such as ‘the rearing or growing of agricultural products including harvesting, milking, breeding animals and keeping animal for farming purposes’.
- **‘Forest’** is as defined in the European Communities (Forest Consent and Assessment) Regulations 2010 (SI 558 of 2010) - *“land under trees with (a) a minimum area of 0.1 ha, (b) tree crown cover of more than 20% of the total area, or the potential to achieve this cover at maturity”*.
- **‘Forestry Environmental Guidelines’** means the following publications as amended from time to time: ‘Forestry and Water Quality Guidelines’; ‘Forestry

and Landscape Guidelines’; ‘Forestry and Archaeology Guidelines’, ‘Forest Biodiversity Guidelines’; ‘Forest Harvesting and the Environment Guidelines’; ‘Forestry and Aerial Fertilisation Guidelines’; ‘Forestry and Forest Protection Guidelines’; Otter Guidelines and ‘Forestry and Freshwater Pearl Mussel Requirements’. The Minister may, from time to time, amend the guidelines or add further guidelines to this definition.

- **‘Forest Service’** means the Forestry Division of the Department of Agriculture, Food and the Marine.
- **‘Immediate Family Member’** means Spouse, Parent, Brother, Sister, Son or Daughter.
- **‘Joint Management Consent’** means consent submitted by the owner of specific lands consenting to the payment of grants and/or premiums to an immediate family member who jointly manages the forest.
- **‘Lease’** means a term of years absolute in possession for at least 40 years from the commencement date of the contract under the Scheme.
- **‘Minister’** means the Minister for Agriculture, Food and the Marine
- **‘Penalty Schedules’** means the schedules outlined and described in the “*Forestry Schemes Penalty Schedules (DAFM 2015)*” document.
- **‘Plantation’** means a plot or number of plots on the same holding, planted in a single planting season and the subject of a single application.
- **‘Plot’** means an area of one species or a species mix.
- **‘Registered Forester’** means a qualified person named on the Register of Foresters and Forestry Companies, available from the Department.
- **Sanitation Action Plan** shall mean a document specifying the sanitation procedures which are being put in place to eradicate *Chalara fraxinea* at a forest property.
- **‘Scheme’** shall mean the Reconstitution Scheme (Chalara Ash Dieback) 2014 – 2020.
- **‘Sustainable Forest Management’** means the stewardship and use of forests and forest lands in a way, and at a rate, that maintains their biodiversity, productivity, regeneration capacity, vitality and their potential to fulfil, now and in the future, relevant ecological, economical and social functions, at local, national and global levels and that does not cause damage to other ecosystems.

## Annex 5

### **ESTIMATE OF COSTS (Excl. VAT)(Form 1)**

<b>Contract Number</b>			
<b>Applicant Name</b>			
<b>Townland</b>		<b>County</b>	
<b>Total Area of Plantation</b>	<b>ha</b>		

<b>Claimed Area for Reconstitution</b> <small>(claimed area is net of exclusions, and areas not requiring treatment)</small>	<b>TOTAL</b> <b>ha</b>	<b>Conifer</b> <b>GPC(s)</b>	<b>ha</b>	<b>Broadleaf</b> <b>GPC(s)</b>	<b>ha</b>
<b>Site Clearance Grant</b>					
Removal and destruction of trees		ha	€	ha	€
Removal and destruction of leaf litter		ha	€	ha	€
		ha	€	ha	€
		ha	€	ha	€
		ha	€	ha	€
<b>Total Direct Costs</b>			<b>€</b>		<b>€</b>
Management Costs			€		€

<b>Total Cost</b>	<b>€</b>	<b>€</b>
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<b>1<sup>st</sup> Instalment grant</b>					
Ground Preparation		ha	€	ha	€
Plants		ha	€	ha	€
Planting		ha	€	ha	€
Vegetation Control (yr1)		ha	€	ha	€
		ha	€	ha	€
		ha	€	ha	€
		ha	€	ha	€
<b>Total Direct Costs</b>			<b>€</b>		<b>€</b>
Management Costs			€		€

<b>Total Cost</b>	<b>€</b>	<b>€</b>
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<b>2<sup>nd</sup> Instalment Grant</b>					
Vegetation Control (yr2)		ha	€	ha	€
Vegetation Control (yr3)		ha	€	ha	€
Vegetation Control (yr4)		ha	€	ha	€
Filling In		ha	€	ha	€
Shaping		ha	€	ha	€
		ha	€	ha	€
		ha	€	ha	€
<b>Total Direct Costs</b>			<b>€</b>		<b>€</b>
Management Costs			€		€

<b>Total Cost</b>	<b>€</b>	<b>€</b>
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**NOTE:** Where the estimated costs exceed the maximum grant rate applicable, the maximum grant shall be paid. All costs submitted above must be exclusive of VAT.