

Sanctions Procedures for timber sales contracts

Application

1. This is version 0.1 of these procedures and where they are referenced in version 0.1 of the terms and conditions of Forestry England's sales contracts for 'Forest Products' and for 'Standing Trees and Other Products to be Harvested', these procedures are incorporated into those terms and conditions.
2. These Procedures apply to all sales by weight of all forestry Products whether they are roundwood or other Products (such as biomass, fibre or residues).
3. Nothing in these procedures can or is intended to change or affect the provisions in the sales Contracts. These procedures set out, for the avoidance of doubt, how certain Contract provisions are to be implemented.
4. "You" (and other terms used in this document) are as defined herein or in the Contract.
5. The standard terms and conditions for timber sales contracts along with these procedures and other incorporated documents and information are held on Forestry England's Contract Documents Webpage at <https://www.forestryengland.uk/timber/contract-documents>

Contractual requirements

6. You must follow Forestry England's Dispatch Procedures to get Forestry England's authority to load Products for removal from Forestry England land.
7. Failure to follow the Dispatch Procedures may result in termination of the Contracts, or a sanction may be applied.
8. You must comply with the Road Traffic Act 1985. 44 tonnes gross vehicle weight (GVW) is the current legal maximum, but the vehicle rating may impose a lower GVW limit. Forestry England accepts that variables like the weight of fuel can lead to small errors in the measuring of GVW, so a tolerance of 1 tonne is applied before a sanction is considered.
9. Forestry England's Contract is with You and You are fully responsible for Your haulier's or Your customer's compliance with Forestry England's Dispatch Procedures and the law.

Timber security

10. Forestry England's Dispatch Procedures are for trade and timber security purposes. They ensure that the Products are removed in a controlled manner and are paid for correctly. You must not by act or omission frustrate the purpose of these or any other of Forestry England's procedures. To do so will be deemed by Forestry England to be an intent by You not to perform the contract and may lead to termination of the Contract and of any other timber sales contract that You may have with Forestry England. Forestry England will also report such matters to the police if fraud or theft is suspected.
11. Forestry England monitors Your removal of Products using field observation as well as physical and electronic checks made when a haulage vehicle is on, or is seen leaving, Forestry England Land. Other checks are made using camera images and information about Your notification to Forestry England prior to entering Forestry England Land to remove a Load, correlated with the weighbridge and /or weight ticket data for each Load removed. Audits of physical documents are undertaken from time to time to confirm that the Weighing Procedures are being followed and that electronic data appears accurate.

12. Where You have paid for the Products in advance of removing them (see Forestry England's Measurement Procedures) You must still follow Forestry England's Dispatch Procedures to get permission to enter Forestry England Land with a haulage vehicle in order to remove the Products, but You will not have to evidence the weight of each Load.

Image recording and CCTV

13. Where cameras are used by Forestry England, the images are recorded for the prevention and detection of crime. The images may also be used for monitoring health and safety compliance. The data controller is the Forestry Commission, which is registered with the Information Commissioner. More information is available by contacting informationrights@forestrycommission.gov.uk

Permission Identification Number (PIN)

14. Forestry England's Dispatch Procedures require You to notify Forestry England in the prescribed manner, of Your intention to enter Forestry England land with a haulage vehicle. In response to Your notification, Forestry England will either;
 - a. issue a PIN or;
 - b. tell You that the Contract You have specified in Your notification is suspended, and not issue a PIN.
15. The PIN is proof that You have been given permission to enter Forestry England land to load the vehicle as specified in Your notification. If You cannot get a PIN for any reason You do not have any permission to enter Forestry England land with a haulage vehicle.
16. The PIN is not transferable and may be used only once. Each PIN has a time window of 4 hours from the start time that You have specified in Your notification and the vehicle must be loaded and removed from Forestry England land during the PIN window. The PIN window may be changed at Forestry England's discretion, and if so You will be informed of this in writing.
17. Where You wish to enter Forestry England land to load a trailer and leave it for later removal, You must still notify Forestry England that You need an 'L' PIN for permission to do so, as described in the Dispatch Procedures.

Sanctions procedures

18. Each calendar month, Forestry England will review the Loads dispatched by You during the previous calendar month against the Sanctions criteria below and will determine which of Your timber sales contracts have attracted a sanction or sanctions. Forestry England will first seek direction from Forest District staff and will not sanction Loads where under the circumstances it appears reasonable to Forestry England not to do so.
19. Forestry England will notify You in writing of any Sanction that is to be applied to Your timber sales contracts and the sanction will start on the first Business Day of the calendar month following the issue of the notice.
20. The Sanction will take the form of a temporary suspension of Your rights under the Contract to access the Stacking Sites and Authorised Access Routes. In accordance with the Contract terms and conditions that suspension may include any or all of Your timber sales contracts with Forestry England.
21. Forestry England will not waive or postpone a sanction imposed properly according to these procedures unless point 36 applies or there are overriding safety or environmental protection reasons to do so.
22. Forestry England will not be liable for any of Your additional costs or losses arising from the application of these sanctions procedures.
23. The application of sanctions to a contract will not be accepted by Forestry England as a reason to extend the duration of that Contract.

24. Where in Forestry England's view, the sanctions are not effective in reducing overloading or breaches of Dispatch Procedures, Forestry England may decide to suspend use of these procedures and to apply the terms and conditions of the Contract to suspend Your rights to access the Work Sites, Stacking Sites and Authorised Access Routes, which may lead to termination of the Contracts affected.

Sanctions for overloading

25. For every Load that is more than 1 tonne over the haulage vehicle's GVW the Contract will attract a sanction of 1 Business Day.

Sanctions for breach of Dispatch Procedures (PIN breaches)

26. These sanctions procedures apply in the following circumstances;
- a. Level 1 breaches (Loading not notified)
 - Notification not made prior to loading
 - Access to Forestry England land takes place before the PIN window starts
 - b. Level 2 breaches (Loading notified, but incorrectly)
 - Weighing takes place before the PIN start time
 - Weighing takes place within the first 30 minutes of the PIN window
 - Access to Forestry England takes place after the PIN window expires
27. If Level 1 breaches of Your Contract affect 0.1% to 0.5% of all Your dispatches from all Your timber sales contracts with Forestry England in the calendar month, then the Contract will attract a 'pending' sanction. The third and all subsequent 'pending' sanctions during the Contract period will attract a sanction of 1 Business Day.
28. If Level 1 breaches of Your Contract affect 0.6% to 1.5% of all Your dispatches from all Your timber sales contracts with Forestry England in the calendar month, then the Contract will attract a sanction of 1 Business Day.
29. If Level 1 breaches of Your Contract affect 1.6% to 5.0% of all Your dispatches from all Your timber sales contracts with Forestry England in the calendar month, then the Contract will attract a sanction of 2 Business Days.
30. If Level 1 breaches of Your Contract affect more than 5.0% of all Your dispatches from all Your timber sales contracts with Forestry England in the calendar month, then Your rights under the Contract will be suspended until You agree with Forestry England an acceptable remedy and way forward.
31. If Level 2 breaches affect more that 10% of all dispatches under a Contract in the calendar month, then that contract will attract a sanction of 1 Business Day

Multiple Sanctions

32. Where the Contract attracts more than one sanction in the calendar month, the sanctions will be added together to determine the total number of days that the temporary suspension of Your rights under the Contract to access the Stacking Sites and Authorised Access Routes will apply.

Effect on other timber sales contracts

33. Sanctions for overloading and breach of Dispatch Procedures will generally be measured and applied within each contract separately. However, in accordance with the Contract terms and conditions, the temporary suspension of Your rights under the Contract to access the Work Sites, Stacking Sites and Authorised Access Routes may be applied to any or all of Your timber sales contracts with Forestry England.

34. Forestry England will normally use this provision to extend the application of a sanction where a sanction is attracted on the final Loads removed under a Contract such that any sanction applied to that Contract would be ineffective.
35. Otherwise, Forestry England will not use the provision to extend the application of a sanction unreasonably or without prior discussion with You. Reasons for doing so will include for example, where Forestry England has already discussed with You numerous or repeated sanctions due to errors arising from Your failure to correctly train, guide, communicate with or correct the people working for You.

Incorrect data

36. If You believe You have evidence to show that the data on which a sanction has been based is wrong, then You must notify Forestry England's Contract Manager within 5 Business Days of the notification and before the sanction is implemented. Forestry England may then postpone the implementation of a sanction until such evidence is reviewed but once a sanction has started, Forestry England will not enter into further discussion about it and points 22 and 23 will still apply.

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