

Operations Note 014d

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

## Change of Ownership Guidance for Woodland Grant Scheme (WGS)

### 1 Purpose

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

### 2 About the WGS Agreement

The WGS is now closed but was available to applicants in three versions from April 1988 to June 2004. The scheme provided incentives for people to create and manage woodlands to enhance their benefit to society. In addition, applicants could also apply for the Farm Woodland Premium (FWPS) to create woodland on agricultural land and receive annual payments to compensate for agricultural revenue foregone. More information on FWPS agreement can be found in Operations Note 14b or 14c, depending on the age of the scheme.

### 3 How Long Does the Contract Last?

There are two distinct time periods outlined in the Terms and Conditions of the contract. The Approval Period is the period within which the owner is allowed to carry out the work agreed in the contract, and lasts for one to five years depending on the type of work approved.

The Contract Period can be longer, depending upon the type of grant that is being paid and relates to how long the owner must look after the woodland to meet the grant conditions. For instance, if we are paying a grant for new planting or replanting then the contract lasts for ten years from the payment of the first instalment.

### 4 Effect of Sale on land under a WGS

If you decide to sell any part of your property which has a Woodland Grant Scheme contract on it, the sale will terminate any authority we gave to carry out work under the contract.

### 5 Change of Ownership

You can transfer your obligations under the contract including grant repayment, to the new owner/occupier, by completing form WGS 9 (Agreement to Transfer Obligations), provided they agree to sign. The Agreement is voluntary.

## 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 complete.

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 obligations of the contract, 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 (obligation) is transferred to the new owner/occupier.

## 8 How to Transfer Liabilities

In order to transfer the obligations of the contract to the new owner/occupier a form WGS 9 needs to be completed and submitted to your [local FC office](#). You should also make arrangements via your solicitor to insist on an appropriate indemnity from the next owner/occupier.

## 9 Buying Land with a WGS Agreement in Place

You should ensure that the previous owner or occupier has complied with the terms and conditions of the contract, and ensure all the requirements of the Scheme have been met, and that the woodland is in good order.

You should notify your [local Forestry Commission office](#) as soon as possible. If there is an associated Farm Woodland Scheme with the WGS you must submit an application to enter the scheme as a successor 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 succession (see Operations Note 14 b or 14c for more details).

You do not need to sign the Agreement to Transfer Obligations but if you do you will agree to continue the maintenance of the woodland for the total of the contact period.

If you choose not to sign the Agreement to Transfer Obligations you should be aware that the woodland remains subject to forestry and environmental regulations (see Operations Note 14 - General).

## 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. You 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 grant payments being recovered, with interest.

If an Agreement to Transfer Obligations is not signed then the signatory to the original contract is liable for the repayment of any instalment of grant they received until the date that the contract would have expired. If an agreement is signed then all liability for repayment transfers to the new owner/occupier.

## 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 FC 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](#).

## Versions

Version 1.0 issued: 11<sup>th</sup> May 2011