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Bia agus Mara
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Forestry Scheme Penalty Schedules

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1. Introduction

The Department of Agriculture, Food and the Marine (DAFM) has responsibility for grant and premium schemes which are targeted at expanding and developing the forest estate. In order to qualify for approval and grant aid it is a requirement that applications are submitted in accordance with defined scheme rules and procedures. The Department operates a risk-based inspection regime with the purpose of maintaining standards and ensuring that grants and premiums claimed are eligible for payment.

The penalty schedules outlined in this document will reduce the requirement to inspect every site and allow inspection rates to be reviewed based on the level of compliance within each penalty category listed below.

The implementation date for imposition of penalties outlined in this document will be in respect of all applications for approval, grant and premium claims made on or after 1st January 2023. The determination of whether a penalty will be applied to forests established before the implementation date will take into consideration the terms and conditions of schemes at the time of approval, previous penalty schedules and any letter of approval issued.

2. Imposition of a Penalty

The DAFM fully accepts the concept of partnership, co-operation, and consultation between the DAFM, Registered Foresters, Forestry Companies and the scheme applicants to achieve good forestry practice. The Forestry Inspectorate and administrative staff are delegated discretionary powers to allow very minor remedial works in respect of a forest to be remedied without a penalty being applied. Examples of minor remedial works include *inter alia:*

- Insufficient stocking in less than 0.5 ha of the site
- Nutritional deficiencies present in less than 10% of the site or less than or equal to 0.5 ha
- Weed control required in less than 10% of the site or areas less than or equal to 0.5 ha
- Removal of individual planting bags and those neatly stacked and ready for collection
- Removal of less than 15 trees within a buffer zone where no damage has occurred or is likely to occur in the future

In the other more serious cases, where remedial works are required, where terms or conditions are breached or are not adhered to (in accordance with the table of penalties and explanations of the penalties below), a penalty will automatically be imposed. However, the principle of proportionality will be applied in all cases and will be based on a recommendation by the Forestry Inspector and/or a decision by the Higher Executive Officer (HEO). The decision of the Minister will be final in all matters subject to the provisions of the appeals procedure as outlined below.

The Applicant will be regarded as the principle person or body in respect of which a grant and/or premium penalty will be imposed. The applicant is responsible for the ultimate success and management of his contract with the Department and failure by applicant, the forester or third parties to perform work up to the required standard is a matter between the applicant and those parties to manage and resolve.

As a general rule, in any case where a penalty has been imposed, it will be necessary to have remedial action taken, where possible, in respect of that element of the forest or road which was the subject of the penalty.

The principle of proportionality will apply. Where practical, any penalty imposed will be in direct proportion to the alleged breach of the conditions of the scheme. In the majority of cases the area affected by the breach will determine the level of the penalty amount imposed. The imposition of a penalty shall not relieve an Applicant of an obligation to comply with an instruction from the Minister to undertake remedial works in respect of a forest. Penalties may be applied to the area of the forest affected which can include entire plots, FT's or sections of roads. It should be noted that 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.

Compliance with any letter of approval based on a valid application submitted in compliance with the scheme rules, Forestry Standards Manual, guidelines, specific conditions will not result in the imposition of any penalty. Registered Foresters and/or applicants who submit applications not in accordance with scheme requirements and who provide incorrect information may invalidate their approval and the scheduled penalty will apply, if applicable.

Where the Minister deems it necessary to impose a penalty, in order to avoid additional debts accruing, further payments under the contract may be suspended until the cause of the penalty has been remedied to the satisfaction of the Minister.

The applicant is ultimately responsible for the success of their forest. Approvals issued by the Department on receipt of an application do not guarantee that a forest will successfully establish. Applicants must seek independent professional advice before deciding to proceed with any project approved. Failure of a forest to establish successfully may result in recoupment of grants and premiums paid.

3. Payment of Penalties

Monetary penalties shall include interest payable at the rate provided for under SI No. 13/2006. Interest shall be calculated for the period elapsing between a date specified in a notification to the applicant of the repayment obligation and either repayment or recovery by deduction. In cases where the applicant has not received the payment affected by the penalty, the amount will be deducted from that payment. Penalty amounts may also be deducted from future payments due to the Applicant under that contract. Where monetary penalties are not paid or recovered within the period requested, the Department may take whatever action is deemed necessary, including legal action, to ensure their recovery.

4. Sanctions

The Terms and Conditions of Registered Foresters outline the conditions applied by the Department of Agriculture, Food and Marine for the registration of individuals and companies as Registered Foresters and Companies. Recurring breaches of scheme rules by registered foresters in the preparation of applications for clients including the application of penalties against their clients may result in sanctions being imposed on the registered forester including suspension or removal from the Register. Sanctions applied or any appeal lodged following breaches to scheme conditions will have regard to the terms and conditions of registered foresters.

5. Appeals

The applicant, or a registered forester acting on behalf and with the written permission of the applicant, may appeal against any decision of the Department regarding (i) an application for a pre-approval (i.e. an Afforestation Licence Decision); (ii) a grant; (iii) a premium or (iv) a penalty.

Appeals of DAFM decisions in respect of Afforestation Licence Applications

The Agriculture Appeals Act, 2001, amended by the Forestry Act 2014, includes Section 14A, which provides for an appeals service against decisions on forestry applications made by the Minister for Agriculture, Food and the Marine. The legislation led to the establishment by the Minister, of the Forestry Appeals Committee (FAC) in 2018.

The FAC operates under a separate statutory basis to that of the Agriculture Appeals Office functions. However, the Agriculture Appeals Office provides the administrative and secretariat support to the FAC. Appeals Officers may be appointed as members of the FAC. The Forestry Appeals Committee (FAC) provides an appeals service where, if a person is dissatisfied with a decision of the Minister or an officer of the Minister, they may submit an appeal against a decision on an afforestation licence.

Appeals in respect of afforestation Licence applications must be submitted by post on a notice of appeal form and the fee of €200 must accompany the notice of appeal. The postal address is Forestry Appeals Committee, Agriculture Appeals Office, Kilminchy Court, Portlaoise, Co. Laois, R32 DTW5. The Notice of Appeal Form must be signed by the Appellant. Appeals and payments that are not received within the statutory deadline cannot be accepted.

Any licence decisions issued by the Minister for Agriculture, Food and the Marine are subject to the statutory 14 working day deadline i.e. The FAC Notice of Appeal Form must be received by this office along with the €200 fee within 14 working days of the DAFM decision. Full details of FAC procedures, appeals fee schedule, related appeal legislation, decisions and publications is provided at: http://www.agriappeals.gov.ie/forestryappealscommittee/

In addition and in accordance with *EUROPEAN COMMUNITIES (FOREST CONSENT AND ASSESSMENT) REGULATIONS SI558 of 2010* any decision to grant approval, refusal or attach conditions may be subjected to judicial review by the High Court on application for the purposes of Article 10a of the EIA Directive.

A challenge to the substantive or procedural legality of decisions, acts or omissions subject to the public participation provisions of Council Directive 85/337/EC (*EIA Directive*) may be made by way of judicial review under Order 84 of the Rules of the Superior Courts.

6. DAFM Guidelines and Standards

The DAFM undertakes to provide adequate dissemination of the information contained in the following documents:

- Forest Standards Manual, which includes the Mapping Standards
- Environmental Requirements for Afforestation
- Land types for Afforestation
- Code of Best Forest Practice
- Forestry Scheme Documents
- Industry Circulars

Compliance with the above documents is a condition of grant aid. Registered foresters should ensure that all applications are submitted in accordance with these documents to ensure that applications are eligible for approval and grant aid.

7. Force Majeure

Cases of *force majeure* shall be notified in writing by the beneficiary or their registered forester to the DAFM, Johnstown Castle, Co. Wexford within 10 working days from the date on which the beneficiary or Registered Forester is in a position to do so. If there is a dispute on when the beneficiary or Registered Forester is in a position to make this notification, the final decision rests with the Minister.

8. Schedule of Penalties

The following is the schedule of penalties including recoupment applicable to all schemes and will apply proportionally based on the degree of non-compliance. Penalties may be applied for non-compliance at each stage of the application process and will be based on the severity of breach and or frequency of its occurrence. A maximum penalty of €5,000 will apply for each non-compliance or breach of scheme requirements in addition to recoupment of grants and premiums where required. Proportionality will apply where multiple offences have occurred and the total penalty amount will take in to consideration the cumulative nature of combined offences. These penalties are in addition to any penalties that may be imposed where an offence has been committed under any Act or Regulation.

The provision of a false statement, providing false information or making a false claim will result in a **penalty of up to 100%** of grant claimed. This will be in the form of a refusal by the Department to pay the grant claimed. Further sanctions may be imposed on registered foresters if deemed necessary.

Schedule of Penalties

(See notes at end of Schedule)

AFFORESTATION/ NATIVE TREEE AREA SCHEME/NATIVE WOODLAND CONSERVATION/WOODLAND IMPROVEMENT/RECONSTITUTION/NEIGHBOURWOOD / CLIMATE RESILENT REFORESTATION/ ENVIRONMENT ENHANCEMENT SCHEMES

Penalty Type [1]	**Applicable to Grant and/or Premium** [2]	**Penalty %** **(Penalty amount calculated will be the % calculated or €250 whichever is greater, but not exceeding €5000)**
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 [3]	Grant and Premium [3]	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. **(3)** Grant and premium recoupment will 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 [3]	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. **(3)** 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.
Greater than 50%	Grant and Premium	Applicant is excluded from the scheme in respect of the relevant contract and no grants or premiums paid. Recoupment of all grant and premiums if applicable.

Fence Lengths over-declared by 3% of eligible expenditure	Grant	Fencing length over-declaration threshold should be addressed via remedial works request in the first instance and by penalty only after second Remedial Works Request Recoupment of the amount over-claimed multiplied by 2

Failure to exclude areas which are ineligible for aid, i.e. • Unplantable areas • Unplanted areas • ESB Lines • Gas mains • ABE areas greater than 15%	Grant & all Premiums paid	Recoupment of the amount over-claimed for ineligible area plus 10% of that amount.
Provenance Declarations not completed correctly and incorrect declaration of provenances of trees planted	Grant	2 (Up to a max of €500)
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	Up to 100
Failure to comply with environmental guidelines and/or specific conditions (whether resulting in damage or not) in relation to	Grant	5
-water/fisheries/aquatic		5
NHAs/SACs/SPAs/pNHA/NHA		5
-sites and monuments		5
-distance from roads/dwellings		5
Failure to comply with standard procedures governing the following (whether resulting in damage or not) e.g.	Grant	5
-chemical application		5
-fertiliser application		5
-hazardous fencing		5
-mounding		5
-silt traps		5
Incorrect species selection	Grant & all Premiums paid	100 (or replacement with the species stated on the Afforestation Licence)

Remedial Works required e.g. • Stocking less than 90% 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.	Grant	As per below
-at first inspection	1st or 2nd Grant	0
-at second inspection (i.e. after the remedial works have been reported as complete)	1st or 2nd Grant	2
-at third inspection (i.e. after the remedial works have again been reported as complete)	1st or 2nd Grant	10
-subsequent	All Grant & all Premiums paid	100 Proportionate to the area affected
Forest Established not in accordance with the Forestry Standards Manual (where deficiency cannot be remedied without replanting)	Grant & all Premiums paid	100 Proportionate to the area affected
Failure to maintain fences beyond the second instalment stage	Annual Premium (deducted from next premium)	5
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)	5
Non-adherence to Form 1a, b and procedures		As stated on Form 1a, b and c
Unauthorised Developments described in EUROPEAN COMMUNITIES (FOREST CONSENT AND ASSESSMENT) REGULATIONS 2010	As per SI558	

(1) Multiple penalties may apply for multiple breaches of scheme requirements

(2) Unless otherwise specified, "grant" means the total amount of the 1st and 2nd instalments.

(3) Penalty is based on:

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

ROADS SCHEME

Penalty Type	Grant [2]	Penalty % (Penalty amount calculated will be the % calculated or €250 whichever is greater but not exceeding €5000)
Harvest Area over-declared	Grant	Disallowance or recoupment of the amount over-claimed plus 10% of that amount as a penalty.
Length over declared by 3% or more of eligible expenditure	Grant	Disallowance or recoupment of the amount over-claimed plus 100% penalty.
Mapping	Grant	2
Provision of a false statement, false information or false claim	Grant	Up to 100
Failure to comply with environmental guidelines (i.e. permanent and /or significant damage)	Grant	Up to 100
Failure to comply environmental guidelines and/or specific conditions (whether resulting in damage or not) e.g.	Grant	25
-water/fisheries		25
-NHAs/SACs		25
-sites and monuments		25
-scenic areas		25
-distance from roads/dwellings		25
-Health and Safety		25
-Other		
Remedial Works required e.g. **-**Gradient -Inadequate pavement depth -Culverts and drainage -Turning areas and entrances not to specification -Carriageway and formation width -Other	Grant	As per below
-at first inspection	Grant	0
-at second inspection (i.e. after the remedial works have been reported as complete)	Grant	2
-at third inspection	Grant	10

(i.e. after the remedial works have again been reported as complete)		
-subsequent	Grant	100
Road not constructed in accordance with the Forest Road Manual (Deficiency cannot be remedied but deficiency does not affect the structural integrity or safety of the road. However road must be capable of supporting the transport of fully loaded timber trucks i.e. 44 tonnes GVW)	Grant	Up to 60
Road not constructed in accordance with the Forest Road Manual (Deficiency cannot be remedied and the structural integrity or construction renders it unsafe or unsuitable for use)	Grant	100
Dumping and/or use of construction materials not in compliance with the Waste Management Act 1996 and EC (Waste Directive) Regulations 2011	Grant	100

(1) Multiple penalties may apply for multiple breaches of scheme requirements.

(2) Unless otherwise specified, "grant" means the total amount of the 1st and 2nd instalments.

9. Penalties under the Native Woodland Conservation /Woodland Improvement Scheme elements 1-5/ Reconstitution/Neighbourwood Scheme/ Deer Tree Shelter Scheme, Environmental Enhancement scheme, Climate Resilient Reforestation Scheme

Details explaining the penalties applicable to the above schemes are described below.

9.1 Area Over-Declared

The forest net area being claimed must be accurately measured in accordance with 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.

9.2 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.

9.3 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 DAFM has identified the main areas ineligible for grant and premium in the Forestry Standards Manual. The main areas ineligible *inter alia* are listed in the following chapters/appendix 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.

9.4 Mapping

The Forest Standards Manual. Section 17 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 on the certified species map 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 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.

9.5 Provenance Declarations not completed correctly

For the purposes of the DAFM grant schemes all planted material must be supported by a Suppliers Document in the form of a Provenance Declaration Form. Only the origins listed in the Forest 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.

9.6 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, their participation in the Scheme in respect of the misdeclared 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, their 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.

9.7 Failure to comply with environmental guidelines (permanent and/or significant damage)

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 Environment Requirements for Afforestation and Forest Standards Manual, guidelines, watercourses identified on the Department’s iNET system, archaeological buffer zones identified as a condition of approval and any specific setback areas stated as a specific condition of approval.

Example: A road is constructed and passes through a recorded archaeological monument causing significant damage to the structure. The required buffer zone was not observed. In this case all grant aid for the forest will be withheld. This is in addition to any potential legal proceedings that may take place following damage to a protected structure by the relevant statutory authority.

9.8 Failure to comply with environmental guidelines and/or specific conditions

The Environment Requirement for Afforestation and Forest 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 breaches:

- failure to maintain the required setbacks from watercourses in respect of both ground preparation and planting.
- failure to adhere to specific setback 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 Afforestation Licence and any specific environmental conditions attached therein.

9.9 Failure to comply with standard procedures

CHEMICAL APPLICATION

Chemicals shall be applied according to the manufacturer’s instructions and in accordance with the European Communities (Sustainable Use of Pesticides) Regulations 2012 (S.I.155/2012). DAFM and the Environmental Requirements for Afforestation 2023.

FERTILISER APPLICATION

Fertiliser application shall be in accordance with Section 5 of S. I. No. 191 of 2017 and the Environmental Requirements for Afforestation 2023 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.

MOUNDING

Mounding should be in accordance with good forestry practice in terms of direction, spacing density and depth as set out in the Forest Standards Manual.

SILT TRAPS

Silt traps must be laid down as specified in the Forest Standards Manual and should not be left in a dangerous condition or placed in an inappropriate location.

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

9.10 Incorrect species selection

Sites must be matched with appropriate species to ensure that a crop of trees is produced. There should not be any deviation from the species as set out in the Forest Standards Manual, unless approved in advance and in writing by the DAFM. 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 DAFM, if the replacement species is in a lower FT, recoupment of the overpayment for the area will be made, i.e. the difference between the payments already made at the higher FT rate and the payment that would have been made at the lower FT rate.

9.11 Remedial Works Required

The Forest 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 DAFM will apply the scheduled penalty proportional to the area affected if it is determined that the application was submitted but was not up to the required standard as specified in the Forest Standards Manual. For example, a 10 ha forest of FT12 has a 2 ha section with stocking levels of 60%. The scheduled penalty will be applied to the eligible grant amount on 2 ha, and not the total area of the forest.

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.

VEGETATION CONTROL

Trees submitted for grant aid must be free of competing vegetation. For sections of forests 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 Forest Standards Manual, outlines requirements for weed control.

DRAINAGE

All sites must be developed in accordance with the Forest Standards Manual. Sites proposed and developed must ensure that conifers have a minimum free draining rooting depth of 45-60cm throughout the year. Broadleaves will require a depth greater than conifers. Registered foresters must ensure that sites proposed for afforestation meets this requirement otherwise a scheduled penalty will apply to the area affected.
Acceptable drainage means that there is the minimum free draining rooting depth outlined above as evidenced by tree growth and water depth in any mound drains and existing drains on site. A drainage survey is required for flat sites or sites where there are doubts about the drain ability of site and these are completed by a qualified Surveyor or Engineer.

FIREBREAKS AND MAINTENANCE

Registered Foresters must specify at pre-approval stage the requirement for fire breaks if applicable. If firebreaks are not installed correctly and maintained as specified in the *Forest Standards Manual, Forest Protection Guidelines* and *Code for Prescribed burning* the scheduled penalty will apply.

NUTRITIONAL DEFICIENCIES EVIDENT

Forests and plots must not be submitted for grant aid and premium where nutritional deficiencies are evident and where trees are not free growing and established. A scheduled penalty will apply where 10% of the forest or areas greater than 0.5 ha, is suffering from chlorosis. In addition, forests which have just received an application of fertiliser must not be submitted for payment where no response from the crop is evident. Registered Foresters must wait until the crop has satisfactorily responded, before submitting an application for grant aid.

The *Forest Standards Manual* specifies the standards which apply to all schemes where trees are being planted. Registered Foresters must ensure that applications submitted comply with these requirements. Applications submitted which do not comply with these requirements, thus resulting in remedial works, will receive the scheduled penalty specified.

9.12 Cross Checking Procedures and Premium and Grant Payment

As an accredited EU paying agency the Department of Agriculture, Food and Marine is obliged under EU Regulation to carry out checks and controls on all applications to ensure compliance with all scheme conditions and requirements.

An applicant may not claim forest grant or premium in respect of any area which is included in their claim under an area-linked EU scheme such ACRES and area aid schemes administered by the Department of Agriculture, Food and Marine where the land was afforested before 2009. The *Forest Standards Manual*, provides more details on scheme interactions.

In order to check that this is the case, the DAFM is using computer mapping technology to

- Measure the area claimed, and
- Cross- check the parcels digitised against other area-based schemes

The process also includes retrospective checking of previous years' premiums. If the calculation of area using these procedures shows any discrepancies, it may be necessary to adjust the amount of the premium and to recoup any overpayment.

10. Roads Scheme

The penalties applicable to the Road schemes are described below.

10.1 Harvest Area Over-Declared

Mapping of the area eligible for harvesting to determine the eligible length of road for grant aid must be accurately recorded. Over declarations of the eligible harvesting area to determine road density per ha will result in the amount over claimed being disallowed or recouped and a scheduled penalty being applied equal to 10% of that amount over-claimed.

For determining the area ready for harvesting reference will be made in the first instance to the following table as listed in the Irish Thinning Protocol and based on existing crop performance. Thinning outside of these ages must be supported by inventory information. Broadleaves will be considered ready for thinning and tending when they have obtained a top height of at least 8 metres.

Table 4: Standard* First Thinning Ages for Common Conifer Crops (source: Forestry Commission Field Book 2)

	YC							
Species	**24**	**22**	**20**	**18**	**16**	**14**	**12**	**10**
Sitka spruce	18	19	20	21	22	23	25	27
Norway spruce		21	22	23	25	26	29	31
Douglas fir	16	17	18	19	20	22	24	27
Japanese/ Hybrid larch						15	16	18
European larch							18	20
Scots pine						22	24	27
Lodgepole pine						20	22	25

***Note some crops may have a higher YC than is covered in the above table. In many situations in Ireland thinning should take place before the age outlined above.**

10.2 Road Length over declared by 3% or more of eligible expenditure

Road lengths declared eligible for grant aid by registered foresters must be accurately measured by field assessment. Measurement of the road, including equivalent lengths will be calculated based on the length determined by measuring the length along the surface of the road. Equivalent lengths will be calculated on the basis outlined in the Forest Road Manual.

A penalty will apply in cases where the road length is over declared by 3% or more. The amount over claimed will be disallowed or recouped and a scheduled penalty will be applied equal to 100% of that amount over claimed. For penalty purposes the over claimed amount will be based on the maximum grant rate per linear metre irrespective of the unit cost claimed. Over claims less than 3% of the eligible length will be adjusted to the correct length without penalty.

For example, a grant claim is made for 500 metre road and it is found to be 400 metres when measured on the ground, which includes allowances for equivalent lengths for entrances. In this case the penalty applied will be based on recouping/withholding the over claimed amount plus an additional penalty of 100 metres, in summary 200 metres of road grant will be deducted from the eligible claim.

10.3 Mapping

The Forest Standards Manual outline the requirements for the preparation of maps submitted for grant and premium.

Mapping penalties will apply where the registered forester has not recorded the following details correctly:

- Road alignment and entrance

For penalty purposes the road alignment must be within +/- 20 metres

Provision of a false statement, false information or false claim as previously described for other forestry schemes.

10.4 Failure to comply with environmental guidelines (i.e. serious and/or permanent damage)

As previously described for other forestry schemes.

10.5 Failure to comply with environmental guidelines and/or specific conditions

As previously described for other forestry schemes.

10.6 Remedial Works required

Forest roads and/or specified sections not constructed as per the specifications submitted and included in the approval letter or that are not in accordance with the Forest Road Manual will have the scheduled penalty applied.

FIRST INSPECTION:
As previously described for other forestry schemes.

SECOND INSPECTION:
As previously described for other forestry schemes.

SUBSEQUENT INSPECTION:
As previously described for other forestry schemes.

GRADIENT

In general, the maximum gradient permitted is 10% up to a maximum of 12.5% in certain circumstances specified in the application for approval. Any deviations from standard gradients must be approved in advance prior to construction; otherwise the scheduled penalty will apply.

INADEQUATE PAVEMENT DEPTH

Typical pavement depths for forest roads are listed in the Forest Road Manual (2005), table 12. Any deviations from standard pavements depths must be approved in advance prior to construction, otherwise the scheduled penalty will apply.

CULVERTS AND DRAINAGE

Forest roads with inadequate culverts and drainage installed can lead to erosion and damage to forest and county roads. The Forest Roads Manual outlines guidelines for best practice on drainage and culvert design. The scheduled penalty will apply where inadequate drainage and culverts are installed and are not in accordance with the Forest Roads Manual.

TURNING AREAS AND ENTRANCES NOT TO SPECIFICATION

The Forest Road Manual and subsequent technical standards will describe s the required turning areas and entrance design adjoining public roads and these are a condition of grant aid. Forest roads and/or specified sections not constructed as per the specifications submitted and not in accordance with the *Forest Road Manual* will have the scheduled penalty applied.

CARRIAGEWAY AND FORMATION WIDTH

All carriageways must be at least 3.4 metres in width. Failure to construct carriageways and formations in accordance with the *Forest Road Manual* will have the scheduled penalty applied.

10.7 Road constructed not in accordance with the Forest Road Manual (up to 60% penalty)

(Deficiency cannot be remedied but deficiency does not affect the structural integrity or safety of the road. However, road must be capable of supporting the transport of fully loaded timber trucks i.e. 42 – 44 tonnes GVW)

If the road constructed cannot be remedied and the deficiency **does not** affect the structural integrity or safety of the road the scheduled penalty will apply to the section of road affected. However the road must be capable of carrying a fully loaded timber truck i.e. 42 – 44 tonnes GVW. If the section of road where the deficiency occurs is the part which connects to the public road the entire road will be rejected for grant aid. In a limited number of circumstances a road not built to the required standards may be capable of carrying fully laden trucks (42 tonnes GVW) for a number of harvest operations before eventually failing e.g. quality of pavement and materials, formation width not sufficient. In these circumstances the Department may decide to allow some grant some aid and the scheduled penalty will apply. Although consent may be given to build roads not in accordance with the standards as described in the Forest Road Manual, eligibility for grant aid must be in accordance with these standards and/or the specifications approved.

10.8 Road constructed not in accordance with the Forest Road Manual (100% penalty)

(Deficiency cannot be remedied)

If the road constructed cannot be remedied and the deficiency does affect the structural integrity or safety of the road the scheduled penalty will apply to the section of road affected. If the section of road where the deficiency occurs is the part which connects to the public road the entire road will be rejected for grant aid.

10.9 Dumping and/or use of construction materials not in compliance with the Waste Management Act 1996 and EC (Waste Directive) Regulations 2011

All materials used in the construction of a road must comply with the Waste Management Act 1996 and European Communities (Waste Directive) Regulations 2011 (S.I. No 126 of 2011). Applications for grant aid for roads constructed with materials not in compliance with the Act/Regulations will not be grant aided and the scheduled penalty applies. Remedial works may also be required.

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