

Operations Note 036

Date: 26th June 2014

25% Farmer declaration

1. Purpose

This Operations Note provides guidance to owners and agents where annual payments following the creation of new woodland are being claimed as compensation for taking land out of agricultural production. This applies to **all the revenue foregone schemes**, namely

- Farm Woodland Scheme (FWS);
- Farm Woodland Premium Scheme (FWPS); or
- Farm Woodland Payment (FWP)

2. Background

Since 1988 the forestry Commission (FC) has encouraged owners to create new woodlands. To act as an incentive, the FC has offered capital payments¹ which help to offset the cost of establishing the trees and an annual payment² that is paid over a period of time. This may range from 10 years up to 40 years, depending on the individual scheme rules.

Capital payments have been, and continue to be based on standard cost models for establishing a new woodland, whilst the annual payments are based on the loss of agricultural revenue. The rates available annually vary depending on the quality of the land being planted and also, with the current Farm Woodland scheme, whether the applicant derives more than 25% of their income from farming activities.

From 1988 to 2007 the rate paid was determined by the land quality and paid at the same rate for farmers and non-farmers alike. Although applicants were asked to declare whether they derived more than 25% of their income from farming, this only affected the rate at which FC England could recover co-financing from EU funds for the work undertaken, rather than the rate at which applicants were paid.

From 2007 under the current Rural Development Plan for England (RDPE), rates relating to annual farm woodland payments were capped so that those applicants' who could not prove they derived more than 25% of their income from farming, received a maximum payment equivalent to 150 Euros, regardless of land quality.

The FC has to undertake annual checks to ensure only bona fide farmers (those earning more than 25% of their income from farming activity) benefit from the enhanced rates.

3. What is acceptable as 25% income from farming?

¹ Now paid as 80% once the trees have been planted and the final 20% five years later

² Paid annually as compensation for taking land out of agricultural production

Applicants seeking the farmer rates for compensatory payments in England must declare that they are bona fide farmers. This requires that they derive more than 25% of their income from their farming activities. This income must come from **agricultural activities** which will include:

- Direct income from farm crops or livestock produced by the applicant, including meadow or grazing land. This will also include income from horticulture, fruit cropping, osier growing, market gardening or nursery grounds;
- Income derived from sale of livestock and arable crops not grown, but sold as a trading company;
- Income from leasing or renting land, either on a short or long term lease;
- Second income which is linked to the farming activity, such as driving for an agricultural contractor, garden compost from farmyard manure, produce from on farm resources (elderflower cordial manufacture, sloe gin etc.)
- Annual payments from the Farm Woodland scheme itself;
- Annual payments from other agricultural schemes such as SPS, ELS, etc;
- Income from agricultural contracting such as hedge laying, hedge cutting, hay / silage making, combine harvesting, sheep shearing etc.

Included in the 25% income figure can be up to half (but no more) of the income (equivalent to 12.5% gross) derived from '**on farm**' diversification. For this to be acceptable 'on farm' requires that the Single Business Identifier number SBI identified on the Rural Land Register (RLR) is the same as the applicant SBI identified in the Farm Woodland Scheme or EWGs. Income from land that is not registered or registered under a different SBI from the application cannot be considered.

'On farm' diversification activities will include:

- Activities that could be expected as part of a healthy diversified farm business. This could be a farm shop, farmhouse bed and breakfast, workshop rental or sporting income, such as fishing, shooting, paint balling etc.
- Income from timber receipts, or the grant scheme itself (other than the annual payments). This could also include income from other Stewardship schemes

Income which cannot be regarded as being from farming activity and therefore not included in the consideration for 25% income from farming will be:

- Income from other employment activity not linked to the farm business, so second income not linked to any farming activity (accountancy, doctor, builder etc.)

These annual payments are the only elements of grant aid received by an owner that are classified as taxable income.

4. When do I declare this information?

This declaration will have been asked for on your initial grant application form, and until recently, every time that you submitted a claim for grant. We no longer ask for this information on claim forms, as an alternative process has now been agreed, which fully meets the EU Regulation.

However, the Terms and Conditions of your grant contract make it clear that **you must:**

- Let the FC know if the ownership of the property changes, or
- If your financial circumstances change, so that your status in respect of the 25% income from farming is also affected.

Failure to do either may result in the termination of your agreement, but it will also lead to other action such as recovery of grant paid, and also the implementation of a penalty.

5. How will this affect my various farm woodland schemes?

The rule regarding 25% of income being derived from farming activities affects scheme holders in different ways:

Farm Woodland Schemes (FWS) and Farm Woodland Premium Scheme (FWPS) – closed schemes.

For all closed schemes (applications approved before 1st April 2005) an applicant receives annual compensatory grant based on the land type for a set period of time depending on the individual scheme rules. An owner declares at the application stage whether they derive more than 25% of their income from farming activity (as outlined in paragraph 3 above). The scheme rules require that the owner notifies the FC of any changes in circumstances, throughout the period of claiming grant. This declaration **does not change the rate** at which applicants receive grant, but it **does affect** the rate at which FC recovers co-financing from the EU.

Farm Woodland Payments (FWP) – current scheme which will shortly close.

For all applications approved since 1st April 2005 an applicant receives annual compensatory grant based on the land type for a set period of time as identified in the scheme rules. An owner declares at the application stage whether they derive more than 25% of their income from farming activity (as outlined in paragraph 3 above). The rate at which an applicant gets paid will be capped at 150 Euros, if they **do not earn** more than 25% of their income from farming activity.

This capped rate came into force on the **1st January 2007**. Cases approved under the English Woodland Grant Scheme during 2005 and 2006 should receive the 'farmer' rate that applied at the time.

The scheme rules require that the owner notifies the FC of any changes in these circumstances, throughout the period of claiming grant. If an applicant declares initially that they derived the necessary income from farming, they would receive the enhanced rates available to bone fide farmers. If circumstances change and they no longer received more than 25% income from farming, the rate at which they are entitled to receive grant will be reduced to the capped level (150 Euros). However if they fail to notify the FC of a change in financial circumstances and we discover this failure, we will consider whether penalty action is appropriate (see section 6 below).

On some occasions an applicant may declare that they receive less than 25% income from farming, and at a later stage circumstances change which means that income from farming activity increases so that they then meet the criteria for the enhanced grants. In these circumstances we will require the applicant's accountant to complete the Accountant's Certificate and return this to their admin hub for processing. We will change details in our computer system (GLOS) and future payments will be made at the higher, farmer rate. In these circumstances we will not consider retrospective payment. The changes will take effect from when the next annual payment is due.

6. Will the FC undertake checks?

Each year the FC will undertake a 100% admin check of all farm woodland beneficiaries. This will involve checking whether the beneficiary is in receipt of Single Farm Payment. In the event that they do not receive this payment, (and there may be acceptable reasons why this is the case) they will be sent an 'Accountant's Certificate'. This will need to be completed by the beneficiaries' accountant³. The purpose of this form is to confirm that more than 25% of the beneficiary's income is derived from farming activity.

In addition, each year we undertake a programme of inspections of sites where annual payments are still being made. The cases selected are done so using a random and risk-based approach, and are inspected physically 'on-farm' by either Rural Payments Agency Inspectors (RPAI) or FC Woodland Officers.

Each beneficiary selected for an on-farm inspection will now also be required to have an Accountants Certificate completed. Inspectors will either:

- Give the owner a copy of the Certificate for completion, along with an explanatory note, should they see you during their inspection;
- If you are not available, they will post both documents through your post box, or
- They may send you the documents in the post, along with a further form (an LBS7) following their inspection. The LBS 7 is a record of their visit and the results that they found. It is an EU requirement to make owners aware of the result of an inspectors visit. The LBS 7 is for your records only.

Either way failure to complete and submit the Accountant's certificate back to the FC will result in the annual payment being capped at the 150 Euros equivalent for all future payments, or until we receive the necessary documentation. Completed Certificates must be returned within 30 days from the date of receipt, after which we will reduce payments and consider penalty action where Certificates are not returned. Penalty action will usually result in the loss of at least one complete annual payment.

³ Normally we would seek this from the person who deals with the annual tax return and accounts for the farm business. Where this is done 'in house' a member of any of the recognised accountancy institutes would be sufficient.

It is important that beneficiaries use the **correct SBI number that relates to their farm business**. Failure to do so may cause problems with the application and may result in incorrect payment of grant.

Cases approved after 1st January 2007, which carry the appropriate clauses referring to penalties, may result in a beneficiary losing some or all of their grant entitlement if it is discovered at a later date that a false declaration has been made, whether this was intentional or not. The level of penalty will depend on the amount of grant that has been paid incorrectly and whether we decide that this over-claim was intentional.

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](#).

Versions

Version 1 issued 26th June 2014