

Operations Note 014

Date: November 2016

Change of Ownership of Land under a Forestry Commission (FC) Grant Scheme

1 Background

From 1988 until 2015 grants were available from the Forestry Commission for creating new woodland. The initial grant was available as an 'up-front, capital payment' and was claimed once the work identified in the contract was completed. This covered the actual planting of the young trees and their protection and maintenance. In addition to this a further grant was available that was aimed at encouraging landowners to diversify their business and to take land out of agricultural production. These payments were made annually for a set period of years, depending on what trees species were planted and the individual scheme that was being applied for. The rate of payment depended on the use of the land immediately prior to planting. The highest rates of grant were applied to prime arable land and the lowest for unimproved land in the uplands, reflecting the different levels of productivity of the individual sites concerned.

2 Purpose

The purpose of this note is for information only to consider when selling your property. This document is intended as guidance only. You should consult your scheme agreement and take legal advice before buying or selling land covered by a Woodland Creation Grant or Farm Woodland Payments.

3 Introduction

The planting of new woodland is a long term investment. The time period for the annual, revenue foregone payments reflected the long term nature of the investment and varied between ten years and forty years depending on the individual scheme. Principally there have been three schemes available since 1988. These were:

Farm Woodland Scheme (FWS).

This was available from 1988 until 1992. Applicants applied for a Woodland Grant Scheme from the Forestry Commission – this paid towards the cost of planting the trees. In addition if an owner wished to benefit from the annual payments as well, they applied to be entered in to a separate scheme (the FWS). Each scheme had its own separate

rules, terms and conditions. Administration of FWS was transferred to the Forestry Commission in 2007.

Farm Woodland Premium Scheme (FWPS).

This was available from 1992 until 2005. During this period of time the scheme went through several changes, resulting in changes to the scheme rules, and Terms and Conditions. This was as a result of either a change to the governing Rural Development Plan for England (RDPE) or introduction of a new RDPE as a result of a new plan period.¹ Applicants applied for a Woodland Grant Scheme from the Forestry Commission – this paid towards the cost of planting the trees. In addition if an owner wished to benefit from the annual payments as well, they applied to be entered in to a separate scheme (the FWPS). Each scheme had its own separate rules, terms and conditions. Administration of FWPS was transferred to the Forestry Commission in 2007.

Farm Woodland Payments (FWP).

This was available from 2005 until 2015. The owner applied for an English Woodland Grant Scheme (EWGS) from the Forestry Commission. The annual payment was an individual element of the EWGS. Rules, terms and conditions were combined.

4 Succession under the scheme

Agreement holders should be aware that they may be bound by the terms and conditions of their agreement after they stop receiving annual payments. Because of the longevity of the schemes involved, there were specific rules to cover changes in ownership. These were designed to protect the public and EU investment in the new planting scheme and to ensure that the desired outcomes were met. If you have sold, or are intending to sell a property, or the ownership is due to change because of the death of the agreement holder, it is essential that the terms and conditions in the agreement are adhered to. In order to avoid repaying the grant that they have received, owners (**the seller**) should ensure that the new owner (**the purchaser**) agrees to 'succeed' to the original agreement. This process ensures that the obligations of the original scheme are transferred to the new owner.

What must I do?

The seller should discuss with the Forestry Commission their intention to sell the property to make sure that they are aware of the rules that apply on transfer. There is a statutory obligation to notify the Forestry Commission as soon as the sale has taken place. The time period for informing us varies depending on the date on the original agreement but may be as little as one month. Failure to notify the Forestry Commission

¹ RDPE plan periods last for seven years, a new plan being required for the start of each period

that a sale has taken place may result in us recovering all the grant money paid to you under a scheme.

Contact details of your local area Forestry Commission office are available on our website.

The seller should take independent legal advice **prior to selling** the property. If the agreement is not transferred to the purchaser the seller may be required to repay all the grant money together with interest. It is therefore highly recommended that the liability to repay grant is transferred to the purchaser in the Contract of Sale for the property. Failure to do so will leave the financial liability with the seller of the property.

The purchaser must submit an application to the Forestry Commission to succeed to a scheme. The time period for submitting this application varies depending on the date on the original scheme agreement but may be as little as three months. If you require further details for a specific case, then please contact your local area office.

The Forestry Commission may decide at its discretion whether or not to transfer the agreement to the purchaser on receiving the purchaser's application. If the Forestry Commission decides to agree to the transfer we will process the application as soon as possible. We will pay any claims for grant received during the processing of an application as soon as the application process is completed.

The purchaser must complete an RLE1 form and submit this to the RPA to transfer land from one holding to another, this can also be carried out on the Rural Payments service - www.ruralpayments.service.gov.uk

What happens if a succession does not take place?

In the event that a succession does not take place for whatever reason, we will seek to **recover all funds** that the seller had received. For some schemes, we do have discretion as to whether we recover or not, but this will only be in exceptional circumstances.

What happens if the owner has passed away?

In these circumstances the executors of the estate should notify the Forestry Commission as soon as possible that the ownership of the land will change. This will help the Forestry Commission to make arrangements to transfer the agreement to the deceased's successor, if the Forestry Commission and the successor agree to the transfer.

If the owner has passed away, the Forestry Commission may exercise its discretion not to recover any funds from the estate of the deceased.

5 Sources of Further Advice

The Forestry Commission website contains all of the information regarding grant schemes and forms/guidance regarding change of ownership, in particular:

- [EWGS document library](#)
- [FC England Grants homepage](#)
- [Successor's form](#)
- [Transfer of Obligations](#)

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 published at www.forestry.gov.uk/england-advice or available from your local FC office.

6 Versions

Version 1.0 issued 6th December 2006

Version 1.1 issued 1st June 2008 – minor changes including header

Version 1.2 issued 10th February 2009 – clarification that the contract terminates only on the area that is sold, where there is only a part sale

Version 2.0 issued 11th May 2011 – Complete rewrite including addition of ON014 a-e specific scheme guidance

