

Operations Note 033

Date 12 August 2014

EU Timber Regulation (EUTR)

1. Purpose

This Operations Note outlines the EUTR and advises those involved in the felling of trees what is required when applying for felling licences and grant schemes in England.

2. Summary

To help the Forest Industry meet the requirements of this new legislation, the National Measurements Office (the body responsible for the enforcement of the Regulation), industry representatives and the Forestry Commission (FC) have co-operated to offer a simple approach for the home grown timber industry.

Those responsible for placing timber onto the EU market for the first time, whether an owner, contractor or timber merchant will be required to maintain documentation that proves that the timber entering the market is produced from a legally harvested resource. The Forestry Commission in England (FCE) has therefore agreed to amend the requirements for information from applicants and also to offer a new pro-forma to assist in complying with the new legislation.

3. Background

The Timber and Timber Products (Placing on the Market) Regulations 2013 came into being on 3 March 2013. This statutory instrument enforces the EUTR. It prohibits trade in illegally harvested timber and timber products in EU countries; it also requires the party first placing timber and timber products on the EU market (known as 'the operator'), to exercise due diligence, (using a risk-based approach), to ensure that the risk of the products being illegal is minimised. In addition, those who trade in timber and timber products are required to keep specific information to enable such products to be traced for up to five years (who they sold to and when etc.).

Standing trees are not within the scope of the Regulation so for home grown timber the 'operator' responsible is the person who first places harvested material on the market. This is usually the timber buyer, but it may be the forest owner, where he or she fells the trees directly and then sells the resultant material to merchants.

For imported timber, the Regulation will similarly apply to individuals and companies who place timber and timber products on the EU market for the first time.

In terms of illegality, England's timber industry is recognised as being of low risk. FCE has worked closely with national colleagues, Confor and the National Measurements Office (NMO), to ensure that the legislation does not place undue burdens on the home timber industry.

As a result, we have introduced a simple pro-forma that will be issued at the same time as we approve any application to thin or fell trees (either through stand-alone felling licences or our grant scheme). FCE staff will complete section 1 of this form, identifying the reference number of our approval for the work and then signing and dating. This pro-forma will also accompany any Statutory Plant Health Notices which are issued requiring the felling of trees in order to control tree infections. The 'operator' should then complete and retain this form along with the other documents to help demonstrate the steps they are taking to minimise the risk of the timber being illegal.

In order to conform to the new legislation, FCE has revised the way in which information will be gathered when considering applications to fell trees. The following sections detail the actions required by applicants. Following a meeting with EU partners in May 2014, the information required has been revised, reducing the burden still further.

4. Felling Licences

4.1 Information Provided.

In order to comply with the EUTR any application for tree felling, whether it be thinning, felling or coppicing, need now only clearly identify those individual tree species **which comprise more than 20% (estimated) of the volume** to be felled, their location and the total volume. For small woodlands this is straightforward, but for large woodlands or complex estates the provision of this information could potentially still be quite a burden on both applicants and the FC during application processing. We have therefore agreed with the NMO that we can summarise such data. However, this summary must enable any inspector to be able to easily determine the main species and where this has come from any specific area of the woodland or estate. The following example sets out our preference for how this information should be provided.

Example: A woodland with seven compartments, four of which are to be thinned and three of which are to be selectively felled. The woodland comprises of oak, ash and beech, along with some cherry, lime and field maple that make up the remainder of the mixture. Only the oak, ash and beech represent, individually, more than 20% of the volume to be removed. The total volume to be removed by thinning is 530 cubic metres for Compartments 1, 2, 3 and 4, and for selective felling, 970 cubic metres in compartments 5, 6, and 7. Only the oak, ash and beech therefore need to be listed as separate species, with the others being identified as mixed broadleaves. We do not expect every last tree species to be identified in a mixed stand. The application would look like the following:

Felling Site/Cpt	Type of Operation	Species to be felled	Number of trees	Marking of Trees	Estimated Area of felling (ha)	Estimated Volume (m3)
1,2,3 and 4	T	Oak, ash, beech and mixed broadleaves	9000	Orange dot	10	530
or						
5, 6 and 7	SF	Mixed broadleaves (including ash, oak and beech)	6000	Orange dot	10	970

1. **Compartment name or number:** Separate compartments or woodlands may be grouped together where the operation is the same and tree species mixtures are the same or very similar.
2. **Species mixture:** We only expect those species to be listed where these individually represent more than 20% of the volume included in the felling proposals. So, for example, in a species mixture where only the conifer is to be thinned or felled, we only need to know the conifer species and relevant data that it is proposed for removal.

The tree types can be expressed either in full, or using the usual FC recognised abbreviations, most of which are listed in the application guidance.

For minor species that fall below 20%, they can be identified as either mixed broadleaves or mixed conifers (see above example).

Note. The classifications of mixed broadleaves or mixed conifers must **not** be used for any species that make up more than 20% of the overall mixture).

3. **Operation type:** Each entry must relate to a specific operation, using the abbreviations identified in the felling application guidance. Applicants must not enter multiple operation types in a single line entry.
4. **Tree numbers:** This should be an estimate of the number of trees that will be felled.

Volume: The volume in cubic metres should be recorded as a single total figure for each line entry. We do not expect owners or their agents to undertake any formal measurements of the standing tree volumes when making an application, unless they expressly wish to do so for their own purposes. Volumes declared in the felling licence application are therefore likely to be best estimates, based on either local knowledge or estimated (average) yield class for the species involved. It is accepted that there will be a tolerance to these volumes in the event that an EUTR inspection is undertaken by NMO staff. The current tolerance is set at + or – 25%

The table above identifies the FC’s preferred format which we know will help applicants comply with the EUTR requirements. The breakdown in species is not required under the

Forestry Act, but it is necessary under the EUTR. The FC is therefore facilitating the 'operators' compliance with this new legislation by requesting this information.

The information will be transferred onto the felling licence itself, which will form the key document to proving that the trees covered by that licence have been felled legally.

4.2 Felling Licence Application Forms

The felling licence application forms and guidance have recently been updated to ensure that they comply with the EUTR and requirements for reporting open habitat restoration. Please ensure that the latest version of the application form is being used.

The forms are currently being developed and will be available on our website once ready.

5. Grant Schemes (EWGS and Dedication)

5.1 Information provided

For EWGS applications, the amount of information required in order for us to issue felling approval has been less than that required for a stand-alone licence application. Previously the information required has been restricted to compartment number or woodland, the species listed (or often identified simply as mixed broadleaves or conifers) and the type of operation. In future, the same information provided for felling licences (as identified in the table above) must be included in all EWGS applications.

Because of the variety of operations and the complexity of larger estates or woodlands, the information required can be included in a tabular format similar to the Plan of Operations associated with the new Management Plan process; ([see annex 1 for a section from Plan of Operations](#)). For small schemes, individual woods or where there is limited tree felling being undertaken it will be perfectly acceptable to include the required information in the General Details section of the application form. It will be important to make sure the required information is provided, as area staff will not be able to proceed with the administration of the scheme if any of this is missing. These details will ultimately appear in the EWGS contract, providing evidence that the trees covered by the contract and its associated licence have been felled legally.

5.2 There are still a small number of estates that manage their woodlands through the Dedication scheme. For those that are in **positive covenant only** we will in future require the level of detail identified in sections 4.1 and 5.1 above. Form DS1 (Plan of Operations) allows for the breakdown of work by operation and whether it is broadleaved or coniferous. We will still require a species breakdown as previously described. This can either be by way of a separate spreadsheet or by listing the main species (those which are 20% or more) in the 'Details of Work' column (10).

6. New Environmental Land Management Scheme (NELMS)

6.1 Currently we are uncertain whether any tree felling approval will be incorporated within the new land management scheme process which is due to be launched in 2016. We will keep you informed of progress in respect of this in the coming months.

7. Statutory Plant Health Notices (SPHN).

7.1 When issuing an SPHN, FC staff will attach the pro-forma to the Notice and annotate section 1 with the Notice reference number and sign and date as previously.

8. Completion of Process

8.1 EUTR Pro-forma

This has been provided for the industry to help 'operators' meet the need for documentation required by the EUTR. A copy of the pro-forma ([see Annex 2](#)) will be sent out with all felling licences and all EWGS contracts that include felling approval as well as SPHN's. Final completion of the pro-forma and retaining it for recording purposes will be the responsibility of the 'operator'

Section 1

For FCE use only.

The remaining sections are the responsibility of the 'operator' to complete.

Section 2

If there is no felling licence, grant scheme or SPHN associated with the cut timber, the 'operator' will need to identify the source of the cut material. There are a number of sources of felled timber that are still legally harvested but may not be associated with a felling licence, grant scheme or SPHN approved by FCE. Examples of this are:

- Material removed from a windblown site
- Exemptions under the Forestry Act (Trees felled in a garden, churchyard or as a result of the work of a statutory undertaker e.g Electricity supply company)
- Coppice material less than 15 centimetres in diameter
- By products from tree surgery work (if undertaken with Local Authority approval where required)
- Felling associated with Environment Agency works, such as flood prevention or conservation work

- Timber felled as a result of planning permission or deemed approval as a result of a General development Order (GDO) e.g. construction of a forest road.

Section 3

If the material comes from a certified woodland, then the certification reference number should be entered in section 3 of the form.

Section 4

Please refer to section 8.4 in relation to 'additional risks'. Final action is for the 'operator' to sign and date the form and retain with the other necessary documentation.

8.2 Guidance for Applicants

The covering letters for both felling licences and grant contracts which include felling proposals will contain the following wording that covers the use of the pro-forma:

"Attached to your licence you will find a pro-forma that helps to fulfil the requirements of the EU Timber Regulation. If you personally intend to fell the timber and then sell to a third party, you will become the 'operator' under this legislation and as such you must complete the pro-forma by signing and dating the declaration, and retain this with the felling licence in the event that you are required to provide proof that the trees were felled legally".

8.3 Completion of Pro-forma by the 'operator'

If the felling licence applicant intends to fell the timber and then sell to a third party, the applicant will become the 'operator' and should complete the pro-forma and sign and date the declaration. The applicant should retain this with the felling licence in the event that they are required to provide proof that the trees were felled legally.

If the applicant sells the trees standing to a timber merchant, the applicant should not complete the pro-forma as the merchant will become the 'operator'. The applicant must therefore ensure that the merchant is given both the pro-forma for completion, and a copy of the felling licence when selling the timber.

8.4 Additional Risk Factors

The 'operator' is required to identify any additional risks that the timber could be illegal, together with any mitigation measures they are taking in order to minimise this risk. If there is insufficient room on the form then please continue on a separate sheet of paper that should be attached to the pro-forma for your records.

Examples of additional risks and the possible mitigation may be:

Mixing up the timber referred to with other timber, especially if this is imported. So, if an operator sells both domestic and imported timber they should identify this as a risk and detail what they do in order to keep the various batches of timber separate from each other.

An 'operator' may purchase timber from a non licensed source such as a windblown site or as a result of a plant health notice having been issued by

the FC. In this case the 'operator' would need to detail how they had been sold the timber directly from the site in question and they would give details of its location together with documents detailing why it was necessary to fell it and the species and volumes involved as requested in section 2 of the form. As with the above example, the 'operator' will need to detail the actions taken to keep this separate from other sources.

There is a risk that in large woodlands an operator may fell the wrong compartment. The risk mitigation might be to arrange a pre-contract visit with the estate owner or agent in order to identify the area concerned and to mark the area out clearly on the ground, so that there can be no mistake.

The above process will also apply to electronic applications, where we will print and send hard copies of the licence and EWGS contract.

9. Sources of further advice

The Forestry Commission [Grants and Regulations](#) webpages contain all the information you need to apply for grant support. Alternatively, you can request this information from your local [Forestry Commission office](#).

Alternatively you can go to:

Confor's web site at

<http://www.confor.org.uk/WhatsHappening/Default.aspx?pid=453&id=0>

For a full explanation of the Regulation and its requirements go to the EU Web site at

http://ec.europa.eu/environment/forests/timber_regulation.htm

Versions

Version 1 issued 22 August 2013

Version 1.1 issued 10 December 2013

Version 2 issued 3 June 2014

Version 2.1 issued 12 August 2014

Annex 1: Section from Management Plan of Operations

Area to be felled (ha)	Type of Felling	Spp: Species to be felled (no MB or MC over 20%)						Percentage Bdlf & Con		Total Volume (m3)
								Bdlf	Con	
0.75	CF	JL	SS					0	100	175
1.00	T	OK	AH							15

Annex 2 (Please note that this is produced on a single sheet of A4)

EU Timber Regulation: Due Diligence for Timber Grown in Great Britain.

This document is intended to help meet the obligations placed on "operators", as defined under EU Timber Regulation (No 995/210), to undertake a risk assessment. It outlines the risk factors associated with timber grown in Great Britain (see overleaf). The details of the timber' species, volume etc are listed on the felling licence/grant scheme contract /statutory plant health notice/management plan or in the absence of these on a separate sheet.

Evidence of Lawful Harvesting

1. Felling licence, grant scheme, statutory plant health notice or management plan ref No (s)	Date approved

Signed :
(on behalf of Forestry Commission)
OR

Dated :

2. In the absence of a felling licence or management plan:
Please attach a separate sheet with details of the species and volumes. Where the timber came from: Name & address of supplier/land owner: Reason the timber does not derive from an approved felling licence, statutory plant health notice or management plan:

Certification: If the timber is independently certified enter the certificate number below:

3.

Additional Risk Factors: If there are any factors (not covered overleaf) that indicate a risk that the timber could be illegally harvested, enter these below with an explanation of how that risk has been mitigated. Continue on a separate sheet if necessary.

4. Factor	Means of mitigation

Declaration by the operator: I declare that the timber referred to above is grown in Great Britain. I have identified any additional risk factors and the action taken to mitigate that risk, and I have no reason to believe that there are further risks of the timber being illegal.

Signed:

Dated:

The timber described overleaf was produced from Great Britain forests where the following risk factors apply.

1 Illegality - Forests in Great Britain are regulated by the Forestry Commission or Natural Resources Wales. The incidence of illegal felling is low, estimated at much less than 1% of the timber volume harvested.

2 Governance - The UK is ranked highly for good governance in independent assessments, such as The Worldwide Governance Indicators project (funded by The World Bank). Moreover forestry proposals in Great Britain are available for comment and Great Britain is well served by bodies from civil-society that contributes specialist knowledge and opinion to the assessment of forestry proposals.

3 International Perspective - There is no UN Security Council ban on timber exports from the UK and the UK is not associated with or designated as a source of 'conflict timber', both of which are key international indicators of illegality.

4 Forest Regulation - Great Britain has specific forest laws (principally, The Forestry Act 1967, which convey powers to regulate forestry activities, control felling, administer woodland grants and to manage state forests. The Forestry Commission issued a revised UK Forestry Standard (UKFS) in 2011 which provides a benchmark against which forestry is regulated and is explicit in terms of legal requirements and the assurances of legality and sustainability that can be given by the process of forest regulation. The Forestry Commission/Natural Resources Wales are the competent authorities with respect to Environmental Impact Assessment (Forestry) Regulations. The Forestry Commission reports on behalf of the UK the sustainability of UK forests in the Global Forest Resources Assessment and Forest Europe indicators and compiles annual

statistical information. These various sources of information indicate that forests in the UK are managed on a sustainable basis.

5 Endangered Timber Species - There are no endangered timber species present in the UK.

6 Assessment of UK grown timber by the certification schemes - The two major international certification schemes, FSC and PEFC, have assessed Great Britain as being of low risk in terms of their "Controlled Wood" and "Avoidance of Controversial Sources" respectively. This allows up to 30% of non-certified GB grown timber to enter supply chains. Approximately 85% of timber coming to the market in Great Britain has been independently certified as coming from well managed forests. This is in addition to the regulatory processes outlined above

Notes on completing the form.

- a) The person who first places timber and/or timber products on the market or uses them in his/her business is defined as an "operator" under the Regulation.
- b) If you are a landowner, harvesting and selling the trees, then complete this form and keep it with the felling licence/management plan or other details (as appropriate) together with a copy of the contract for sale of the timber.
- c) If you are buying the timber 'standing' and harvesting the trees, then complete this form, ask for a copy of the felling licence or management plan approval from the owner and keep this form together with details of the contract for purchase of the timber.
- d) It is important to keep a record for at least 5 years, as required by the legislation, of timber sales and purchases.