

Operations Note 014e

Date: 11<sup>th</sup> May 2011

## Change of Ownership Guidance for Farm Woodland Scheme (FWS)

### 1 Purpose

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

### 2 About the FWS Agreement

The FWS was available to applicants from 1<sup>st</sup> October 1988 to 31<sup>st</sup> March 1992. The scheme was designed to encourage the creation and maintenance of new woodlands on agricultural land by making annual payments to compensate farmers for loss of agricultural income.

### 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: 40 years. Woodlands consisting of 90% or more by area of Pendunculate or Sessile oak or European beech or a mixture of these, with the remainder consisting of other broadleaved trees.
- Category 2: 30 years. Pure broadleaved woodlands not qualifying the above category (and not coppiced) or mixed woodlands containing more than 50% by area of broadleaved trees.
- Category 3: 20 years. Woodlands, other than coppice, not qualifying in the above two categories, i.e. woodland containing 50% or less by area of broadleaved trees.
- Category 4: 10 years. Woodlands consisting of broadleaved trees planted to produce coppice stools.

### 4 Effect of Sale of Land Under FWS

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/occupier 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, 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 by the new owner/occupier. You should also make arrangements via your solicitor to insist on an appropriate indemnity from the next occupier.

## 9 Buying Land with a FWS Agreement in Place

You should ensure that the previous owner or occupier have complied with their Undertakings and all the requirements of the Scheme, and that the woodland is in good order. To continue receiving payments as a successor to the original entrant you should notify your local Forestry Commission office as soon as possible 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 may 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 forestry and environmental 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 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 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 about FC grant contracts please contact your local Forestry Commission office.

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

## 12 Versions

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