



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

Native Tree Area Scheme

Specification and Terms & Conditions

Amendments

Version	Date of revision	Summary of changes
1.1	05/03/2024	Changes to technical standards as per circular 04/2024
1.2	23/04/2024	Update to 3.9.1 Basic Income Support for Sustainability
1.3	27/05/2024	<ul style="list-style-type: none">• New Application Procedure added at section 3.4 (xiv)• Section 3.8 title changed from “Application Procedure” to “Stages in the Application Process”
1.4	02/07/2024	<ul style="list-style-type: none">• Interaction with afforestation scheme applications/refusals Section 3.4 (xv & xvi)• Clarification added on minimum width for adjoining parcels in Section 2.3 (3 iii)

Published by:

Forestry Division

Department of Agriculture, Food & the Marine

Johnstown Castle Estate

Co. Wexford

Tel. Lo-Call 1890 200 509

E-mail forestryinfo@agriculture.gov.ie

Web www.gov.ie/forestry

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Section 1: Introduction

Forests and trees provide a wide range of benefits that include social, environmental and economic values. Ireland has 11.6% forest cover in addition to the many individual trees found growing in hedgerows, parks and fields. The land use sector, including afforestation, has an important part to play in meeting the ambitious roadmap towards climate neutrality and, as outlined in the recently published Climate Action Plan, aims to afforest 8,000 ha annually to 2030. This target is ambitious when compared to recent afforestation rates and will be challenging to meet. Clearly more needs to be done to substantially increase Ireland's afforestation rates over the next decade.

The Government has the stated policy goal of incentivising small-scale tree planting and of re-engaging farmers with afforestation. This includes greater integration between the measures in the National Forestry Programme and the Common Agriculture Policy. However, the inclusion of small-scale tree planting measures in schemes is constrained by the 0.1 ha size limit imposed by the forest definition in the Forestry Act 2014.

Key to the success of increasing afforestation rates is to build confidence among landowners of the benefits of forestry as a viable option to complement existing enterprises. The introduction of an exemption for afforestation in limited circumstances facilitates the exclusion of clearly defined activities from requiring an afforestation licence. This exemption is an enabling proposal that allows the creation of forests through initiatives, other than the afforestation scheme, thereby contributing to Ireland's targets in relation to a wide range of environmental priorities particularly climate change, biodiversity and water quality.

The requirement to comply with environmental law is not undermined by the introduction of an exemption for afforestation in limited circumstances as all works are controlled by regulation through a Department scheme regulations. The development of a scheme will be undertaken following the completion of the Strategic Environmental Assessment (SEA) and Appropriate Assessment (AA) and subject to the findings of both assessments. Eligibility criteria and pre-emptive measures will be incorporated into the scheme to ensure that all tree planting works are undertaken in a legally compliant and sustainable manner.

In line with the provisions of the Animal Health and Welfare and Forestry Act 2022, the Department has provided for the scheme by Regulation, which was signed into law on the 29th September 2023. The Native Tree Area Scheme will open for applications on the 4th October 2023.

1.1 Statutory Changes

The Animal Health and Welfare and Forestry (Miscellaneous Provisions) Act 2022 enables the State by regulation to provide for a scheme to facilitate small-scale tree planting. The regulation shall:

- i). provide for the exemption of small-scale tree planting as part of a scheme from the requirement to obtain an afforestation licence under Section 22 of the Forestry Act 2014;
- ii). prescribe conditions for the exemption of small-scale tree planting, such as the requirements for the environment and environmental law;
- iii). prescribe the terms and conditions of that scheme and provide for grants for the carrying out of the small-scale tree planting prescribed by the regulations; and
- iv). provide that an exemption can only be granted where, on the basis of objective information, the proposed small-scale tree planting is not likely to have a significant effect on a European site

in view of the site conservation objectives, either individually or in combination, with other plans or projects.

Importantly, the statutory change proposed provides a nuanced approach by defining “native tree area” as meaning land under trees

- (a) with—
 - (i) an area of not less than 0.1 hectare and not greater than 1 hectare, or
 - (ii) an area of not less than 0.1 hectare that is not greater than 20 metres in width,
- and
- (b) where the trees concerned are native tree species only, of which not more than 25% are Scots pine.

In line with Section 9 of the Animal Health and Welfare and Forestry Act 2022, the Department has provided for the scheme by Regulation, which was signed into law on the 29th September 2023. Forestry (Native Tree Area Scheme) Regulations 2023 (SI 484 of 2023).

1.2 Purpose of this Document

The purpose of this document is to describe the Scheme and set out the Scheme requirements. The Department has prepared this document to ensure that landowners and their agents are aware of the Native Tree Area Scheme requirements. All applicants who wish to enter the Scheme accept that they are familiar with the Terms and Conditions outlined in this document and will comply fully with them. Further information is available by contacting lo-call 1890 200 509 or e-mail (forestryappenq@agriculture.gov.ie).

1.3 Objectives of the Scheme

The objectives of the Schemes are:

- i). to enable the State to pursue and achieve the transition to a low carbon, climate resilient, biodiversity rich and environmentally sustainable economy;
- ii). to encourage actions at farm level that promote biodiversity, protect water quality and help combat climate change;
- iii). to contribute to positive environmental management of Natura 2000 sites and river catchments in the implementation of the Birds Directive, Habitats Directive and Water Framework Directive;
- iv). to protect and expand existing native forests where possible; and
- v). to promote and sustain attitudinal change amongst farmers towards forestry.

1.4 Overview of Scheme Design and Operation

The design of initiatives to utilise these statutory provisions will have to ensure compliance with all environmental law (such as the EIA, Habitats and Water Framework Directives). In advance of the development of a Scheme the Department will be undertaking a SEA and AA for this Scheme as part of the Forest Strategy Implementation Plan.

The Native Tree Area Scheme will not follow the pre-approval process of the existing Afforestation Scheme. Direct entry to the Scheme will apply, using the same approach that is employed with Agri-

Environmental Schemes. The Scheme has been designed to minimise potential impacts from the outset using the best available information and by applying pre-emptive measures.

Pre-emptive measures have been introduced to ensure that tree planting works are undertaken in a legally compliant and sustainable manner. These measures are applied in the form of two distinct stages - Stage 1: Scheme Eligibility Map and Stage 2: Scheme Pre-Emptive Measures.

These generic measures are mandatory in nature for all areas to be included in the Scheme. They will not be proposed on a farm-by-farm basis by applying site specific conditions. Screening for appropriate assessment is taking place at Scheme level and not on a farm-by-farm basis for each individual application received.

Section 2: Scheme Specification

2.1 Overview

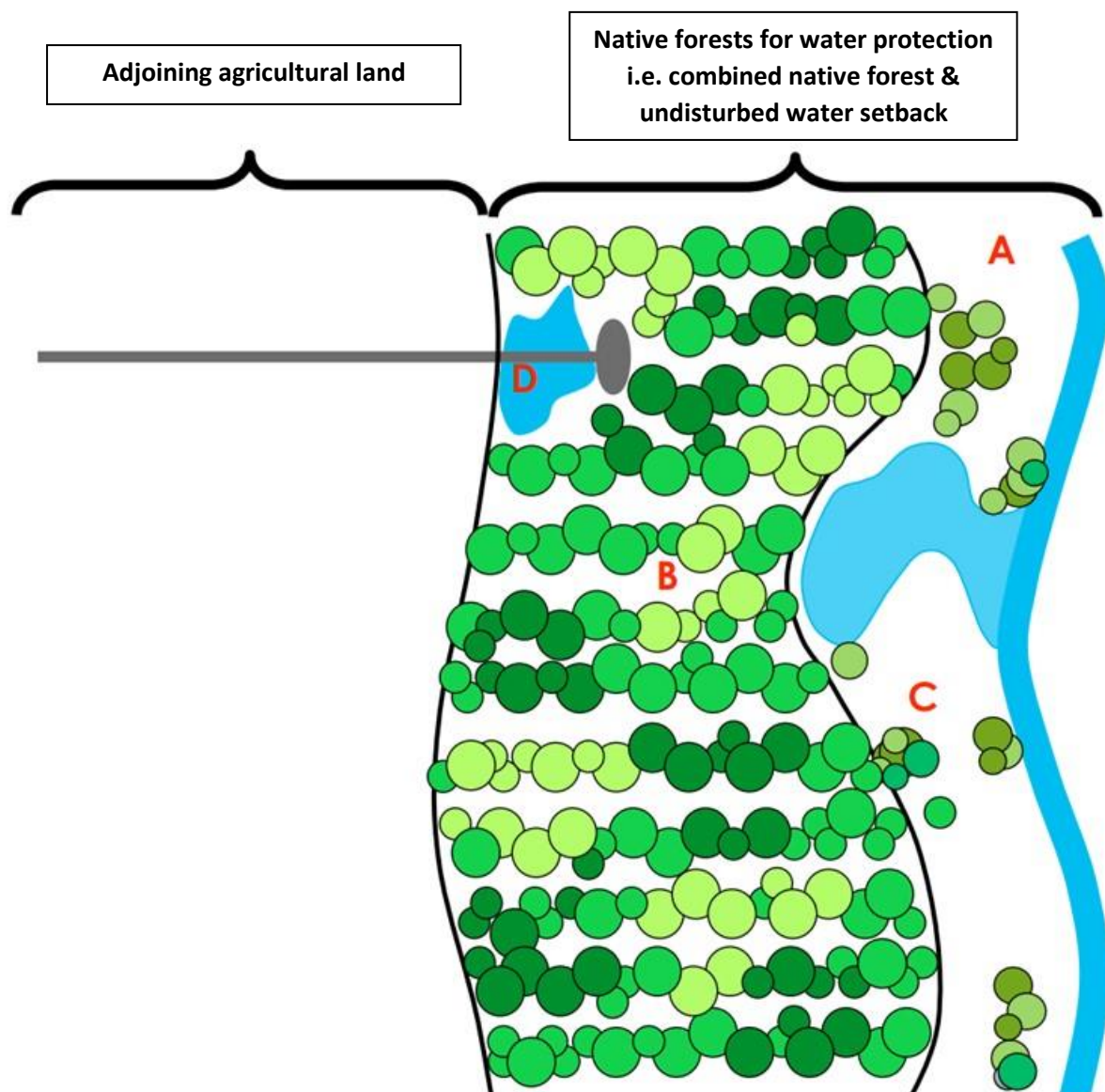
The Native Tree Area Scheme has been devised in order to enable the State to pursue and achieve the transition to a low carbon, climate resilient, biodiversity rich and environmentally sustainable economy. Within the Native Tree Area Scheme two different interventions are available to applicants:

- **NTA 1 - Creation of Small Native Forests**
Supports the establishment of new native forests on farmed land thereby contributing to Ireland's targets in relation to a wide range of environmental priorities particularly climate change and biodiversity.
- **NTA 2 - Creation of Native Forests for Water Protection**
Creating new native forests and undisturbed water setbacks that can be used to deliver meaningful ecosystem services that protect and enhance water quality and aquatic ecosystems (Figure 1). The creation of these permanent, semi-natural landscape features alongside water features¹ will protect and enhance water quality and aquatic habitats into the future. These forests also provide wider biodiversity functions by protecting and expanding existing native forests. Through the creation of these green corridors, existing native forests can be reconnected thereby addressing the negative effects of fragmentation.

Two Native Tree Area Scenarios are used to identify, at pre-application stage, the most appropriate forest type to promote onsite. A Registered Forester appraises the site in terms of its location, soil² and main habitats and vegetation, and matches it to one of two scenarios: Scenario 1 - Dry Mineral Soil and Scenario 2 - Wet Mineral Soil.

¹ Water features are defined as those features set out in Table 1 of the [Environmental Requirements for Afforestation](#) (i.e. aquatic zones, relevant watercourses, hotspots and drinking water abstraction points).

² For information on carrying out a walkover soil survey, see Annex 3 of the Native Woodland Establishment GPC9 & GPC10: Silvicultural Standards (September 2015)



Key:

- A** Permanent undisturbed water setback, 10 metres in width, uncrossed by new drains and largely unplanted.
- B** Native tree area, 20 metres or less in width and uncrossed by new drains.
- C** Setback planting comprising single trees or small groups of suitable native riparian species of trees and shrubs strategically planted and maintained for bank stabilisation, dappled shading and as a food source for aquatic life.
- D** Possible blocking of existing drains (with silt traps, slow-flow dams) to break existing pathways from source to the receiving watercourse, and to create pocket wetlands and settlement areas.

Figure 1. Creation of native forests for water protection.

2.2 Example of Native Tree Area Scheme

This section provides an example of what the Native Tree Area Scheme could look like at a farm level (Figure 2). In this example, a dairy farm has been selected which has a river on its northern and eastern boundaries. Both interventions were chosen in this example:

- Beside the farmyard, a 1.0 ha forest was created under NTA 1 - Creation of Small Native Forests.
- On the eastern boundary, adjacent to the river, a 0.88 ha forest was created under NTA 2 - Creation of Native Forests for Water Protection.
- In total, 1.88 ha of native forest was created, including an undisturbed setback of 0.44 ha.



Figure 2. Native Tree Area Scheme example.

2.3 Area & Width Thresholds

1. The native tree area planted under the Scheme must satisfy the following statutory requirements:
 - i) an area of not less than 0.1 hectare and not greater than 1.0 hectare, or
 - ii) an area of not less than 0.1 hectare that is not greater than 20 metres in width

The area (i.e. 0.1 ha & 1.0 ha) and width (i.e. 20 m) thresholds must be measured tree-to-tree (i.e. excluding open spaces such as aquatic buffer zones, public road setbacks and any other exclusion zones).

2. For the purpose of this Native Tree Area Scheme the maximum tree planting area for both interventions (i.e. NTA 1 and NTA 2) has been set at 2.0 ha (excluding open spaces).
 - i) NTA 1: The tree planting area must not be less than 0.1 hectare and not greater than 1.0 hectare. The area may consist of multiple smaller blocks (such as the corners of fields) provided these smaller blocks are not less than 0.1 hectare.
 - ii) NTA 2: While there is no statutory limit on the maximum area that can be planted under this Scheme, an upper limit on the tree planting area is set at 1.0 hectare for the purpose of this scheme.
3. In relation to width,
 - i) For NTA1, all parcels must be 20 metres or greater in width, as measured tree-to-tree (i.e. excluding open spaces such as aquatic buffer zones and public road setbacks). In certain situations, e.g. to cater for landscape design and existing features, 30% of a proposed plot area can be less than 20 metres in width to a minimum of 10m in width.
 - ii) For NTA 2 the tree planting area must not exceed the statutory requirement of 20m in width. For the purpose of this Scheme, when open spaces are also included, the maximum width is 24m. Further information on this aspect is detailed in *Section 2.6 Tree Planting Rate and Layout*.
 - iii) Where a NTA 1 plot is adjoining an NTA 2 plot then the minimum width thresholds apply to the combined parcel being created.
4. The thresholds referred to must be adhered to at a farm holding³ level for the duration of the CAP Strategic Plan (i.e. 2023-2027). For the avoidance of doubt:
 - i) under the Scheme, multiple 1.0 ha blocks on geographical distinct blocks of land will not be eligible for the creation of small native forests; and
 - ii) the thresholds in place will apply to the entire farm holding and not geographical distinct blocks such as outlying farms.
5. For payment purposes those open spaces which are integral to the forest being created are eligible for inclusion (such as aquatic buffer zones). These features are referred to as Areas of Biodiversity Enhancement (ABEs). The type of features eligible for inclusion as an ABE are listed in the [Forestry Standards Manual](#). The maximum allowable area to be claimed as ABE is 15% of the Native Tree Area. Therefore, the maximum payment area is set at 1.15ha for NTA 1 and 1.15ha for NTA 2.

2.3.1 Ineligible Features

The claimed area must not incorporate ineligible features that are referred to as exclusions. These exclusions are not eligible for grant-aid under the Scheme. Any relevant exclusion that results in the claimed area being reduced must be recorded together with an associated area when the application is being made. Where an area proposed for planting is split by an ESB line or other exclusion, such as a gas pipeline, the area must be attributed different plot numbers on either side of the exclusion. In the case of ESB exclusions, the Department will provide a letter stating the area affected by the power line, and the applicant can then apply to the ESB directly for compensation.

³ Scheme area thresholds will apply at a 'Farm Holding' level, defined as all the production units in the State that are under the control of the applicant.

Unplanted areas which satisfy ABE criteria and which are eligible for grant and premium payment (e.g. aquatic buffer zones) should not be recorded as an exclusion or exclusion type. Further information on exclusion types is provided in the [Forestry Standards Manual](#).

2.4 Scheme Pre-emptive Measures

The Scheme has been designed to minimise potential impacts from the outset using the best available information and by applying pre-emptive measures. These generic measures are mandatory in nature for all areas to be included in the Scheme. They will not be proposed on a farm-by-farm basis by applying site specific conditions.

Pre-emptive measures have been introduced to ensure that tree planting works are undertaken in a legally compliant and sustainable manner. These measures are applied in the form of two distinct stages; Stage 1: Scheme Eligibility Map and Stage 2: Scheme Pre-Emptive Measures.

2.4.1 Stage 1: Scheme Eligibility Map

The purpose of Stage 1 is to design a Scheme in a way that minimises the potential impacts from the outset by creating a map to identify areas for inclusion in the Scheme. The best available digital information was used to create this layer (Table 1), such as NATURA 2000 designated areas.

IFORIS provides an on-line facility for Registered Foresters to create and submit the pre-approval application. Applications may only be submitted for those areas deemed eligible for inclusion in the Scheme.

The inclusion of an area in the Scheme Eligibility Map does not mean that an application for the scheme is guaranteed to receive approval to join the scheme. The Stage 2: Pre-Emptive Measures detailed in tables 2 and 3 must also be adhered to.

Table 1. Areas not eligible for inclusion in the scheme.

Measure	Description	Purpose
Natura 2000 Sites	Natura 2000 is a European network of protected nature areas where certain species of animal and their natural habitats are protected in order to preserve biodiversity. These areas are defined within the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011).	Conservation of certain habitats and species.
Top 8 Freshwater Pearl Mussel (FPM) Catchments	The entire area of each of the Top 8 FPM Catchment is excluded from entry to the Scheme. In each case, this includes the Special Area of Conservation (SAC) where the FPM occurs plus any remaining area of the water catchment not included in that SAC.	Conservation of FPM habitats and species.
National Heritage Areas (NHA) & proposed NHAs	National Heritage Areas are considered important for the habitats present or which has species of plants and animals present whose habitat needs protection.	Conservation of certain habitats and species.
Nature Reserves	A Nature Reserve is an area of importance to wildlife, which is protected under Ministerial Order.	Conservation of certain habitats and species.
National Parks	National Parks are ecosystems not materially altered by human exploitation and occupation; where plant and animal species, geomorphological sites and habitats are of special scientific, educational and recreational interest or which contain a natural landscape of great beauty.	Conservation of certain habitats and species.
Curlew Breeding Buffer	A 1.5 kilometre buffer radius from a nesting Curlew pair where no afforestation is allowed where there is a risk either to Curlew that are already present or where population recovery may be feasible.	To ensure no significant adverse effects of afforestation on ground nesting curlew.
Hen harrier higher likelihood nesting areas	A 1.2 kilometre buffer radius from a nesting Hen harrier pair where no afforestation is allowed where there is a risk either to Hen harrier that are already present or where population recovery may be feasible.	To ensure no significant adverse effects of afforestation on ground nesting hen harriers.
Small White Orchid	A 0.5km buffer radius from a small white orchid where no afforestation is allowed where there is a risk either to orchids that are already present or where population recovery may be feasible.	To ensure no significant adverse effects of afforestation on the small white orchid.
Land other than farm land	Include only those lands which have been used for farming (e.g. dairy farming, livestock production, cultivation of fodder and tillage crops and the growing of horticultural crops). As identified by the National Land Cover Map .	Focus the Scheme on farmland thereby excluding those areas which may already have high biodiversity.
Elevation	Exclude upland areas which are defined as those areas occurring at an elevation of 200 metres or more.	To ensure no significant adverse effects on upland habitats and focus planting on lowland sites.
Peatland	Areas of peat or organic soils are excluded as identified by the Irish Forest Soils Indicative Map and the National Land Cover Map .	To ensure no significant adverse effects of afforestation on deep peats.
Semi-Natural Grasslands	The Irish Semi-Natural Grasslands Survey was a nationwide research study to identify semi-natural grasslands habitats commissioned by the National Parks & Wildlife Service.	To ensure no significant adverse effects of afforestation on Annex 1 Grassland Habitats.
Breeding Farmland Wader Hotspots	The Breeding Farmland Wader hotspot map was prepared by BirdWatch Ireland. These 1 kilometre square hotspots were derived from scientifically validated recent bird observation records. A scoring scheme was designed to highlight those areas of greatest significance.	To ensure no significant adverse effects of afforestation on breeding farmland waders.

2.4.2 Stage 2: Pre-Emptive Measures

In addition to the measures implemented in Stage 1, further measures are required to ensure that tree planting works are undertaken in a legally compliant and sustainable manner (Tables 2-3).

Table 2. Pre-Emptive Silvicultural and Management Measures

Measure	Description	Purpose
Registered Forester	Registered Forester to prepare and submit application.	Ensure the successful establishment of the forest by selecting the appropriate native forest type.
Species	Native species suited to the local site conditions.	Matching trees to site reducing the need for additional site inputs.
Planting Mix	Planting mix reflecting the native forest type that would occur naturally on site.	Initiates development of forest cover that is suitable from a biodiversity perspective and promotes resilience.
Planting Material	All planting material used must be (i) derived from seed sources from within Ireland and (ii) fully traceable from seed collection to the planting site.	Promote the conservation of genetic biodiversity, traceability of material, and reassurance for landowner.
Planting Method	No new drains to be created. Ground preparation is limited to inverted or hinge mounding, shallow ripping, pit planting and auger planting.	Minimise site disturbance to immediate planting position to avoid potential sources and pathways for silt to leave site.
Tree Spacing	3 metres by 3 metres tree spacing (4 metres by 4 metres tree spacing where deer shelters required). Spacing may vary depending on site circumstances and landscape considerations.	Lay the foundation for the emergence of a robust forest and associated natural vegetation on the site.
Vegetation Management	Targeted herbicide application represents the most practical, effective and economical method of vegetation management. Non-herbicide control (e.g. trampling) is required in highly sensitive areas (e.g. adjoining water setbacks).	Ensure the successful establishment of the forest and prevent herbicides entering water courses.
Protection against Grazing	Planted areas to be protected from grazing at all times. Dependent of threat: standard stock fencing, rabbit fencing, deer fencing, rabbit/hare guards, individual tree shelters	Protect establishing trees and canopy development.
Natural Regeneration	Not relied upon to achieve required stocking but if suitable may be retained.	Capitalise on suitable natural regeneration which will often introduce minor species.
Other possible Management	Monitor for non-native species and invasives, tackle if and when they appear.	Prevent forest becoming overrun with non-natives or invasives, which may compromise biodiversity.

Table 3. Pre-Emptive Site and Environmental Measures

Measures	Description	Purpose
Scale of Tree Planting Works	The extent of the area that can be created under this Scheme is limited to 2 hectares per farm holding for the duration of the scheme. Given that the average farm size is approximately 33 hectares, this level of afforestation will represent a small portion of a farm holding.	Small-scale nature of the tree planting will help ensure no significant adverse effects on habitats and biodiversity.
Soil Type	Mineral soil with good to moderate drainage. All sites presented for inclusion in the Scheme must satisfy the criteria for Land Type 'Eligible Land: as set out in the Land Types for Afforestation policy document. Organic and organo-mineral soil are not eligible for inclusion in the scheme.	Rules out the need for drainage and will form a good basis for forest establishment.
Soil Fertility	The site must be capable of supporting the growth and development of a native forest without the need for fertiliser input.	Rules out the need for fertiliser inputs.
Aquatic Zone	Water setback of 10 metres to remain undisturbed and allowed to develop as a semi-natural habitat alongside forest canopy.	Restoration of riparian zone to protect water
Threats	Sites subject to severe and persistent threats that could undermine the long-term sustainability of any new native forest will not be accepted (e.g. sites within a locality heavily infested with rhododendron. Other restrictions relate to land type, soil, elevation, aspect, shell marl, flooding and other site factors as set out in Forestry Standards Manual .)	Promote the establishment of the native forest.
Access for Protected Species	Provide access for desirable mammals where a fence crosses an established track e.g. a badger gate to allow access. Unplanted corridors may also be incorporated into forest design to provide access for protected species.	To ensure no significant adverse effects of the fencing on these species.
Archaeology	Ensure no significant adverse impact on an archaeological, historical or cultural site or feature.	Not adversely affect these features that are part of our national heritage.

2.5 Species Composition

The tree species mix, composition and layout are defined by the Native Tree Area Scenarios. The species mix, composition and layout set out under the Scenario (or Scenarios) identified for the site must be adhered to in order to be eligible for inclusion in the Scheme. These specifications are formulated to initiate the appropriate native forest type and the development of a viable forest.

2.5.1 Native Tree Area Scenarios

The Native Tree Area Scenarios identifies the associated forest, the relevant species mix and planting pattern to promote it (Table 4). Each site must be assessed in terms of its topographical location, soil, main habitats and vegetation.

The species mixture and planting pattern required are listed (other native species, including ground flora, will colonise naturally over time). Note, the species mixture and planting pattern must be adhered to in order to be eligible for grant aid. A tolerance of +/- 25% for each species percentage is acceptable, with the exception of Scot's Pine which cannot exceed 25%. For example, under Scenario 1, 30% Sessile oak is prescribed, with an acceptable tolerance of 22.5% to 37.5%. Any shortfall in stocking must be compensated by increasing the percentage of other species within that mixture.

Two scenarios may apply to different areas of the same site, each with its own planting mixture and planting pattern. Where this occurs, each forest scenario must be treated as a separate plot during the application process.

All tree species proposed for planting under the Native Tree Area Scheme must be: (i) native to the island of Ireland; (ii) representative of the native forest type or types being promoted on site and (iii) acceptable to the DAFM.

Table 4. Native Tree Area Scenarios - Scheme Planting Mixtures

Scenario	Planting Mixture
<p>Scenario 1</p> <p>Dry Mineral Soil</p> <p>(i.e. podzols, brown podzols & brown earths)</p>	<p>Oak (30%), birch (30%) Scots pine (25%) and other native species (15%). Oak to be planted in predominantly pure groups, with birch scattered intimately throughout. Scots pine planted in small pure groups, focusing on parts of the plot and away from any watercourses adjoining or crossing the plot. The remainder of the birch to be planted in pure groups. (Changes + or – 25% for each species will be accepted. A maximum of 25% Scots pine may be planted)</p>
<p>Scenario 2</p> <p>Wet Mineral Soil</p> <p>(i.e. gleys)</p>	<p>Alder (50%), birch (30%), oak (15%) and other native species (5%). Alder and birch to be planted in pure groups (30-40 trees), with groups interspersed alternately. Oak to be planted in small pure groups, focusing on the dryer parts of the plot. (Changes + or – 25% for each species will be accepted.).</p>

2.5.2 Natural Regeneration

Natural regeneration is the establishment of new trees and shrubs from seed arriving naturally (by animals, wind, water, etc.) on site from overhead sources or from outside sources, typically adjoining or nearby, and occasionally distant.

Natural regeneration has many advantages over planting (e.g. the conservation of the local genetic biodiversity, lower site inputs and disturbance, reduced pressure on limited planting stock). However, it is difficult to predict whether or not natural regeneration will occur on a given site within the available timeframe under the Native Tree Area Scheme.

It is envisaged that natural regeneration of native species may occur on many sites, particularly along hedgerows. This will enrich species diversity within the young emerging forest and should be encouraged and retained as part of the developing forest ecosystem. However, due to its unpredictability and the Scheme timeframe, natural regeneration cannot form part of the species area being applied for under this Scheme. Instead, the area being applied for must be planted at the outset.

The site must not be disturbed or the land cover changed in preparation for gaining entry to the Scheme. Existing natural tree regeneration or tree cover in areas that are transitioning towards forest can be retained and incorporated into the new forest.

2.6 Tree Planting Rate and Layout

The tree species mix and composition are defined by two Native Tree Area Scenarios. A minimum tree planting spacing of 3 m x 3 m is required, giving a planting density of 1,100 trees per hectare. Where the installation of deer shelters is necessary a minimum tree spacing of 4 m X 4 m is required giving a planting density of 465 trees per hectare.

The Native Tree Area planted under the scheme must satisfy the statutory requirements with regard to area (i.e. 0.1ha & 1.0 ha) and width (i.e. 20m) thresholds. These measurements must be measured tree-to-tree (i.e. excluding open spaces such as aquatic buffer zones, public road setbacks and archaeological exclusion zones).

The thresholds are particularly important for the *NTA 2 - Creation of native forests for water protection* intervention where there is a requirement for the native tree area not be greater than 20 metres in width. It is also important that these areas meet the definition of forest, which means that these areas must be at least 20m in width. Figure 3 details a sample tree planting layout that can be used in NTA 2 to satisfy both the scheme and statutory requirements.

In NTA2, appropriate tree planting is to take place within the 10m water setback to deliver direct in-stream benefits such as bank stabilisation, cooling / shading, and food drop into the aquatic ecosystem, and will create further habitat diversity within the setback.

The following applies in relation to NTA 2:

- The overall forest width, which represents the payment area width must be not less than 21m and not greater than 24m in width.
- A 10 to 13m water set-back to be created with tree planting not exceeding 20% of the area of the setback. No trees to be planted within 2m of the aquatic feature.
- Only one side of the parcel to be fenced with the fence-line to be placed 2m from the outer row of trees, to create a new boundary alongside the agricultural land. No fence-line is permitted between the water feature and the strip of trees.
- The water setback in NTA2 is an integral part of the forest to be created and not considered ABE due to the tree planting of 20% within this area.
- Water setback planting can involve single or small irregular groups (5-10 trees) of native riparian species (birch, willow, and occasional alder and pedunculate oak) at strategic points within the water setback.
- No cultivation is permitted within the water setback, trees are to be pit-planted.
- Herbicide use is prohibited in the water setback. Use nonherbicide methods, such as trampling.

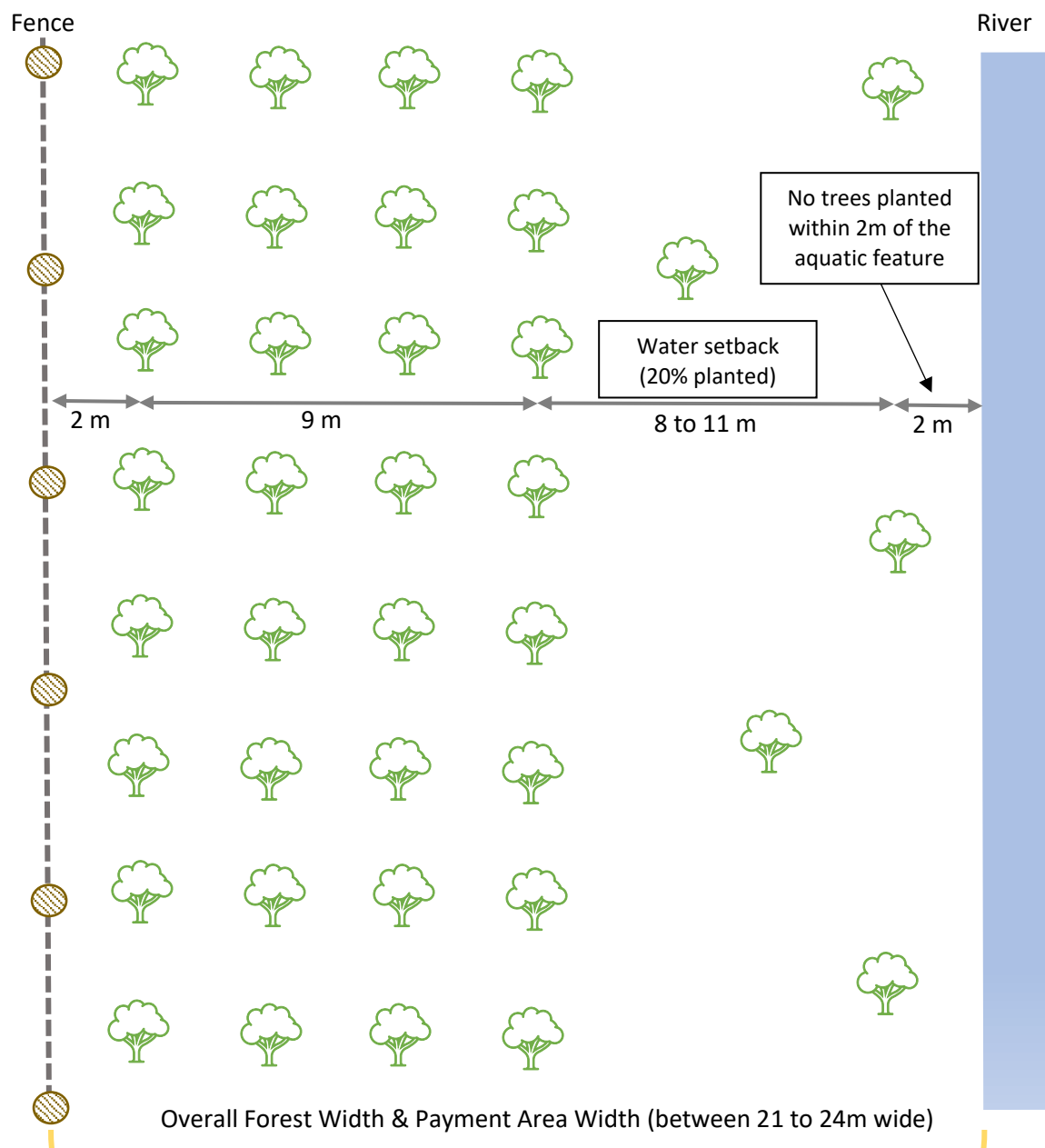


Figure 3. Sample tree planting layout for NTA 2 intervention.

2.7 Planting Material

2.7.1 Suitable Source

In order to promote the conservation of genetic biodiversity, all planting material used under the Native Tree Area Scheme must be (i) derived from seed sources from within Ireland and (ii) fully traceable from seed collection to the planting site.

All planting material used is subject to EU and/or national requirements, to ensure suitability for use and traceability from source to final planting site. See the Forestry Standards Manual for details and requirements.

In relation to sessile and pedunculate oak. The first preference is for native oak material derived from suitable sources on the island of Ireland. However, recognising historic shortages of indigenous oak forest reproductive material (DAFM circulars on [Native Woodland Scheme & Oak](#)) acceptable seed origins that are as close as possible to Ireland and maritime in nature may also be used following the order of preference set out below:

- 1st Preference: Native Oak material derived from suitable sources within the island of Ireland. See Table 1 (page 7) of the DAFM document Native Woodland Establishment GPC9 & GPC10: Silvicultural Standards (September 2015).
- 2nd Preference: Registered British (English & Welsh) seed stands in the categories 'Selected' or 'Tested' and with 'origins' in these regions.⁴
- 3rd and Final Preference: Registered Belgian, Dutch, Danish or French (north of Paris) seed stands in the categories 'Selected' or 'Tested' and with 'origins' in these regions.

2.7.2 Tree species

The following tree species are acceptable to be included in the Native Tree Area Scheme:

- | | |
|--|---|
| • Alder (<i>Alnus glutinosa</i>) | • Bird cherry (<i>Prunus padus</i>) |
| • Strawberry tree (<i>Arbutus unedo</i>) | • Sessile oak (<i>Quercus petraea</i>) |
| • Silver birch (<i>Betula pendula</i>) | • Pedunculate oak (<i>Quercus robur</i>) |
| • Downy birch (<i>Betula pubescens</i>) | • Goat willow (<i>Salix caprea</i>) |
| • Hazel (<i>Corylus avellana</i>) | • Grey willow (<i>Salix cinerea</i>) |
| • Holly (<i>Ilex aquifolium</i>) | • Bay willow (<i>Salix pentandra</i>) |
| • Crab apple (<i>Malus sylvestris</i>) | • English whitebeam (<i>Sorbus anglica</i>) |
| • Scots pine (<i>Pinus sylvestris</i>) | • Whitebeam (<i>Sorbus aria</i>) |
| • Black poplar (<i>Populus nigra</i>) | • Rowan (<i>Sorbus aucuparia</i>) |
| • Aspen (<i>Populus tremula</i>) | • Irish whitebeam (<i>Sorbus Hibernica</i>) |
| • Wild cherry (<i>Prunus avium</i>) | |

⁴ Please note that as of 1st January 2021, all seeds and plants for forestry purposes, including oak, cannot be imported into Ireland from Great Britain, pending the passing of EU legislation to recognise equivalence with the international 'OECD Forest Seed and Plant Scheme'. Pending EU approval, importers should e-mail frm@agriculture.gov.ie for updates on the legislation. Existing stocks in Ireland that were imported prior to 31st December 2020 can be utilised.

2.7.2 Plant Passports

In the context of Ireland's Special Protected Zone status with respect to specific harmful forest pests and diseases, plants of those species acceptable and listed below should only be purchased from nurseries/brokers registered under the EU Plant Health Directive and must be accompanied by a valid EU Plant Passport to certify the absence of the relevant pests and diseases:

- i). Scots pine (*Pinus sylvestris*): Protected Zone Code ZP CONF.
- ii). Sessile oak (*Quercus petraea*): Protected Zone Code ZP A16
- iii). Pedunculate oak (*Quercus robur*): Protected Zone Code ZP A16
- iv). Rowan (*Sorbus aucuparia*): Protected Zone Code ZP B2
- v). Hawthorn (*Crataegus monogyna*): Protected Zone Code ZP B2
- vi). Crab apple (*Malus sylvestris*): Protected Zone Code ZP B2

Regarding wild cherry (*Prunus avium*), a Protected Zone Code is not applicable, but a standard Plant Passport is required. See the Forestry Standards Manual for further details and requirements. Provenance Certificates will be required prior to the payment of the grant.

2.8 Pests and Diseases

The Department's policy is to maintain a healthy forest environment by ensuring good management and by identifying risks and maintaining a sustained commitment to measures that prevent the entry and establishment of destructive forest pests and diseases, including those which may impact negatively on native forests.

Everyone involved in a Native Tree Area Scheme, or in any other tree or forest related activity, should be vigilant and immediately contact the DAFM Department of Agriculture, Food & the Marine, if any unusual pest or disease is observed. For this purpose, the DAFM can be contacted by e-mail: forestprotection@agriculture.gov.ie or tel:01-607 2651. Alternatively, unusual pests or diseases can also be reported on the DAFM TreeCheck App. (see www.treecheck.net).

2.9 Ground Preparation, Drainage, Fertiliser Application

All operations must be carefully tailored in order to promote the development of a native forest type with the minimum amount possible of site disturbance. The focus is on retaining natural site conditions and to facilitate the emergence of a native forest that would occur naturally on the site. This consideration influences ground preparation and drainage.

Ground preparation is limited to inverted (or scrap) mounding, shallow ripping, pit planting and auger planting. The creation of new drainage channels is not permitted. Fertiliser application is not permitted under this Scheme.

2.10 Tree Protection

2.10.1 Vegetation Management

The control of competing vegetation such as grasses, herbaceous plants, brambles, bracken, etc. is critical for the establishment and growth of young trees. Inadequate vegetation management will result in mortality, loss of growth and vigour and the need for further inputs during the establishment process.

Non-herbicide control (trampling, mulches, mats, etc.) is generally realistic only on small sites and in highly sensitive areas (e.g. aquatic buffer zones). Otherwise, targeted herbicide application represents the most practical, effective and economical method of vegetation management.

Pre and post-planting herbicide application must be kept to the minimum required to ensure success and should be used in combination with other methods to control competing vegetation, e.g. the use of larger planting stock. Post-planting application should be carried out using a knapsack sprayer, with the aim of maintaining a 1-metre wide control area around the base of each tree, until they are free of competing vegetation.

For further information and requirements, please see the Forestry Standards Manual, the Forestry & Water Quality Guidelines, the Forest Protection Guidelines and the Guidelines for the Use of Herbicides in Forestry. The requirements of the Sustainable Use of Pesticides Directive must be met to ensure the sustainable use of pesticides by setting minimum rules to reduce the risks to human health and the environment that are associated with pesticide use.

2.10.2 Protection Against Grazing

Sites must be fully protected from the time of planting. All existing fences and boundaries must be to a standard which excludes domestic stock and protects the emerging forest. Additionally, sites must be protected from other grazing animals, including deer, feral goats, rabbits and hares, as required.

The fencing requirements for this scheme are the same as those applied to the Afforestation Scheme and specified in the Forestry Standards Manual. However, given the small size and linear perimeter-area ratio of the NTAS interventions deer fencing will not be eligible for grant aid.

The use of tree guards will be more appropriate for the NTAS. As well as protecting against grazing, tree guards also highlight the location of individual trees, for follow-up maintenance. All protective measures should be inspected on a regular basis, with maintenance carried out, as required.

When submitting an application the area of land to be planted with trees which will be protected by the deer tree shelters is specified. Areas for biodiversity enhancement are excluded as there are no trees present that require protection.

2.10.3 Fire Protection

Fire risk is unlikely to be a significant risk to Native Tree Areas, as they will be located in lowland areas. Nevertheless, where fire risk is an issue the requirements for preventative measures apply as set out in the Forestry Standards Manual.

2.10.4 Treatment of Exotic Invasive Species

A number of invasive exotic and naturalised plant species represent a serious threat to native forests, depending on site and soil types. These include rhododendron, cherry laurel, red osier dogwood, Japanese knotweed and snowberry. These have the potential to rapidly colonise sites and out-compete native trees, shrubs and ground flora, hereby substituting native communities over time. These species must be effectively controlled and removed from the site, through the application of current best practice appropriate to the site (i.e. cutting and stump treatment, stem injection, foliar spray, mechanical felling or uprooting, etc.).

Rhododendron and cherry laurel represent a particularly significant threat, and treatment includes cutting and stump treatment, the spraying of regrowth, stem injection and mechanical uprooting and removal. The Woodlands of Ireland Native Woodland Information Note No. 3, entitled The Control of Rhododendron in Native Woodlands, sets out a range of appropriate options.

Note that heavily infested sites or sites within a heavily infested locality are not suitable for inclusion in the Native Tree Area Scheme, as native forest establishment may not currently be a realistic or sustainable proposition in severe cases.

2.11 Archaeology and Built Heritage

Archaeological sites and monuments and other important built heritage structures and features are part of our national heritage. The NTAS must ensure there no significant adverse impact on these features. The Archaeology & Built Heritage Section within the Department will be screening for upstanding and sub-surface archaeology.

Registered Foresters will have access, via IFORIS INET, to the location details of Recorded Monuments from the National Monuments Service and also to the National Inventory of Architectural Heritage (NIAH). Every effort should be made at application stage to ensure the areas proposed for afforestation have no significant adverse impact on these important features.

The NTAS is about the afforestation of small native forests on farm holdings. Therefore, when designing an application for the Scheme, the forest should be sited in an area of the farm holding that minimises any potential impact on archaeological, historical or cultural site or feature.

2.11.1 Procedures

In general, land proposed for afforestation may contain or be located adjacent to archaeological sites and monuments and built heritage structures and features. Given the nature of afforestation (site selection, ground preparation operations, canopy development, and making provisions for future management operations), the potential for damage to our archaeological and built heritage clearly exists.

Department staff will liaise with National Monuments Service to develop appropriate set-back distance to ensure that there is no impact on archaeological sites and monuments and built heritage structures and features.

2.12 Water Setback

As described in the [Environmental Requirements for Afforestation](#) (DAFM 2016), a water setback is designed to create, at the very outset, an intact and permanent buffer of natural vegetation alongside the aquatic zone⁵, in order to protect water quality and aquatic ecosystems from possible overland flow of sediment and nutrient runoff and other potential impacts. For the purpose of this Scheme a 10m water set-back is required.

⁵ An aquatic zone is defined as “Any natural river, stream or lake (but not an artificial drain) illustrated on an Ordnance Survey 6 inch map.”. Other water features are also protected under the Environmental Requirements for Afforestation, i.e. relevant watercourses, hotspots and drinking water abstraction points. See Circular 12/2017 for details.

In effect, the water setback breaks the 'pathway' between the source of possible pollution and the receiving watercourse. In the context of native forest planting, the water setback compliments the protective role of emerging native forest, established with minimal site disturbance and managed according to close-to-nature silviculture, principally for biodiversity. The water setback must be left largely undisturbed during afforestation and throughout subsequent forest development, to allow it to develop into a well-vegetated area, supporting a mosaic of natural vegetation.

The value of the water setbacks, in terms of water protection, biodiversity, landscape, etc., can be further enhanced by the following:-

- The water setback can be widened at key locations onsite where site hydrology and slope increase the vulnerability of receiving waters.
- Based on the immediate landform topography, the width of the setback can be varied to avoid artificial lines and to create a naturally undulating forest edge.

The type of natural vegetation likely to emerge in the water setback will vary according to soil, drainage, elevation, aspect, grazing pressure, etc. On most sites, a mosaic of natural ground vegetation and pockets of naturally regenerating woody growth will typically emerge throughout this period. However, ongoing monitoring and appropriate control is needed to prevent the colonisation of water setbacks by invasive exotics. In particular, Japanese knotweed, Himalayan balsam and rhododendron, are of significant concern regarding water quality. Where best practice involves herbicide use, consult with Inland Fisheries Ireland and other relevant bodies in advance. Controlling such species is difficult and expensive and often requires a wider catchment approach for progress to be sustained.

As set out in the Environmental Requirements for Afforestation, the Registered Forester must ensure that all operators are aware of the importance of the water setback, its location and extent, and what is and is not permitted within it. The marking out of the setback prior to commencement of site operations is encouraged to avoid incursions. Furthermore, "an environmental setback must not be used for any forest operation or for any other purpose which could compromise its protective function or which could damage the environmental feature or sensitivity being protected". Under the Penalty Schedule (Annex 1), failure to adhere to the required water setback can incur significant penalties.

Section 3: Terms and Conditions of the Scheme

3.1 Legal Basis and General Provisions

- i). This document specifies the provisions for the implementation of the Scheme known as the Native Tree Area Scheme drawn up in accordance with the Animal Health and Welfare and Forestry (Miscellaneous Provisions) Act 2022.
- ii). This document constitutes the framework for a Native Tree Area Scheme application.
- iii). These Terms and Conditions only apply to applications submitted under the Native Tree Area Scheme.
- iv). This Scheme is based on the provisions of the Animal Health and Welfare and Forestry Act 2022 and Forestry (Native Tree Area Scheme) Regulations 2023 (S.I. No. 484 of 23)
- v). The Scheme is administered by the Department of Agriculture, Food and the Marine and operates throughout the State. The Scheme shall be operational from the 4th October 2023 until the 31st December 2027.
- vi). The Scheme is 100% funded by the National Exchequer.
- vii). The funding for the Scheme is limited and applications will be accepted subject to the maximum overall budget available per full calendar year.
- viii). Commitments shall be for a minimum period of ten years.
- ix). All forests established under this Scheme are protected by the Forestry Act 2014 (and any Act that succeeds or replaces that Act), which controls the felling of trees. Under this Act, with certain exceptions, it is illegal to cut down any tree unless a Tree Felling Licence has been obtained from the Department.
- x). Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ L 352, 24.12.2013, p. 1) and Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45).
- xi). 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.
- xii). The Scheme is operated pursuant to the European Union guidelines for State aid in the agriculture and forestry sector and in rural areas.
- xiii). Participation in the Scheme is voluntary.

3.2 Definitions

For the purpose of the Scheme:

‘Applicant’ shall mean a person/entity who/which has made an application for support.

‘Application’ shall mean an application for support prepared and submitted by a Registered Forester.

‘Department’ shall mean the Department of Agriculture, Food and the Marine, except where stated otherwise.

‘Duration of contract’ shall mean the number of years that the applicant will receive support under the Scheme.

‘Eligibility’ shall mean elements essential to allow a contract to take place, the disrespect of which will result in exclusion from the Scheme.

‘Environmental Impact Assessment (EIA)’ means an assessment in accordance with the Forestry Regulations 2017 (S.I. No. 191 of 2017), as amended.

‘European site’ has the same meaning as it has in the “European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011).”

‘Farm Holding’ shall mean all the production units in the State that are under the control of the applicant and used for farming.

‘Farmer’ shall mean an individual agricultural producer, whether a natural or legal person or a group of natural or legal persons, whatever legal status is granted the group and its members by national law whose holding is within the State.

‘Farming’ shall include dairy farming; livestock husbandry; cultivation of fodder and tillage crops; and the growing of horticultural crops.

‘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”.

‘Minister’ shall mean the Minister for Agriculture, Food and the Marine.

‘Registered Forester’ shall mean a forester registered with the Department to plan, prepare and submit an application for approval or grant-aid and, in many cases, supervise or carry out the work being grant-aided as part of the Scheme.

3.3 Scheme Eligibility

To be eligible to participate in the Scheme, a land-owner shall:

- i). Be the sole freehold owner of the lands in question.
- ii). Be aged eighteen years or over on the date of submission of the application for support and hold a Personal Public Service Number (PPSN). Companies must provide their company registration details (CRO Number).
- iii). Ensure site(s) is currently used for farming purposes including dairy farming; livestock production; cultivation of fodder or tillage crops or the growing of horticultural crops.
- iv). Ensure the site(s) is not disturbed or the land-cover changed in preparation for gaining entry to the Scheme.
- v). Ensure all lands are free of ownership constraints such as joint grazing rights, turbary or right of way.
- vi). Be aware that Scheme area thresholds will apply at a ‘Farm Holding’ level and remain in place for the duration of the CAP Strategic Plan (i.e. 2023-2027).
- vii). Maintain records of delivery of commitments undertaken.
- viii). Be aware that forests established and maintained in accordance with the Scheme will be eligible for payment of both the Native Tree Area grant towards the cost of establishment, and 10 annual premiums.

3.4 Application Procedure and Approval

- i). Engage the services of a Registered Forester to prepare and submit the application.
- ii). All applications must be made via the Department's online IFORIS system (iNET) in accordance with the Terms and Conditions. It is in the applicants own interest to ensure that Registered Forester they engage has current Professional Indemnity Insurance.
- iii). As plot and species details are directly entered into iNET, a certified species map and location map are not required to be uploaded at application stage. All applications are to be accompanied by the following maps (in accordance with Mapping Standards Section of the [Forestry Standards Manual](#)):
 - a. Biodiversity Map (including site cultivation details)
 - b. Fencing Map
- iv). No selection, prioritisation and scoring criteria are included. However, this may change in subsequent tranches to this Scheme.
- v). The Minister may reject applications or require them to be varied if, in the Minister's opinion, they are not likely to contribute to the objectives of the Scheme.
- vi). The submission of a valid application does not guarantee entry to the Scheme.
- vii). Selected successful applicants will be notified in writing of their acceptance into the Scheme and of the commencement date of their contract.
- viii). Actions carried out before the notified commencement date will not be considered for payment.
- ix). All applications must adhere to the requirements of the [Forestry Standards Manual](#) for native woodlands (with regard to land type, soil, elevation, aspect, shell marl, flooding and other site factors)
- x). All sites presented for inclusion in the Scheme must satisfy the requirements detailed in the [Land Types for Afforestation](#) policy document. Mineral soil with good to moderate drainage is eligible for inclusion. Organic and organo-mineral soil are not eligible for inclusion in the scheme.
- xi). All applications must adhere to the [Environmental Requirements for Afforestation](#).
- xii). Applicants are required to sign a [Form FSAAuth1 - Authorisation Form](#) or an FSAAuth2 – Authorisation Form where the applicant is a company. By signing this the applicant consents to allow the Forestry Company and their Registered Forester(s) and Administration Staff to act on behalf of the applicant. The applicant must also sign the Declaration by Beneficiary, which will accompany the application.
- xiii). Approval to join the scheme will be valid for such period as the Minister decides but shall not exceed 3 years.
- xiv). Where an applicant wants to plant NTA 1 and NTA 2, the associated parcels being proposed for planting under NTA 1 and NTA 2 should form part of the same application. This is particularly important when it comes to fencing, as where parcels are adjacent to one another the combined area can be used to calculate the fencing allocation.
- xv). In circumstances where the lands proposed for the NTAS have already been included in an Afforestation Licence application, these lands will be deemed ineligible for the NTAS where the newly proposed area for inclusion in the NTAS wholly or partly includes land that was –
 - a) Deemed ineligible for the afforestation scheme and the application for an Afforestation Licence was refused. (Does not apply to those areas refused on basis of minimum width and where NTAS requirements are met.)
 - b) Excluded from planting as a condition of the Afforestation Licence because of its environmental sensitivity, whether that was following a Stage 2 AA or on the grounds of some other environmental receptor, or

- c) Excluded from further consideration as part of the Afforestation Licence application because of its environmental sensitivity and the need for a more in-depth assessment of that sensitivity.
- xvi). In circumstances where the lands proposed for the NTAS have already been included in an Afforestation Licence application and that Afforestation Licence was granted but is the subject of an appeal to the FAC where no final decision has been made by the FAC or where the FAC has set the decision aside and remitted it to the Department, the NTAS application will not be further processed until a final decision is again made on the Afforestation Licence application.

3.5 Grant and Premium Details

- i). A fixed afforestation grant towards the costs, subject to the maximum laid down in Table 5 and 6, will be available to landowners which comply with the requirements, terms and conditions of the Scheme. Grants and premiums will be available only for projects which, prior to planting, have been granted approval by the Department, following the submission of a Form 1. Aid for afforestation under these measures will be granted solely in connection with duly justified and substantiated costs and no over-compensation will take place.
- ii). Grants will be paid in two instalments. The first instalment may be claimed immediately after planting. The second instalment can be claimed at least 4 years after planting has been completed. All grant payments are conditional on the forest being successfully established and maintained in compliance with the conditions of approval and standards as outlined in the Forestry Standards Manual. Any area planted outside of the approved area will not be eligible for grant-aid. Eligible operations are as follows:
 - a). Ground preparation
 - b). Cost of planting stock
 - c). Planting
 - d). Control of competing vegetation
 - e). Filling-in to replace mortalities
 - f). Mapping
 - g). Fencing and tree protection
 - h). Management and supervision
- iii). Forestry premiums will be payable only for new forests which qualify for a Native Tree Area grant from the Department (Table 7) and will be payable for a maximum period of 10 years.
- iv). For the purposes of eligibility and payment of grant and premiums, no differentiation is made between farmers and non-farmers.
- v). The Minister reserves the right to alter these rates at any time. Beneficiaries of grant-aid under this Scheme are required to retain all receipts and invoices relating to work undertaken to establish and maintain the forest for a period of 6 years following payment of the 1st instalment grant. The Minister may, at his or her discretion, require the submission to the Department of such receipts and/or invoices at any time during this period.
- vi). If Scheme requirements are not met for the duration of the contract, penalties may apply on all or part of the grants paid. See Annex 1 for further details on the Penalty Schedule.

Table 5. Native Tree Area Scheme Grant Rates.

NTA	Establishment Grant (€ per ha)		Deer Tree Shelter Grant Max. allocation (€ per ha)
	1st Grant	2nd Grant	
NTA 1	5,058	1,686	€1,600
NTA 2	5,058	1,686	€1,600

Table 6. Native Tree Area Scheme Fencing Grant Rates.

NTA	Fence Type	Rate (€ per m)		Allocation (m per ha)		Max. allocation (€ per ha)	
		IS436	Non-IS436	IS436	Non-IS436	IS436	Non-IS436
NTA 1	Stock	5.5	4.5	240	180	1,320	810
	Stock & Sheep	7	5	240	180	1,680	900
	Stock & Rabbit	7	6.5	240	180	1,680	1,170
NTA 2	Stock	5.5	4.5	400	300	2,200	1,350
	Stock & Sheep	7	5	400	300	2,800	1,500
	Stock & Rabbit	7	6.5	400	300	2,800	1,950

Table 7. Native Tree Area Premium Rates.

Category	Annual Premium (€ per ha)	Total premium (€ per ha)
NTA 1	2,206	22,060
NTA 2	2,284	22,840

3.6 Conditions of Aid

- i). Where an applicant makes an application for aid that is deemed valid and is approved by the Department, 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 (which may be revised from time to time by the Minister), 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 the Department when the application for approval (Form 1) is received.
- ii). Payments will be based on either the area claimed as eligible for payment by the applicant (on Form 2, Form 3 or Form 4 and associated maps) or the area determined by the Department to be eligible for payment, whichever is the lesser:
 - a. The Department's computerised mapping and payment system (iFORIS) is used by the Department 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 areas of the individual forest plots (including 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 the Department's iFORIS system.
 - b. The determined area of a contract number or forest is the sum of the areas, determined by the Department 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).
 - c. The claimed area is the total area of the forest plots specified by the applicant in the application as being claimed for payment of an afforestation grant or premium payment. The claimed area is calculated by the applicant by deducting any part of the plot that is not eligible to receive grant and premium payments (e.g. power line corridors, rock, gas line and ineligible biodiversity areas) from the digitised area.
 - d. 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 grants and premiums will be based, subject to compliance with the requirements of the scheme as regards submission of proof of ownership

- iii). 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, Form 3 or Form 4, the lesser of these areas will be deemed to be the area claimed by the applicant.
- iv). Where the determined area (i.e. the area determined by the Department) is greater than the claimed area (i.e. the area claimed by the applicant), this is deemed to be an under-claim. In such cases, a new revised claimed area equal to the determined area can be submitted by the applicant in respect of the following and all subsequent payments due under the contract. The onus is on the applicant to satisfy him/herself that the revised claim that s/he is submitting is correct. This revised claimed area will then be deemed to be the payable area for the remainder of the grant and premium payments due under the contract. This change cannot be applied retrospectively and no back money will be paid in respect of payments that were made or, in the case of annual premiums, were due to be paid before the revised claim is submitted. (If not already due for payment or paid by the time the revised claim is submitted, the 2nd instalment grant will be calculated and paid on the basis of the revised claim but no back money will be paid in respect of the 1st instalment grant already paid).
- v). A 1st instalment grant will not be paid until ownership has been established and full proof of ownership has been provided to the Department as part of the Form 2 payment process.
- vi). Where a notification (i.e. a remedial works letter) is issued to the applicant specifying remedial works required to bring his/her 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 the DAFM will result in a penalty, as set out in the Penalty Schedule (Annex 1).
- vii). Grants and/or premiums 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 established to the required standard.
- viii). Where the 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 premium, or part thereof, is not to be paid, the 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.
- ix). Every payment under the Scheme shall be subject to conditions laid down by the Minister, which must be complied with in full by the applicant
- x). Payment of financial aid as provided for in this Scheme may be subject to the condition that a tax clearance certificate from the Revenue Commissioners be furnished before a payment can be issued.
- xi). 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 pre-planting approval (i.e. both technical and financial) and in compliance with:
 - a. all relevant EU requirements and national legislation for the time being in force including, but not limited to, Commission Regulation (EC) No 1407/2013 on general de minimis rules;

- b. the terms and conditions of this Scheme as set out in this document (and any revisions thereof), any circulars amending the Scheme requirements, the application forms, letters of approval and, where appropriate, remedial works notifications;
- c. Forestry Standards and Procedures Manual;
- d. Environmental Requirements for Afforestation.

3.7 Duration of a Contract under the Scheme

- i). The duration or expiry of an afforestation contract in its entirety will be for 10 years.
- ii). Where circumstances exist that may require an extension of the contract term (for example, outstanding remedial works), the expiry date of a contract may be extended at the discretion of the Minister.
- iii). Any payments not applied for in accordance with the Scheme and/or not approved for payment by the expiry of the contract may be forfeited at the discretion of the Minister. The Minister reserves the right to forfeit any payments on the basis of non-compliance with the requirements of the Scheme.

3.8 Stages in the Application Process

The appropriate application form and all supporting documentation and maps must be submitted within the timeframes indicated below for each stage.

i). **Form 1 - Application for Pre-planting Approval**

An application for approval to plant under the Native Tree Area Scheme must be made using the IFORIS iNET system. The applicant and a Registered Forester must complete the application form following a site visit and detailed field assessment by the Registered Forester.

- ii). Approval is only valid up to and including the expiry date specified in the letter of approval.
- iii). Approval confirms only that the proposed forest detailed in the application complies with the silvicultural and environmental requirements of the Scheme and the approval provides permission to plant all or part of the area specified, as long as the planting and all the works undertaken do not lead to a material change in the project for which the pre-planting approval was granted and the areas planted meet Scheme requirements. Approval confirms that funding for a grant has been approved.
- iv). The issuing of an approval does not guarantee that a forest proposed or amended by conditions applied by the Department will establish successfully. Responsibility for the successful establishment of a forest rests solely with the applicant and the Department will not accept any liability if the forest fails to establish. Nor can the Registered Forester and applicant rely upon inspection by the Department to ensure that the standards required of the applicant are achieved. Failure to establish a forest to the required standard may give rise to recovery by the Department of all grants and premiums paid to the applicant. The Department accepts no liability for costs incurred by an applicant at any stage.
- v). Approval to join the Scheme confirms that funding for the project is available and has been provisionally reserved for the project that is the subject of the application.

vi). **Form 2 - Application for 1st Instalment Grant and 1st Premium**

Application for payment of the 1st Instalment Grant and 1st Premium must be made using a 'Form 2'. A claim for 1st Grant will not be processed separately from the claim for the 1st Premium except, as provided below, where a valid premium claim has not been submitted. The time limit for receipt of the Form 2 by the Department shall be 12 weeks after the date of completion of the forest. Where a Form 2 is received after the prescribed period, the applicant

must submit a written explanation detailing the reason for the late submission and it will be at the discretion of the Department as to whether or not the application can be accepted. The applicant and his/her Registered Forester must complete the application following a site visit and a detailed field and forest plot assessment by the Registered Forester. The application form sets out the requirements to be met to make a valid application. Where supporting documentation (e.g. proof of ownership could relate to more than one contract, individual copies of the documentation must be submitted with each separate Form 2 claim.

- vii). Where a Form 2 application is lodged with the Department within the required 12 week time-frame but supporting documentation is outstanding, the application will be held open for a maximum of 2 calendar years from the date of completion of the forest. Unless all supporting documentation required to make a valid application for 1st Grant and 1st Premium is received in the Department within the 2-year limit, the annual premiums that would have been due for payment in respect of the intervening calendar years will be forfeited. As regards the 1st Grant, payment may be made on receipt of supporting documentation up to 6 years after the date of completion. However, no arrears of premium for the intervening years will be paid. After year 6 the 1st Grant will be forfeited and the contract considered terminated if a fully valid claim with all necessary documentation has not been lodged in the Department. Non-payment of a Forester or forestry company for works carried out will be a matter for resolution between the applicant and the Forester or forestry company and the Minister shall bear no liability.

viii). **Form 3 - Application for 2nd Instalment Grant**

The 2nd Instalment Grant may be claimed for payment 4 years after the completion date of the forest. Application for payment of the 2nd Instalment Grant must be made using a 'Form 3'. The applicant and a Registered Forester must complete the application following a site visit and a detailed field and forest plot assessment.

- ix). Application for payment of the 2nd Instalment Grant shall be made using DAFMs iNET system. Applications for payment will be made available via iNET in the 3 months before the 4th anniversary of the completion date of the forest. The 5th and subsequent premiums can be claimed when due each year following payment of the 2nd Instalment Grant. At the discretion of the Department, where the 2nd Instalment Grant has not been applied for, the 5th and 6th premiums may be paid. However, the 7th and subsequent premiums will not be paid until the 2nd Instalment Grant application has been submitted and the grant has been paid.

x). **Form 4 - Application for Subsequent Premium**

An application for payment of the 2nd and subsequent premiums must be made using 'using the Department's online services. Where an applicant has registered to use these services, applications for forest premiums must be made at www.agfood.ie. Applicants wishing to register for Department's on-line services can do so at www.agfood.ie.

- xi). Subject to the terms and conditions of the Scheme being met, the premiums payable under the Scheme will be paid annually, starting in the year that the forest was completed.
- xii). Subject to and limited by the duration of the contract as defined above, each annual premium is normally applied for in the year it is due for payment. Where such application is not made within the year it is due, all conditions for eligibility for the premium must be fulfilled and the valid application must be received in the Department within 3 years of the 1st January of the year in which that particular premium falls due for payment. Otherwise, the premium payment for that year will be forfeited. For example, a premium due in 2024 must, at the

latest, be applied for and paid by 31st December 2026. If premiums have been forfeited or not claimed for 6 consecutive years or more, the contract will be deemed to have been terminated and no further payments will issue under that contract. Payments already made under the contract may be recovered if the forest has not been maintained in accordance with the scheme requirements.

- xiii). Further information is available from the Department of Agriculture, Food and the Marine, Johnstown Castle Estate, Co. Wexford Y35 PN52- Lo-call 1890 200 509. Alternatively, you can contact the relevant Section by e-mail
- Form 1, approvals, application procedures (forestryappenq@agriculture.gov.ie)
 - Form 2, 1st Grant and 1st premium (forestry.1stgrant@agriculture.gov.ie)
 - Form 3, 2nd Grant (forestry.2ndgrant@agriculture.gov.ie)
 - Subsequent premiums (forestry.premiums@agriculture.gov.ie)

3.9 Native Tree Area Scheme and other Department Schemes

Afforestation is fully compatible with other Department Schemes and is recognised as making an important contribution at farm-level. Due to EU rules and regulations governing other Departmental Schemes it may not be possible to receive payments under the Native Tree Area Scheme as well as other area-based Schemes. Nevertheless, with regard to agri-environmental Schemes it is important to note that opportunities continue to exist for Department Schemes to complement each other. Landowners and their agents should look at the opportunities afforded by all Schemes when assessing their options.

3.9.1 Basic Income Support for Sustainability

Lands afforested under the Afforestation Grant and Premium Scheme and Native Tree Area Scheme are considered an eligible hectare.

If you are in receipt of aid under the Afforestation Grant and Premium Scheme (including the FEPS, the Native Woodland Establishment Scheme, the Agroforestry or the Forestry for Fibre Scheme) or the Native Tree Area Scheme you are obliged to declare all the land parcels on your holding on your 2024 BISS application.

All land parcels in receipt of payment under the Afforestation Grant and Premium Scheme (including the FEPS, the Native Woodland Establishment Scheme the Agroforestry or the Forestry for Fibre Scheme) or the Native Tree Area Scheme are registered on the Department's Land Parcel Identification System (LPIS) with a unique identification number. Failure to declare afforested parcels under these schemes on LPIS could affect future forestry grant/premium payments.

Following changes to the EU Regulations land which was afforested since 2009 and land which will be afforested under the NTAS will be eligible to draw down a BISS payment provided that the afforested land meets the following requirements:

- i). The area must have given a right to payment under the Basic Payment Scheme (2015 to 2022)
- ii). Farmers who wish to benefit from the BISS Payment on afforested land, must be the person or persons named as forestry scheme beneficiary, or joint beneficiary. This means that you must be the person or persons eligible for payment of the forestry premium in the relevant year. Please note this also applies to members of the same family.

- iii). The afforested land meets all the requirements of the Afforestation Grant and Premium Scheme (including the FEPS, the Native Woodland Establishment Scheme the Agroforestry or the Forestry for Fibre Scheme).
- iv). Eligible Forestry parcels that are declared on BISS applications to activate entitlements will also be subject to conditionality requirements.

Farmers who plant land parcels under an Afforestation measure before submitting their annual BISS application should declare the land as Forestry including the reference to the BISS application year. Lands afforested in the spring of 2024 are declared as Forestry 2024.

Once the period of premia payments under the NTAS has concluded, these parcels will remain eligible for BISS once you maintain your mandatory commitment to that particular afforestation measure by complying with the provisions set out in the Forestry Act 2014.

Further details on BISS eligibility may be found on the Department's [website](#).

3.9.2 Agri-Climate Rural Environment Scheme

Afforestation is fully compatible with Agri-Climate Rural Environment Scheme (ACRES) and is recognised as contributing to the creation of a valuable landscape mosaic at farm-level. As ACRES measures are specified on a land parcel basis, the whole farm is generally not included in the scheme. Applicants considering participating in ACRES are recommend to explore the opportunities afforded by the afforestation when planning for the scheme as it is not possible to obtain payments under the NTAS and ACRES on the same parcel of land. However, a parcel on which an ACRES action is situated may subsequently be split to facilitate afforestation.

3.9.3 Organic Farming Scheme

Parcels which are included in an Organic Farming Scheme (OFS) contract can be converted to forestry during the OFS contract period without penalty. It is not possible to obtain payments under the NTAS and OFS on the same parcel of land.

3.10 Monitoring & Right of Entry

- i). On submission of an application, applicants agree to permit officials or agents of the Department to carry out on-farm inspections, with or without prior notice, at any reasonable time(s) and without prejudice to public liability.
- ii). The Minister reserves the right to carry out inspections at reasonable times of any land, premises, plant, equipment, livestock and records of applicants.

3.11 Administration and Conditionality

- i). All applications for support and payment claims will be subjected to administrative checks, and any other controls deemed necessary, before approvals or payments are made under the Scheme. Applicants shall facilitate such administrative and on the spot checks as the Department deems necessary. Applications will be cross-checked with records held by the Department.
- ii). On-the-spot checks will be carried out at farm level to ensure compliance with the requirements of the Scheme.

- iii). As an accredited EU paying agency, the Department of Agriculture, Food and the Marine is obliged to carry out checks and controls on all applications. 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. Further information in relation to Conditionality is available from the Department of Agriculture, Food and the Marine website at [gov.ie - Conditionality \(www.gov.ie\)](http://gov.ie - Conditionality (www.gov.ie))
- iv). The commitment for which payment is claimed will be cross-checked with relevant databases.
- v). Any breach of conditionality noted during an on-farm inspection will be cross reported to the Basic Payment Unit of the Department.
- vi). All breaches of conditionality detected on a Native Tree Area Scheme inspection will be cross-reported.
- vii). No payment shall be made in favour of beneficiaries for whom it is established by the Department that they artificially created the conditions required for obtaining such payments with a view to obtaining an advantage contrary to the objectives of the Scheme.

3.12 Penalties

- i). Failure to comply with these Terms and Conditions will result in an appropriate penalty/sanction.
- ii). Penalties will apply to certain specific breaches of the Schemes and are set out in Annex 1.
- iii). Monetary penalties will include interest payable at the rate provided for under Statutory Instrument Number 13 of 2006. Interest will be calculated for the period elapsing between the notification of the repayment obligation to the farmer, and either repayment or deduction.
- iv). Penalty amounts may be deducted from future payments due to the beneficiary under other Department Schemes.
- v). Where monetary penalties are not paid or recovered within the period requested, the Department may take whatever action is deemed necessary for their recovery.
- vi). Intentional and serious breaches of the Scheme conditions may result in non-payment for the year in question or in the termination of participation and/or exclusion from the Scheme for a period commensurate with the seriousness of the breach, and the refund of monies already paid.
- vii). A penalty of 100% means that there will be no payment for that particular year. The applicant may continue in the Scheme and will only be paid for the remaining contract years on the delivery found.
- viii). Where it is established that conditions were created to maximise or draw down payment under the Scheme the contract will be terminated, and all monies paid shall be reimbursed.
- ix). The penalties set out in the Schedule are the minimum sanctions that will be applied. In all cases the Department reserves the right to review files to establish whether or not a breach of the Scheme conditions has occurred which may lead to a sanction or the termination of the contract and reimbursement of all aid.
- x). In cases where penalties are applied, applicants will be given 10 working days after formal notification in which to request a review of this decision in writing to the Department and give reasons why any penalty imposed should not be applied. The applicant will be informed in writing of the outcome of the appeal. This initial appeal shall be without prejudice to the right to appeal to the statutory Agriculture Appeals Office.

3.13 Force Majeure

- i). Where a beneficiary is unable to continue complying with the commitment(s) given for reasons beyond his/her control, a case may be made under force majeure and the respective payment shall be proportionately withdrawn for the relevant year(s). Reimbursement of support paid in previous years shall not be required and payment may be continued in subsequent years.
- ii). The beneficiary must notify the Department of cases of force majeure within 10 days of being able to do so.
- iii). Without prejudice to the actual circumstances to be taken into consideration in individual cases, the following categories of force majeure may be recognised:
 - a. land acquired under a Compulsory Purchase Order (CPO),
 - b. death of the applicant;
 - c. long term professional incapacity of the applicant;
 - d. appropriation of a large part of the farm holding if such expropriation could not have been anticipated on joining the Schemes;
 - e. a natural disaster affecting the farm holding's agricultural land;
 - f. an outbreak of disease affecting all or part of the farm, or
 - g. the disposal or vacation of land to satisfy a court order or legal settlement in cases of marital breakdown.

3.14 Death of Applicant

- i). Where an applicant dies during the contract period, force majeure shall be applied terminating the agreement and no reimbursement of aid already paid shall be sought and where a valid payment claim is on hands payment will be made up to date of death.
- ii). Alternatively, a survivor who is entitled to give the necessary undertakings may apply to take over the contract for the period remaining.

3.15 Joint of Multiple Applications

Where the application is made up of more than one name, each person named will be jointly and severally responsible for delivery of the commitments entered into and be jointly and severally subject to all the Terms and Conditions of the Scheme.

3.15.1 Farm Partnerships

Farmers in a Farm Partnership registered with the Department are eligible to apply for the Scheme provided that the application is made in the same name as the Basic Payment Application.

Additional eligibility for Farm Partnership entry shall be as follows:

- Delivery of areas will be the across the entire 'partnership' holding.
- The area thresholds for partnership shall be the same as for an individual applicant.
- All partners are jointly and severally responsible for delivery of the Scheme requirements on the lands farmed by the partnership.

3.16 Responsibility of Applicant

- i). It shall be the responsibility of the applicant to familiarise him/herself with the Scheme Terms and Conditions, the specification and any amendments thereof and with the consequences for breaches of the Scheme.
- ii). The approval or payment of aid under the Schemes does not imply the acceptance by the Minister of any responsibility as regards the obligations undertaken by the applicant.

- iii). The obtaining of aid or the attempt to obtain aid under any or all of the Schemes by fraudulent means by the applicant or others acting alone or together may, in addition to any Scheme penalty, render such persons liable to prosecution.

3.17 Review of Financial Aids

The Minister reserves the right to restrict the availability of the Schemes and to vary, where occasion so demands, the amount of financial aid wherever specified in the Schemes subject at all times to the provisions of any relevant European Union legislation.

3.18 Information and Data Protection

- i). The rights of data subjects and how they may be exercised, in this respect, are laid down in the Data Protection Acts, 1988 and 2003.
- ii). All the information supplied on your application form and in any supporting documentation shall be made available to any other Department or Agency or Local Authority for the purpose of audits, cross-compliance controls and all Rural Development measures, and, as appropriate, in accordance with the requirements under the Freedom of Information Act.
- iii). 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](#).

3.19 De Minimis Provisions

- i). Amounts of aid granted to one applicant, that is, less than €200,000 in any rolling 3-year period, are considered to be so small as to have no appreciable effect on competition or trade and, under the De Minimis Regulation rule these are exempt from the general ban on State aid.
- ii). It is the responsibility of applicants to familiarise themselves with the rules set out under Commission Regulation (EU) No 1407/2013 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:2013:352). The consequences of failure to comply with them may include the possibility of the recovery of aid that has been misused or improperly obtained. Where requested by the Department, it is obligatory for the applicant to declare all de minimis paid to him/her during the relevant time period.
- iii). Where an applicant applies for de minimis premium payments and the €200,000 threshold is already exceeded or payment of that aid will cause it to be exceeded, the entire premium is blocked for payment until the following year. Applicants may apply again the following year. Where De Minimis Aid is paid and it subsequently transpires that the €200,000 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 him/her during the relevant time period.
- iv). De Minimis premium 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). In these cases the threshold is €200,000. 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.

- v). 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.

3.20 State Aid requirements

3.20.1 The Incentive Effect

This applies only where the applicant is a small/medium enterprise SME. Small to medium sized enterprises (SMEs) are defined in the EU Recommendation 2003/361/EC) must confirm and declare on the Native Tree Area Scheme Application Form that:

“The work described herein, would not have been undertaken if it was not for the financial support provided under State Aid rules. Without this aid, there would be no change to current activities.”

For large companies, documentary evidence must be submitted in relation to the counterfactual (what would happen without the aid) for each of the measures proposed. This involves a credibility check of the counterfactual to establish that the company would not carry out the proposed work in the absence of aid. A counterfactual is credible if it is genuine and relates to the decision-making factors prevalent at the time of the decision by the beneficiary regarding the activity.

Large companies must submit an internal company document (separate to the application form) showing that the company has analysed the viability of the project – with and without aid – and showing the incentive effect. The document must clearly state what would have happened without the support available under this Scheme.

That means that the documentation (internal report) produced by the company must establish that the aid will cause at least one of the following:

- a material increase in the size of the project /activity, or
- a material increase in the scope of the project / activity, or
- material increase in the total amount spent by the beneficiary on the project/activity or
- a material increase in the speed of completion of the project/activity concerned

DAFM will require that the company document shows a credible analysis and demonstration of the incentive effect. The document should contain an analysis which answers the following questions:

- Would the project proceed without State Aid assistance?
- Would the level of project expenditure be less without State Aid support? If so, indicate by how much?

This information should indicate changes in the project size, scope and total spend. Where required, this incentive effect document should be submitted with the relevant Form 1. As part of its evaluation of the application, the Forest Service will assess whether or not the incentive document meets the requirements set out above and is fully compliant with the European Union Guidelines for State 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.

3.20.2 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 Internal Rate of Return (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.

Large Companies must provide documentary evidence that the aid is proportionate. This can be achieved by submitting an IRR and NPV analysis of the investment with aid and without aid with the application to join the scheme. Only applications which are deemed proportionate will be grant aided by the Forest Service.

3.20.3 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.

3.21 Further Conditions

- i). The Minister may at any time lay down further conditions under these Schemes.
- ii). The Minister reserves the right to review and, if necessary, to terminate participation in the Schemes and to seek re-imbursement of aid paid, including any non-productive capital investment payment, where no improvement to the environment is evident.
- iii). The Minister reserves the right to alter from time to time the procedures to be followed in the operation of the Scheme.
- iv). The Department may expand upon, explain, interpret or define the meaning of any aspect of the Terms or Conditions of the Schemes.

Annex 1: Penalties

A1.1 Overview of the Penalties

Details on the penalties that will apply for breaches of Scheme requirements are specified in Tables 8 to 10 below. Multiple penalties may apply for multiple breaches of Scheme requirements. Unless otherwise specified “grant” means the total amount of the 1st and 2nd Instalments.

Table 8. Area Related Penalties

Penalty Type		Applicable to Grant and/or Premium ⁶	Penalty % (Penalty amount calculated will be the % calculated or €250 whichever is greater, but not exceeding €5,000)
Area Over Declared :	If the difference is greater than 3% but not more than 20% of the area determined by the Department a penalty will apply as described	Grant and Premium	Penalty is calculated on 10% of the grant rate multiplied by the difference in hectares between the claimed and the determined areas added to 10% of the premium rate multiplied by the difference in hectares between the claimed and determined areas. Grant and premium recoupment may also apply if deemed appropriate by the Minister.
	If the difference is greater than 20% of the area determined by the Department a penalty will apply as described (3)	Grant and Premium	Penalty is calculated on 10% of the grant rate multiplied by the difference in hectares between the claimed and determined areas added to 10% of the premium rate multiplied by the difference in hectares between the claimed and determined areas. In addition, no premium will be paid in respect of the next premium due for payment at the time that the penalty is imposed. Grant and premium recoupment will also apply if deemed appropriate by the Minister.
Fence lengths over-declared by 3% of eligible expenditure		Grant	Recoupment of the amount over-claimed multiplied by 2.
Failure to exclude areas which are ineligible for aid, i.e. <ul style="list-style-type: none"> • Unplantable areas • Unplanted areas • ESB Lines • Gas mains • ABE area exceeded 		Grant & all Premiums paid	Recoupment of the amount over-claimed for ineligible area plus 10% of that amount.
Mapping		Grant	2%

⁶ Penalty is based on: • The difference in hectares between the claimed area and the determined eligible area.
• The grant and premium rates paid. • The NTA rate applicable to the over-declared area; or on the highest NTA rate if more than one NTA is involved.

Table 9. Environment Related Penalties

Penalty Type	Applicable to Grant and/or Premium	Penalty % (Penalty amount calculated will be the % calculated or €250 whichever is greater, but not exceeding €5000)
Provenance Declarations not completed correctly and incorrect declaration of provenances of trees planted	Grant	5%
Provision of a false statement, false information or false claim	Grant & all Premiums paid	100%
Failure to comply with environmental guidelines and/or specific conditions (i.e. permanent and /or significant damage)	Grant & all Premiums paid	100%
Failure to comply with environmental guidelines and/or specific conditions (whether resulting in damage or not) in relation to: <ul style="list-style-type: none"> • water/fisheries/aquatic • NHAs/SACs/SPAs/NHA • sites and monuments • distance from roads/dwellings 	Grant	5%
Failure to comply with standard procedures governing the following (whether resulting in damage or not) e.g. <ul style="list-style-type: none"> • chemical application • fertiliser application • hazardous fencing • Mounding • silt traps 	Grant	5%

Table 10. Remedial Work Penalties

Penalty Type		Applicable to Grant and/or Premium	Penalty % (Penalty amount calculated will be the % calculated or €250 whichever is greater, but not exceeding €5000)
Remedial Works required <ul style="list-style-type: none"> • Stocking less than 95% at 1st Instalment or 90% at 2nd Instalment • Inadequate vegetation control • Nutritional issues evident • Inadequate drainage and/or silt traps • Inadequate firebreaks • Inadequate fencing to exclude domestic stock • Removal of trees from setback areas 	at first inspection	1st or 2nd Grant	5%
	-at second inspection (i.e. after the remedial works have been reported as complete)	1st or 2nd Grant	10%
	at third inspection (i.e. after the remedial works have again been reported as complete)	1st or 2nd Grant	20%
	subsequent	All Grant & all Premiums paid	100%
Forest Established not in accordance with the Forestry Standards Manual (where deficiency cannot be remedied without replanting)		Grant & all Premiums paid	100%
Failure to maintain fences beyond the second instalment stage		Annual Premium (deducted from next premium)	5%
Failure to identify appropriate site		Grant & all Premiums	Recoupment of the amount over-claimed plus 20% of that amount as a penalty
Domestic Stock Damage		Annual Premium (deducted from next premium)	10%
Failure to control invasive scrub/furze beyond the second instalment stage		Annual Premium (deducted from next premium)	10%
Dumping associated with Forest Operations		Annual Premium (deducted from next premium)	10%

A1.2 Further information on penalties

Details explaining the Penalties applicable to the Native Tree Area Scheme are described below.

A1.2.1 Area Over-Declared

The net area being claimed must be accurately measured in accordance with the DAFM Mapping Standards. Recoupment of the appropriate portion of all grants and premiums paid to date under the Scheme is calculated on the difference between the total payment made in respect of the over-declared area and the payment that should have been made on the area determined by the DAFM to be the correct payable area. Where problems on a forest or part of a forest cannot be remedied, or where the owner fails to remedy the problems, the Minister may deem it necessary to recoup 100% of all money paid in respect of that forest or the affected portion and to make no further payments; in effect, writing off the forest or relevant area.

A1.2.2 Fence Lengths Over-Declared

Fence lengths declared eligible for grant aid by Registered Foresters must be accurately measured by field assessment along the length of the fence. A penalty will apply in cases where the fence length is over declared by 3% or more. The penalty will be the subtraction of the amount for the over-claimed length from the eligible amount payable plus 100% of that amount. For penalty purposes, the over claimed amount will be based on the maximum grant rate per linear metre per fence type irrespective of the unit cost claimed subject to the maximum fencing allowance thresholds. The length of a newly erected fence will be determined based on the linear metres measured along the line of the fence parallel to the ground. Linear measurements may be determined digitally by computer to determine initially if a breach may have occurred but the application of a penalty will be determined by the length measured in the field.

A1.2.3 Failure to Exclude Areas which are Ineligible for Aid

Where it is found that there has been a failure to exclude areas ineligible for aid the scheduled penalty will apply. The Department has identified the main areas ineligible for grant and premium in the Forestry Standards Manual. The main areas ineligible are inter alia listed in the following Chapters/Annex Headings;

- Unplanted Areas, Biodiversity and Setback distances
- ESB Power lines
- Silvicultural Standards
- Land Types for Afforestation
- Note on Shell Marl
- Protocol for the Determination of the Acid Sensitivity of Surface Water

The area ineligible for aid will be determined by the Department by mapping the ineligible area and plotting it on a map.

A1.2.4 Mapping

The Forestry Standards Manual outlines the requirements for the preparation of maps submitted for grant and premium. Mapping penalties will only apply where the Registered Forester has not recorded the following details correctly:

- plot boundaries do not correspond to the boundaries located on the ground;
- species and biodiversity areas are not correctly recorded in the Plot Table when compared to the location on the ground;
- power lines and gas lines not correctly mapped as determined from ground inspection;
- fencing lengths, claimed for grant aid, are not correctly recorded on fencing map

Mapping of species and plot boundaries which result in an area over claim will have the scheduled penalty applied for “area over claim” instead of the scheduled mapping penalty.

A1.2.5 Provenance Declarations not Completed Correctly

For the purposes of the Scheme all planted material must be supported by a Suppliers Document in the form of a Provenance Declaration Form. Only the origins listed in the Forestry Standards Manual are acceptable.

Provenance Declaration Forms not provided as required or not completed as required, or the use of provenances not approved, will receive a penalty in proportion to the area of the forest where those trees are planted.

A1.2.6 Provision of a False Statement, False Information or False Claim

If an applicant and/or Registered Forester knowingly makes a false or misleading statement or withholds essential information for the purposes of obtaining payment and/or approval under this Scheme, his/her participation in the Scheme in respect of the mis-declared contract may be terminated and all or part of the aid paid shall be reimbursed.

Where an applicant fails to abide by the Terms and Conditions of the Scheme or if there is any material change in the circumstances of the applicant or forest which would be in conflict with the details of the Scheme, his/her participation in the Scheme in respect of the mis-declared contract may be terminated and all or part of the aid paid shall be reimbursed. In addition 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.

A1.2.7 Failure to Comply with Environmental Guidelines

In any situation where failure to comply with Environmental Guidelines results in permanent or serious damage to the environment, particularly but not exclusively, in respect of archaeological sites and monuments, water or important habitats the scheduled penalty of no grant or premium payments will apply.

If Environmental Guidelines are breached and no permanent or serious damage has occurred, the scheduled penalty “Failure to Comply with Environmental Guidelines and/or Specific Conditions” will apply. For the purposes of determining if a penalty will apply where buffer zones and setback distances have been breached, reference will be made to the setback distances listed in the Forestry Standards Manual, guidelines, watercourses identified on the Department’s online system, archaeological buffer zones identified as a condition of approval and any specific setback areas stated as a specific condition of approval.

A1.2.8 Failure to Comply with Environmental Guidelines and/or Specific Conditions

The Environmental Guidelines and Forestry Standards Manual outline procedures and specific conditions with the aim of ensuring good practice. In cases where minor breaches can be remedied and/or where no significant damage occurred, the scheduled penalty will apply. Penalties will be confined to the following breach rules;

- failure to maintain the required buffer zone from watercourses in respect of both ground preparation and planting;
- failure to adhere to specific buffer zone boundaries specified for NHA's, SAC's, SPAs and archaeological sites and monuments;
- failure to keep planting back the requisite distances from roads and dwelling houses;
- non-adherence to the approval letter and any specific environmental conditions.

A1.2.9 Failure to Comply with Standard Procedures

- **Chemical application:** Chemicals shall be applied according to the manufacturer's instructions and in accordance with the DAFM Forestry and Water Quality Guidelines.
- **Fertiliser application:** Fertiliser application shall be in accordance with the DAFM Forestry and Water Quality and Aerial Fertilisation Guidelines.
- **Disposal of Waste/Rubbish:** The disposal on sites of, for example, plastic fertiliser bags, plastic plant bags and oil containers, must be in accordance with waste disposal legislation. Penalties will only apply where the waste and rubbish found is directly related to forest operations and does not include other forms of dumping e.g. unauthorised domestic dumping.
- **Hazardous Fencing:** Fencing wire should be below head height or below neck height in respect of barbed wire. All tiebacks should be placed inside the planting site.
- **Drainage:** No new drainage channels should be created.

Where the Department has established that a failure to comply with any of the Schemes' requirements has occurred then the scheduled penalties will apply.

A1.2.10 Incorrect Species Selection

Sites must be matched with appropriate species to ensure that a viable forest emerges. In any situation where an incorrect species has been selected the scheduled penalty of no grant or premium payments will apply to that area planted with such species. Any payments made in respect of that area will be recouped and/or replacement required. Where, for any reason, a species change is made even with the written permission of the Department

A1.2.11 Failure to Identify Eligible lands

The Forestry Standards Manual outlines the requirements for the identification of lands eligible. Land not classified correctly will receive the scheduled penalty.

A1.2.12 Remedial Works Required

The Forestry Standards Manual and Scheme Conditions specify the minimum standards that must be achieved before an application is made for payment of grants and premiums. Registered Foresters must not submit an application for payment where the forest has not reached the required standard. A scheduled penalty will

automatically apply if on a first inspection remedial works are specified. In cases where trivial remedial works of a minor nature are required no penalty will apply as stated previously. If the application is resubmitted without the required remedial works being carried out satisfactorily a second penalty will apply. Where a forest or part of a forest cannot be remediated, or where the owner fails to remedy the problems, the Minister may deem it necessary to recoup 100% of all money paid in respect of that forest or the affected portion and to make no further payments. The main areas where penalties may be applied are listed below.

- **First Inspection:** The Department will apply the scheduled penalty proportional to the area affected if it is determined that the application was submitted and was not up to the required standard as specified in the Forestry Standards Manual.
- **Second Inspection:** If a registered forester resubmits an application without completing the required remedial works as specified a further penalty will apply.
- **Subsequent Inspection:** Applications re-submitted without the specified remedial works carried out after receiving a 1st and 2nd inspection will receive the scheduled penalty for the area affected. Failure to carry out specified remedial works may result in all grants and premiums paid being recouped.
- **Plant Stocking:** Forests submitted for 1st Instalment grants must have at least 90% of the trees planted at the recommended stocking rates and trees must be growing and evenly spread across the plot to be considered successfully established. Stocking densities less than 90% will receive the scheduled penalty in proportion to the area affected and will be assessed by plot sampling. Forests submitted for 2nd Instalment grants must have at least 90% of the original recommended stocking rates as described above and trees must be free growing and established and 1.3 metres in height.
- **Vegetation control:** Trees submitted for grant aid must be free of competing vegetation. For sections of a forest where weed control is inadequate resulting in significant reduction in the rate of tree growth the scheduled penalty will apply based on the area affected. The Forestry Standards Manual, Chapter 8, outlines requirements for weed control.
- **Drainage:** All sites must have acceptable drainage, which means that there is an appropriate free draining rooting depth to facilitate tree growth. Registered Foresters must ensure that sites proposed for afforestation meets this requirement otherwise a scheduled penalty will apply to the area affected.



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