Scottish Forestry Grants Scheme
Farmland Premium

sfgs Scottish Forestry Grants Scheme

SFGS/FP 6

Guidance about selling a property with an SFGS Contract and using the Transfer of Obligations Agreement

The "Contract period" in SFGS contracts

If you have signed an SFGS contract, you will be bound by the conditions of the SFGS Contract for a set length of time. This is called the "Contract Period". The "Contract Period" starts on the date that the contract was approved and ends at the expiry of the period set out for each specific category of work listed below, unless both the contract holder and the Forestry Commissioners agree otherwise.

- New planting – 5 years from payment of final instalment of planting grant
- Restocking – 10 years from payment of the grant for replanting.
- Natural regeneration – 5 years from when the trees are agreed as being established.
- Stewardship – 1 year after the final payment of grant (with the exception of deer control which is one year after the expiry date *). **Five years after the contract is approved*

Descriptions of purchaser and seller

The Transfer of Obligations Agreement uses the terms "outgoing occupier" for seller and "incoming occupier" for the **purchaser**. These terms will also be used where appropriate in this guidance.

Effect of terminating the SFGS contract on Felling Licences

If the SFGS contract is terminated, the permission given by the Forestry Commissioners to fell trees in the felling licence will also expire then, **or when it becomes one year old**, whichever is sooner. If the felling has been carried out before the property is sold, the incoming occupier will be responsible for ensuring that the restocking is carried out even if he/she/they do not enter an SFGS contract.

Transferring SFGS Contract obligations

If you sell any of the property in the contract then, under the Terms and Conditions of the Scheme, the contract will automatically terminate if it is not assigned to the incoming occupier. However, you can use the Transfer of Obligations Agreement to transfer any grant repayment liabilities (in the event of failure) to the incoming occupier. *Please note that Forestry Commission approval is also required to transfer an SFGS Contract.*

Incoming occupier does not wish to accept the transfer of liabilities

If the incoming occupier does not wish to accept the Agreement, then the liability of the outgoing occupier to repay any grants received will last up until the time that the contract with them would have expired (the "Contract period"). Conditions 16 and17 of the SFGS Terms and Conditions set this out in detail. The incoming occupier may nonetheless seek approval to enter into an SFGS contract with the Forestry Commissioners.

Selling part of the property

The Forestry Commissioners may be able to amend the current SFGS contract to include only the part still in ownership (of the outgoing occupier) and continue to pay grants for work carried out in that area. **The part of the scheme remaining must meet the objectives of the SFGS.** A Transfer of Obligations Agreement can be completed for the area to be sold.

Farmland Premium contracts

If you (outgoing occupier) are receiving Farmland Premium payments from the Scottish Executive Environment and Rural Affairs Department (SEERAD) then you must let them have details of the change **within three months of the sale or transfer to the new owner.** The incoming occupier can get a Successors Application form (SFGS/FP 8) from their local Forestry Commission office or from the FC Scotland website.

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Timing

Complete the form at the same time that you sell (or lease) the land. The Agreement will remain valid until the expiry of the "Contract period". **It is essential that the Forestry Commission be notified of the change of ownership as soon as possible.**

Map

If you are selling part of the scheme area you must also submit a map.

Multiple areas and more than one owner

If you are selling scheme areas to different owners, complete a form for each of those sales.

If you are selling multiple contracts (more than one contract) areas to one owner then complete only one form.

Summary of action to take when selling a property

- Ensure that you have submitted claims for all the grant-aidable work that you have undertaken.
- Inform your local Conservancy Office about the sale.
- If you are receiving Farmland Premium payments, inform SEERAD about the sale.
- Request Transfer of Obligations Agreement (optional).
- Seek the incoming occupier's agreement to signing the Agreement.
- When you and the incoming occupier have signed the Agreement, return it to the local Forestry Commission Conservancy office so that we can sign it if we agree to the transfer.
- For part sales, the outgoing occupier may seek to agree an amended SFGS contract with the Forestry Commission.

Options for the *incoming occupier* of a property with an SFGS contract

Option 1: Do not enter the SFGS; do not sign the Transfer Agreement

You are under no obligation to continue the work agreed in the contract for this property. The outgoing occupier will remain liable for the repayment of any grants received during that ownership if the work becomes unsuccessful during the remaining "Contract period".

Option 2: Enter the SFGS contract (without signing the Transfer form), to continue the work approved in the SFGS contract until the expiry of the "Contract period"

You must complete an SFGS/FP1 Application form so that we can amend the information we hold and provide an SFGS contract. You will be given the permissions in the SFGS contract (including felling).

You will be able to receive any outstanding grants under the contract. You will only be liable for repayment of any grants **you** receive. The outgoing occupier will remain liable for any grants he or she has received until the expiry of the Contract period.

Option 3: Enter the SFGS Contract; Sign the Transfer Agreement

Ensure that you and the outgoing occupier have completed and signed the Transfer Agreement and return it to the Conservancy office so that it may be signed on behalf of the Forestry Commission.

Complete an SFGS/FP1 Application form so that we can amend the information we hold and provide an SFGS contract if this is possible.

You will be given the permissions in the SFGS contract (including felling). You will be able to receive **any** outstanding grants under the contract. You will also be liable for the repayment of any grants paid under **this** SFGS contract *(including those paid to previous owners/occupiers)*.

Help

If you have any questions about the Transfer form or how to use it then please contact your local Forestry Commission office or:

Douglas Wright, National Office Scotland Silvan House, 231 Corstorphine Road Edinburgh EH12 7AT
Tel: 0131 314 6481

Reference No

For Official Use Only

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Transfer of Obligations Agreement

Introduction

The Woodland Grant Scheme in Scotland closed in February 2003 and was replaced by the Scottish Forestry Grants Scheme (SFGS) in June 2003. This Transfer of Obligations Agreement can be used for transferring:

(i) existing Woodland Grants Schemes to a SFGS scheme *and*
(ii) SFGS schemes to a new SFGS agreement

A. This Transfer of Obligations Agreement is made with reference to the land ("the transferred land") subject to the...Scheme Contract approved on

...., Reference number...

with (name of owner/lessee)...

for (property name)..

B. The Agreement is made between: the Forestry Commissioners of 231 Corstorphine Road, Edinburgh EH12 7AT ("the Commissioners")
and

The Outgoing Occupier of the transferred land

Full name:	Full name:
Address:	Address:
Postcode:	Postcode:
E-mail:	E-mail:

("the Outgoing Occupier")

and

The Incoming Occupier of the transferred land

Full name:	Full name:
Address:	Address:
Postcode:	Postcode:
E-mail:	E-mail:

("the Ingoing Occupier")

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Transfer of Obligations Agreement

1. The Outgoing Occupier (Seller) hereby transfers the obligations for the whole property under Contract number..............................as set out in the Terms and Conditions of the Scottish Forestry Grants Scheme to the Incoming Occupier (Purchaser or Lessee) with effect from.................................(the "transfer date").

   If no date is inserted here then the transfer date will be the date of signature of the form on behalf of the Commissioners

2. For purchase or lease **of part of the Property** under the Contract, this Agreement refers to the area of land shown in the contract and outlined....................................on the map attached to this Agreement.

3. The Commissioners consent to this transfer and hereby release and discharge the Outgoing Occupier from all liabilities arising under the Contract with effect from the transfer date.

4. The Incoming Occupier confirms that he/she/they either have possession of the transferred land as at the date of his/her/their signature of this form or will have possession within 6 weeks of that date. If the Incoming Occupier does not have possession of the transferred land within 6 weeks of the date of his/her/their signature of this form, then, although having signed and delivered this Form, the Commissioners may treat the Contract as though the foregoing transfer, release and discharge had not taken place.

5. The Incoming Occupier hereby accepts the foregoing transfer and confirms that under the terms of this transfer, circumstances could arise in which the Incoming Occupier may be required to repay grants (with interest) paid to a previous occupier of the land even though the circumstances giving rise to such a reclaim occurred during or as a result of a previous occupation.

6. For the avoidance of any misunderstanding, this Agreement does not have the effect of transferring the benefits of the Contract (for example any outstanding instalments of grant) to the Incoming Occupier. Transfer of the benefits of the Contract will depend on the Commissioners agreeing to sign a new Contract with the Incoming Occupier.

Signatures

Outgoing Occupier (1): Date:

Outgoing Occupier (2): Date:

Incoming Occupier (1): Date:

Incoming Occupier (2): Date:

Authorised signatory
for the Forestry Commissioners: Date: