

Operations Note 014c

Date: 11th May 2011

Change of Ownership Guidance for Farm Woodland Premium Scheme (FWPS 92)

1 Purpose

This leaflet provides guidance on the implications for the purchaser and seller when land subject to a Farm Woodland Premium Scheme 92 (FWPS 92) changes ownership.

2 About the FWPS 92 Agreement

The FWPS 92 was available to applicants from 1st April 1992 to 31st March 1997. The scheme was designed to encourage the creation of new woodland on farms, in order to enhance the farmed landscape and provide other environmental benefits such as new habitats for wildlife. It was also designed to provide a productive alternative use for agricultural land. The scheme offered farmers annual payments for converting the land to woodland.

3 How Long Does the Agreement Last?

Applicants to the scheme entered into an undertaking to maintain the converted woodlands for the following periods:

- Category 1: 30 years after planting in the case of woodland receiving payments for 15 years (more than 50% by the area of broadleaves).
- Category 2: 20 years in the case of woodland receiving payments for 10 years (50% or less by area of broadleaves).

4 Effect of Sale on Land Under FWPS 92

The plan of operations 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 scheme makes provision for subsequent applications in the event of a change of ownership. The new owner (successor) can enter into a fresh undertaking to receive any remaining annual payments provided they comply with the rules of the scheme.

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](#) (PDF) **within 3 months** of the date of new occupation.

7 Liabilities of the Seller

In accordance with the Undertakings 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 agreement period expires, unless the liability is transferred to the new owner

8 How to Transfer Liabilities

In order to transfer liabilities, a [Successor's Form](#) needs to be completed which is available from your local FC office or from the FC Website. You should also make arrangements via your solicitor to insist on an appropriate indemnity from the next occupier.

9 Buying Land with a FWPS 92 Agreement in Place

We recommend you seek professional forestry and legal advice on the implications of the FWPS92 Agreement. You should ensure that the previous owner or occupier has complied with their Undertakings and all the requirements of the Scheme, and that the woodland is in good order. To continue receiving annual payments as a successor to the original entrant you should notify your local Forestry Commission office as soon as you take over the woodland and submit an application to enter the Scheme as a successor. This 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 succeed.

On entry to the scheme you will agree to continue the maintenance of the woodland for the total of the agreement period.

If you choose not to succeed to the agreement you should be aware that the woodland remains subject to both Felling and EIA regulations (see Operations Note 14).

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 are obliged to take all reasonable precautions against loss and damage. Failure to comply with the undertakings of the Scheme could result in annual payments being withheld or reduced or previous annual payments recovered in full.

We would recover only from the current applicant, who may be the successor, an amount equal to **all** payments made under the Scheme in relation to that specific land, including those grant payments received by the initial entrant and, if applicable, any previous successor(s).

11 Sources of Further Advice

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

The EWGS website www.forestry.gov.uk/ewgs 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 www.forestry.gov.uk/england-advice or from your [local FC office](#).

12 Versions

Version 1.0 issued 11th May 2011