

Farm Woodland Premium Scheme

Rules and Procedures



The England Rural Development Programme (ERDP)

The EU Rural Development Regulation (Council Regulation (EC) No. 1257/1999) provides EU Member States with the opportunity to protect and improve the countryside and to encourage sustainable enterprise and thriving rural communities. The England Rural Development Programme (ERDP) sets out how we are using the EU Rural Development Regulation (RDR) in England. It provides a framework for the operation of ten schemes which aim to protect the environment and support the rural economy and communities:

- Energy Crops
- Environmentally Sensitive Areas
- Farm Woodland Premium
- Hill Farm Allowance
- Organic Farming
- Countryside Stewardship
- Processing and Marketing Grant
- Rural Enterprise
- Vocational Training
- Woodland Grant

Projects are supported under these schemes through a combination of national and EU funds.

Further information about the ERDP and its component schemes is available from your local Defra Rural Development Service (RDS) office or on the Defra website (www.defra.gov.uk).

Parallel arrangements have been made in Wales, Scotland and Northern Ireland under their respective rural development programmes.

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How to apply

Application packs are available from your Forestry Commission (FC) Conservancy Office. The application pack includes booklets on both the Forestry Commission's Woodland Grant Scheme (WGS) and Defra's Farm Woodland Premium Scheme (FWPS), a booklet on the Forest Environment which describes the standards of environmental protection and practice that you must follow, the forms you need to fill in for applications for both the WGS and FWPS and guidance notes to help you complete the forms. Information can also be obtained from the Forestry Commission's website at www.forestry.gov.uk.

Introduction to the scheme

What is the Farm Woodland Premium Scheme (FWPS)?

1. Woodlands are an important part of the countryside. In order to encourage woodland establishment in England, the Government offers two national grant schemes. *The Woodland Grant Scheme (WGS)* offers grants towards the costs of establishing and maintaining woodlands. The Farm Woodland Premium Scheme (FWPS) offers annual payments to compensate for agricultural income foregone. You can apply for either:
 - a. *The WGS alone.* You may wish to do this if you do not qualify for the FWPS, for example, because you are not farming the land; or
 - b. *Both the WGS and the FWPS.* Only one joint application is needed.

You cannot apply for the FWPS alone because the environmental and silvicultural standards of the WGS must be satisfied before an FWPS application can be approved.

2. You must apply for and be accepted into the relevant schemes before you start work. Do not commence any planting or other work that will disturb the site until you have received a signed WGS contract and FWPS undertaking from your FC Conservancy office. If you begin planting or other work before then, you will be disqualified from the schemes.

What does the scheme aim to do?

3. The FWPS is designed to encourage the creation of new woodlands on farms and its objectives are:

To enhance the environment through the planting of farm woodlands, in particular to improve the landscape, provide new habitats and increase biodiversity. In doing this, land managers should be encouraged to realise

the productive potential of woodland as a sustainable land use.

The legal authority for the scheme stems from Council Regulation (EC) No. 1257/1999 (the Rural Development Regulation), under which the ERDP is implemented and the Farm Land and Rural Development Act 1988. The scheme is established in England by the Farm Woodland Premium Scheme 1997 (Statutory Instrument 1997 No. 829).

What does the scheme involve?

4. Every well-designed and well-managed woodland contains many different habitats for wildlife and new woodland can contain a wide range of both common and rare species. Thoughtful design can enhance the landscape and, where the land manager wishes, provide opportunities for public or private recreation. Woodland can be especially valuable if sited to link or extend existing natural habitats. All proposals for planting will be subject to the Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999 (see paragraph 30).
5. A maturing timber crop is a long-term investment for both current and future generations. Farm woodlands can produce anything from firewood and fence posts for on farm use, through to top-quality timber for sale. Income from thinnings can normally be available within 20-25 years. In case of some of the faster growing broadleaves, such as poplar, timber revenues can be achieved during the same time period. Farm woodland can also generate income from recreation, either as a separate commercial venture within the farming enterprise or alongside a farm shop or tourist attraction. Woodland provides cover for game birds, giving the chance of extra income from shooting rents.
6. Careful planning of the siting, design and composition of your woodland is essential if

you are to achieve your objectives. For more information on the benefits of farm woodlands, general guidance on design, planting and management, a list of useful publications is at Appendix 5.

7. This booklet describes the rules and procedures of the FWPS at the time of publication, which may be subject to change. The scheme is made under and remains subject to the provisions of the relevant EC and UK legislation and although every effort has been made to ensure the accuracy of the information contained in this booklet, it does not represent a definitive interpretation of that legislation. Throughout this booklet, references to planting should be taken to include natural regeneration and direct seeding (but see paragraphs 26 and 27).

Payments under the FWPS

Period of payment

8. If you are accepted into the WGS and FWPS, so long as you abide by the rules of the schemes, you will receive both the WGS grants and the FWPS payments. FWPS annual payments are made for either 10 years or 15 years, depending on the trees planted and how they will be managed.

Payments for 15 years

- a. To receive annual payments over 15 years, more than 50% of the area of the wood must be planted with broadleaved trees. 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. Nurse trees (see paragraph 28), which are to be removed from the woodland, are not included when determining the percentage of the area planted with broadleaves.

Payments for 10 years

- b. Other woodlands (i.e. generally those with 50% or more of the area of the wood planted with conifers) will receive annual payments for 10 years, so long as they are not felled within 20 years of the first annual payment. If you are planting fast growing broadleaves that will be felled in less than 30 years (e.g. poplars), you will also receive payments over 10 years, so long as the trees are not felled within 20 years of the first annual payment.

Woodlands, which are to be felled before 20 years, are not eligible for FWPS.

Rates of payment

9. The rates of payments (as at the time of the publication of this booklet) are as follows:

Payment rates (£/hectare/year)

| Category of land (see paragraph 17) | Outside the LFA | LFA (DA) (disadvantaged areas) | LFA (SDA) (severely disadvantaged areas) |
|--|--------------------|--------------------------------------|---|
| Arable land | 300 | 230 | 160 |
| Other improved land | 260 | 200 | 140 |
| Unimproved land | Ineligible | 60 | 60 |

Set-aside

10. Since on or after 1 July 1995, land eligible for the Arable Area Payments Scheme (AAPS) and entered into the FWPS can be counted towards your set-aside obligation. The land will need to meet all the normal rules for set-aside (see Appendix 2) except that the normal set-aside management rules (e.g. 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 the EC legislation, if you count the land towards your set-aside obligation, the payment rate will not exceed that for set-aside*

in the AAPS yield region concerned. If necessary, your FWPS payment rate will be reduced to the set-aside rate in any year in which you count your FWPS land towards your set-aside obligation. Information on the current set-aside payment rates is available from your Rural Payments Agency (RPA) office. Contact details for these offices are available on the RPA website at www.rpa.gov.uk.

Review of payment rates

11. Rates of annual payment 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 rates of annual payment could, therefore, go down as well as up in certain circumstances. Any changes in rates have to be approved by Parliament and you will be notified by your Defra Rural Development Service (RDS) office of any changes affecting you.

Conditions for application

12. To be accepted into the FWPS, you must be running an agricultural business. The land to be planted must be agricultural land and it must fall within certain size requirements. These rules are explained in more detail below. Your woodland proposals must also meet the WGS standards. *If you have any doubt about your eligibility for the scheme, you are strongly advised to consult your Defra RDS office or FC Conservancy office before making an application.* If you do not qualify for the FWPS, you may still be eligible for assistance under the WGS.

Who can apply?

13. The FWPS is open to farmers who, either personally or through a manager, run an agricultural business that includes the land to be converted to woodland. In the case of tenant farmers, the consent of the landlord

must be obtained. An agricultural business means a business or part of a business consisting in the pursuit of agricultural activities. For these purposes, 'agriculture' means horticulture, fruit growing, arable cropping, seed growing, dairy farming, livestock breeding and keeping, the use of the land as grazing land, meadowland, osier land, market gardens and nursery grounds or the use of land as woodland where that use is ancillary to the use of the land for other agricultural activities. Letting land to another person to carry out an agricultural activity, where you retain some responsibility for the management of the land, e.g. letting land on a grazing licence or short term tenancy for grazing, is also considered to be an agricultural activity. Keeping horses for recreational or sporting purposes and fish farming are not considered to be agricultural activities.

Landlords and tenants

14. In the case of an agricultural or farm business tenancy, it is the tenant and not the landlord who is eligible to apply, but the landlord's written consent is required on form FWPS 7 which must be received by the FC before the draft contract/undertaking is issued. The FWPS 7 is available from FC Conservancy offices. Tenants are recommended to take legal advice before applying for the scheme and should be aware that they may be liable to repay the grant if their tenancy ends before their FWPS agreement and their successor is unwilling to take over the FWPS undertaking.

Share-farmers

15. In the case of share-farmers, one farmer should normally apply on behalf of the others. Details of the other farmer(s) are required on the application form WGS/FWPS 1, available from your Defra RDS office or your FC Conservancy office, and all will be required to sign the FWPS declarations and undertakings form accompanying the WGS contract.

What land qualifies?

- 16.** *The land to be planted must have been in agricultural use for the three years before your application to join the scheme. We will need to check your application against IACS records. 'Agricultural use' in this context means the activities described in paragraph 13 (other than woodland) or set-aside under the Arable Area Payments Scheme.*
- 17.** For the purposes of payment, there are three types of agricultural land:
- Arable land.* This is defined as land eligible for the Arable Area Payments Scheme. The Arable Area Payments Explanatory Guide gives details of land that is eligible for Arable Area Payments and is available from the Defra website at www.defra.gov.uk/farm/schemes/crpsch.
 - Other improved land.* This includes improved grassland and cropped land that is ineligible for the Arable Area Payments Scheme.

Outside the Less Favoured Areas (LFAs), *improved grassland* comprises areas where over half the sward consists of, either singly or in mixture, ryegrass, cocksfoot, timothy or white clover. Within the LFAs improved grassland comprises areas where over one third of the sward consists of, either singly or in mixture, ryegrass, cocksfoot, timothy or white clover. Grassland within the LFAs not qualifying under this definition may still be eligible if it has been 'improved' by management practices such as liming and top dressing, provided that there is not a significant presence of sensitive plant species indicative of native unimproved grassland. Further information and a list of these sensitive species can be obtained from your FC Conservancy office.

In order to qualify under this category land must have been cropped for at least the three years immediately prior to the date of application or, in the case of grassland, 'improved' as defined above at least three years

before the date of application to the WGS/FWPS. WGS grants and FWPS payments may be refused and any past payments recovered in cases where it is found that improvement took place less than three years before the WGS application or where the land was not cropped for the relevant period.

- Unimproved land.* This is agricultural land that does not meet either of the definitions at (a) or (b) above but which has been used for agriculture (as defined in paragraph 13 above) for at least three years prior to the application. Unimproved land is only eligible for the scheme if it lies within the LFAs.

Exclusions

- 18.** The following types of land are excluded from the scheme:
- non-agricultural land, including land used primarily to graze horses not used for agricultural purposes;
 - unimproved land outside the LFAs;
 - land which forms part of a National Nature Reserve;
 - common land;
 - land at a time when it is rented out by the applicant to another person for their exclusive occupation; and
 - land resumed from a tenant by means of a contestable notice to quit which was the subject of a counter-notice by the tenant, except where the Agricultural Land Tribunal has consented to the operation of the notice to quit on 'greater hardship' grounds; or an incontestable notice to quit where the land was resumed for development purposes.
- 19.** You should check that there are no legal or contractual obligations that prevent the planting or long-term management of trees on your land. There may also be obligations under

other schemes or legislation, for example, SSSIs, livestock subsidies, Arable Stewardship Scheme, Countryside Access Scheme, Energy Crops Scheme, Hill Farm Allowance, Environmentally Sensitive Areas, Countryside Stewardship, Habitat Scheme, Nitrate Sensitive Areas, Nitrate Vulnerable Zones, the Moorland Scheme, the Organic Aid Scheme and the Organic Farming Scheme (see paragraphs 55 – 62) that may affect the planting of trees on your land.

Maximum and minimum areas

- 20.** There are minimum and maximum areas under the FWPS though plantings outside of these limits may still be eligible for WGS. *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 in the United Kingdom must be taken together. This is explained further in Appendix 3.
- 21.** The limits on areas eligible for aid (paragraphs 22 – 24) apply only to applications received on or after 1 April 1997. They *exclude* payments in respect of applications received before that date and payments under the Farm Woodland Scheme (FWS) (which was closed to new applicants in March 1992).

Total area eligible for aid

- 22.** FWPS *single* applications must not exceed a 200 hectare limit for all types of land. However, provided you make a suitably justified case, consideration will be given to second or subsequent applications which would take the *cumulative* total of FWPS approved land held by the IACS business concerned above the 200 hectare limit (see Appendix 1).

Maximum area eligible for aid on unimproved land

- 23.** FWPS *single* applications must not exceed a 40 hectare limit for unimproved land. However, provided you make a suitably justified case,

consideration will be given to second or subsequent applications which would take the *cumulative* total of unimproved FWPS approved land held by the IACS business concerned above the 40 hectare limit (see Appendix 1).

Minimum area per application

- 24.** The minimum total area per application for the FWPS is one hectare per farm business. The areas to be planted need not be contiguous provided they total at least one hectare and WGS criteria are met.

What type of woodland qualifies for FWPS?

- 25.** All new woodlands must meet the criteria and standards of WGS. Information on this is in the WGS booklet in your Applicant's pack.

Direct seeding

- 26.** Direct seeding methods may be used to establish woodland and, where the seeds are sown together with another crop, that crop may be harvested in the first year after seeding. However, trials of direct seeding methods have to date given variable results. If insufficient trees germinate and establish, you will be required to bring the woodland up to WGS contract standards by planting more trees. You should discuss the implications of this technique, and how appropriate it may be to your situation, with your FC Woodland Officer.

Natural regeneration

- 27.** Woodland may also be established by natural regeneration where this is both practical and appropriate. The FC will agree the work required for natural regeneration in the WGS contract. Suitable operations might be, for example, fencing and ground preparation. Establishment by natural regeneration can take many years but in appropriate situations (e.g. on appropriate semi-natural habitats or in areas

adjacent to semi-natural woods) can be a good way of establishing woodland of high conservation value. You will be eligible for FWPS payments on the land as soon as preparatory work to encourage natural regeneration has been completed to the satisfaction of the FC and you should claim the payment using form WGS/FWPS 3.

Use of conifers as 'nurse' trees

- 28.** You may wish to plant additional conifers with your FWPS broadleaved woodlands to act as 'nurse' trees. These will count towards the conifer element when calculating the duration of FWPS payment, unless they are removed at an early stage (normally before ten years) in which case the conifers will not be grant-aided and will not be taken into consideration when calculating the period over which payments will be made. The other trees getting grant which remain after the nurse trees are removed must be able to meet all the WGS and FWPS criteria on their own.

Environmental standards

- 29.** Section 17 of the Agriculture Act 1986 requires the Secretary of State to achieve a balance between different considerations, including agricultural, economic, conservation and archaeological interests, as well as enhancement of the countryside and promotion of its enjoyment by the public. This could mean that it is not possible to accept an application where the benefits under one or more of these headings are not sufficient to offset damage under another.
- 30.** FWPS applicants should note that where a WGS application proposes operations that do not meet the FC's environmental guidelines, the FC may reject the application. Under the Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999 the FC will assess whether proposed planting will have a significant effect on the environment. If the planting will have such an effect, the applicant

will be asked to prepare an Environmental Statement. Guidance booklets are available from FC Conservancy offices.

Exclusions

- 31.** The following types of planting are excluded from the scheme:
- 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 (but see paragraph 38);
 - planting of land, otherwise eligible, which is being done to meet a FC requirement to replace felled woodland or trees;
 - planting of woodlands to be managed as coppice, including both traditional coppice rotations and short rotation coppice (short rotation coppice may be funded under the Energy Crops Scheme). There is an exemption from this rule to allow coppicing for conservation purposes. You will have to have a management plan and manage your coppice in accordance with your conservation objectives.

If at the time of your application, you are planning coppicing for conservation purposes, you should discuss this with your FC Woodland Officer who is authorised by English Nature, Northminster House, Northminster Road, Peterborough PE1 1UA (telephone 01733 455 000; fax 01733 568834) to accept applications which meet pre-specified criteria. Where there is any doubt, the case will be referred to English Nature by the FC.

If you decide to coppice your woodland at a later stage, you should first write to your FC

Conservancy, explaining what you wish to do and what conservation benefits it will bring. You may not harvest coppice until you have received written approval.

Before starting work

- 32.** Before starting any work, *you must be in possession of a signed WGS contract and FWPS undertaking* from your FC Conservancy office. Payments cannot be made under FWPS or WGS where planting, or disturbance of the site, has taken place before final approval of your application. *There are no exceptions to this rule and it may not be waived for any reason.* You must therefore make sure you submit your application well in advance of your intended planting date.
- 33.** The erection of *boundary fences* is normally considered to mean that work has started. However, in certain circumstances it may be appropriate to erect boundary fences before you receive final approval of your application. If you would like to erect a boundary fence before you receive final approval for the scheme, you must obtain permission from the FC to carry out this work. *If you do not get their agreement you may invalidate your entitlement to receive payments.* Agreement to erect a fence does not mean your application for WGS/FWPS is acceptable. *You may not commence work on preparing the site or planting the trees until you have received your signed WGS contract and FWPS undertaking.*

FWPS requirements after planting

The participant

- 34.** Though entry to the FWPS is restricted to those running an agricultural business, once in the scheme (i.e. once you are in a possession of a signed WGS contract and FWPS undertaking) you are no longer required to continue to run

an agricultural business. However, you must inform us if the proportion of your total income that you obtain from agriculture drops below 25% of your total income (see paragraph 52) as part of the checks we are required to carry out, you may be asked to provide information enabling us to confirm whether the proportion of your total income that you obtain from agriculture is above or below 25%.

The land and trees

Maintenance of the woodland

- 35.** If you do not achieve adequate establishment within the time agreed with the FC and if remedial action is not taken to correct any problems or deficiencies, Defra may seek to recover all FWPS payments, with interest, and your WGS payments will also be at risk.
- 36.** Once accepted into the FWPS, you must maintain the woodland in accordance with the terms of the WGS contract/FWPS undertaking and good forestry practice and ensure that the land planted with trees is not returned to agriculture for at least:
 - 30 years after planting in the case of woodland receiving payments for 15 years (more than 50% by the area of broadleaves) (see paragraph 8a); or
 - 20 years in the case of woodland receiving payments for 10 years (50% or less by area of broadleaves) (see paragraph 8b).

If all or part of the woodland area is removed by any means during the above periods, you may be liable to repay FWPS payments received, with interest. You will, nevertheless, normally be allowed to thin the woodland in accordance with normal silvicultural practice or remove nurse trees. However, you should always check with your FC Woodland Officer first, as a felling licence may be required.

Use of the land

- 37.** The land may not be used for any agricultural purpose except in the first year following direct seeding (see paragraph 26). You may obtain a non-agricultural income from the land in addition to any forestry income available (but see paragraph 38 on Christmas trees). You should note that, if you wish to count your woodland towards your set-aside obligation, there are restrictions on the use of the land (see Appendix 2).
- 38.** Trees (including thinnings from woodlands) must not be sold as Christmas trees. This restriction does not apply to nurse trees (paragraph 28) which are not in themselves eligible for aid.

Felling the trees

- 39.** The felling and clearance of woodlands in England may require a felling licence from the FC. This is normally only granted on condition that the felled area is replanted. However, applications to return the land to agriculture after felling will be considered on their merits by the FC. If the proposals are to fell a woodland and convert it to another land use, the FC are required, to determine whether their consent for the work may be required under the Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999.

How to enter the scheme

- 40.** There is a joint WGS/FWPS application procedure. Application forms are included in the WGS/FWPS Applicant's pack. You or your agent should complete the forms and return them to your FC Conservancy office. Your application should set out full details of the woodland planting and maintenance work you intend to carry out over the next five planting years. Guidance on what information you need to provide is contained in your Applicant's pack. Please provide a good quality copy or original

map with your application. The maps should show clearly the proposed planting. If the land on which you propose to plant is IACS registered, your map should be of IACS standard and show the parcel number(s) and boundaries of the proposed area of woodland planting.

- 41.** The FC Conservancy office will acknowledge applications within three working days of receipt. The acknowledgement will give the names of the staff dealing with the application.

Claiming your annual payments

- 42.** You should claim your first instalment of WGS and FWPS as soon as planting is completed each year. A joint claim form (WGS/FWPS 3) will be sent to you by your FC Conservancy office when they send you the signed WGS contract and FWPS undertaking. Your completed claim form should be sent to your FC Conservancy office.
- 43.** FWPS claims received before August will normally be paid in the second half of October. FWPS claims received after 1 August will normally be paid within three months of receipt. You should note that, when planting takes place after 1 August, your first annual payment will not be made until, at the earliest, October of the following year (e.g. planting on 1 September 2003 – first payment in October 2004).
- 44.** Annual payments will continue on the basis of the first claim for five years. Under current procedures, you will be sent a form by your Defra RDS office after five years and (if you are due to receive payments for 15 years) after ten years with which to renew your claim. Provided you observe the rules of the FWPS, annual payments will continue for the full 10 or 15 years (depending on the category of woodland – see paragraph 8), even if the FWPS is closed to new entrants at some future date. It is possible, however, that claim procedures may

change during the lifetime of your agreement. If they do change, we will notify you. An IACS cross-check will be carried out to ensure payments are compatible with what is stipulated in the IACS return. Any variation may delay both WGS and FWPS payments.

45. If you wish to count your woodland towards your *set-aside* obligation, you must indicate this on your annual IACS area aid application. If the current FWPS payment rate exceeds the current set-aside rate, *your FWPS payment will be reduced to the level of the set-aside payment* (see paragraph 10). You will be paid on the normal timescale of the FWPS payments and will not receive payments on the land with your AAPS payments under IACS.

Payment by BACS

46. Defra's preferred method of payment is by direct credit (BACS). If you already receive grant and subsidy payments from RPA by direct credit then your payments under this scheme will be made by this method. If not please contact Customer registration section on 01189 531255 and they will arrange for a form to be sent. Credit payments are more effective, faster and cannot get delayed in the post. Payments are credited direct to your bank account. You will continue to receive a note advising you that payment has been made.

Changes

Changes to planting plans

47. After your WGS/FWPS application has been approved, you can, if you wish, make changes to your planting plans. Provided the changed proposals meet the FC requirements, the rules of the FWPS continue to be met and sufficient funds are available to meet any extra cost (see paragraph 63), revised proposals will normally be accepted. However, you *must* obtain prior approval from the FC (who will consult Defra as necessary) before implementing any changes.

Proposed changes must be notified to the FC on form WGS/FWPS 4 (available from FC Conservancy offices). If the proposed changes are acceptable, the FC will include them in your WGS contract/FWPS undertaking. The amended WGS contract and FWPS undertaking must be signed by all relevant parties before the changes are regarded as approved and you can go ahead with the work.

Adding new land to existing FWPS undertakings

48. FWPS applications made since 1 January 2000 have been made under the ERDP. This means that if you plan to add new areas of land to pre ERDP FWPS undertakings you need to make a new application and the proposed planting must involve at least one hectare. Additions of less than one hectare to pre ERDP FWPS undertakings cannot be accepted. For ERDP undertakings, additions of anything up to one hectare to your existing agreement can be accepted. However, if you are proposing to plant an addition of one hectare or more to existing ERDP undertakings, you must make a new application. Do not commence planting until you have received written approval from your FC Conservancy office.

Changes of occupancy of the land

Original occupier

49. The original occupier, their agent or personal representative must notify the FC immediately in the event of a change of occupancy e.g. through sale, re-letting or death. The WGS contract automatically terminates on a change of occupancy. WGS grants and FWPS payments may be recovered if the work has not been carried out to the reasonable satisfaction of the FC and Defra, irrespective of whether the new occupier has applied for, and been accepted into the scheme. We will not normally recover FWPS payments if the original agreement holder has died or if exceptional circumstances apply.

New occupier

- 50.** New occupiers wishing to join the FWPS are advised to notify their Defra RDS office as soon as they take over the woodlands. New occupiers may be eligible to receive annual payments, provided they:
- submit an application to enter the FWPS as a successor to the original entrant, *within 12 months of the previous occupier leaving* (form FWPS 8, available from Defra RDS offices, should be used);
 - own or lease the land;
 - comply with all the rules of the FWPS, including the area minima and maxima, (see paragraphs 20 – 24) if the approved application relates to land where the trees have not yet been planted. Where the land has already been converted to woodland, the cumulative maximum area limits do not apply; and
 - continue to meet the maintenance and other requirements of the WGS contract/ FWPS undertaking for the full 20 or 30 year period specified (see paragraph 36).

New occupiers are not required to be running an agricultural business.

- 51.** The WGS contract terminates upon change of ownership and the FC should be advised of such changes. A new contract needs to be made with the new owners if they wish to claim subsequent instalments of WGS grant. FC Woodland Officers can advise on the implications of taking on such a new contract.

Ceasing to farm or reducing the proportion of your income obtained from farming

- 52.** On your claim form, you will be asked whether or not you obtain at least 25% of your income from farming (taking account of all the land you farm in the United Kingdom). As part of the checks we are required to carry out, you may

need to provide information enabling us to confirm whether the proportion of your total income that you obtain from agriculture is above or below 25%. FWPS payments should be included with other income from farming. We need this information because we cannot claim as much money from the EC if your farming income is below that level. However, it does not affect the amount you receive. If your circumstances change after you have filled in a claim form and before the next five-yearly claim form is due, you must inform your Defra RDS office.

If you can no longer comply with the rules of the scheme

- 53.** If you can no longer comply with the rules of the scheme, contact your FC Conservancy or Defra RDS office as soon as possible. In particular, if you believe that the circumstances concerned constitute *force majeure* (i.e. circumstances outside your control), you *must* notify your FC Conservancy or Defra RDS office in writing *within 10 working days* of the date which you might reasonably be expected to be in a position to do so. In exceptional circumstances, we may be able to waive recovery of grant paid and/or allow you to remain in the scheme.

Other important points to note

Tax

- 54.** Annual payments are made in lieu of farming income and will be included in the profits of a farming business for tax purposes. WGS grants and income from woodland produce are not taxable.

Other schemes

Livestock subsidies

- 55.** Planting land may affect your eligibility for the Beef Special Premium, the Suckler Cow

Premium, Extensification Payments or the Sheep Annual Premium LFA supplement. It may also affect your livestock quota ring fence. Where appropriate, you should consider these possibilities and, if necessary, consult your RPA office.

Hill Farm Allowance

- 56.** Planting land may affect your eligibility for Hill Farm Allowance payments. Where appropriate, you should consider this possibility and, if necessary, consult your RPA office.

Energy Crops Scheme

- 57.** You cannot combine the Energy Crops Scheme and the Farm Woodland Premium Scheme.

Arable Stewardship/Environmentally Sensitive Areas/Countryside Stewardship

- 58.** If you are in one of these agreements, you should check with your project adviser or Defra RDS office to ensure that planting does not conflict with the objectives of your agreement.

Nitrate Sensitive Areas

- 59.** If your land is within a Nitrate Sensitive Area (NSA), you are eligible to apply to the FWPS, but only in respect of land which is not subject to a NSA scheme undertaking. If you have any queries about your NSA commitments, you should consult your NSA project officer or Defra RDS office. The NSA scheme is now closed to new applicants.

Nitrate Vulnerable Zones

- 60.** Applicants in Nitrate Vulnerable Zones (NVZs), should be aware of the mandatory NVZ Action Programme rules which apply in those areas. If your proposed FWPS agreement is on land within an NVZ, it is your responsibility to meet the rules of both. Should the rules overlap, you must meet those which are the most demanding.

Countryside Access Scheme/Habitat Scheme/Moorland Scheme

- 61.** If your land is subject to an agreement under the Countryside Access Scheme (CAS), Habitat Scheme, Moorland or Heather Moorland Scheme, you should discuss the proposed planting with your project adviser or Defra RDS office to ensure it does not conflict with the terms of the agreement. The CAS, Habitat and Moorland Schemes are now closed to new applicants.

Organic Aid Scheme/Organic Farming Scheme

- 62.** If you are in receipt of aid under the OAS or the OFS you should not plant trees on any land registered for organic production without consulting the Organic and Energy Crops National Implementation team based at the Defra RDS office at Crewe (telephone 01270 754122).

Funding

- 63.** The amount of money available for the FWPS 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 or approving existing applications and changes to conversion plans. In such circumstances, applicants would be notified of the action that was being taken.

Checking and penalties

- 64.** Once your application is submitted, someone from the FC, Defra and/or RPA may visit to inspect the land and check on its eligibility. You must allow such checks to take place, render reasonable assistance and, if requested, accompany the officer during the inspection. Further inspections could take place at any time throughout the duration of the plan to ensure that all scheme rules are being met.

- 65.** Once you have been accepted into the scheme, if you fail to meet the requirements of the FWPS, you will not be allowed to remain in the scheme and, where appropriate, past payments to you may be recovered in whole or in part, with interest. Furthermore, no further applications under the FWPS will be accepted from you for a period of five years.

Appeals procedure

- 66.** There is a statutory appeals procedure available to you if we take action to end your participation in the FWPS or withhold, reduce or recover your annual payments following a breach of scheme rules. The following procedures apply:
- you will be given a written explanation of the reasons for the action proposed;
 - you will be offered a hearing before an independent person appointed for the purpose by the Secretary of State;
 - the appointed person will provide a written report of his conclusions for the Secretary of State to consider and you will also be given a copy; and
 - you will be notified of the Secretary of State's decision when these steps have been followed.

Complaints procedure

- 67.** There is also an established complaints procedure which you can use if you have complaints about the way your WGS and FWPS application has been dealt with. Full details of the complaints procedure are given in the Woodland Grant Scheme booklet.
- 68.** This procedure is for hearing complaints about the way your application has been dealt with. It cannot be used to appeal against the grounds for rejection of your FWPS application.

What information about my application and undertaking will Defra make available to others?

- 69.** To fulfil our obligations under the Data Protection Act, the following two paragraphs give details of Defra's handling of any personal data that you provide in connection with your application and undertaking.
- 70.** In order to ensure effective operation of the ERDP schemes, Defra will disclose or exchange information about your application and undertaking to or with other organisations or consultants which the Department considers appropriate for administration, evaluation and monitoring purposes. Moreover, Defra or its appointed agents may contact you in connection with occasional customer research aimed at improving the services that Defra provides to you.
- 71.** Because the ERDP involves expenditure of public money, there is a genuine public interest in how the money is spent. Defra may therefore make information on your application and undertaking generally available for this purpose or for the purpose of publicising the ERDP and its individual schemes. Furthermore, information (including personal data) may also be released in accordance with the Environmental Information Regulations, the Code of Practice on Access to Government Information and the Freedom of Information Act 2000.

Key points

- 72.** 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

- 73.** Check you meet the requirements of the scheme, in particular that:

- a. you are running an agricultural business; and
 - b. the land to be planted is eligible for the Arable Area Payments Scheme, or has been in an eligible agricultural use for three years prior to your application.
- 74.** Once you have sent in your application, tell your FC Conservancy office as quickly as possible of any changes which might affect your eligibility for the schemes.
- 75.** Do *not* start planting or preparing the site until the FC Conservancy office return your signed WGS contract and FWPS undertaking. Otherwise you cannot be admitted to either scheme and will forfeit your right to any money.

Once accepted into the scheme

- 76.** Keep to your approved planting plans, including the specified year of planting. If you want to change them, apply to your FC Conservancy office. Any proposed changes to planting plans must be approved before they are carried out.
- 77.** Make sure your trees establish properly. If they do not, get advice and take remedial action promptly.
- 78.** Observe the rules of the scheme. Maintain the woodland for the full period of the WGS contract/FWPS undertaking (20 or 30 years).
- 79.** If you are no longer occupying the land, notify your FC Conservancy office within three months and, if appropriate, make arrangements for your successor to take over the agreement. Otherwise you may continue to be liable for recovery of past payment.

In all cases

- 80.** If in doubt, ask your Defra RDS office or FC Conservancy office. You may also wish to seek professional advice on your application.

Background

1-1 As explained at paragraphs 20 – 23, FWPS single applications received on or after 1 April 1997 must not exceed a 200 hectare total for all types of land or a 40 hectare total for unimproved land. *It is a statutory requirement that we cannot approve a single application which exceeds these area limits.*

1-2 As a general rule, the 200 hectare and 40 hectare limits also apply to the cumulative effect of FWPS approvals held by a single business. In other words, the sum total of FWPS approvals held by a single IACS business in respect of applications received on or after 1 April 1997 should not normally exceed 200 hectares in the case of all land types or 40 hectares in the case of unimproved land.

Flexibility when applying the area limits to the cumulative effect of applications from approvals/held by a single business

1-3 As stated at paragraph 1-1 above, no single application that exceeds the 200 hectare or 40 hectare maxima will be approved. However, provided the applicant makes a suitably justified case, we will be prepared to consider FWPS applications in England which would take the cumulative total for the IACS business concerned above the 200 hectare or 40 hectare limits. If such applications are approved, they will be eligible for aid under FWPS provided the other scheme rules and conditions are complied with.

Note: *In the case of an application relating to a successor taking over an existing FWPS approval where the land concerned has already been converted to woodland, such land does not count towards the area limits. Such applications will be dealt with in the normal way.*

1-4 If you wish to take advantage of this flexibility, you should be aware that approval will not be automatic. We will judge each case on its individual merits. It is not possible or appropriate to set out a prescriptive list of

criteria to be applied. However, factors which we would propose particularly to take into account include:

- a. the overall quality of the application in terms of delivering the Government's objectives and priorities for the afforestation of agricultural land including, as appropriate, any points which may have emerged during the FC's consideration of the WGS application, including any assessment made under the Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999 (SI 1999/2228);
- b. the availability of funds. For example, if funds were tight, we might need to take account of the 'cumulative' effect in order to prevent one business, through the size and/or number of its applications, from seriously depleting the funds available for other applicants.

Other considerations might include such things as length of occupancy of the land in question.

1-5 *Making your case.* It will be for you as applicant to make your case and to include any information that you believe to be relevant to our consideration of your case. The principal considerations which we will take into account when judging your case for exceeding the maximum area limits are set out in paragraph 1-4 above. Examples of factors which you might wish to consider when preparing your case include (in no particular order):

- the existence or otherwise of viable alternatives to establishing woodland on the land concerned
- any special environmental benefits expected to result from the establishment of woodland on the land concerned
- any other benefits (e.g. economic, social, recreational) expected to result from the proposed establishment of woodland on the land concerned.

Appendix 1

Flexibility when applying maximum area limits in England

- the length of time you have occupied the land concerned.

However, the above list is not comprehensive. There may be other factors pertinent to your own particular application that you will wish to draw our attention.

1-6 If you wish to take advantage of the flexibility described at paragraph 1-3 above, you must submit a justified case to the FC at the same time as your joint WGS/FWPS application. The FC will forward your justified case to us when forwarding your FWPS application for our consideration.

1-7 *Decision on application.* If we decide to reject your request to exceed the 200 hectare or 40 hectare area limits but consider that your application is acceptable in all other respects, you will be given the option:

- either of withdrawing your application in its entirety;
- or of being given FWPS approval for whatever reduced area can be accommodated within the 200 hectare or 40 hectare cumulative maxima.

Otherwise, you will be informed of any decisions on your FWPS application in the normal way.

Appendix 2

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

2-1 Applications for FWPS may count towards your set-aside obligation providing the land meets the normal requirements for set-aside land. In particular:

- a. It must be eligible for Arable Area Payments. Normally land that was in permanent grass (i.e. in grass for more than five years), permanent crops, woodland or non-agricultural use on 31 December 1991 will not qualify.
- b. Each set-aside plot, within which the woodland is set, must be at least 0.3 ha in area and at least 20 metres wide (or 0.1 ha and 10 metres wide alongside permanent watercourses). Smaller areas completely bounded by permanent fixed boundaries such as walls, hedges or watercourses are acceptable provided they are at least 20 metres wide.

Conditions on the land while set-aside

2-2 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.

2-3 The detailed set-aside management rules do not apply to land that has been accepted under the WGS and/or FWPS. The normal WGS and FWPS management rules will apply to such woodland areas.

FWPS claims and payments made while set-aside

2-4 You will receive payments under the FWPS but, if your land is being counted as set-aside, you will not receive a payment in excess of the set-aside rate in the AAPS yield region concerned.

Therefore, if the FWPS payment rates exceed the set-aside payment rate, you will receive a special FWPS payment equal to the set-aside payment rate on any FWPS land being counted as set-aside. The area receiving payment in this way will not, however, be reduced as a result of any overshoot of the Arable Area Payments Scheme base area. Because you are receiving FWPS payment, you will not be entitled to receive AAPS set-aside payments on your land.

2-5 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 FWPS payment rate.

Appendix 3

Definition of a single business

3-1 All area limits under the FWPS will be applied taking account of all relevant woodlands that form part of your business. The definition of a business will be based on that used for IACS purposes though account will be taken of all woodland that falls within your business, even if it is no longer part of an agricultural business. The section below sets out the rules as they apply under the IACS.

The IACS business

3-2 The Integrated Administration and Control System (IACS) is an important element of the Common Agricultural Policy (CAP) reform measures agreed in 1992. Its purpose is to combat fraud in the CAP arable and livestock schemes. The rules of IACS are set out in the current IACS literature, available from RPA offices.

3-3 Under the EC rules on IACS, all the land which you farm in the United Kingdom must be treated as one entity. This means that, if you have farms in different parts of the United Kingdom which are managed as part of one business, you will be required to submit a single application covering all those farms.

3-4 In addition we are required to ensure that, where businesses are split or created after 30 June 1992, this has not been done with the intention of improperly avoiding the limits on eligibility for livestock premia or the threshold for set-aside. In such cases, applications will be checked against records of previous entitlement.

3-5 Separate IACS applications may be submitted for different farms in which you are involved only if they are managed as separate businesses according to certain criteria. It is your responsibility to demonstrate that the businesses are separate for IACS purposes. In determining whether businesses are managed separately we will take into account a range of criteria, including the legal status of the businesses, how far operations are run separately on a practical day-to-day basis,

whether there are, among other things, separate farm plans and accounts, independence of decision making between the separate farms and where the overall economic control of the business(es) rests. *None of these factors is necessarily conclusive by itself.* We may need to seek further information from you before determining whether businesses are separate. Under these circumstances you will be required to complete a separate business questionnaire (IACS 26). If your business is newly created you may be required to complete a new business questionnaire (IACS 27).

Appendix 4

Abbreviations and acronyms

| | |
|--------------|--|
| AAPS | Arable Area Payments Scheme |
| ASS | Arable Stewardship Scheme |
| CAP | Common Agricultural Policy |
| CAS | Countryside Access Scheme |
| DA | Disadvantaged Areas |
| Defra | Department for Environment, Food and Rural Affairs |
| EC | European Community |
| ESA | Environmentally Sensitive Area |
| EU | European Union |
| FC | Forestry Commission |
| FWPS | Farm Woodland Premium Scheme |
| FWS | Farm Woodland Scheme |
| HFA | Hill Farm Allowance |
| IACS | Integrated Administration and Control System |
| LFA | Less Favoured Areas |
| NSA | Nitrate Sensitive Areas |
| NVZ | Nitrate Vulnerable Zones |
| OAS | Organic Aid Scheme |
| OFS | Organic Farming Scheme |
| RDS | Rural Development Service |
| RPA | Rural Payments Agency |
| SAPS | Sheep Annual Premium Scheme |
| SDA | Severely Disadvantaged Areas |
| SSSI | Site of Special Scientific Interest |
| WGS | Woodland Grant Scheme |

Appendix 5 Useful publications

| Title | Available from | Price |
|---|--|--------------|
| Introducing Farm Woodlands: An Essential Guide | Forestry Commission / Defra | Free |
| Woodland Grant Scheme and Farm Woodland Premium Scheme Applicant's pack | Forestry Commission | Free |
| Farm Woodlands – Model Forms (Model Clauses and model lease for use by landlords/tenants) | CLAVRICS (England) | £5.95 |
| Establishing Farm Woodlands (Handbook 8) | Forestry Commission and The Stationery Office | £6.75 |
| Growing Broadleaves for Timber (Handbook 9) | Forestry Commission and The Stationery Office | £13.50 |
| Forestry Practice (Handbook 6) | Forestry Commission and The Stationery Office | £14.95 |
| Farm Woodland Management | Farming Press Books 4 Friars Courtyard 30-32 Princes Street Ipswich IP1 1RJ | £14.95 |
| Creating and Managing Woodlands Around Towns | Forestry Commission and The Stationery Office | £18.00 |
| Creating New Native Woodlands (Bulletin 112) | Forestry Commission and The Stationery Office | £11.00 |
| ERDP Summary booklet (PB 5164) | Defra Publications | Free |
| Farm Woodlands for Birds (PB 3691) | Defra Publications | Free |

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**Produced by the Department
for Environment, Food and
Rural Affairs**

© Crown copyright 2003.
PB 8021 March 2003.

Printed on recycled paper
containing 75% post consumer
waste and 25% elemental
chlorine free virgin pulp

www.defra.gov.uk

