



Department of  
**Agriculture,  
Food and the Marine**

An Roinn  
**Talmhaíochta,  
Bia agus Mara**

# Forestry Scheme Penalty Schedules

DAFM (2015)

Edition 2 /2005



## 1.1 Introduction

The Forest Service 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 1<sup>st</sup> January 2015. The determination of whether a penalty will be applied to plantations 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.

## 1.2 Imposition of a Penalty

The Forest Service fully accepts the concept of partnership, co-operation, and consultation between the Forest Service, Registered Foresters, Forestry Companies and the scheme applicants to achieve good forestry practice. The Forest Service Inspectorate and administrative staff will be delegated discretionary powers to allow very minor remedial works in respect of a plantation 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 District 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 plantation 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 plantation. Penalties may be applied to the area of the plantation affected which can include entire plots, GPC categories or sections of roads. It should be noted that where problems on a plantation or part of a plantation 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 plantation 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 and Procedures 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 plantation. Approvals issued by the Department on receipt of an application do not guarantee that a plantation will successfully establish. Applicants must seek independent professional advice before deciding to proceed with any project approved. Failure of a plantation to establish successfully may result in recoupment of grants and premiums paid.

### **1.3 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.

### **1.4 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.

### **1.5 Appeals Procedure**

The Forest Service Appeals Committee is currently set up on an administrative basis and provides applicants with the opportunity to have decisions reviewed internally by a person who was not involved in the initial decision.

The principle of transparency will apply to the imposition of penalties. Where the Forest Service decides on the imposition of a penalty the applicant/registered forester, while giving detailed grounds for appeal, has the right to have that decision reviewed by the Forest Service Appeals Committee. Where a penalty is imposed on the Applicant, the Registered Forester can only appeal that penalty on behalf of the Applicant with the written permission of the Applicant. The appeal to have the decision reviewed internally must be made in writing within 21 days of the date of the decision and must include any relevant documentation in support of the appeal.

Appeals must be made in writing, giving detailed grounds for the appeal, to the **Appeals Section, Forest Service, Department of Agriculture, Food and the Marine, Johnstown Castle Estate, Co. Wexford**. Appeals are currently considered by the Forestry Appeals Committee. The issue of appeals is currently under review.

If an applicant does not agree with the decision making process they have a right to contact the Office of the Ombudsman, 18 Lower Leeson Street, Dublin 2. Tel: (01) 6395600.

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.

## **1.6 Forest Service Guidelines and Standards**

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

- Forestry Standards and Procedures Manual, which includes the Forest Service Mapping Standards
- Code of Best Forest Practice
- Forestry Scheme Documents
- Environmental guidelines
- 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.

## **1.7 Force Majeure or Exceptional Circumstances**

The following categories of *force majeure* or exceptional circumstances may, in particular, be recognised by the Department so that the partial or full reimbursement of aid received by the beneficiary may not be required:-

- Death of the beneficiary
- An extraordinary event or circumstance beyond the control of the parties, which prevents one or both parties from fulfilling their obligations under the scheme

Cases of *force majeure* or exceptional circumstances shall be notified in writing by the beneficiary or his/her registered forester to the Forest Service, 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.

## **1.8 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 €5000 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.

**Schedule of Penalties**  
**(See notes at end of Schedule)**  
**Afforestation/NWS Conservation/Woodland**  
**Improvement/Reconstitution/Neighbourhood Schemes**

<b>Penalty Type <sup>(1)</sup></b>	<b>Applicable to Grant and/or Premium <sup>(2)</sup></b>	<b>Penalty % (Penalty amount calculated will be the % calculated or €250 whichever is greater, but not exceeding €5000)</b>
<p><b>Area Over Declared :</b></p> <p>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 <sup>(3)</sup></p>	Grant and Premium <sup>(3)</sup>	<p>Penalty is calculated on 10% of the grant rate multiplied by the difference in hectares between the claimed and determined areas <b>added</b> to 10% of the premium rate multiplied by the difference in hectares between the claimed and determined areas. <sup>(3)</sup></p> <p>Grant and premium recoupment will also apply if deemed appropriate by the Minister.</p>
<p>If the difference is greater than 20% of the area determined by the Department a penalty will apply as described <sup>(3)</sup></p>	Grant and Premium <sup>(3)</sup>	<p>Penalty is calculated on 10% of the grant rate multiplied by the difference in hectares between the claimed and determined areas <b>added</b> to 10% of the premium rate multiplied by the difference in hectares between the claimed and determined areas. <sup>(3)</sup></p> <p>In addition, no premium will be paid in respect of the next premium due for payment at the time that the penalty is imposed.</p> <p>Grant and premium recoupment will also apply if deemed appropriate by the Minister.</p>
Greater than 50%	Grant and Premium	<p>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.</p>
<b>Fence Lengths over-declared</b>	Grant	Recoupment of the amount

<b>by 3% of eligible expenditure</b>		over-claimed multiplied by 2
<b>Failure to exclude areas which are ineligible for aid, i.e.</b>	Grant & all Premiums paid	Recoupment of the amount over-claimed for ineligible area plus 10% of that amount.
<ul style="list-style-type: none"> <li>• Unplantable areas</li> <li>• Unplanted areas</li> <li>• ESB Lines</li> <li>• Gas mains</li> <li>• ABE areas greater than 15%</li> </ul>		
<b>Mapping</b>	Grant	2
<b>Provenance Declarations not completed correctly and incorrect declaration of provenances of trees planted</b>	Grant	5
<b>Provision of a false statement, false information or false claim</b>	Grant & all Premiums paid	100
<b>Failure to comply with environmental guidelines and/or specific conditions (i.e. permanent and /or significant damage)</b>	Grant & all Premiums paid	100
<b>Failure to comply with environmental guidelines and/or specific conditions (whether resulting in damage or not) in relation to</b>	Grant	5
-water/fisheries/aquatic		5
-NHAs/SACs/SPAs/pNHA/NHA		5
-sites and monuments		5
-distance from roads/dwellings		5
<b>Failure to comply with standard procedures governing the following (whether resulting in damage or not) e.g.</b>	Grant	5
-chemical application		5
-fertiliser application		5
-hazardous fencing		5
-mounding		5
-silt traps		5

<b>Incorrect species selection</b>	Grant & all Premiums paid	100 (or replacement)
<b>Remedial Works required e.g.</b> <ul style="list-style-type: none"> <li>• Stocking less than 95% at 1<sup>st</sup> Instalment or 90% at 2<sup>nd</sup> Instalment</li> <li>• Inadequate vegetation control</li> <li>• Nutritional issues evident</li> <li>• Inadequate drainage and/or silt traps</li> <li>• Inadequate firebreaks</li> <li>• Inadequate fencing to exclude domestic stock</li> <li>• Removal of trees from setback areas</li> </ul>	Grant	As per below
-at first inspection	1 <sup>st</sup> or 2 <sup>nd</sup> Grant	5
-at second inspection (i.e. after the remedial works have been reported as complete)	1 <sup>st</sup> or 2 <sup>nd</sup> Grant	10
-at third inspection (i.e. after the remedial works have again been reported as complete)	1 <sup>st</sup> or 2 <sup>nd</sup> Grant	20
-subsequent	All Grant & all Premiums paid	100
<b>Forest Established not in accordance with the Forestry Standards and Procedures Manual</b> (where deficiency cannot be remedied without replanting)	Grant & all Premiums paid	100
<b>Failure to maintain fences beyond the second instalment stage</b>	Annual Premium (deducted from next premium)	5
<b>Failure to identify GPC1 areas</b>	Grant & all Premiums	Recoupment of the amount

<b>correctly</b>	paid	over-claimed plus 20% of that amount as a penalty.
<b>Domestic Stock Damage</b>	Annual Premium (deducted from next premium)	10
<b>Failure to control invasive scrub/furze beyond the second instalment stage</b>	Annual Premium (deducted from next premium)	10
<b>Dumping associated with Forest Operations</b>	Annual Premium (deducted from next premium)	10
<b>Non-adherence to Form 1a, b and procedures</b>		As stated on Form 1a,b and c
<b>Unauthorised Developments described in EUROPEAN COMMUNITIES (FOREST CONSENT AND ASSESSMENT) REGULATIONS 2010</b>	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 1<sup>st</sup> and 2<sup>nd</sup> 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 GPC rate applicable to the over-declared area; or on the highest GPC rate if more than one GPC is involved.

## Roads Scheme

Penalty Type	Grant <sup>(2)</sup>	Penalty % (Penalty amount calculated will be the % calculated or €250 whichever is greater but not exceeding €5000)
<b>Harvest Area over-declared</b>	Grant	Disallowance or recoupment of the amount over-claimed plus 10% of that amount as a penalty.
<b>Length over declared by 3% or more of eligible expenditure</b>	Grant	Disallowance or recoupment of the amount over-claimed plus 100% penalty.
<b>Mapping</b>	Grant	2
<b>Provision of a false statement, false information or false claim</b>	Grant	100
<b>Failure to comply with environmental guidelines (i.e. permanent and /or significant damage)</b>	Grant	100
<b>Failure to comply environmental guidelines and/or specific conditions (whether resulting in damage or not) e.g.</b>	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		
<b>Remedial Works required e.g.</b> -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	5
-at second inspection (i.e. after the remedial works have been reported as complete)	Grant	10
-at third inspection	Grant	20

(i.e. after the remedial works have again been reported as complete)		
-subsequent	Grant	100
<b>Road not constructed in accordance with the Forest Road Manual</b> (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	60
<b>Road not constructed in accordance with the Forest Road Manual</b> (Deficiency cannot be remedied and the structural integrity or construction renders it unsafe or unsuitable for use)	Grant	100
<b>Dumping and/or use of construction materials not in compliance with the Waste Management Act 1996 and EC (Waste Directive) Regulations 2011</b>	Grant	100

- (1) Multiple penalties may apply for multiple breaches of scheme requirements
- (2) Unless otherwise specified, “grant” means the total amount of the 1<sup>st</sup> and 2<sup>nd</sup> instalments.

## **2.1 Penalties under the Afforestation//NWS establishment and conservation /Woodland Improvement Scheme/Reconstitution/Neighbourhood Schemes**

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

## **2.2 Area Over-Declared**

The plantation net area being claimed must be accurately measured in accordance with the Forest Service 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 Forest Service to be the correct payable area.

Where problems on a plantation or part of a plantation 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 plantation or the affected portion and to make no further payments; in effect, writing off the plantation or relevant area.

## **2.3 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.

## **2.4 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 Forest Service has identified the main areas ineligible for grant and premium in the Forestry Standards and Procedures 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.

## **2.5 Mapping**

The Forestry Schemes Mapping Standards outline 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.

## **2.6 Provenance Declarations not completed correctly**

For the purposes of the Forest Service 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 table 8 of Forestry Standards and Procedures 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 plantation where those trees are planted.

## **2.7 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 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 plantation which would be in conflict with the details of the Scheme, his/her participation in the Scheme in respect of the misdeclared 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.

## **2.8 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 Forestry Standards and Procedures 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 plantation 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.

## **2.9 Failure to comply with environmental guidelines and/or specific conditions**

The environmental guidelines and Forestry Standards and Procedures 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 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.

## **2.10 Failure to comply with standard procedures**

### *Chemical application*

Chemicals shall be applied according to the manufacturer’s instructions and in accordance with the Forest Service Forestry and Water Quality Guidelines.

### *Fertiliser application*

Fertiliser application shall be in accordance with the Forest Service 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.

#### *Mounding*

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

#### *Silt Traps*

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

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

### **2.11 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 Forestry Standards and Procedures Manual, *Chapter 8- Silvicultural Standards*, unless approved in advance and in writing by the Forest Service. 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 Forest Service, if the replacement species is in a lower GPC, recoupment of the overpayment for the area will be made, i.e. the difference between the payments already made at the higher GPC rate and the payment that would have been made at the lower GPC rate.

### **2.12 Failure to identify lands described as GPC1 correctly**

The Forestry Standards and Procedures Manual outlines the requirements for the identification of lands eligible for GPC1. Land not classified correctly will receive the scheduled penalty.

### **2.13 Remedial Works Required**

The Forestry Standards and Procedures 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 plantation 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 plantation or part of a

plantation 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 plantation or the affected portion and to make no further payments. The main areas where penalties may be applied are listed below.

*First Inspection:*

The Forest Service 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 Forestry Standards and Procedures Manual. For example a 10 ha plantation of GPC3 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 plantation.

*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 1<sup>st</sup> and 2<sup>nd</sup> 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*

Plantations submitted for 1<sup>st</sup> 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.

Plantations submitted for 2<sup>nd</sup> 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 plantations 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 and Procedures Manual, Chapter 8*, outlines requirements for weed control.

*Drainage*

All sites must be developed in accordance with the *Forestry Standards and Procedures Manual* as described in *Chapter 8 – Silvicultural Standards*. 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 drainability 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 *Forestry Standards and Procedures Manual*, *Forest Protection Guidelines*, *Code of Best Forest Practice* and *Code for Prescribed burning* the scheduled penalty will apply.

#### *Nutritional Deficiencies evident*

Plantations 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 plantation or areas greater than 0.5 ha, is suffering from chlorosis. In addition plantations 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, which may include adequate heather control, before submitting an application for grant aid.

The *Forestry Standards and Procedures 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.

## **2.14 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 his/her claim under an area-linked EU scheme such REPS and area aid schemes administered by the Department of Agriculture, Food and Marine where the land was afforested before 2009. The *Forestry Standards and Procedures Manual*, provides more details on scheme interactions.

In order to check that this is the case, the Forest Service 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.

### 3.1 Roads Scheme

The penalties applicable to the Road schemes are described below.

### 3.2 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)**

Species	YC							
	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.

### 3.3 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.

### **3.4 Mapping**

The Forestry Schemes Mapping Standards 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.

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

As previously described for other forestry schemes.

### **3.6 Failure to comply with environmental guidelines and/or specific conditions**

As previously described for other forestry schemes.

### **3.7 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 pavement 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 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.

### **3.8 Road constructed not in accordance with the Forest Road Manual (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.

### **3.9 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.

### **3.10 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.

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