

Forestry Grant Schemes - Penalty System

[Reviewed March 2021]

1. Introduction

Forestry grants are funded under the Northern Ireland Rural Development Programme [NIRDP] and administered by Forest Service. To comply with European Commission (EC) Regulation we are required to operate a system of reductions and penalties to payment claims under certain conditions.

2. Scope

The forestry grant schemes funded by the NIRDP will be subject to this penalty system and they are as follows;

Rural Development Programme 2014 - 2020

- Forest Expansion Scheme – Establishment Grant
- Forest Expansion Scheme - Annual Premia
- Forest Protection Scheme
- Woodland Investment Grant
- Small Woodland Grant Scheme – Establishment Grant
- Small Woodland Grant Scheme – Annual Premia

Legacy Forestry Grant Schemes

- Farm Woodland Premium Scheme
- Farm Woodland Scheme

3. Application of Penalties

The penalty system will be applied to breaches due to;

- a failure to comply with scheme conditions or
- an applicant makes a false or misleading claim for grant payment

4. Amending Errors

Once a claim has been received it is seen as final and can only be amended by the competent authority (DAERA) when obvious errors are identified through an administrative check.

Beneficiaries who give notice to DAERA at any time of an incorrect claim for payment should not be subject to any administrative penalties irrespective of the reason for non-compliance, unless the beneficiary has been informed of DAERA's intention to carry out an inspection or DAERA has already informed the beneficiary of any non-compliance in the claim. If you give notice of an incorrect claim in the manner described a reduction to the claim may be applicable but the additional penalty will not be applied.

5. Force Majeure

Where a breach is due to circumstances beyond the control of the applicant and which could not be avoided by reasonable action, then Forest Service has discretion not to take action to recover or withhold payments. Forest Service must be notified of such an occurrence within 15 days. Further guidance on Force Majeure is available in the Scheme Information Book

6. Review of Decisions

The Review of Decisions process explained in the Forestry Grant Schemes Information Booklet will be applied.

7. Penalties for Capital Items - Over Declaration of Expenditure¹

Schemes -

- Forest Expansion Scheme - Establishment Grant
- Woodland Investment Grant
- Forest Protection Scheme
- Small Woodland Grant Scheme – Fencing Grant

Forest Service will examine the payment claim received from the beneficiary, and establish the amounts that are eligible for support. We shall establish:

- the amount that you are due based on what you have claimed, and
- what you are due after an inspection of the eligibility of the expenditure of your claim and supporting documentation.

If your claim exceeds by more than 10% the amount that you are eligible to be paid after our inspection of your claim a penalty equal to the difference between your claim amount and the eligible amount will be applied. This is in **addition** to the reduction from your claim to reflect the over declaration of work.

The amount of the penalty shall not go beyond full withdrawal of the support.

Two worked examples are shown in table 1.

A	B	C	D	E	F	
Maximum approved for grant payment	Claimed for payment	Eligible after inspection	Over declaration [B-C]	Reduction from Claim [Equal to D]	Penalty	Payment [B-E-F]
20,000 trees @ 50p each [£10,000]	20,000 @ 50p each [£10,000]	18,500 @ 50p each [£9,250]	1,500 trees (8%) [£750]	1,500 trees @ 50p each [£750]	Zero [over declaration less than or equal to 10%]	£9,250 [£10,000 - £750 - £0]
20,000 @ 50p each [£10,000]	20,000 @ 50p each [£10,000]	15,000 @ 50p each [£7,500]	5,000 trees (33%) [£2,500]	5,000 trees @ 50p each [£2,500]	£2,500 [over declaration greater than 10%]	£5,000 [£10,000 - £2,500 - £2,500]

¹ Article 63 of Commission Regulation (EU) No. 809/2014

Rectifying a Capital Scheme Over Declaration

In some breaches, where the standard of work or end result does not meet the minimum standards **and** where this can be rectified with remedial activity, we can request that you put this breach right within a set given time and we will withhold the grant payments until the works are rectified.

For example, a Forest Expansion Scheme claim includes a claim for tree shelters which the inspection found had not been fitted. The over declaration for tree shelters will be penalised at 100% over declaration. In addition, as the tree shelters were specified in your Forest Expansion Scheme application they must be fitted and we will withhold payment until the works are rectified. We will not make payment for this element of your scheme.

8. Area Related Penalties²

Schemes -

- Forest Expansion Scheme - Annual Premia
- Farm Woodland Premium Scheme - Annual Premia
- Farm Woodland Scheme - Annual Premia
- Small Woodland Grant Scheme – Establishment Grant
- Small Woodland Grant Scheme – Annual Premia
- Forest Protection Scheme
- Woodland Investment Grant

Forest Service will examine the payment claim received from the beneficiary, and establish the area eligible for support. We shall establish:

(a) the amount that you are due based on what you have claimed, and

(b) what you are due after an inspection of the claim.

If we find that your claim exceeds what you are due following inspection of your claim an administrative penalty will be applied.

² Article 19 of Commission Delegated Regulation (EU) No. 640/2014

Level of Over declaration* of land	Reduction/Penalty Consequence
3% or less, or 2 hectares or less (whichever is the lesser area of land)	Payment area will be based on the eligible area determined following our inspection of your claim.
More than 3% or 2 hectares, and up to 20%	Payment area will be based on the eligible area determined following our inspection of your claim reduced by twice the difference between what you claimed and what you are due.
More than 20%	No payment made in the claim year.
More than 50%	No payment made in the claim year and in addition a penalty equal to the difference between what you claimed and what you are due will be applied.

* Calculated as the over declaration in hectares divided by the claimed area in hectares

Example

You claim for 7.64 hectares of Forest Expansion Scheme Annual Premia and our inspector finds that the area of the woodland is only 6.82 hectares. The difference between the two is 0.82 hectares which equates to 10.7% over declaration. Forest Service will restrict the payment to the eligible area (6.82 hectares) but as the difference is greater than 3% and not more than 20%, we reduce this eligible area by twice the difference (1.64 hectares) which means you would get paid for 5.18 hectares in the claim year. In future, provided you claim for the eligible area [6.82 hectares], there will be no reduction /penalty.

9. Non Compliance with Eligibility Criteria other than Capital or Area Over Declaration³

Schemes -

- Forest Expansion Scheme - Establishment Grant
- Woodland Investment Grant
- Forest Expansion Scheme - Annual Premia
- Farm Woodland Premium Scheme - Annual Premia
- Farm Woodland Scheme - Annual Premia
- Forest Protection Scheme
- Small Woodland Grant Scheme – Establishment Grant
- Small Woodland Grant Scheme – Annual Premia

The EC regulation provides criteria that must be considered by Forest Service to determine the penalty applied in relation to non-respect of eligibility criteria. To implement this we have developed a framework and guidance document to assist with a consistent and transparent approach. Breaches relating to non-respect of eligibility criteria will result in penalties of between 10% and 100%. The full guidance document and penalty framework is included in annex 1.

Forestry Grant Schemes are multiannual commitments and aid reductions and exclusions may also apply to the amounts already paid in the previous years for that commitment.

³ Article 35 of Commission Delegated Regulation (EU) No. 640/2014

Annex 1

Non-Respect of Eligibility Criteria

Forest Service is required by EC regulation to determine the amount of penalty taking account of; intent, extent, severity, permanence and repetition of the non respect found.

The guidance below provides assistance to taking each factor into account and the table below indicates the consequence arising from the non compliance.

Extent

- Minimum - Up to and including 0.5 ha or up to and including 10% of area managed whichever is the greater
- Medium - Over 0.5 ha and over 10% and up to and including 50% of area managed
- High - Over 0.5 ha and more than 50% of area managed

Severity - Low or high

Determined by the inspector/officer and based on the importance of the consequences of the non compliance, taking into account the original objectives.

Duration

The length of time which the effects lasts and the timescale in which any breach can be rectified - if at all.

- Effect rectifiable within a year
- Effect is permanent

Reoccurrence

A breach will be determined as a repetition where the same breach is found on the same site / claimant in subsequent scheme years.

Penalty Framework

Extent	Severity	Duration	Consequence		1 st repeat	2 nd repeat
Min	Low	Rectifiable within the year	Letter detailing remedial work required, no financial penalty until 1 st repeat		Apply 15% penalty	Apply 100% penalty
		Permanent	Withhold current and future payments and recover previous payments through 'right to recover process' for area in question		-	-
	High	Rectifiable within the year	Letter detailing remedial work required	Apply 10% penalty	Apply 30% penalty	Apply 100% penalty
		Permanent	Withhold current and future payments and recover previous payments through 'right to recover process' for area in question		-	-
Extent	Severity	Permanence	Consequence		1 st repeat	2 nd repeat
Medium	Low	Rectifiable within the year	Letter detailing remedial work required, no financial penalty until 1 st repeat		Apply 20% penalty	Apply 100% penalty
		Permanent	Withhold current and future payments and recover previous payments through 'right to recover process' for area in question		-	-
	High	Rectifiable within the year	Letter detailing remedial work required	Apply 20% penalty	Apply 40% penalty	Apply 100% penalty
		Permanent	Withhold current and future payments and recover previous payments through 'right to recover process' for area in question		-	-
Extent	Severity	Permanence	Consequence		1 st repeat	2 nd repeat
High	Low	Rectifiable within the year	Letter detailing remedial work required, no financial penalty until 1 st repeat		Apply 30% penalty	Apply 100% penalty
		Permanent	Withhold current and future payments and recover previous payments through 'right to recover process' for area in question		-	-
	High	Rectifiable within the year	Letter detailing remedial work required	Apply 30% penalty	Apply 60% penalty	Apply 100% penalty
		Permanent	Withhold current and future payments and recover previous payments through 'right to recover process' for area in question		-	-