

Operations Note 014a

Date 11th May 2011

Change of Ownership Guidance for English Woodland Grant Scheme (EWGS)

1 Purpose

This leaflet provides guidance on the implications for the purchaser and seller when land subject to an English Woodland Grant Scheme (EWGS) changes ownership.

2 About the EWGS Agreement

The EWGS contract gives details of the work that we have agreed the owner may carry out. It also includes a map or maps to show the location of the work. We will pay grant for this work if it is done in accordance with the contract and to our reasonable satisfaction. The owner can only start work once both parties have signed the contract and he or she receives their copy. The EWGS contract is an 'enabling' contract; the owner (or lessee) has agreed to do the work on a voluntary basis only. The [Terms and Conditions](#) of the scheme normally require that the work is maintained to a reasonable standard for a set period of time.

3 How Long Does the Contract Last?

There are two distinct time periods outlined in the Terms and Conditions. The Approval Period is the period within which the owner is allowed to carry out the work agreed in the contract, and lasts for one to five years depending on the type of work approved. The Contract Period can be longer, depending upon the type of grant that is being paid and relates to how long the owner must look after the woodland to meet the grant conditions. For instance, if we are paying Woodland Regeneration Grant then the contract lasts for ten years from the payment of the first instalment. If however the owner is claiming Woodland Creation Grant with public access provision or Farm Woodland payments then the contract may last for 20 or 30 years.

4 Effect of Sale on land under EWGS

The contract is legally terminated on the area sold as soon as the change of ownership takes place. This happens even when only part of the property is sold or transferred

5 Change of Ownership

The EWGS scheme provides for subsequent applications in the event of a change of ownership. The new owner (successor) can enter in to a contract with us to receive any remaining grant payments provided they continue to implement the existing contract and carry out any uncompleted work or maintain the work already carried out.

6 Notification

The seller, their agent or solicitor should notify the Forestry Commission about an impending land sale as soon as possible. This will give us time to give advice about the Farm Woodland Agreement, give you any relevant information, and provide any details we hold about previous inspections. We do not normally inspect a scheme at time of sale and we strongly recommend both the seller and potential purchaser seek professional forestry and legal advice prior to the transfer. It is also important that we should be informed when the sale is completed.

In order to guarantee payment of any remaining grants, the seller must inform [Forestry Commission \(FC\) Regional Office staff](#) **within 3 months** of the date of new occupation.

7 Liabilities of the Seller

Under the Terms and Conditions of the Scheme, the original owner remains liable for the repayment of any grants they received with interest, even after the sale. This liability to repay grant remains up until the time the original contract period expires. If the conditions of the scheme are not met then the FC will always reclaim grant from the person to whom it was paid.

Example:

- Owner A applies for grant, carries out work and receives grant in year 1 before selling the land to Owner B in year 2. The contract period is 10 years from payment of 1st instalment of grant. Liability has been privately transferred as a condition of land sale.
- Owner B then removes all the trees in year 9. The FC will reclaim grant paid from Owner A. Owner A will have to seek private action to recover the money from Owner B under the terms of their private agreements.

8 How to Transfer Liabilities

As a seller you can make a private legal agreement with the purchaser to transfer your liability for grant repayment, but as this is a private arrangement, we will still seek to reclaim from the seller if penalties are applied. A [form of words](#) to help you draw up a private agreement can be found on our website but you must seek legal advice to ensure the agreement is adjusted to meet your particular circumstances.

9 Buying Land with an EWGS Contract in Place

We recommend you seek professional forestry and legal advice on the implications of the EWGS contract. If you are interested in receiving future grants, contact your local Forestry Commission office as soon as possible for advice.

You should ensure that the previous owner or occupier has complied with all the requirements of the Scheme, and that the woodland is in good order. To continue receiving payments as a successor to the original applicant you should notify your [local Forestry Commission office](#) (PDF) as soon as possible (and within 3 months) and complete a Successors Application Form. The application **must** be submitted to the Forestry Commission within **12 months** of the termination of occupation by the previous owner or tenant or you will lose the right to succession.

Alternatively you can make a fresh application for grants, but note we cannot guarantee an offer of grant as it is subject to the scheme rules and funding availability.

10 Checking and Penalties

There may be periodic inspections throughout the life of the scheme, to ensure that the woodland is being looked after. This may be either by a personal visit, or via aerial photography. Entrants to the scheme are obliged to take all reasonable precautions against loss and damage to the trees. Failure to comply with the obligations of the Scheme could result grant payments being recovered, with interest.

We will always reclaim grant from the person to whom it was paid.

11 Sources of further advice

We recommend you seek professional legal and forestry advice for your particular circumstances. For any queries on the EWGS contract please contact your [local Forestry Commission office](#).

The [EWGS webpage](#) contains all the information needed to apply for grant support. If you do not have access to the internet, you can request any of the information from your local Forestry Commission office.

We recommend getting professional advice on woodland management and grants. A list of national and regional professional organisations is available at <http://www.forestry.gov.uk/england-advice> or from your [local FC office](#).

12 Versions

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