



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

Climate Action Performance Payment Scheme

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

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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.

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.

The Department has introduced the following schemes to clear and replant ash forests impacted by ash dieback:

- Reconstitution Scheme Ash Dieback 2013
- Reconstitution and Underplanting Scheme (Ash Dieback) 2020
- Interim Reconstitution Scheme for Ash Dieback 2023
- Reconstitution for Ash Dieback Scheme 2023-2027

In addition, the Climate Action Performance Payment Scheme (CAPP) is now available for forest owners where the forests have been replanted under a reconstitution scheme for ash dieback. The CAPP will be paid in three instalments totalling €5,000 per hectare.

2. Outline of Climate Action Performance Payment Scheme

A Climate Action Performance Payment, totalling €5,000 per hectare will be paid in three instalments to grant aided ash forest owners who clear their sites and replant through one of the Department's Ash Dieback Reconstitution Schemes. This is in addition to the grants paid for clearance and replanting

If you previously joined one of the following Department of Agriculture, Food and Marine Schemes you are eligible for the Climate Action Performance payment, provided you have replanted:

- Reconstitution Scheme Ash Dieback 2013
- Reconstitution and Underplanting Scheme (Ash Dieback) 2020
- Interim Reconstitution Scheme for Ash Dieback 2023
- Reconstitution for Ash Dieback Scheme 2023-2027

If you planted an ash forest with a grant from the Department and have not yet joined a reconstitution scheme, you may now apply to join the 'Reconstitution Ash Dieback Scheme 2023-2027'. Details of the scheme can be found at: <https://www.gov.ie/ashdiebacksupports>

This Scheme document should be read in conjunction with the relevant reconstitution scheme document.

3. Payment Rates

This is a fixed scheme paid at a rate of €5,000 per hectare paid on the basis of the area determined at first grant on the relevant Ash Dieback Reconstitution Scheme.

The payment will be in 3 instalments as follows:

- i. 1st instalment of CAPP - €2,500
An application for the 1st instalment of the CAPP payment may be made after an applicant receives payment of an Ash Dieback Reconstitution scheme replanting 1st instalment grant.
- ii. 2nd instalment of CAPP - €1,250
An application for the 2nd instalment of the CAPP payment may be made the year after receipt of the first CAPP payment once an applicant has received payment of an Ash Dieback Reconstitution scheme 2nd instalment grant and have received all premium payments on the related Afforestation contract. (The 2nd instalment grant on an Ash Dieback reconstitution scheme can be applied for 4 years after the 1st instalment Ash Dieback Reconstitution scheme grant has been paid.)
- iii. 3rd instalment of CAPP - €1,250
An application for the 3rd instalment of the CAPP can be made the year after the second instalment of CAPP has been paid.

Ash forest owners become entitled to apply for the CAPP payment once the first grant has been paid on their reconstitution scheme application. There is an online facility to apply for the CAPP payment. Online applications can only be made directly by the forest owner who is associated with the relevant reconstitution scheme.

4. Application Procedure

Applicants can apply online for the Climate Action Performance Payment (CAPP) as follows:

- Log on to www.agfood.ie
- Enter your **Username**.
- Enter the requested digits from your **Personal Access Code (PAC)**.
- Enter your **Password**.
- Select **Logon**.
- Select (**Forestry Grants & Premiums**) from the menu of applications.
- Select option to Apply **or update your Climate Action Performance Payment**
- Select a **contract** by **highlighting your contract number**
- Select **Start Submission**.
- De minimis declaration will be displayed. (see [Section 7](#) for more information)
- You will be given the option to select "**yes**" (I have received other de minimis payments in addition to those payments listed in table 1) or "**no**" (I have not received any other de minimis payments besides those listed in table 1).
- If you select "**no**" then click "**Save the Declaration**" and **continue**.
- If you select "**yes**" you must complete relevant details in the tables provided where appropriate and when complete, click "**Save the Declaration**" and **continue**.
- Enter the original **Afforestation Contract Number**
- Tick the box for "**I/we confirm that I/we are the current landowner(s)**".
- Enter the **Folio Number** if known
- Tick the box for "**I/we confirm that the forest area affected by ash dieback has been replanted, is growing satisfactorily and the trees in the reconstitution are being maintained**".
- Tick "**I accept these terms and conditions and wish to proceed**"
- Tick "**I confirm that the ash trees have been cleared.....**"
- **Submit your application**.
- If you have more than one contract, select home and then repeat the process for the next contract.

If you have not already registered with the Department's Online Services (agfood.ie) you will need to do so in the first instance. Once registered, you will obtain a Username and Password, you will be able to log-in through the Department's website and submit your CAPP application. If you require assistance registering with the Online Services you can contact the Online Helpdesk on **049 4368288** or at agfood@agriculture.gov.ie

Department of Agriculture, Food and the Marine, Johnstown Castle Estate, Co. Wexford.
053-9163425.

Alternatively, you can contact the relevant section by email.

Email Addresses	Queries
forestryappenq@agriculture.gov.ie	Reconstitution Scheme
Forestry.CAPPayments@agriculture.gov.ie	Climate Action Performance Payment Scheme

CAPP payments will be made to the current forest owner. If the current landowner is not associated with the relevant reconstitution contract it will not be possible to apply online. These forest owners need to contact Forestry.CAPPayments@agriculture.gov.ie for further details.

All CAPP payments will be paid in line with de minimis rules and forest owners applying to this Scheme will need to make a De Minimis declaration. De Minimis are payments which are exempt from EU State Aid control but must be under a certain threshold.

It is therefore important to familiarise yourself with the de minimis rules as set out under this regulation Commission Regulation (EU) 2023/2831) Regulation - EU - 2023/2831 - EN - EUR-Lex (europa.eu).

The Declaration you make will show that you are aware of the rules and you must include details of any de minimis payments received during the previous rolling three-year period. If the cumulative amount of all de minimis payments received during the 3-year rolling period exceeds €300,000 the payment cannot be made, and payments made in excess of €300,000 will be recouped. The threshold of €300,000 includes all De Minimis payments regardless of the granting Department or agency, including those granted under other De Minimis Regulations such as Agricultural or Fisheries.

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).

In order to qualify for payment, 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 payment where it is found that an application was made by a person other than a person that meets the above criteria.

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 15/08/2024 for a period to be determined by the Minister for Agriculture, Food and the Marine.

Payments

As the contract under this Scheme is between the applicant and DAFM, payment is made to the applicant.

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, 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 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.
- The scheme is subject to Commission Regulation (EU) 2023/2831) Regulation - EU - 2023/2831 - EN - EUR-Lex (europa.eu
- 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 and any circulars amending the scheme requirements form the terms and conditions of this contract.

The Climate Action Performance Payment Scheme is conditional on meeting all the requirements and conditions of the relevant reconstitution scheme for ash dieback. The relevant schemes are detailed in (2) above.

Payments will be based on the area paid at first grant on the Ash Dieback Reconstitution Scheme that was applied for.

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.

Health and Safety are of paramount importance in Forestry operations. The Health and Safety Authority have published a number of guides on Health and Safety in the Forestry Sector which can be found on:

http://www.hsa.ie/eng/Your_Industry/Agriculture_Forestry/Forestry/

Penalties

Failure to comply with the terms and conditions of the Scheme or the relevant reconstitution 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 may appeal against a decision of DAFM regarding an application for payment. Any applicant dissatisfied with a decision relating to a payment, or entitlement to payment, 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 Climate Action Performance Payment Scheme 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 remaining CAPP instalments.

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 CAPP payments 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 CAPP payments 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 the scheme

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.

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 2 of 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.

De Minimis Aid

De Minimis involves small amounts of aid which are exempted from the scope of EU State Aid control or notification, due to the fact that the amount of aid involved is deemed to have no impact on competition or trade. General De Minimis aid given to an enterprise/undertaking cannot exceed €300,000 over any three calendar years to any individual or company. The threshold of €300,000 includes all De Minimis payments regardless of the granting Department or agency, including those granted under other De Minimis Regulations such as Agricultural or Fisheries.

As the Climate Action Performance Payment (CAPP) scheme operates within the framework of General De Minimis, it is important that all applicants considering availing of this scheme familiarise themselves with the rules set under Commission Regulation (EU) **2023/2831** on the application of Articles 107 and 108 of the treaty on the functioning of the European Union to de minimis aid, (Official Journal reference number *L*, 2023/2831,).

All payments within this scheme will be paid in line with de minimis rules. It is up to the applicant to familiarise themselves with the rules set out under this regulation.

These rules include the blocking of payments that would exceed the €300,000 threshold and recoupment of any payments made in excess of this threshold.

Participants in the scheme must be aware of their obligations in terms of declaring other de minimis aid and the possibility that they may not be eligible for payment of the Climate Action Performance Payment if the sum total of de minimis aid received exceeds €300,000 over a **rolling three calendar year** period. This aid is deemed granted on receipt and subsequent approval by the Department of a completed Form 2, Form 3 and Form 4 or CAPP Form declarations either using the Department's on-line system or in hard copy format. Therefore, the date of de minimis aid is not the date the Form is submitted nor is it the date in which the payment is actually made but is the date on which the payment was approved.

Where an applicant applies for de minimis payments either online or by hard copy and the €300,000 threshold is already exceeded or payment of that aid will cause it to be exceeded, the entire grant, premium or payment is blocked for payment and cannot be applied for in a later year. Where de minimis aid is paid and it subsequently transpires that the €300,000 threshold had already been exceeded at the time of payment or this aid caused it to be exceeded, the Department will deem this payment to be an overpayment and rules regarding penalties and debt recovery will apply. It is therefore vital that, where requested by this Department, the applicant should declare all de minimis paid to them during the relevant time period.

De minimis payments must be cumulated with other forms of de minimis aid such as de minimis aid in the agriculture sector (Commission Regulation (EU) No 1408/2013) and de minimis aid in the fishery and aquaculture sector (Commission Regulation (EU) No 717/2014). Each of these regulations have their own individual threshold limits. For the purposes of the CAPP scheme, the applicant must declare any such aid granted and it will be included within the general threshold of €300,000. The exception to this rule is where de minimis aid is granted under Commission Regulation (EU) No 360/2012 (undertakings providing services of general economic interest) where the ceiling allowed is the threshold set out under that Regulation.

De minimis aid is calculated on the basis of aid given to a single undertaking. This means for example that subsidiaries of a parent company are considered a single undertaking and aid to each subsidiary is combined for the purposes of checking that the de minimis threshold has been reached. Linked enterprises are defined in annex I of Commission Regulation (EC) No 800/2008. The existing threshold for de minimis is €300,000 but may be lower when future grants, premiums and payments fall due. It is not possible to predict what the future de minimis threshold will be and therefore applicants need to be aware that lower thresholds may apply when the current de minimis regulation is updated.

A declaration is required to indicate that you are aware of these rules and undertake to submit details of all de minimis payments during the previous rolling three-year period. The declaration also indicates that you understand that if the cumulative amount of all de minimis payments received during the 3-year rolling period exceeds €300,000 the payment cannot be made.

Annex 1

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:2013:352).
- 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

Annex 2

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).

Information in relation to the operation of the General Data Protection Regulation (GDPR) is available on the Department’s website <https://www.gov.ie/en/organisation-information/ef9f6-data-protection/>. For further details on the Forestry Division Privacy Notice, please click [here](#).

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 3

Definitions

For the purposes of this Scheme:

- **‘Applicant’** means a person who has applied for Approval under the Scheme or has received payment under the Scheme;
- **‘Approval’** means Approval for the Climate Action Performance Payment Scheme granted by the Minister;
- **‘Application – 1st Instalment’** shall mean an application to receive a 1st instalment within the terms of the written approval granted by DAFM;
- **‘Application – 2nd Instalment’** shall mean an application to receive a 2nd instalment on receipt of a second grant on an Ash Dieback Reconstitution Scheme and on completion of premium payments on the related Afforestation contract.
- **‘Application – 3rd Instalment’** shall mean an application to receive a 3rd instalment the year after the second instalment has been paid on the CAPP payment.
- **‘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”; and/ 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;
- **‘Reconstitution’** Clear the ash stand and replace with appropriate alternative species.
- **‘Registered Forester’** means a qualified person named on the Register of Foresters and Forestry Companies, available from DAFM;
- **‘Scheme’** shall mean the Climate Action Performance Payment Scheme

- **‘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