



Section 7

Farmland Premium Scheme

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Farmland Premium

For planting on agricultural land you may be able to claim annual payments under the Scottish Forestry Grants Scheme: Farmland Premium (SFGS/FP) Scheme which is administered by the Scottish Executive Environment and Rural Affairs Department (SEERAD). This scheme offers annual payments to compensate for agricultural income foregone. If you have any questions about the Farmland Premium please contact your local SEERAD office (see Section 14). Section 9 gives details of how to apply for Farmland Premium.

Payments under the Farmland Premium

Period of payment

So long as you abide by the scheme rules, you will receive both the SFGS grants and the Farmland Premium payments. Farmland Premium annual payments are made for either 10 years or 15 years. The payment period is determined by the area occupied by broadleaf and conifer and not the number of trees. This is calculated on a wood basis. An application can consist of one or more woods.

Payments for 15 years

To be eligible for the 15 year payment term, at least 60% of the area of the woodland must be planted with broadleaved trees, and/or native Scots pine, (here, broadleaved trees excludes fast growing species such as poplar). Payments will apply so long as the proportion of broadleaves remains above 50% throughout the period of the Farmland Premium agreement. If the proportion of broadleaved trees falls to 50% or less by area then restitution of the balance will be required or the duration of the payments will be affected.

The wood must not be felled within the 30 years following the first annual payment. Silvicultural thinning during that time is allowed, so long as the wood remains mainly broadleaved.

Payments for 10 years

Woodlands comprising less than 60% of the area planted with broadleaves will receive annual payments for 10 years, so long as they are not felled within 20 years of the first annual payment. Fast growing broadleaves, eg poplars, which mature in less than 30 years, will be treated in the same way as conifers, being eligible for payment for only 10 years. Broadleaved trees includes native Scots pine.

Woodlands which are to be felled before 20 years are not eligible for the Farmland Premium.

Payment rates and land categories

Details of payment rates and land categories are:

Type of Land	£ per hectare per year
Non-LFA (arable and improved land)	£300
LFA (arable and improved land):	
Disadvantaged areas of LFA	£230
Severely disadvantaged areas of LFA	£160
Unimproved land	£60

Arable land is eligible land on which an arable crop is growing or has been planted or which is lying fallow as part of a normal crop rotation or set-aside land.

Improved land is eligible land (other than arable land) used for grazing where over one third of the sward comprises, singly or in mixture, ryegrass, cocksfoot or timothy, or land that has been improved by management practices such as liming and top dressing where there is not a significant presence of sensitive plant species indicative of native unimproved grassland.

Unimproved land is eligible land that does not meet either of the definitions above (ie comprising both rough grazings (land containing semi-natural vegetation including heathland, heather moorland, bog and rough grassland used or suitable for use as grazing) and in-bye land used for grazing or mowing that is not normally treated with mineral fertiliser or lime and does not constitute improved grassland.

Review of payment rates

Payment rates will be reviewed at least every five years. The reviews will take account of the relevant factors including trends in income from comparable agricultural land. The payment rate could therefore, go down as well as up in certain circumstances. Any changes in rates have to be approved by the Scottish Parliament and you will be notified by your local SEERAD office of any changes affecting you.

Exclusions

The following types of land and planting are excluded from the scheme:

- non-agricultural land, including land used primarily to graze horses not used for agricultural purposes;
- planting in existing woodlands, including grazed woodlands (although a field which contains a few scattered trees may be eligible);
- planting for the purpose of agroforestry (that is tree planting combined with any form of agricultural activity on the same land);
- planting of woodlands to be managed in part or whole for the purpose of producing Christmas trees;
- planting of land, otherwise eligible, which is being done to meet a FC Scotland requirement to replace felled woodland or trees;
- planting of woodlands to be managed as coppice, including both traditional coppice rotations and short rotation coppice (sometimes referred to as energy coppice).

You should check that there are no legal or contractual obligations that prevent the planting or long term management of trees on your land eg SSSIs and agri-environment schemes that may affect the planting of trees on your land. You can use the Land Information Search on the Forestry Commission Scotland website (www.forestry.gov.uk/scotland) to help you identify any land designation that may affect your application.

Set-aside

Under the present rules, land eligible for the Single Farm Payment Scheme and entered into the Farmland Premium can be counted towards your set-aside obligation. The land will need to meet all the normal rules for set-aside (see Note 2: Set-aside and Farmland Premium, page 7.8) except that the normal set-aside management rules (eg those regarding cutting, cultivation and herbicides) will not apply. You will be allowed to carry out those activities which are an integral part of good woodland management, such as the sale of thinnings. *Under EC legislation, if you count the land towards your set-aside*

obligation, the Farmland Premium payment you will be due will be the full Farmland Premium arable rate for the land category relating to your application, i.e. NLFA, LFA Disadvantaged or LFA Severely Disadvantaged, minus the set-aside payment to be made under the Single Farm Payment.

Minimum and maximum areas

The minimum total area per application for the Farmland Premium is one hectare per farm business. Areas to be planted need not be contiguous provided they total at least one hectare and meet SFGS criteria. You cannot receive Farmland Premium payments on more than 200 hectares of land. You cannot receive Farmland Premium payments on more than 80 hectares of unimproved land.

Crofting and Common grazings

In crofting counties, the above limits will apply to tree planting on individual crofts including apportioned land. However, for tree planting on common grazings, there is a limit on the area planted of 200 hectares for each common grazing area. *These limits apply to the whole of your business.* The definition of a business is analogous to that used for IACS purposes i.e. all of the land you manage must be taken together. However, for Farmland Premium area limits, we will only count land planted and managed in Scotland.

The area limits on unimproved and common crofting grazing land apply to Farmland Premium applications received on or after 1 January 2005. However, when assessing an applicant's eligibility all previous applications received on or after 1 April 1997 i.e. all approvals under the Farm Woodland Premium Scheme (FWPS) (now closed) and Farmland Premium are taken together. They exclude payments in respect of approvals before 1997 and payments under the Farm Woodland Scheme (FWS) which was closed to new applicants in March 1992. You may make more than one application provided the overall area limits are not breached.

Natural regeneration

Woodland may also be established by natural regeneration where this is agreed to be both practical and appropriate. Although establishment by natural regeneration can take several years in certain situations (e.g. on appropriate semi-natural habitats or in areas adjacent to semi-natural woods) it can be a good way of establishing woodland of high conservation value. You will be eligible for Farmland Premium payments on the land as soon as preparatory work to encourage natural regeneration has been completed to the satisfaction of FC Scotland. Payments may be affected if establishment by this method is not successful.

Use of conifers as 'nurse' trees

Where agreed as appropriate, you may plant additional conifers within your Farmland Premium broadleaved woodlands to act as 'nurse' trees. Unless they are removed at an early stage (normally before ten years), these will count towards the conifer element when calculating the duration of Farmland Premium payment. If removed early the conifers will not be taken into consideration when calculating the broadleaf balance and the period over which payments will be made. After the nurse trees are removed, the remaining grant-aided trees must be able to meet all the SFGS and Farmland Premium criteria on their own.

Before starting work

Before starting any work, on preparing the site or planting the trees, you must be in possession of a Farmland Premium approval and a signed SFGS contract. You must also have signed the required Farmland Premium undertakings from your local FC Scotland Conservancy office. **Payments cannot be made under Farmland Premium where planting, or disturbance of the site, has taken place before you have received final approval of your application. There are no exceptions to this rule and it will not be waived for any reason.** You must therefore make sure you submit your application well in advance of your intended planting date. The erection of boundary fences is normally considered to mean that work has started. You must not commence work until you have received written approval.

Farmland Premium requirements following planting

Participants

Although entry to the Farmland Premium is restricted to those running an agricultural business, once in the scheme, you are no longer required to continue to run an agricultural business. **However, you must inform SEERAD if the proportion of your total income that you obtain from agriculture drops below 25% of your total income.**

Use of the land

The land must not be used for any agricultural purpose. Grazing in Farmland Premium supported woodlands will not be allowed other than as a conservation/silvicultural measure at the discretion of FC Scotland/SEERAD Technical Staff. You may obtain a non-agricultural income from the land in addition to any forestry income available provided the land is maintained in accordance with good forestry practice. You should note that, if you wish to count your woodland towards your set-aside obligation, there are other restrictions on the use of the land (see page 7.2).

Maintenance of the woodland

Acceptance into the Scheme involves signing an undertaking to maintain the woodland once established. **If you do not achieve adequate establishment within the time agreed with FC Scotland, in consultation with SEERAD and if remedial action is not taken to correct any problems or deficiencies, SEERAD will seek to recover all Farmland Premium payments (with interest) and your SFGS payments may also be at risk.** A sample copy of the undertakings is available on request from your local SEERAD office.

A key element of the undertaking is ensuring that the land planted with trees is not returned to agriculture for at least:

- 30 years after planting in the case of mainly broadleaf woodland receiving payments for 15 years; or
- 20 years in the case of mainly conifer woodland receiving payments for 10 years.

Compliance checks by SEERAD area staff will continue during the period after final payment has been made until the full term of the undertaking has been completed to ensure that the requirements of the scheme are being met. If all or part of the woodland area is removed by any means during the above periods (even after final payment), you will be liable to repay (with interest) all Farmland Premium payments for that woodland or part. However, you will normally be allowed to thin the woodland in accordance with normal silvicultural practice and remove any nurse trees. Please check with your local Conservancy Office first, as a felling licence may be required.

European Commission legislation prohibits grant aid for the planting of Christmas trees. Therefore **trees (including thinnings) from woodlands that are receiving Farmland Premium payments must not be sold as Christmas trees**. This restriction does not apply to nurse trees (see page 4.1) that are not in themselves eligible for aid.

Other important points to note

Tax

Annual payments under Farmland Premium are made in lieu of farming income and should be included in the income of a farming business for tax purposes.

Other schemes

Checks and repayment of grant

Inspections may take place during the duration of the Farmland Premium agreement including the period after payments have ceased (see page 7.4) to ensure that all the scheme rules are being met. Scheme applications will be cross-checked with IACS records.

Once you have been accepted into the Farmland Premium scheme, if you fail to meet the requirement of the scheme for the full 20 or 30 years commitment, you will not be allowed to remain in the scheme. Past payments will normally be recovered in whole or in part, with interest. Further applications under the Farmland Premium may not be allowed.

Agri-environment schemes

If you are participating in one of the following scheme agreements, which help to protect and preserve the environment, you should check with your project officer or local SEERAD office to ensure that planting does not conflict with the objectives of your agreement.

- Environmentally Sensitive Areas
- Habitat Scheme
- Countryside Premium Scheme
- Organic Aid Scheme
- Rural Stewardship Scheme
- Nitrate Vulnerable Zones

Rural Stewardship Scheme (woodland option)

The woodland option in the Rural Stewardship Scheme is intended to enhance and extend areas of native or semi-natural woodland in eligible existing woodland **where SFGS assistance is not appropriate to the site**. If you are unsure as to whether your intentions fall within the RSS or SFGS you should contact FC Scotland in the first instance. If there is no appropriate assistance from FC Scotland you will require written notification of this before you can apply for the RSS management option.

Scheme funding

The amount of money available for the Farmland Premium is determined in advance and is expected to be sufficient to meet requirements. If demand is significantly higher than expected, it may be necessary to defer accepting new applications, defer approving existing applications, or defer approving changes to conversion plans. In such circumstances, applicants would be notified publicly of the action that was being taken.

Appeals procedure

If SEERAD are not satisfied that the work complies with the Farmland Premium rules then we will give you the opportunity to put things right. There is a statutory appeals procedure available to participants if we take action to withhold, reduce or recover your annual payments or end your participation in the Farmland Premium following a breach of scheme rules. There are three stages to the appeal. These are:

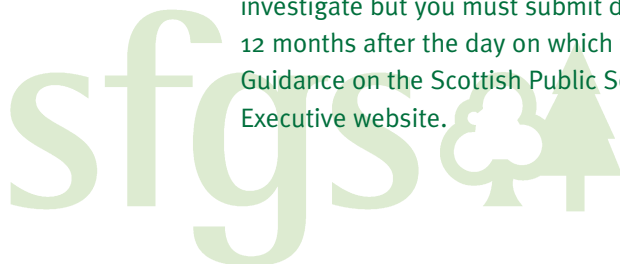
- an internal SEERAD review. Normally officials not involved in the initial decision will undertake the review;
- a review by an external panel who will advise Scottish Ministers;
- appeal to the Scottish Land Court.

Each stage of the appeals procedure will consider the relevant EC and UK legislation and will consider whether SEERAD's decision is consistent with this legislation. The decision to move through all three stages of the appeals procedure will be determined by the outcome of each stage. The appeals procedure cannot be used to appeal against the grounds for rejection of your Farmland Premium application prior to entry.

Complaints procedure

There is also an established complaints procedure which you can use if you have complaints about the way your Farmland Premium application has been dealt with. Your complaint will be accepted in the form of a letter, a telephone call or a visit in person to the SEERAD area office concerned. Your complaint should be initially addressed to the officer dealing with your case but you may, if you so wish, direct your complaint to a more senior officer. Any complaint will be acknowledged, investigated and replied to within two weeks, if possible.

If you are still not satisfied then you can request that the Department's Assistant Chief Agricultural Officer investigates. You may also request the assistance of your MSP to take up your complaint. You may also ask the Scottish Public Services Ombudsman to investigate but you must submit details of your complaint to the Ombudsman within 12 months after the day on which you receive first notice of the matter complained of. Guidance on the Scottish Public Services Ombudsman is available on the Scottish Executive website.



Note 1: Key points of Farmland Premium

Remember the following important guidelines, otherwise your application or claim could be delayed or rejected and any past payments recovered:

When applying for the scheme

1. Check you meet the requirements of the scheme and in particular that:
 - You are running an agricultural business; and
 - the land to be planted has been in an eligible agricultural use for three years prior to your application.
 - You have considered how your proposals will impact on the environment.
2. Ensure you have sent with the application any necessary documentation (eg landlord consent).
3. Once you have sent in your application, tell your local FC Scotland Conservancy office as quickly as possible of any changes that might affect your eligibility for the schemes.
4. Do **not** start planting or preparing the site until Farmland Premium approval is forwarded to you by the local FC Scotland Conservancy office and you return your signed SFGS contract including Farmland Premium undertaking. Otherwise you cannot be admitted to either scheme.

Once accepted into the scheme

5. Keep to your approved planting plans, including the specified year of planting. If you want to change them, apply to your local FC Scotland Conservancy office.
6. Make sure your trees establish properly. If they do not, get advice early and take remedial action.
7. Observe the rules of the scheme. Maintain the woodland for the full 20 or 30 years of the Scheme. Commitment remains after final payment.
8. If you propose to sell or lease the land, notify your local FC Scotland Conservancy office within three months and **make arrangements for your successor to take over scheme obligations**. Otherwise you may continue to be liable for recovery of past payments.

In all cases

9. If in doubt, ask your local SEERAD office or FC Scotland Conservancy office. You may also wish to obtain independent or commercial advice on your application.

Note 2: Set-aside and Farmland Premium

Conditions that must be met by the land if it is to count towards your set-aside obligation

Conditions on the land and its prior use

1. Applications for Farmland Premium may count towards your set-aside obligation providing the land meets the normal requirements for set-aside land. In particular:
 - 1.1 To be counted towards your Single Farm Payment Scheme (SFPS) set-aside obligation, the land must be SFPS set-aside eligible. The EU regulations specifically exclude land that was in permanent grass (ie in grass for more than 5 years), permanent crops, forest or non-agricultural use at 15 May 2003. However, woodland that was set-aside under the AAPS in 2003, and also in reference period 2000-2002, will be eligible to enter set-aside under the SFPS.
 - 1.2 Each set-aside plot, within which the woodland is set, must be at least 0.1 ha in area and a minimum of 10 metres wide (0.05 ha in area and 6 metres alongside a hedgerow, drystone/flagstone dyke or wall, woodland, permanent watercourse or SSSI).

Conditions on the land while set-aside

2. During the set-aside period, the land cannot normally be put to any non-agricultural use (other than forestry) that brings a return in cash or kind to you or to anyone else. However, you will be able to carry out those activities which are an 'afforestation requirement' (i.e. an integral part of good woodland management) such as the sale of thinnings and those activities allowed under the normal set-aside rules.
3. The detailed set-aside management rules do not apply to land that has been accepted under the SFGS and/or Farmland Premium. The normal SFGS and Farmland Premium management rules will apply to such woodland areas.

Claims and payments

4. You will receive payments under the Farmland Premium but, if your land is being counted as set-aside, you may not receive a payment in excess of the set-aside rate in the yield region concerned. Therefore, if the Farmland Premium payment rates exceed the set-aside payment rate, you will receive a special Farmland Premium payment, equal to the set-aside payment rate on any Farmland Premium land being counted as set-aside. In the event of an overshoot of the base area, the Farmland Premium area on which you are paid will not be reduced. You will not be entitled to receive set-aside payments on your land.
5. The IACS explanatory booklet (IACS 1) will explain how you should record this land on your IACS area aid application. If necessary, we will take the required action to adjust your SFGS/FP payment rate.