



STATUTORY INSTRUMENTS.

**S.I. No. 484 of 2023**

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FORESTRY (NATIVE TREE AREA SCHEME) REGULATIONS 2023

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**FORESTRY (NATIVE TREE AREA SCHEME) REGULATIONS 2023**

I, CHARLIE MCCONALOGUE, Minister for Agriculture, Food and the Marine, in exercise of the powers conferred on me by sections 6, 22A (as inserted by the Animal Health and Welfare and Forestry (Miscellaneous Provisions) Act 2022 (No. 4 of 2022)) and 30 of the Forestry Act 2014 (No. 31 of 2014), hereby make the following regulations:

**Part 1**

**Preliminary and General**

*Citation*

1. These Regulations may be cited as the Forestry (Native Tree Area Scheme) Regulations 2023.

*Interpretation*

2. In these Regulations:

“Act” means the Forestry Act 2014 (No. 31 of 2014);

“farming” includes dairy farming, livestock husbandry, cultivation of fodder and tillage crops, and the growing of horticultural crops;

“farm holding” shall mean all the production units in the State that are under the control of the scheme applicant.

**Part 2**

**Scheme**

*Establishment of scheme*

3. (1) The Minister shall, in furtherance of the objectives set out in section 22A of the Act, establish and administer a scheme to be known as the Native Tree Area Scheme (“the scheme”).

(2) For the purposes of the Scheme, a successful applicant shall be exempt from the licensing requirements of section 22 of the Act in respect of the area of land covered by the scheme.

(3) The Minister may approve an application for entry into the scheme only where, on the basis of objective information, the proposed native tree area is not likely to have a significant effect on a European site in view of the site conservation objectives, either individually or in combination with other plans or projects.

(4) A successful applicant in respect of the planting of a native tree area may receive a native tree area grant and premiums under the scheme.

*Application dates*

4. (1) The scheme shall open for applications on the 4th day of October 2023.
- (2) The Scheme shall close to new applicants on the 31st day of December 2027 and no new applications may join the scheme after this date.
- (3) Any benefits payable in respect of membership of the Scheme between the date of commencement of the Scheme and the closing date shall continue to be payable subject to these Regulations.

*Persons to whom the Scheme applies*

5. (1) The scheme invites applications from the following persons if they meet the criteria set out in paragraph (2):
  - (a) a natural person who is aged eighteen years or over on the date of submission of the application for participation in the scheme and holds a Personal Public Service Number, and
  - (b) a company [registered in the State] that provides its company registration details.
- (2) A person referred to in paragraph (1) shall be:
  - (a) the sole freehold owner of the lands subject to the application for participation in the scheme, and
  - (b) that land shall be at the time of application used for farming purposes.

*Scope of the Scheme*

6. (1) The scheme is restricted to an application for the planting of a native tree area on a farm holding consisting of either or both the following:
  - (a) the creation of a small native forest, native tree area 1 (NTA1) an area of not less than 0.1 hectare and not greater than 1 hectare;
  - (b) the creation of Native Forests for Water Protection, native tree area 2 (NTA2) an area of not less than 0.1 hectare and not greater than 1 hectare that is not greater than 20 metres in width.
- (2) Where an application to join the Native Tree Area Scheme contains both an NTA1 and NTA2 intervention, the combined maximum tree planting area shall not exceed 2.0 hectares.

*Environmental Pre-emptive Measures*

7. (1) Areas specified in Schedule 1 are not eligible for inclusion in the scheme.

(2) The Silvicultural and Management Measures and the Site and Environmental Criteria specified in Schedule 2 shall apply to the planting of a native tree area under the scheme.

### Part 3

#### Application for the Scheme

##### *Application to join the Scheme*

8. (1) A person may apply to the Minister to join the scheme.
- (2) An application shall specify—
  - (a) the name, address and contact details of the applicant,
  - (b) particulars of the area subject of the application,
  - (c) particulars of the native tree species concerned, and
  - (d) require the applicant to submit any maps or other documentation in such format (including electronic format) as the Minister may specify.

##### *Assessment of application*

9. (1) The Minister, in assessing the application, shall have regard to—
  - (a) the requirements of the environment and environmental law,
  - (b) the need for increased planting of native tree species,
  - (c) public safety,
  - (d) fire, pest or disease control, and
  - (e) research and such other silvicultural requirements as the Minister considers appropriate.
- (2) In considering applications for a consent, the Minister may consult any person whom he or she considers to be appropriate.

##### *Decision of Minister on application*

10. (1) The Minister, having regard to the following—
  - (a) information relating to the application furnished by the applicant,
  - (b) any guidelines, codes of practice and standards for good forest practice, and
  - (c) any other matter that the Minister considers relevant, may grant consent to an applicant to join the scheme.
- (2) The Minister may attach conditions to a consent, revoke or vary a condition, insert a new condition, suspend, withdraw a consent or refuse an application in relation to such consent.

(3) Without prejudice to paragraph (2), the Minister may refuse an application if, in his or her opinion the application is incomplete in any material detail.

(4) The consent shall be valid for such period as the Minister decides but shall not exceed 3 years.

(5) Without prejudice to the generality of paragraph (2), a consent may include any or all of the following conditions:

- (a) requiring the planting of trees—
  - (i) at such places,
  - (ii) of such species,
  - (iii) in such numbers,
  - (iv) of such surface area and density,
  - (v) within such period of time,

as may be specified;

- (b) requiring, before and after planting, effective protection in respect of the trees to be carried out and maintained, including fencing or barriers to prevent trespass by animals, during such period of time as may be specified;
- (c) requiring the submission of a report to the Minister with such information as the Minister considers appropriate;
- (d) such other environmental or silvicultural requirements as the Minister considers appropriate.

#### *Revoking consent or varying conditions*

11. (1) If in the opinion of the Minister—

- (a) a condition of the consent has been breached and such breach is likely to have, or is having, a significant effect on the environment, or
- (b) the continuation of a consent is likely to have, or is having, a significant effect on the environment, the Minister may revoke the consent or vary such conditions as he or she deems appropriate.

(2) Where the Minister revokes a consent or varies the conditions of a consent pursuant to paragraph (1), he or she shall—

- (a) notify the holder of the consent in writing of the decision,
- (b) give reasons for the decision to revoke the consent or vary the conditions of the consent, and
- (c) inform the applicant of the procedure for appealing the decision.

*Notification of decision*

12. The Minister shall notify the applicant in writing –
  - (a) of the decision to grant or refuse the application and, in the case of a decision to grant consent, any conditions attached to the consent,
  - (b) the main reasons and considerations on which the decision to grant or refuse the consent is based, and where conditions are attached to any consent, the reasons for the conditions,
  - (c) a description, where necessary, of the main measures to avoid, reduce, and if possible, offset the major adverse effects of the proposed works.

**Part 4**  
**Grant and Premium Payments**

*Grant Payment*

13. (1) Where the planting of a native tree area is completed in accordance with the scheme requirements, the applicant may apply for a native tree area grant.
- (2) A native tree area grant is paid in two instalments:
  - (a) instalment 1, representing 75% of the total grant, may be claimed immediately after planting, and
  - (b) instalment 2, representing 25% of the total grant, may be claimed no less than 4 years after planting has been completed.
- (3) All grant payments are conditional on the forest being successfully established and maintained in compliance with the conditions of approval.

*Annual Premium Payments*

14. (1) Where a new forest qualifies for a Native Tree Area grant, 10 annual premiums are payable in respect of that forest.
- (2) All premium payments are conditional on the forest being successfully established and maintained in compliance with the conditions of approval.

**Part 5**  
**Contracts and penalties**

*Additional terms and conditions*

15. The Minister may issue additional terms and conditions applicable to the scheme which shall be published on a website maintained by the Minister.

*Contract*

16. (1) Where an applicant makes an application for entry onto the scheme and is approved by the Minister, a contract shall exist under the Scheme between the applicant and the Minister.

(2) The terms and conditions of the Scheme as set out in these Regulations, additional terms and conditions referred to in Regulation 15, all application forms, letters of approval and, where appropriate, remedial works notifications, form the terms and conditions of the contract.

*Penalties*

17. If Scheme requirements are not met for the duration of the contract, penalties may apply on all or part of the grants and premiums paid to the successful applicant.

## SCHEDULE 1

<b>Areas</b>	<b>Description</b>
Natura 2000 Sites	Natura 2000 is a European network of protected nature areas where certain species of animal and their natural habitats are protected in order to preserve biodiversity. These areas are defined within the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011).
Top 8 Freshwater Pearl Mussel (FPM) Catchments	The entire area of each of the Top 8 FPM Catchment is excluded from entry to the Scheme. In each case, this includes the Special Area of Conservation (SAC) where the FPM occurs plus any remaining area of the water catchment not included in that SAC.
National Heritage Areas (NHA) and proposed NHAs	This is an area considered important for the habitats present or which has species of plants and animals present whose habitat needs protection.
Nature Reserve	A Nature Reserve is an area of importance to wildlife, which is protected under Ministerial Order.
National Park	Ecosystems not materially altered by human exploitation and occupation; where plant and animal species, geomorphological sites and habitats are of special scientific, educational and recreational interest or which contain a natural landscape of great beauty.
Curlew Breeding	A 1.5 kilometre buffer radius from a nesting Curlew pair where no afforestation is allowed to prevent risk either to Curlew that are already present or where population recovery may be feasible.
Hen harrier higher likelihood nesting areas	A 1.2 kilometre buffer radius from a nesting Hen harrier pair where no afforestation is allowed to prevent risk either to Hen harrier that are already present or where population recovery may be feasible.
Small White Orchid	A 0.5 kilometre buffer radius from a small white orchid where no afforestation is allowed to prevent risk either to orchids that are already present or where population recovery may be feasible.
Land other than farm land	Include only those lands which are used for farming (e.g. dairy farming, livestock production, cultivation of fodder and tillage crops and the growing of horticultural crops).

Elevation	Exclude upland areas which are defined as those areas occurring at an elevation of 200 metres or more.
Peatland	Only mineral soils are eligible for inclusion in the scheme. Areas of peat or organic soils are excluded as identified by the Irish Forest Soils Indicative Map and the National Land Cover Map.
Semi-Natural Grasslands	The Irish Semi-Natural Grasslands Survey was a nationwide research study to identify semi-natural grasslands habitats commissioned by the National Parks & Wildlife Service.
Breeding Farmland Wader Hotspots	The Breeding Farmland Wader hotspot map was prepared by BirdWatch Ireland. These 1 kilometre square hotspots were derived from scientifically validated recent bird observation records. A scoring scheme was designed to highlight those areas of greatest significance.

Regulation 7(2)

## SCHEDULE 2

## Part 1, Silvicultural and Management Measures

Measure	Description
Registered Forester	Registered Forester to prepare and submit application.
Species	Native species suited to the local site conditions.
Planting Mix	Planting mix reflecting the native forest type that would occur naturally on site.
Planting Material	All planting material used must be (i) derived from seed sources from within Ireland and (ii) fully traceable from seed collection to the planting site.
Planting Method	No new drains to be created. Ground preparation is limited to inverted or hinge mounding, shallow ripping, pit planting and auger planting.
Tree Spacing	3 metres by 3 metres tree spacing (4 metres by 4 metres tree spacing where deer shelters required) Spacing may vary depending on site circumstances and landscape considerations.

Vegetation Management	Targeted herbicide application represents the most practical, effective and economical method of vegetation management. Non-herbicide control (e.g. trampling) is required in highly sensitive areas (e.g. adjoining water setbacks).
Protection against Grazing	Planted areas to be protected from grazing at all times. Dependent of threat: standard stock fencing, rabbit fencing, deer fencing, rabbit/hare guards, individual tree shelters
Natural Regeneration	Not relied upon to achieve required stocking but if suitable may be retained.
Other possible Management	Monitor for non-native plant species and invasives, manage if and when they appear.

## Part 2, Site and Environmental Measures

Measure	Description
Scale of Tree Planting Works	The extent of native tree area that can be created under this Scheme is limited to 2 hectares per farm holding for the duration of the scheme. Given that the average farm size is approximately 33 hectares, this level of afforestation will represent a small portion of farm holdings.
Soil Type and Drainage	All sites presented for inclusion in the Scheme must satisfy the eligibility criteria as set out in the Land Types for Afforestation policy document. In addition, only mineral soils with good to moderate drainage are eligible for inclusion in the scheme. Organic and organo-mineral soil are not eligible for inclusion in the scheme.
Soil Fertility	The site must be capable of supporting the growth and development of a native forest without the need for fertiliser input.
Aquatic Zone	Water setback of 10 metres to remain undisturbed and allowed to develop as a semi-natural habitat alongside forest canopy.
Threats	Sites subject to severe and persistent threats that could undermine the long-term sustainability of any new native forest will not be accepted (e.g. sites within a locality heavily infested with rhododendron. Other restrictions relate to land type, soil, elevation, aspect, shell marl, flooding and other site factors as set out in Forestry

	Standards Manual.)
Access for Protected Species	Provide access for desirable mammals where a fence crosses an established track e.g. a badger gate to allow access. Unplanted corridors may also be incorporated into forest design to provide access for protected species.
Archaeology	Ensure no significant adverse impact on an archaeological, historical or cultural site or feature.

GIVEN under my Official Seal,  
29 September, 2023.

CHARLIE MCCONALOGUE,  
Minister for Agriculture, Food and the Marine.

 L.S.

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