



An Roinn Talmhaíochta,
Bia agus Mara
Department of Agriculture,
Food and the Marine

Reconstitution Ash Dieback Scheme 2023 – 2027

This scheme is subject to an ongoing Strategic Environmental Assessment (SEA) & Appropriate Assessment (AA) process.

The Minister therefore reserves the right to revise the terms & conditions of this scheme in accordance with the relevant findings.

Applicants may therefore be required to “opt-in” to any revised terms & conditions before a decision is made on their application.

Applicants will qualify for any amendments or additional measures recommended by the Review Group, provided that such changes do not disadvantage applicants to the current scheme.

Published by:
Forestry Division
Department of Agriculture, Food & the Marine
Johnstown Castle Estate
Co. Wexford
Y35 PN52
Tel. 053 9163400
E-mail forestryinfo@agriculture.gov.ie
Web www.gov.ie/forestry

© Forestry Division, Department of Agriculture, Food & the Marine, Ireland

July 2023

Terms and conditions of this Scheme may change. To check the latest version of this document please see www.gov.ie/forestry

Contents

1. INTRODUCTION	5	
2. OUTLINE OF RECONSTITUTION ASH DIEBACK SCHEME 2023-2027 OVERVIEW	6	
Accessing the Reconstitution Scheme		6
3. GRANT RATES	7	
4. APPLICATION PROCEDURE	8	
Form 1 - Application for Approval		8
Form 2 - Application for Site Clearance Grant		8
Form 2(a) - Application for 1 st Instalment Grant		9
Form 3 - Application for 2 nd Instalment Grant		9
5. ELIGIBILITY	11	
6. GENERAL RULES	12	
Operational		12
Not funded under this scheme		13
Grant and Premium Payments		13
Legal Basis		13
Conditions of Aid		14
Consultations and Public Notification Procedure		15
Conditionality		16
Good Practice and SFM		16
Penalties		16
Appeals		17
Change of Applicant		17
Joint Management Consent		18
Right of Entry		18
Responsibility for Forest Management		19
Review of Financial Aids		19
Insurance		19
Failure to abide by the terms and conditions of the scheme		19
Overpayments made in relation to a scheme contract		19
Procedures		20
Tax Clearance Requirement		20
VAT		20
Information and Data Protection		20
7. STATE AID REQUIREMENTS	22	
Proportionality of the aid		22
Transparency		22

ANNEX 1	23	
Grant Rates Reconstitution		23
Table 1: Grant Rates		24
ANNEX 2	25	
Regulatory and Funding Framework		25
APPROPRIATE ASSESSMENT PROCEDURES		26
ANNEX 3	27	
Data Protection – Data Protection Notice		27
ANNEX 4	30	
Planning and Development Act 2000		30
(Exempted Development) (Number 5) Regulations 2022		30
(S.I. No 664 of 2022)		30
Guidance Note on Tree Felling, Replacement of Broadleaf High Forest by Conifer Species and Planning Permission		31
ANNEX 5	32	
Definitions		32

1. Introduction

The causal agent of Ash Dieback Disease, *Hymenoscyphus fraxineus*, is a relatively newly described fungal disease of ash, which was first identified in 2006 (as *Chalara fraxinea*) although dieback symptoms in ash had been first noted in Poland in the early 1990s. The harmful reproducing stage of the fungus, a new species named *Hymenoscyphus pseudoalbidus*, was later discovered in 2010 and subsequently renamed as *H. fraxineus* in 2014.

The disease has spread rapidly across much of Europe, with the majority of European countries where ash is present now also reporting the presence of the disease. Common ash (*Fraxinus excelsior*) is susceptible to Ash Dieback Disease, as are a number of other species of ash. The disease can affect ash trees of any age and in any setting. Death of the trees can occur, with younger smaller diameter trees succumbing more rapidly.

The first confirmed finding of the disease in Ireland was made in October 2012 at a forest site in County Leitrim which had been planted in 2009 with trees imported from continental Europe.

In March 2013 the Department introduced a Reconstitution Scheme (Chalara Ash Dieback) to restore forests established under the afforestation scheme which had suffered from or which were associated with plants affected by disease.

In April 2018 DAFM commenced a review of the national response to Ash Dieback Disease as it was increasingly evident from experience and the latest scientific advice that eradication of Ash Dieback Disease was no longer feasible. Pending completion of the review, DAFM moved away from a mandatory sanitation requirement approach while continuing annual premium payments to the forest owner, the Reconstitution scheme was suspended (although the Woodland Improvement Scheme (WIS) remained available).

The focus of the review was on the policy approach and associated support schemes, considering the move away from ash dieback eradication and bringing ash forest management into focus. The review included further consideration of damage level evaluation together with inclusion of a broader range of silvicultural and management options. Support schemes have been reviewed to ensure the continued relevance of DAFM's response, and to ensure that the forest owner is provided with a broader range of silvicultural and management options. The review included public consultation.

Currently the disease levels are such that it is no longer appropriate to manage ash as a crop and the objective now is to replace ash trees with alternative species.

2. Outline of Reconstitution Ash Dieback Scheme 2023-2027 Overview

Through the Reconstitution Scheme, DAFM financial support can be made available for:

- a) Site clearance: This involves the clearance of ash trees and associated operations in order to present the site for reconstitution.
- b) Reconstitution: This involves the replacement of ash trees with alternative species following ash clearance. The following Forest Types are available for replanting:

FT1	Native forests
FT6	Broadleaf, mainly oak and beech
FT7	Diverse Broadleaf
FT8	Agroforestry
FT10	Continuous Cover Forestry
FT11	Mixed high forests: Diverse Conifer
FT12	Mixed high forests with Sitka Spruce and minimum 20% broadleaves

Accessing the Reconstitution Scheme

Steps required in order to avail of the Reconstitution Scheme are as follows:

- a) Forest Owner makes contact with a Registered Forester¹
- b) Registered Forester and Forest Owner will make the relevant application for scheme support.
- c) A felling licence is not required under the Reconstitution Scheme.

¹

3. Grant Rates

This is a fixed grant scheme; rates are listed in Annex 1.

The reconstitution will be paid in 3 instalments as follows:

- i. Application for the Site Clearance Grant.
- ii. Application for the 1st Instalment Grant and top up premium payment may be made following the reconstitution of the treated area (75%).
- iii. Application for the 2nd Instalment Grant may be made 4 years after the site is successfully reconstituted (25%).

4. Application Procedure

The relevant application forms are available from the Department of Agriculture, Food and the Marine, Johnstown Castle Estate, Co. Wexford. 053 9163400.
Alternatively, you can contact the relevant section by email.

Email Addresses	Queries
forestryappenq@agriculture.gov.ie	Form 1, approvals, application procedures
forestry.1stgrant@agriculture.gov.ie	Form 2, 1 st Grant
forestry.2ndgrant@agriculture.gov.ie	Form 3, 2 nd Grant
felling.forests@agriculture.gov.ie	Felling licences

Forms can also be downloaded from: <https://www.gov.ie/en/publication/e384e-forestry-grants-and-schemes/>

Form 1 - Application for Approval

An application for approval must be made using the “*Reconstitution Ash Dieback Scheme 2023-2027 Form 1: Application for Approval*”.

Both the applicant and a Registered Forester must complete and sign the application.

Application for this scheme must be accompanied by a harvest plan and harvest plan map.

No work may commence until formal written approval has been granted by DAFM.

Approval is only valid up to and including the expiry date specified in the letter of approval. Works must be completed by the expiry date.

An approval letter issued under this Scheme may include additional conditions as laid down by the Minister. These may be of a silvicultural or environmental nature or may relate to other requirements. It is the responsibility of the applicant to ensure that all works are undertaken in compliance with the requirements of the Scheme. DAFM accepts no responsibility or liability for costs incurred by an applicant on foot of pre-planting approval.

NOTE: It is the responsibility of the applicant to inform DAFM in writing of any proposed material change to the approval issued and to seek approval for any such change before clearance/reconstitution works commence. Failure to obtain approval from DAFM for proposed changes may render the approval null and void. There are no guarantees that material changes to existing approvals can be permitted.

Form 2 - Application for Site Clearance Grant

Application for payment of the Site Clearance Grant shall be made following completion of all works that allow for the reconstitution of the affected area. Application for payment must be made on a “*Reconstitution Ash Dieback Scheme 2023-2027 Form 2: Site Clearance Claim Form*”.

The Form 2 must be submitted to DAFM within 12 weeks from the date of completion of site clearance works. An application for an extension of the submission deadline must be submitted before the relevant expiry date. Late applications will be deemed invalid.

The applicant and their Registered Forester must complete and sign the application following a site visit and a detailed field and forest plot assessment by the registered forester.

Where supporting documentation could relate to more than one contract, individual copies of the documentation must be submitted with each separate Site Clearance Grant claim.

Where a Form 2 application is lodged with DAFM within the required 12-week time-frame but supporting documentation remains to be submitted, the application will be held open for a maximum of 6 years from the date of completion of the new forest. After year 6, the grant will be forfeited and the contract considered terminated. Non-payment of a forester or forestry company for works carried out will be a matter for resolution between the forest owner and the forester or forestry company and the Minister shall bear no liability.

Payment of the site clearance grant may be made following completion of all works necessary for the removal of trees from the affected area to the satisfaction of the Minister.

Form 2(a) - Application for 1st Instalment Grant

Application for payment of the 1st Instalment Grant shall be made following completion of all reconstitution works in the affected area. Application for payment must be made on a “*Reconstitution Ash Dieback Scheme 2023-2027 Form 2(a) (1st Instalment Grant)*”.

The time limit for receipt of the 1st Instalment Grant application in DAFM shall be specified in the letter of approval. An application for an extension of the submission deadline must be submitted before the relevant expiry date. Late applications will be deemed invalid.

The applicant and their Registered Forester must complete and sign the application.

Where supporting documentation could relate to more than one contract, individual copies of the documentation must be submitted with each separate 1st Instalment Grant claim.

Where a Form 2(a) application is lodged with DAFM within the required 12 week time-frame but supporting documentation remains to be submitted, the application will be held open for a maximum of 6 years from the date of completion of the new forest. After year 6 the grant will be forfeited, and the contract considered terminated. Non-payment of a forester or forestry company for works carried out will be a matter for resolution between the forest owner and the forester or forestry company and the Minister shall bear no liability.

Payment of the 1st Instalment Grant may be made following completion of all works necessary for the reconstitution of the affected area to the satisfaction of the Minister.

Form 3 - Application for 2nd Instalment Grant

Application for payment of the 2nd Instalment Grant may be made 4 years after the site has been successfully reconstituted. Application for payment must be made on a “*Reconstitution Ash Dieback Scheme 2023-2027 Form 3 (2nd Instalment Grant)*”.

The applicant and their Registered Forester must complete and sign the application.

Payment of the 2nd Instalment Grant may be made following maintenance of the affected area to the satisfaction of the Minister.

Where a 2nd instalment grant for the original Afforestation Scheme contract is due for payment, and the area not being reconstituted has, in the opinion of the Minister, been successfully established, the entire 2nd instalment afforestation grant will be payable.

If the Form 3 is not submitted within 6 years after the date of completion of the works, annual forestry premiums payable under the associated Afforestation Scheme may be suspended. If the Form 3 is not submitted within 10 years after the date of completion of the works, the 2nd instalment grant will be forfeit.

5. Eligibility

Individuals applying for participation in the scheme must be over 18 years of age and hold a Personal Public Service Number (PPSN). Companies must provide their company registration details (CRO number).

Applicants for approval must be the owner, leaseholder or joint manager of the land at the time of the application. Exceptions to this rule will only apply where: (i) the owner is deceased and their legal representative submits the application; or (ii) the owner consents in writing to the submission of the application in the name of a designated third party.

In order to qualify for payment of grants, the applicant must own, lease or be in joint management of the lands. Applicants must provide documentary evidence of ownership and of leasing or joint management where relevant if requested, as detailed in the *Forestry Standards Manual*.

DAFM will refuse applications for grant aid where it is found that an application was made by a person other than a person that meets the above criteria.

Every effort should be made by registered foresters to ensure that multiple applications by the same applicant are not submitted. If more than one application is submitted for the same piece of land, DAFM may decide to process just one application selected by the applicant within any 12-month period.

Payments shall be made to applicants who make a valid application in accordance with the written approval granted by DAFM and have carried out agreed works to their forest in accordance with the written approval granted by DAFM and in compliance with the regulatory framework set out in Annex 2.

6. General Rules

Operational

The Scheme is administered by the Department of Agriculture, Food and the Marine and operates throughout the State. The Scheme shall be operational from 24th of July 2023 for a period to be determined by the Minister for Agriculture, Food and the Marine.

The exemption for felling licences will apply for ash only under this scheme in accordance with article 19(1)c(i) of the Forestry Act 2014.

Applications will be subject to screening for Appropriate Assessment.

Applicants must submit a harvest plan and harvest plan map with their application.

A stop will be placed on any subsequent premium due on the associated afforestation contract where the date of application on the Form 1 for reconstitution is more than 6 months old and the Form 2 has not yet been lodged with the Department. Premiums will restart when the Form 2 payment is made.

A replanting obligation exists under this scheme. Where replanting does not take place within 4 years of site clearance/clearfell, DAFM may recoup all payments made under this scheme, the Afforestation Scheme, FEPS, Native Woodland Scheme and the Woodland Improvement Scheme (WIS) scheme, where appropriate.

Eligible sites can retain up to 10% of the stands un-diseased trees of good form in the treated area as standard trees during site clearance stage. This is to retain trees that may have disease resistance due to natural genetic variation. The retained tree should be evenly distributed throughout the treated area.

Eligible sites under this scheme will have access to Section 2 of the proposed Deer Tree Shelters and Deer/Hare fencing scheme. Scheme documents will be available at gov.ie/forestry after launch of Deer Tree Shelters and Deer/Hare fencing scheme. Support for repairing/replacing older fencing is available under Section 3 of this scheme. Funding for these measures will be available up to the budget ceiling to be specified by DAFM.

DAFM may also require other forms of technical investigation and reports to be submitted to facilitate its assessment of the project. These may include, inter alia, an ecological assessment and report by a suitably qualified ecologist.

The agroforestry option of reconstitution involves returning the site to grass or tillage beginning with the removal of all stems roots and filling in mound drains; the second step is the planting of a suitable tree species in accordance with current agroforestry rules under the afforestation scheme. This will require significant earth works and may not be suitable for sensitive sites where run off and siltation may be a risk. As is currently the case, where BISS payments are been made, these payments may end when no further premium payments are due. Forest owners will need to bear this in mind particularly for agroforestry.

There is no requirement to bury or burn trees from infected stands; trees can be used to create windrows or to utilise the remnants for other uses.

All sites must have 90% stocking rate at Form 2 stage and have 90% stocking rate and be free growing from competing vegetation at Form 3 stage.

Not funded under this scheme

Ash planted as a component of additional broadleaved planting in conifer plots is not eligible for the Scheme.

Grant and Premium Payments

For sites undergoing reconstitution where the replacement species results in a change of GPC, the annual premium will be adjusted to reflect the new GPC rate under the original planting programme. An additional top up premium will be paid equivalent to the difference between the ongoing premium and the associated Forest Type (FT) premium as described in the afforestation scheme launched under the Forestry programme 2023-2027. This top up will be calculated for the remaining years of premium and paid in a single amount.

As the contract under this Scheme is between the applicant and DAFM, payment is made to the applicant. However, applicants may mandate grant payments to a registered forester or forestry company using a mandate document that satisfies the requirements of the Minister as set out in the *Forestry Standards Manual*. Such mandates are a voluntary arrangement between the applicant and their registered forester or company. Mandates to other parties e.g. Contractors or Foresters not registered with DAFM, will not be facilitated. In the event that a payment fails to be made in accordance with a valid mandate no liability shall be attached to the Minister.

If it is subsequently found that any undue payment or overpayment has occurred in respect of any grant or other payment made under the scheme, The applicant will be liable to repay the entire amount of the undue payment or overpayment from the applicant, regardless of how the undue payment or overpayment arose.

DAFM may offset the amount owed from any other monies due to the applicant by DAFM. DAFM may also recover the monies as a simple contract debt in a court of competent jurisdiction.

Legal Basis

The Legal basis for the Scheme is established under Section 6 of the Forestry Act, 2014.

- The Scheme shall be operational from 24/07/2023 for a period to be determined by the Minister for Agriculture, Food and the Marine. Participation in the Scheme is voluntary.
- The scheme is 100% Exchequer funded under the following legal framework.
- Is operated pursuant to the European Commission's Regulation (EU) 2022/2472 of 14 December 2022 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union.
- The scheme is subject to **Council Regulation (EC)** No 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (codification) – the Procedural Regulation - (Codification of Council Regulation (EC) 659/1999 as amended), which governs the procedure on recovery of aid.
- The Scheme is administered by the Department of Agriculture, Food and the Marine and operates throughout the State.

Conditions of Aid

Where an applicant makes an application for aid that is deemed valid and is approved by DAFM, a contract then exists under the Scheme between the applicant and the Minister. The terms and conditions of this Scheme as set out in this document, any circulars amending the scheme requirements, all application forms including Form 1, letters of approval and, where appropriate, remedial works notifications, form the terms and conditions of this contract. The contract will be identified by the contract number (CN) assigned to it by DAFM when the application for approval (Form 1) is received.

Payments will be based on either the area claimed as eligible for payment by the applicant (on Form 2 and associated maps) **or** the area determined by DAFM to be eligible for payment, whichever is the lesser.

- i. DAFM's computerised mapping and payment system (iFORIS) is used by DAFM to capture a digital representation of the payment area based on the applicant's claim map. Capturing the claim map in a digital form allows for the accurate measurement and calculation of the payment area. The process of electronically capturing the claim map is referred to as **digitisation**. The **digitised area** of a contract (i.e. the entire forest) is the sum of the treatment areas of the individual forest plots (excluding biodiversity) comprising that contract number or forest. For each plot contained in an application for payment, the **digitised area** is the entire area of the forest plot within the perimeter boundary of that plot measured by DAFM's iFORIS system.
- ii. The **determined area** of a contract number or forest is the sum of the areas, determined by DAFM to be eligible for payment, of the individual forest plots comprising that contract number or forest. The determined area is calculated by excluding any ineligible areas (e.g. power line corridors, rock, gas lines, ineligible areas of biodiversity).
- iii. The **claimed area** is the total area of the forest plots specified by the applicant in the application as being claimed for payment of a reconstitution grant payment. The claimed area is calculated by the applicant by deducting any part of the plot that is not eligible to receive a reconstitution grant (e.g. power line corridors, rock, gas line and eligible biodiversity areas) from the digitised area.
- iv. Whichever is the lesser of the claimed area or the determined area is deemed to be the area eligible for payment, known as the payable area. This is the area on which payments of reconstitution grants will be based, subject to compliance with the requirements of the scheme as regards submission of proof of ownership, if requested.

Where an area delineated as the payable area on a map submitted by the applicant differs from the area specified on the species plot table attached to a map or the area specified on the Form 2 the lesser of these areas will be deemed to be the area claimed by the applicant.

Where a notification (i.e. a remedial works letter) is issued to the applicant specifying remedial works required to bring their forest up to standard, the date specified in that letter by which the works must be completed is binding on the applicant. In exceptional circumstances, the Minister may grant an extension to that date. Requests for such extensions must be submitted in writing by the applicant and registered forester at least 30 days before the expiry of the original deadline for completion. Failure to complete the specified works to the satisfaction of DAFM will result in a penalty, as set out in the document titled *Forestry Schemes Penalty Schedules (DAFM 2023)*.

Grants will be paid only when the entire forest is up to the required standard. If part of the forest fails inspection, payment will be withheld on the entire area until remedial works are carried out and the forest is thinned /and or tended to the required standard.

Where DAFM decides that it is not possible to bring the forest, or part thereof, up to the required standard, no further payment will be made for that area. Where the grant and/or part thereof, is

not to be paid, DAFM may also require repayment of the amount paid in respect of the forest or in respect of the area that does not meet the required standard.

Payments shall be made in respect of applicants who make valid applications prepared by a registered forester and who have established their forest in accordance with the approval issued (i.e. both technical and financial) and in compliance with the regulatory and funding framework as set out in Annex 2.

Consultations and Public Notification Procedure

DAFM may consult with relevant consultation bodies including National Parks and Wildlife Service, the National Monuments Service, the Environmental Protection Agency, Inland Fisheries Ireland, the relevant local authority.

Forestry Licence Viewer (FLV)

To support the forestry licensing system and to aid consultation and public notification of forestry licence developments, the Department has made available on its website, an online portal. This portal or “Forestry Licence Viewer”, details licence application information and supporting documents, which provide information on licence applications including afforestation licences. The Forestry (Miscellaneous Provisions) Act, 2020, allows the Department to publish personal information on documents supporting a forestry licence application as an aid to consultation and public notification. The current consultation procedures for forestry licencing applications include a minimum 30-day consultation period on receipt of an afforestation licence application. Applications made to the Reconstitution Ash Dieback Scheme 2023 – 2027 may be advertised on the FLV where it has been determined that additional information received or prepared in relation to the application, i.e. in the form of a Natura Impact Statement (NIS) or an Appropriate Assessment Report (AAR), should be so published. The public may make a submission or observation in writing concerning that application to the Minister within 30 days from the date of publication of the notice.

A list of documents made available in the FLV is included below, although this is not exhaustive:

- a. Paper application
- b. Pre-technical approval submission report
- c. Map information
- d. Fencing map
- e. Biodiversity/operational map
- f. Habitats map and report
- g. AA – Pre-screening report
- h. Natura Impact Statement (NIS)
- i. Pre-scribed body letters – NPWS, local authorities, An Taisce, Inland Fisheries
- j. Responses from referral bodies
- k. Submissions (from the public or other third parties)
- l. Submission acknowledgements
- m. Requests for further information (FIR)
- n. Information submitted following FIR
- o. AA determination
- p. In-combination Report
- q. Decision letters – Technical Approval Letter
- r. Notification of decision and right of appeal to submitters
- s. Withdrawal/suspension letters (appeal)

Conditionality

Conditionality sets the baseline requirements for farmers in receipt of CAP payments and replaces the “cross compliance” requirements in the previous CAP. Conditionality consists of Statutory Management Requirements (SMRs) and Good Agricultural and Environmental Condition (GAEC) standards as detailed in Annex III of EU Regulation 2021/2115 in respect of the following specific areas;

- the climate and the environment, including water, soil and biodiversity of ecosystems,
- public health and plant health, and
- animal welfare.

The conditionality requirements are implemented in two ways:

1. Statutory Management Requirements (SMRs) - these refer to the legislative requirements concerning the climate and the environment, public health and plant health, and animal welfare. These are laid down in legislation and are applicable to all farmers - not just those participating in CAP interventions.
2. Good Agricultural and Environmental Condition (GAEC) - these refer to a range of standards concerning soil, climate change mitigation, habitats, and water. There are nine GAECs in the agreed Regulation. These apply to all farmers receiving CAP support and have been tailored to Ireland based on farm size, farm structures and the specific characteristics of the areas concerned, including soil and climatic condition, existing farming systems and land use. Further information in relation to Conditionality in general including the relevant SMRs and GAECs, is available from the Department of Agriculture, Food and the Marine website at gov.ie - Conditionality (www.gov.ie)

Good Practice and SFM

Adherence to good forestry practice and the principles of Sustainable Forest Management (SFM) is mandatory and applies across all operations of the Scheme. Guidance on how forestry operations should be carried out so as to ensure compliance with SFM is provided in the Code of Best Forest Practice – Ireland.

Penalties

Failure to comply with the terms and conditions of the Scheme and or circulars amending scheme requirements and the relevant environmental guidelines and requirements may result in an appropriate penalty or sanction being applied.

Penalties which shall apply to certain specific breaches of the Scheme are set out in the document titled *Forestry Schemes Penalty Schedules (DAFM 2023)* which are a condition of grant aid. Other breaches of the Scheme not specified in the Scheme Penalties Schedules may also incur a penalty. However, all or any failure to comply with the scheme or any breaches of its terms and conditions may result in a penalty.

Penalties may include the repayment of all or part of the grant.

Monetary penalties shall include interest payable at the rate provided for under *S.I. No. 13 of 2006*. Interest shall be calculated for the period elapsing between a date specified in a notification to the applicant of the repayment obligation and either repayment or recovery by deduction.

Penalty amounts may be deducted from future payments due to the Applicant under the forestry schemes or from payments due under other schemes administered by DAFM. Where monetary penalties are not paid or recovered within the period requested, DAFM may take whatever action is deemed necessary for their recovery. DAFM may also recover the monies as a simple contract debt in a court of competent jurisdiction.

The principle of proportionality will apply. Penalties may be imposed that are, in the opinion of the Minister, proportionate to the alleged breach of the Scheme.

The imposition of a penalty shall not relieve an Applicant of an obligation to comply with an instruction from the Minister to undertake remedial works in respect of a forest.

Appeals

The applicant, or a registered forester acting on behalf and with the written permission of the applicant, may appeal against a decision of DAFM regarding (i) an application for approval; (ii) a grantor (iii) a penalty. Any applicant dissatisfied with a decision relating to a payment, or entitlement to payment, of a grant or annual premium may request an internal review procedure within the Department of Agriculture, Food and the Marine.

If the applicant is dissatisfied with the decision of the internal review, the person may appeal to the Agriculture Appeals Office (AAO) within three months of notification of the decision under appeal. The appeal must be made in writing and addressed to the Director, Agriculture Appeals Office, Kilminchy Court, Portlaoise, Co. Laois R32DTW5.

Change of Applicant

DAFM must be notified in advance if:

- i. a grant-aided forest is transferred, sold, leased or otherwise disposed of by the applicant during the term of the reconstitution contract; or
- ii. a judgement mortgage or an inhibition or similar restriction is placed on the Folio for the afforested land during the term of the contract.

In the event of the death of the applicant i.e. owner, joint owner or joint manager who was claiming the reconstitution grant, DAFM must be notified as soon as possible by the deceased's next-of-kin, legal personal representatives or registered forester.

When notice of a change of ownership is received by DAFM, payment will be suspended until a new applicant is registered in the scheme. The new owner will be entitled to apply for the reconstitution grant.

New applicants must submit all necessary documentation as early as possible and no later than one year after the date of the deed of transfer for the land ownership change, or the date that a deceased applicant's estate is settled. Failure to meet these deadlines may result in a new owner not being admitted to the scheme and the contract will, in effect, be terminated.

- i. In every case, all documentation relating to change of ownership and applications for payments must be submitted before the expiry of the term of the contract. In exceptional circumstances (e.g. delays in finalising a deceased person's estate), the date by which documents must be submitted may be extended at the discretion of the Minister.
- ii. All decisions regarding eligibility for payment of grant will be made by reference to the level of compliance with the conditions of the Scheme, including the completion of

outstanding remedial works, on the date of the deed of transfer of a forest or the date that a deceased applicant's estate is settled. For example, where remedial works have not been satisfactorily completed by the date of the deed of transfer, the new owner will be responsible for completion of the remedial works and, once satisfactorily completed, s/he will be eligible to apply for payment of grants due for the period after the date of the deed if not already paid.

- iii. The Minister will refuse payment of grant to the previous owner(s) if s/he has failed to maintain the forest to the standard required under the Scheme for the period of the reconstitution contract under their ownership.
- iv. DAFM will not divide grant payments according to ownership for part of a year; individual grant payments will not be split or subdivided. The parties to any sale or transfer should take these payments into account in the timing and terms of their legal arrangements and/or contracts for sale.
- v. In exceptional circumstances affecting a change of ownership process, at his or her discretion, the Minister may extend the closing date of a contract subject to such conditions as may be specified by the Minister.
- vi. Where a debt is accrued under a contract for any reason and the cause of the debt has existed and/or continued during the ownership of more than one owner, the debt will be allocated in accordance with the amount of overpayment received by each owner; each owner will be responsible for repaying the overpayment s/he received.

Further information about the procedures involved when a grant-aided forest is being transferred, sold, leased or otherwise disposed of during the term of the contract is available at: <https://www.gov.ie/en/publication/cf6cc-grant-aided-forestry-change-of-ownership-or-applicant/>

Joint Management Consent

A landowner may enter into a joint management arrangement with an immediate family member to jointly manage the forest and assign the reconstitution grants to that family member. A joint management arrangement may only be made between immediate family members, namely the spouse, children, parents and/or siblings of the landowner. Joint Management Consent forms are available in the *Forestry Standards Manual*.

The owner of the land and the applicant are both liable for the repayment of grants paid if the applicant fails to abide by the conditions of the scheme.

A joint management arrangement may be cancelled at any time provided the owner takes over the obligations of the scheme.

Right of Entry

The Minister reserves the right to carry out inspections at reasonable times on any land submitted for approval or on any land for which reconstitution grants have been paid or claimed under this Scheme or any other forest-related Scheme. Applicants are obliged to ensure that, where required, adequate access to the land and forests is provided to allow inspections by DAFM.

Responsibility for Forest Management

Responsibility for the successful reconstitution of the forest rests with the applicant. Where an applicant contracts the services of a third party to carry out works, and to prepare and submit claims, it is the applicant's responsibility to ensure that the third party contracted has sufficient insurances to indemnify the work undertaken. Any issue arising under this contract due to the detriment of the applicant, such as inadequate work, or preparing an inaccurate claim, etc., is a matter for the owner to resolve with the third party.

The inspection of a forest by DAFM shall not relieve the applicant of responsibility for the accuracy of applications submitted, the successful reconstitution of the forest, or any responsibility to meet the required standards or terms and conditions of the scheme. DAFM is not liable for errors (or financial loss) as a result of inaccurate claims or faulty workmanship by the applicant or their forester. DAFM does not guarantee the success of any reconstitution works or bear any liability in respect of any forest for which it has granted approval in any circumstances. It is the sole responsibility of the applicant who submits land for reconstitution that the forest will successfully be reconstituted. If DAFM subsequently determines that a forest, or any part thereof, has not been reconstituted/under planted in accordance with the approval issued, the applicant will be required to repay all grants in respect of the works or any part of the forest which has not been reconstituted as approved.

Review of Financial Aids

The Minister reserves the right in his absolute discretion to vary, where occasion so demands, the amount of financial aid wherever specified in the Scheme.

Insurance

Applicants should ensure that their forest has adequate insurance cover against damage from, inter alia, fire, and windblow, etc.

Failure to abide by the terms and conditions of the scheme

Where, for the purposes of obtaining payment under this Scheme, the applicant or a person acting on their behalf knowingly makes a false or misleading statement or withholds essential information, the applicant's participation in the Scheme may be terminated and all or part of the aid paid shall be repaid.

Where an applicant or a person acting on their behalf fails to abide by the terms and conditions of the Scheme, or there is any material change in the circumstances of the applicant which would be in conflict with the letter or the spirit of the Scheme, the applicant's participation in the Scheme may be terminated and all or part of the aid paid shall be recovered by DAFM. DAFM may offset the amount owed from any other monies due to the applicant by DAFM or it may seek to recover the amount as a simple contract debt in a court of competent jurisdiction.

The obtaining of aid under the Scheme by fraudulent means by the applicant or others acting alone or together may render such persons liable to prosecution.

Overpayments made in relation to a scheme contract

If it is subsequently found that any undue payment or overpayment has occurred in respect of any grant or other payment made under the scheme, The applicant will be liable to repay the

entire amount of the undue payment or overpayment from the applicant, regardless of how the undue payment or overpayment arose.

DAFM may offset the amount owed from any other monies due to the applicant by DAFM. DAFM may also recover the monies as a simple contract debt in a court of competent jurisdiction.

Amounts to be recouped may be deducted from future payments due to the applicant under the forestry schemes or from payments due under other schemes administered by DAFM. Where debts are not recovered within the period specified, DAFM may take whatever action is deemed necessary for their recovery.

Procedures

The Minister reserves the right from time to time to alter or add to the procedures to be followed in the operation of this Scheme.

Tax Clearance Requirement

It is a condition of this Scheme that all grant-aided activities shall be conducted in compliance with the laws of the State relating, inter alia, to tax and employment. Proof of compliance, such as the provision of Tax Clearance Certificates, may be required by DAFM.

Department of Finance Circular 44/2006: Tax Clearance Procedures Grants, Subsidies and Similar Type Payments requires that a person in receipt of grants, subsidies or similar type payments of €10,000 or more in a 12-month period from a government department must produce, for each payment, a valid tax clearance certificate.

VAT

All grants paid under the Fixed Grant Scheme are exclusive of VAT.

Information and Data Protection

The Minister reserves the right to make information available to the public regarding the areas covered by the Scheme including the number of participants, farms, historical and archaeological sites, hectares covered, forest location etc. while continuing to observe the terms of the Data Protection Act.

Under State Aid rules DAFM will publish details of beneficiaries that fall within the categories described.

By declaring their eligibility and consent to apply for the Reconstitution Scheme, applicants must agree to the release of non-personal information supplied by them in respect of their application to comply with current environmental consultation procedures. Furthermore, applicants consent to be contacted by DAFM in respect of approved forestry training courses. Applicants must also consent to the release of their details to Teagasc and Timber Producer Groups who may subsequently communicate with applicants in relation to the forestry training and development and the harvesting of timber.

The General Data Protection Regulation (GDPR) came into force in the European Union from 25th May, 2018. The GDPR affects the way in which businesses and organisations, such as Forestry Division and the Forestry Inspectorate of the Department of Agriculture, Food and the Marine (DAFM), process the personal data of all EU citizens. The regulation will give individuals greater control over how their data are collected and processed.

A comprehensive guide to GDPR and how it affects private individuals that come into contact with the Department is included in Annex 3 to this document.

All information supplied by applicants in respect of a reconstitution approval and/or grant claim and any supporting documentation shall be made available to any other Department or Agency or Local Authority for the purposes of consultation, Audits, Cross Compliance Controls and all Rural Development measures, and, as appropriate, in accordance with the requirements under the Freedom of Information Acts.

7. State Aid requirements

The main State aid elements that require input from an applicant are as follows:

Proportionality of the aid

Aid granted under this scheme must be proportionate. Support is considered proportional only if the same result could not be achieved with less aid, in other words if the amount of aid is limited to the minimum necessary.

The aid amount should not exceed the minimum necessary to render the project sufficiently profitable, for example should not lead to increase its IRR beyond the normal rates of return applied by the undertaking concerned in other investment projects of a similar kind or, when available, to increase its IRR beyond the cost of capital of the undertaking as a whole or beyond the rates of return commonly observed in the sector concerned. For example the IRR should be comparable with returns experienced by entities which are not large companies. Where the IRR exceeds this reference figure then the application may be refused.

In the case of aid for large enterprises, it shall be conditional on the presentation of relevant information from a forest management plan or equivalent instrument in accordance with the General Guidelines for the Sustainable Management of Forests in Europe. This requirement does not apply to municipalities that are autonomous local authorities with an annual budget of less than EUR 10 million and fewer than 5,000 inhabitants.

Transparency

Ireland shall publish the following information on the State aid schemes: the full text of the notified aid scheme and its implementing provisions, the granting authority, the names of the individual beneficiaries, the form (in particular the aid instrument) and amount of aid granted to each beneficiary, the date of granting, the type of undertaking (SME/ large enterprise), the region (at Nomenclature of Units for Territorial Statistics or NUTS level II) in which the beneficiary is located and the principal economic sector in which the beneficiary has its activities, at NACE group level. This requirement only applies to individual aid awards greater than:

- (i) EUR 10,000 for beneficiaries active in the primary agricultural production;
- (ii) EUR 100,000 for beneficiaries in the sectors of the processing of agricultural products, the marketing of agricultural products, the forestry sector or activities falling outside the scope of Article 42 of the Treaty.

Annex 1

Grant Rates Reconstitution

Option	DAFM Scheme	Detail
Reconstitute	Ash Reconstitution Scheme	<p>Two elements to this work supported as follows:</p> <p>Support for site clearance @ €2,000/ha cleared.</p> <p>Support for reconstitution. Reconstitution grant will be paid at the appropriate rate, based on species mix planted and associated Forest Type, described in the Afforestation Scheme.</p> <p>Continuation of premiums.</p> <p>Premium payments will continue for the period remaining on the afforestation premiums. For sites undergoing reconstitution where the replacement species results in a change of GPC, the annual premium will be adjusted to reflect the new GPC rate under the original planting programme.</p> <p>An additional top up premium will be paid equivalent to the difference between the ongoing premium and the associated Forest Type (FT) premium as described in the afforestation scheme proposed under the Forestry Programme 2023-2027. This top up will be calculated for the remaining years of premium and paid in a single sum. For those in receipt of non-farmer rate of premium a top up €300 will be paid per hectare, calculated for the remaining period left in premium and paid in a single sum.</p>

Table 1: Grant Rates

	Forest Type	Grant/ha
FT1	Native forests	€6,744
FT6	Broadleaf, mainly oak/beech	€6,744
FT7	Diverse Broadleaf	€4,314
FT8	Agroforestry	€8,555
FT10	Continuous Cover Forestry	€5,421
FT11	Mixed high forests: Diverse Conifer, minimum 20% broadleaves	€4,452
FT12	Mixed high forests with mainly Sitka spruce, minimum 20% broadleaves	€3,858

Annex 2

Regulatory and Funding Framework

- Forestry Act 2014
- European Habitats Directive (Council Directive 92/43/EEC) which aims to maintain or restore the favourable conservation status of habitats and species which are threatened throughout Europe and deemed highly sensitive to change. These habitats and species are listed in the Habitats Directive and the Birds Directive (Directive 2009/147/EC).
- Water Framework Directive
- Legislation regarding archaeology and built heritage, including the National Monuments Acts 1930 to 2014
- Forestry Regulations, 2017 (SI Number 191/2017), as amended;
- Commission Regulation (EU) No 1407/2013 on the application of articles 107 and 108 of the Treaty on the Functioning of the European Union with regard to de minimis aid (Official Journal L:2013:352I).
- Destructive Insects and Pests Acts, 1958 and 1991, No. 11 of 1958 & No. 4 of 1991;
- European Communities (Marketing of Forest Reproductive Material) Regulations, 2002 (SI Number 618/2002),
- European Communities (Phytosanitary Measures) Regulations 2004 (SI Number 578/2004)
- European Communities (Control of Organisms Harmful to Plants and Plant Products) Regulations 2004 (SI Number 894/2004)
- European Union (Timber and Timber Products) (Placing on the Market) Regulations 2014 (SI Number 316/2014)
- European Union (FLEGT Licensing Scheme for Imports of Timber) Regulations, 2015 (SI Number 251/2015).
- DAFM requirements, procedures and protocols, e.g. the terms and conditions of the Afforestation Scheme (if grant aid is being sought), the Forestry Standards Manual; the Forestry & Freshwater Pearl Mussel Requirements; the Forestry & Kerry Slug Guidelines; the Forestry & Otter Guidelines; adherence to the Acid Sensitivity Protocol and the Forest Protection Guidelines.
- Forestry & Archaeology Guidelines
- Forestry & the Landscape Guidelines
- Forest Biodiversity Guidelines
- Forestry & Freshwater Pearl Mussel Requirements
- Forest Harvesting and Environmental Guidelines
- Standards for felling and reforestation
- Forestry Standards Manual
- Code of Best Forest Practice – Ireland
- Circulars amending scheme requirements
- Forestry Schemes Penalty Schedules

In addition to the above, DAFM published two documents in 2016 following extensive public consultations with stakeholders and the European Commission. These were as follows:

- The Environmental Requirements for Afforestation document focuses on consolidating all relevant safeguards into a single coherent document dealing exclusively with afforestation and takes onboard more recent developments in relation to regulation, research and changes in forest practices. Enhanced protection of the environment and in particular water quality.
- The Land Types for Afforestation document sets out the procedure for establishing the potential eligibility of land for support under the Afforestation Scheme, based on the capability of that land to produce a sustainable crop of timber. The procedure utilises an established relationship between vegetation on a site and its potential productivity. Using this relationship and incorporating other limiting factors (e.g. poor drainage, exposure and rocky outcrops), areas such as active blanket bog, lowland blanket bog, raised bog, and wet and dry heath (all of which

could be perceived as 'green bog') are classed as 'unsuitable' and therefore ineligible under the Afforestation Scheme.

APPROPRIATE ASSESSMENT PROCEDURES

As the 'competent national authority' the Department of Agriculture, Food and the Marine has developed Appropriate Assessment Procedures (AAP) to reflect the requirements under Article 6(3) of the Habitats Directive which sets out the requirement for Appropriate Assessment in relation to SACs and SPAs (or 'Natura sites').

Any application for a Forestry Regulation S.I.191 / 2017 licence and / or forestry grant support is regarded as a 'project'. The area where the proposed activity (and ancillary operations) is to take place, is the 'project area'.

DAFM as the competent authority must be sure that the project meets the exacting requirements set out under Article 6(3). The process comprises two steps: AA screening, and (if necessary) Appropriate Assessment. They are often referred to as 'Stage 1' and 'Stage 2', respectively.

Details are available in Circular 20 of 2020 Appropriate Assessment procedures.

Annex 3

Data Protection – Data Protection Notice

The General Data Protection Regulation (GDPR)¹ has come into force across the European Union on 25th May, 2018. It affects the way in which businesses and organisations, such as Forestry Division and the Forestry Inspectorate of the Department of Agriculture, Food and the Marine (DAFM), process personal data for all EU citizens. It will give people greater control over how their data are collected and processed. Personal data are any information that can identify an individual, such as name, address, land parcel information, etc. Persons employed by a company (not a sole trader) are not classed as “individuals” under GDPR.

Part A: Information applicable to all Department of Agriculture, Food and the Marine customers

General Information

The Department of Agriculture, Food and the Marine (the “Department”) is fully committed to keeping all personal data submitted by its customers, safe and secure during administrative processes. All necessary technical measures have been put in place to ensure the safety and security of the systems that hold this data.

Transparency and openness in the use of personal data held is important to the Department and therefore we aim to fully inform all our customers about the purpose(s) for which their data will be used and why, where it may be shared elsewhere and why and how long their data may be held by the Department. Information on the rights of customers will also be provided.

The current legislation for Data Protection in Ireland is the Data Protection Act 1998 as amended by the Data Protection Act, 2003. The General Data Protection Regulation (EU 2016/679) came into effect on 25th May 2018. It replaces the previous data protection directive which has been in force since 1995 and forms the basis of our new data protection Irish laws (Data Protection Acts 1988-2018).

The Data Controller for the collection and processing of all personal data in the Department of Agriculture, Food and the Marine is the Department itself, as a legal entity. The Data Protection Officer of the Department may be contacted as follows:

Data Protection Officer
Data Protection Unit, Corporate Affairs,
Department of Agriculture, Food and the Marine
Grattan Business Park, Dublin Road,
Portlaoise, Co Laois. R32 K857
Email: dataprotectionofficer@agriculture.gov.ie

You also have the right to lodge a complaint with the Data Protection Commission if you are unhappy with our processing of your personal data. Details of how to lodge a complaint can be found on the dataprotection.ie website, or you can call the Data Protection Commission on 1800 437 737 / 01 7650100

Personal data processed by the Department will only be used for the specific purpose(s) as outlined when data are collected, or in later communications, and will only be used in accordance with the data protection legislation in force.

Rights of the individual in relation to personal data held by the Department:

When you, as a customer, provide personal data to the Department you have certain rights available to you in relation to that data. These rights are outlined below and can be exercised by contacting the Data Protection Officer, indicating which right(s) you wish to exercise:

Currently all of the Department's customers have the following rights (up to and including 24th May 2018):

- Access to their data;
- Rectification of their data;
- Erasure of their data;
- Right to lodge a complaint with the Data Protection Commissioner.

From 25th May 2018 onwards, all Department customers will also have the following additional rights:

- Restriction of processing;
- Data portability;
- Objection to processing;
- Withdrawal of consent if they previously gave it in relation to processing of their personal data;
- Relating to automated decision making, including profiling.

Definitions and further information

Data Subject – as a customer of the Department of Agriculture, Food and the Marine, you are the data subject.

Personal Data – any information relating to a data subject, (this is not an exhaustive list):

- Name, address, telephone number, email;
- Personal Public Services Number (PPSN); Forest Owner (FO) number; Contract Number (CN); Felling Licence Number (FL/GFL/TFL/LFL);
- Land information including parcel, plot number, etc.

The Department carries out research analysis of data relating to the national forest estate, which will include information on your forest, such as the type of forest, species, locations, etc. This does not fall under GDPR.

PART B: Information specific to the personal data being collected.

The following is specific information in relation to the personal data processed for the Afforestation Scheme

Specified Purpose

In processing applications under Forestry schemes and licences, this Department may use data that we already hold, including that which was previously collected for another scheme. The data are required for processing, assessment or verification of the application and/or eligibility under a scheme, including payments. Re-use of data already held is to avoid the need for you to re-submit data and also in the interest of administrative efficiency to facilitate the prompt processing of applications for payment.

Data includes:

- Details provided by you at the time of application for a forest owner number or to amend a forest owner number;
- Details submitted by you, as part of an application for Forestry schemes and licences;
- Land parcel information;
- Payments made;
- A Registered Forester authorised by you to act on your behalf;
- Inspections, risk analysis and results.

Data are used for the purpose of processing, assessment or verification of:

- Afforestation; tree felling; forest road works or aerial fertilisation licences;
- Afforestation Grant and Premium Scheme;
- Other forestry support schemes.

This Department may wish to use personal data provided by you for statistical, research or analysis purposes. This data will be used to facilitate this Department in informing policy decisions and negotiations on future Forest schemes, for the benefit of scheme participants.

Legal Basis

Department Forestry schemes and licences are implemented and processed under the following legislation:

- Forestry Act, 2014;
- Forestry Regulations, 2017 (SI Number 191/2017), as amended;
- Commission Regulation (EU) No 1407/2013 on the application of articles 107 and 108 of the Treaty on the Functioning of the European Union with regard to *de minimis* aid (*Official Journal L:2013:352I*);
- Destructive Insects and Pests Acts, 1958 and 1991, No. 11 of 1958 & No. 4 of 1991
- European Communities (Marketing of Forest Reproductive Material) Regulations, 2002 (SI Number 618/2002);
- European Communities (Phytosanitary Measures) Regulations, 2004 (SI Number 578/2004);
- European Communities (Control of Organisms Harmful to Plants and Plant Products) Regulations 2004 (SI Number 894/2004);
- European Communities (Control of Organisms Harmful To Plants and Plant Products) Regulations, 2004 (SI Number 894/2004);
- European Union (Timber and Timber Products) (Placing on the Market) Regulations, 2014 (SI Number 316/2014);
- European Union (FLEGT Licensing Scheme for Imports of Timber) Regulations, 2015 (SI Number 251/2015).

Recipients

Data provided to the Forestry Division of the Department are accessed by the Department's Accounts Division in order to facilitate the making of payments to you. As part of the public consultation process, which is a requirement for forestry licence applications, details of applications received and decisions made will be published on the Department's website. Furthermore, certain application information is made available to referral bodies, such as local authorities, National Parks and Wildlife Service, etc. excluding personal data. Information on applications may be requested by and made available to third parties, but in all cases, personal data are redacted.

Data may be transferred to an external processor, where required. The Department will have a data sharing agreement in place where such a transfer takes place. An example would be where mapping information is sent to an external digitising company.

Annex 4

Planning and Development Act 2000 (Exempted Development) (Number 5) Regulations 2022 (S.I. No 664 of 2022)

The Regulations insert a new Article (Article 8H) into the Planning and Development Regulations 2001. Article 8H provides that the replacement of broadleaf high forest by conifer species in areas less than 10 hectares (in areas other than a city, a town or other specified areas), currently exempted under Article 6(3) of the Planning and Development Regulations, remains exempted from the planning system even where an Environmental Impact Assessment (EIA) and/or Appropriate Assessment (AA) is required. In accordance with Section 4(4A) of the Planning and Development Act, the EIA and/or AA will be carried out pursuant to licencing processes under Section 6 of the Forestry Act 2014.

Guidance Note on Tree Felling, Replacement of Broadleaf High Forest by Conifer Species and Planning Permission

Under the Planning and Development Acts 2000 to 2015 and the supplementing Planning and Development Regulations 2001 to 2015, certain projects involving the replacement of broadleaf high forest by conifer species are excluded from the definition of 'exempted development', and thus in addition to the felling licence requirement such projects may also require Planning Permission from the relevant Local Planning Authority.

Furthermore, under the Regulations (Schedule 5, Part 2, Paragraph 1(d)(ii)) projects involving the replacement of broadleaf high forest by conifer species where the area involved would be equal to or greater than 10 hectares in size are subject to a requirement for the proposer to submit an Environmental Impact Statement (EIS) and an Environmental Impact Assessment (EIA) be undertaken by the relevant Local Planning Authority. Developments below that threshold may also be required to be screened for an EIS/EIA and / or obtain planning permission.

It is important to understand the issuance of a Tree Felling Licence by the Minister for Agriculture, Food, and the Marine under the Forestry Act 2014 and Forestry Regulations (or a declaration of an exemption there from), the issuance of Disposal Notice under an Order made under Destructive Insects and Pests Acts 1958 and 1991, and/or an Approval for the Reconstitution Scheme for that matter, does not absolve a forest owner from any requirement in law to obtain such other approvals, consents, licences, permissions and/or authorisations that may be necessary for the exercise of the entitlements under the felling licence, the scheme approval, or to the discharge the obligations under a Disposal Notice.

Forest owners should consider, before commencing any ash clearance and replacement works, in particular where it is their proposal to replant a broadleaf high forest exclusively with conifer species, any other obligations on them arising under the Planning and Development Acts and Regulations.

Under Section 5 of the Planning and Development Act 2000 (as amended) any person, on payment of the prescribed fee, may request in writing from their Local Planning Authority a Declaration as to what in any particular case is or is not exempted development within the meaning of the Act, i.e. does or does not require planning permission etc.

On making such an application a person may be obliged to provide to the Local Planning Authority with further information to enable the authority to make a decision on the matter.

Annex 5

Definitions

For the purposes of this Scheme:

- **'Applicant'** means a person who has applied for Approval under the Scheme or has carried out reconstitution work to a forest following an Approval under the Scheme;
- **'Approval'** means a Pre- Approval for the Reconstitution Ash Dieback Scheme 2023 – 2027 granted by the Minister;
- **'Application, Pre-Approval – Form 1'** shall mean an application for the Minister's approval to carry out site clearance works and reconstitute a forestry forest under the terms of all current legislation, guidelines and the conditions of this scheme;
- **'Application – Site Clearance Grant – Form 2'** shall mean an application to receive a grant following the removal of trees in accordance with the terms of the written approval granted by DAFM;
- **'Application – 1st Instalment Grant – Form2(a)'** shall mean an application to receive a 1st instalment grant following the reconstitution (replanting) of a forestry forest within the terms of the written approval granted by DAFM;
- **'Application – Second Instalment Grant – Form 3'** shall mean an application to receive a 2nd instalment grant, 4 years after the completion date of the reconstitution of the forest;
- **'Appropriate Assessment'** means an assessment in accordance with the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011);
- **'Completion Date'** shall mean the date the reconstitution works are completed to the required standard. This date shall be the base line date by which all subsequent payments are based;
- **'Coupe'** As defined for the purpose of this scheme A small area of forest within a compartment that is harvested in a single operation;
- **'DBH'** Diameter at breast height;
- **'Department' or 'DAFM'** means the Department of Agriculture, Food and the Marine;
- **'Disposal Notice'** shall mean a direction under Regulation 5 of S.I. No. 411/2012;
- **'Environmental Impact Assessment (EIA)'** means an assessment in accordance with the Forestry Regulations 2017 (S.I. No. 191 of 2017), as amended;
- **'Farm' or 'Holding'** means all the land parcel production units in the State (owned, leased or rented) that are under the control of the applicant;
- **'Farmer'** is defined as a person who carries out an agricultural activity such as 'the rearing or growing of agricultural products including harvesting, milking, breeding animals and keeping animal for farming purposes';
- **'Forest'** is as defined in the Forestry Act, 2014, - "land under trees with (a) a minimum area of 0.1 ha, (b) tree crown cover of more than 20% of the total area, or the potential to achieve this cover at maturity"; ans/ or "means a plot or number of plots on the same holding, planted in a single planting season and the subject of a single application";
-
- **'Forestry Environmental Guidelines'** means the following publications as amended from time to time: 'Forestry and Water Quality Guidelines'; 'Forestry and Landscape Guidelines'; 'Forestry and Archaeology Guidelines'; 'Forest Biodiversity Guidelines'; 'Forest Harvesting and the Environment Guidelines'; 'Forestry and Aerial Fertilisation Guidelines'; 'Forestry and Forest Protection Guidelines'; Otter Guidelines and 'Forestry and Freshwater Pearl Mussel Requirements'. The Minister may, from time to time, amend the guidelines or add further guidelines to this definition;
- **'Immediate Family Member'** means Spouse, Parent, Brother, Sister, Son or Daughter.
- **'Joint Management Consent'** means consent submitted by the owner of specific lands consenting to the payment of grants and/or premiums to an immediate family member who jointly manages the forest;
- **'Lease'** means a term of years absolute in possession for at least 40 years from the commencement date of the contract under the Scheme;
- **'Minister'** means the Minister for Agriculture, Food and the Marine;

- **‘Penalty Schedules’** means the schedules outlined and described in the “*Forestry Schemes Penalty Schedules (DAFM 2015)*” document;
- **‘Plot’** means an area of one species or a species mix;
- **‘Potential Crop Trees’** shall mean trees selected marked and retained for final harvest. Trees should display resistance to *Hymenoscyphus fraxineus* show good stem form have good vigour and distribution;
- **‘Reconstitution’** Clear the ash stand and replace with appropriate alternative species.
- **‘Stem Assessment’** Assessment of the merchantable timber;
- **‘Stem infection’** is defined for the as the merchantable timber having one or more *Hymenoscyphus fraxineus* induced stem lesions;
- **‘Merchantable timber’** ‘As defined for the purpose of this scheme is timber at 7cm DBH to the timber height or the spring of the crown;
- **‘Registered Forester’** means a qualified person named on the Register of Foresters and Forestry Companies, available from DAFM;
- **‘Damage Assessment’** an assessment carried out by a suitably qualified person as per Standard Operating Procedure documented in Assessing Stem Damage *Hymenoscyphus fraxineus* (Ash dieback);
- **‘Scheme’** shall mean the Reconstitution Ash Dieback Scheme 2023 – 2027;
- **‘Sustainable Forest Management’** means the stewardship and use of forests and forest lands in a way, and at a rate, that maintains their biodiversity, productivity, regeneration capacity, vitality and their potential to fulfil, now and in the future, relevant ecological, economical and social functions, at local, national and global levels and that does not cause damage to other ecosystems.



An Roinn Talmhaíochta,
Bia agus Mara
Department of Agriculture,
Food and the Marine