

Planning the Harvest and Sales Agreement

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Now more than in times past for forest owners, failing to plan ahead in forestry and in particular failing to plan your forest harvest will cost dearly. This is for a range of reasons, from the current taxation regime for forestry, to planning access and construction of forest roads to obtaining a felling licence and associated issues.

The timing of selling your timber is also critical. Timber prices fluctuate, often considerably over time.

Forest owners cannot control the timber market. However, if they are prepared and in a position to sell their timber when prices are high, without having to wait to construct entrances, forest roads or get felling licences they can sell their timber immediately making the most of favourable market conditions. Also, if you have a forest over a threshold area approaching felling stage you may be well advised to fell areas in excess of this size over a number of years given current taxation considerations. It can be well worthwhile seeking information and independent advice on this.

Many forest owners are now planning their felling harvest five years or more in advance, applying for a five year General Felling Licence to fell their woodlands over this timeframe to minimise their tax liability and to ensure they have a felling licence on hand and can harvest when timber markets are good or when there is a spike in prices.

Timber is a valuable commodity and surprisingly timber demand in Ireland has remained reasonably strong despite the significant windblow event experienced last February. The south west may have experienced some reduction in timber prices, but this was not unexpected given that an estimated c. 2 million cubic metres of roundwood were windblown in storm Darwin, accounting for windblow over c. 20,500 acres of forest mainly in the south west.

Those growers who had existing access with forest roads and felling licences in place could sell and harvest immediately avoiding subsequent price falls. This planning and preparedness is important for timber growers who have plantations approaching thinning and, in particular, felling stage.

Template Master Tree Sales Agreement

In order to assist timber growers in the thinning, felling and timber sale process the Irish Timber Growers Association have launched a Template Master Tree Sales Agreement. This is effectively a template timber sales agreement for growers to adapt to their particular timber sale and forest. It provides a template sale agreement structured under various headings for clarity and ease of use.

The terms and conditions are designed to cover a range of potential sale situations and forest types and include definitions, warranties, payment terms, right of access, felling, harvesting and removal, indemnity and insurance, compliance, risk, duration and termination, health and safety issues, environmental conditions, *force majeure* and an arbitration clause.

The schedules that form a vital part of this Master Sales Agreement are also provided for in template form. For each sale, the schedules can be completed specific to the individual sale and site and record prices agreed, the manner of payment and other conditions. The schedules further include a template for the description of the sale and the thinning/felling systems to be employed, a schedule to attach the location and site maps for the sale showing entrances and exit routes with any hazards or sensitive areas.

The Template Agreement has been drafted to anticipate trends in the industry. For example it caters for the sale of forest biomass. ITGA recommend that growers and their forest managers make use of this information and assistance as forests and timber are proving to be a very valuable resource. It is always prudent to get professional advice from a forestry company or consultant forester before embarking on a timber sale.

The Template Master Tree Sales Agreement can be found at
<http://www.itga.ie/docs/members/FinalTemplateMasterTreeSalesAgreement-April2014.pdf>

Once you have put the above planning in place, the two biggest issues to address in sales and associated harvesting operations is a clearly defined and comprehensive sale agreement and also timber security during a sale. The standard method of sale for thinnings and fellings in the private sector is usually based on weight.

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When thinnings or fellings are sold on a weight basis, the forest owner will only get paid for that timber weighed over a weighbridge and reported back to him/her. In this regard, it is vital that all timber sales are agreed between parties by having a comprehensive contract and an adequate deposit in place before commencement with subsequent pre-agreed instalment payments at various stages during the sale.

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