

Operations Note 014b

Date: 11th May 2011

Change of Ownership Guidance for Farm Woodland Premium Scheme (FWPS 97)

1 Purpose

This leaflet provides guidance on the implications for the purchaser and seller when land subject to a Farm Woodland Premium Scheme 97 (FWPS 97) changes ownership.

2 About the FWPS 97 Agreement

The FWPS 97 was available to applicants from 1st April 1997 until 24th June 2004. It was designed to encourage the creation and maintenance of new woodlands on farms and offered annual payments to compensate for agricultural income forgone.

3 How Long Does the Agreement Last?

The woodland must be maintained in accordance with the FWPS 97 rules and undertakings, and good forestry practice, to ensure that the land planted with trees is not returned to agriculture for at least:

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

4 Effect of Sale on Land under FWPS 97

The Agreement automatically terminates on a change of occupancy. If the work has not been carried out to the reasonable satisfaction of the Forestry Commission, irrespective of whether the new occupier has applied for, and been accepted into, the scheme, then FWPS 97 payments may be recovered.

5 Change of Ownership

The scheme makes provision for subsequent applications to the Agreement in the event of a change of ownership. The new owner (successor) can enter into a fresh agreement with us to receive any remaining annual payments provided they comply with the undertakings 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 offer advice about the Farm Woodland Agreement and provide any relevant information including details of any 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 and even if the new owner succeeds to the Scheme. This liability to repay grants 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 to whom it was paid.

8 How to Transfer Liabilities

As a seller you should 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 a FWPS 97 Agreement in Place

We recommend you seek professional forestry and legal advice on the implications of the FWPS 97 Agreement. 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 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, either 20 or 30 years depending on the species of tree planted.

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 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 in grant payments being recovered, with interest.

We would recover amounts equivalent to the total of those grant payments made to each applicant under the Scheme from each applicant under the Scheme.

11 Sources of Further Advice

We recommend you seek professional legal and forestry advice for your particular circumstances. For any queries on the 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

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