

Terms and Conditions
for
Early Retirement Scheme (ERS3) 2007

Introduced by
the
Minister for Agriculture and Food

IN IMPLEMENTATION OF

Council Regulation (EC) No. 1698/2005

DATE: 13 June, 2007
(Revised 16 July 2008)

A Measure included in the Rural Development Programme, co-funded under the National Development Plan 2007-2013 and the European Agricultural Fund for Rural Development (EAFRD)

IMPORTANT

Please Ensure That You Read This Note Before You Commence the Retirement Process

1. This document outlines the terms and conditions of the Early Retirement Scheme (ERS3) 2007. The forms that must be completed by the transferor and the transferee are in a separate booklet. Persons who intend to enter the Early Retirement Scheme (ERS3) 2007, whether as a transferor or a transferee, should ensure that they have read this Scheme document carefully before the transferor commences the retirement process. A copy of this document should be retained by both the transferor and transferee(s).
2. Persons intending to retire under the Scheme shall cease agricultural activity forever. Having entered the Scheme, a person shall not return to farming at any stage in the future unless he/she repays all monies already received by way of pension. It is important that intending applicants consider carefully the implications, both from a personal and a financial perspective, of their participation in the Scheme. In this regard, it is advisable that they look at the alternatives to farming which might be open to them following their retirement. It is important to stress that continued participation in farming is not permitted.
3. Transferors should note that if they, or their transferee, do not comply with their obligations under the Scheme, their pension may be revoked and they may have to repay the payments they have already received by way of pension.
4. Persons intending to avail of the Scheme should be fully aware of the implications in relation to National Retirement pensions paid by the Department of Social and Family Affairs.
5. Persons intending to avail of the Scheme should be aware that if the commencement date of their pension is before the age of 56, there may be a gap between the end date of the pension and the start date of any entitlement they may have to a National Retirement Pension.
6. Compulsory PRSI deductions will not be made from payments under the Early Retirement Scheme. Subject to certain conditions, voluntary contributions may be made up to age 66 in order to qualify for the State Pension Contributory (Old Age Contributory). Enquiries should be made to the Department of Social and Family Affairs.
7. Persons who intend becoming transferees under the Scheme should ensure that they read the entire document and make themselves familiar with their obligations under the Scheme. Where there is more than one transferee in an application, a separate application form must be completed by each transferee.
8. Applicants and their advisors should be aware that only fully completed applications are acceptable. Incomplete applications will be returned and this will impact on the commencement date of the pension. Pension payments can only commence once all the required documentation has been received and the application has been approved.
9. The Department must be informed by both the transferor(s) and transferee(s) of any material changes that may affect initial or continuing payment of the Early Retirement Pension.
10. A current participant in REPS (Rural Environment Protection Scheme) intending to retire from farming must regularise their position in relation to their existing REPS commitment. Payment of the Early Retirement Pension will not be made until this has been done.
11. It is advisable that applicants seek professional advice from a solicitor, accountant or other professional advisor in relation to the legal, financial and other implications of the Early Retirement Scheme before deciding to submit an application.
12. Transferees who may be eligible to apply for the Young Farmer's Installation Scheme should familiarise themselves with the terms and conditions of that Scheme. Any queries should be made to the Young Farmer's Installation Scheme Section.
13. Persons intending to avail of the Scheme should be fully aware of the implications in relation to the Single Payment Scheme (SPS). Any queries should be made to the Single Payment Section.

EARLY RETIREMENT SCHEME (ERS 3) 2007

1. General

- 1.1 This scheme is being implemented pursuant to an approved measure under the Rural Development Programme pursuant to Council Regulation (EC) No. 1698/2005 of 20 September, 2005 on support for rural development from the European Agricultural Fund for Rural Development (EAFRD) and Commission Regulation (EC) No. 1974/2006 laying down detailed rules for the application of Council Regulation (EC) No. 1698/2005;
- 1.2 the objectives of the Scheme are:
- to support farmers who decide to stop their agricultural activity for the purpose of transferring their holdings to younger farmers
 - to support farm workers who decide to stop all farm work definitively upon the transfer of the holding
 - to complement the Young Farmer's Installation Scheme;
- 1.3 the Scheme shall be administered by the Department of Agriculture and Food;
- 1.4 this Scheme is jointly funded by the EU and the National Exchequer;
- 1.5 the Scheme commenced on 13 June, 2007

2. Area of Application

- 2.1 the Scheme shall apply in all areas of the State;
- 2.2 the Scheme may have EU Member State cross boundary implications for some applicants. An applicant's source of income, either within or outside Ireland, shall be disclosed. All farming activity both inside and outside of Ireland shall cease on entry to the Scheme;

3. Definitions

For the purpose of this Scheme –

- 3.1 "agricultural activity" shall mean all work associated with farming, whether for remuneration or otherwise. Scheme participants may work as an insured employee in a farm related business but may not under any circumstances work on the farm from which they have retired or work directly for another farmer;
- 3.2 "agricultural advisor/agricultural consultant" shall mean a person holding a primary degree or higher qualification in agricultural science. Where an agricultural advisor/agricultural consultant intends to enter the Scheme either as a transferor or transferee, the application shall be prepared by an independent agricultural advisor/agricultural consultant and not by the applicant or transferee or a family member of the applicant or transferee;
- 3.3 "agricultural holding" shall mean the total area of land used for the purposes of farming by the applicant and his/her spouse/partner;
- 3.4 "agricultural land" shall mean the total lands under habitat, grassland, arable or permanent crops and facilities used for agricultural activity, subject to the exclusions at Section 4.3;
- 3.5 "applicant" shall mean the transferor or a retiring spouse or partner of the transferor who is in joint management with the transferor;
- 3.6 "approved" shall mean approved by the Minister or by an authorised officer of the Department of Agriculture and Food;
- 3.7 "commercial forestry" shall mean any of the following:
- land which has recently been planted
 - land in receipt of forestry premia
 - maturing forests;

- 3.8 “completed application” shall mean a fully completed application form accompanied by all required documentation;
- 3.9 “deed of conveyance” shall mean a Deed of Conveyance, Assent or Settlement where, before the date of application for entry into the Scheme, the transferor and/or the transferee is registered with the Property Registration Authority with a fee simple title;
- 3.10 “deed of transfer” shall mean, a Transfer, Assent or Settlement where, on or before the date of application for entry into the Scheme, the Transferor and/or the Transferee is registered as sole owner, tenant-in-common or joint owner on a Property Registration Authority folio, and/or, has a Deed of Transfer showing him/her to be the beneficiary, stamped by the Revenue Commissioners with an accompanying Property Registration Authority Dealing Number;
- 3.11 “enlargement land” shall mean a minimum area of 5 ha of agricultural land which is owned, leased or rented and which is the subject of an annual SPS application by the transferee for a minimum period of 5 years after the date of valid application;
- 3.12 “family member” shall mean spouse, parent, son, daughter, grandchild, brother, sister or favoured nephew/niece;
- 3.13 “farming” shall include dairy farming, livestock production, and the cultivation of grass, tillage and other crops, including horticultural crops whether under protected cropping conditions or in the open;
- 3.14 “farm income” shall mean income derived from farming activities as defined at clause 3.13 and calculated by the method indicated in Section 10 of the transferor’s application form;
- 3.15 “farm partnership” shall mean a formal written agreement between two or more people to farm together and share the profit or loss generated each year. The herd number shall be in the name of the transferee, or in the joint names of the transferee and the other members involved or in the name of the partnership;
- 3.16 “intensive enterprises” means pigs, poultry, rabbits, mushrooms, protected horticultural crops and the production of nursery stock;
- 3.17 “joint management” - a person in joint management shall mean:
- a family member/partner involved in the management of the farm who does not own or lease land or
 - a family member/partner involved in the management of the farm who owns/leases some land and enhances his/her Early Retirement pension by the inclusion of lands owned/leased by a spouse/partner;
- 3.18 “joint owner/lessee” – is an individual who holds land in joint ownership or by lease with another or others;
- 3.19 “lease” shall be a demise for a term of years absolute in possession, that is signed, dated, stamped by the Revenue Commissioners and operative on or before the date of application for entry into this Scheme, and the term or residue of years demised by the lease is not less than the period for which the pension is granted. Where the pension is payable for less than 5 years, the minimum term or residue of years demised shall be at least 5 years. A lease may contain a clause providing for the termination of the lease by either party on or after the expiration of five years from the commencement date of the pension;
- 3.20 “less favoured area” shall mean any land designated as eligible for the Area Based Compensatory Allowance Scheme on 1 January 2007. A full list of the townlands is available on the Department Website (www.agriculture.ie);
- 3.21 “Minister” shall mean the Minister for Agriculture and Food;
- 3.22 “non-farm income” shall mean gross income from employments (i.e. income from self-employment other than farming, income as an employee and FAS income), investment income, income from the leasing of lands/renting of lands and other properties, and lease income from quotas/Single Payment Scheme(SPS) entitlements;

- 3.23 “non-less favoured Area” shall mean any lands not designated as a Less Favoured Areas as defined at paragraph 3.20;
- 3.24 “owned land” shall mean land held in one or more of the following categories:
- Registered as sole owner, tenant-in-common or joint owner on a Property Registration Authority freehold folio
 - A Deed of Conveyance/Assent duly stamped where applicable by the Revenue Commissioners and registered in the Property Registration Authority
 - A Deed of Transfer/Assent stamped where applicable by the Revenue Commissioners with accompanying Property Registration Authority Dealing Number
 - Land Allotted or Vested by the Land Commission but awaiting registration in the Property Registration Authority
 - Land held with a Life Interest under a Settlement duly registered in the Property Registration Authority;
- 3.25 “partner” shall mean a person(s) with a legal or equitable interest in land subject to the Scheme and who is involved in the management of the land with the owner/leaseholder;
- 3.26 “pension lands” shall mean all agricultural lands owned or leased (subject to Section 4) by a transferor/applicant at the time of retirement less:
- lands acquired under lease where either the date of signing or the operative date are on or after 1 January 2007, and
 - lands either retained or transferred in accordance with Sections 4.7 and 4.8.
- Lands held on lease where both the date of signing and the operative date are prior to 1 January 2007 up to the time of retirement are regarded as pension lands provided the lease contains a provision permitting the creation of a sub-lease and the term of any sublease is for a term not less than 5 years or the full period of the pension, whichever is the greater;
- 3.27 “production unit” shall mean a standard for establishing the extent of an applicant’s farming activity or the capacity of an applicant’s production facilities and shall be calculated in accordance with Section 9;
- 3.28 “rented land” shall mean any land that is not owned or leased which is the subject of an SPS application;
- 3.29 “socio economic adviser” shall mean a person holding a Diploma in Farm Home Management plus a Diploma in Agricultural Extension;
- 3.30 “sole applicant” shall mean an applicant who possesses title to land by ownership or lease in his/her name only;
- 3.31 “transferee” shall mean any person who takes over all or part of the pension lands/production units and conforms to the requirements of Section 7;
- 3.32 “transferor” shall mean a farmer who transfers/leases all his/her agricultural lands (with the exception of lands retained under Section 4.7) and stops all agricultural activity definitively i.e. he/she shall not resume agricultural activity at any future date. The transferor shall in this regard comply with the requirements of Section 5;
- 3.33 “worker” shall mean a family helper or paid farm worker, employed on a transferor’s agricultural holding before the transferor’s Early Retirement, who stops all farm work definitively and who conforms to the requirements of Section 8.

4. Lands Eligible for Payment under the Early Retirement Scheme

- 4.1 Only agricultural lands owned or leased by the applicant/partner and which are the subject of an SPS/Area Aid application by the applicant/family member/partner at the date of signing of the transfer/lease documents or during the year prior to signing are eligible for payment. Where the application relates to an intensive enterprise the production facilities and lands on which they are located must be owned or leased by the applicant;
- 4.2 lands transferred by deed of transfer/conveyance/lease as set out in Clause 3.9, 3.10 or 3.19 to eligible transferees on or after 1 January 2005 are eligible for inclusion under the Scheme;
- 4.3 for the purposes of determining agricultural land under the Scheme, the following shall not be included:
- i. the dwelling house including associated buildings and amenity grounds not used for farming
 - ii. commercial forestry which does not include shelter belts
 - iii. area permanently under water excluding drains
 - iv. commercial quarries, gravel and sand pits
 - v. land held in fee simple subject to grazing rights
 - vi. lands held in fee simple subject to turbary rights, except where such turbary rights have not been exercised within the five years prior to the date of application for entry into the Scheme. An affidavit from the transferor shall be furnished confirming the position in respect of such turbary rights.
 - vii. grazing rights on lands where the fee simple is owned by another
 - viii. agricultural land retained by a transferor, which shall not exceed 1ha;
- 4.4 pension lands, which are related in any way to participation in the previous Early Retirement Schemes (1994-1999 and 2000-2006), are not eligible for inclusion in this Scheme until after the expiry date of that Early Retirement pension;
- 4.5 the ownership of the pension lands on the 31st December in the calendar year prior to the transfer/lease of the pension lands to the transferee will determine whether an application is regarded as Joint Management, Joint Ownership or Sole Application. The transfer of lands between a transferor and his/her spouse/partner into joint or sole ownership in the calendar year of the transfer/lease of the pension lands to the transferee cannot be used to confer payment or eligibility advantages under the Scheme unless the spouse/partner is an eligible transferee;
- 4.6 agricultural holdings to be transferred by deed of transfer, conveyance or lease shall comprise a minimum of 5 ha of agricultural lands, except in the case of intensive enterprises where the capacity to produce a minimum of 5 production units is required;
- 4.7 the applicant may retain the dwelling house and a maximum of 10%, but not more than 1 hectare, of agricultural land of the holding, which should be clearly marked on a map, provided a minimum of 5 hectares of agricultural land is transferred/conveyed/leased or assigned to the transferee. The area retained may not be used for agricultural activity by the transferor. Where the retained area is farmed commercially by other parties, a formal agreement for such use shall be put in place before the pension shall be paid to the transferor. Retained farm buildings may be used for agricultural activity purposes by anybody other than the transferor;
- 4.8 up to 20% of the area owned at 1 January 2007 or after the 1st January of the year prior to retirement if retirement took place on or after 1 January 2005 but prior to 1 January 2007 can be disposed of to a person(s) outside the Scheme, other than to a spouse/partner, provided the disposal:
- is the subject of a transfer or conveyance (leases are not permissible)
 - is completed prior to date of application (i.e. registered in the Property Registration Authority or brought at least to Property Registration Authority Dealing Number stage)
 - does not reduce the pension lands area below 5 hectares or in the case of intensive enterprises does not reduce the capacity below 5 production units.

Disposed lands cannot be used for pension or enlargement purposes in any application under the Scheme. Where some of the agricultural land owned at 1 January 2007 or on the 1st January of the year prior to retirement if retirement took place on or after 1 January 2005 but prior to 1 January 2007 has been afforested

since that date, the 20% concession only applies to the reduced agricultural area. Where the 20% concession is exceeded, re-parcelling of the agricultural land to meet the above criteria will be required (by either the transferor or transferee) prior to the date that the completed application is received in the Department. Land taken over from another transferor under this Scheme will not be eligible to provide this reconstitution.

- 4.9 Pension lands may be included in a re-parcelling operation or in simple exchange of parcels provided the parcels exchanged are agronomically equivalent. Reparcelled/replacement lands must be owned or leased for the duration of the pension or the original lease whichever is the greater. Following such transactions, the area of the holding must be maintained by the transferee(s) in accordance with Section 7.7. Failure to re-parcel will result in an appropriate penalty being applied (Appendix I).
- 4.10 Following the approval of an application the transferor may, subject to the agreement of the transferee to amend the lease, dispose of an area of the pension land up to a **maximum** of 2 hectares. This facility can be used provided that the pension lands are not reduced below the minimum 5 hectare level and that the holding farmed by the transferee is not reduced below the areas set out in Section 7.7. Written notification of the disposal shall be forwarded to the Department.

The disposal of land will result in a reduction in pension where the eligible pension area is 24 ha or less prior to the disposal (or if the disposal reduces the eligible pension area below 24 ha). In these cases a reduction will apply with effect from the date of transfer at the rate of €300 per year for each hectare by which the eligible pension area is reduced below 24 ha. A reduction in pension will not apply where the eligible pension area remains at 24 ha or more following the disposal of land.

If the disposed land is replaced by an equal or greater amount of agricultural land within 6 months of the disposal, no reduction will apply. Failure to notify the Department within six months of the disposal of pension lands will result in an appropriate penalty being applied (Appendix 1). A reduction of the pension land area in excess of 2 hectares and failure to re-parcel within six months of the date of disposal will result in a penalty under Appendix I.

- 4.11 Following approval for payment of the pension, in cases where there has been a transfer or conveyance of lands, the transferee may, subject to the written agreement of the transferor, dispose of an area of the pension land up to a **maximum** of 2 hectares. This facility can be used provided that the pension lands are not reduced below the minimum 5 hectare level and that the holding farmed by the transferee is not reduced below the areas set out in Section 7.7. Written notification of the disposal shall be forwarded to the Department.

The disposal of land will result in a reduction in pension where the eligible pension area is 24 ha or less prior to the disposal (or if the disposal reduces the eligible pension area below 24 ha). In these cases a reduction will apply with effect from the date of transfer at the rate of €300 per year for each hectare by which the eligible pension area is reduced below 24 ha. A reduction in pension will not apply where the eligible pension area remains at 24 ha or more following the disposal of land.

If the disposed land is replaced by an equal or greater amount of agricultural land within 6 months of the disposal, no reduction will apply. Failure to notify the Department within six months of the disposal of pension lands will result in an appropriate penalty being applied (Appendix 1). A reduction of the pension land area in excess of 2 hectares and failure to re-parcel within six months of the date of disposal will result in a penalty under Appendix I.

5. Person Eligible to Apply for a Pension

To become eligible for a pension, the applicant shall on the date the completed application is received in the Department:

- 5.1 have ceased agricultural activity;
- 5.2 have divested himself/herself of all agricultural lands, including lands rented-in/rented-out/leased-in, beneficially occupied agricultural lands and lands described at 4.3v, 4.3vi and 4.3vii, but excluding lands retained under Section 4.7;
- 5.3 have all herd/flock/cereal numbers or other Department Identifiers cancelled, transferred or made dormant;

- 5.4 be between his/her 55th and 66th birthday;
- 5.5 provide a Personal Public Services Number (PPSN) for self and in a joint management application for partner/spouse;
- 5.6 have farmed either solely or with a family member/partner as owner/joint owner, leaseholder/joint leaseholder and/or tenant in common, up to the time of signing of the transfer/lease documents –
- an area of not less than 5 hectares of agricultural land or
 - in the case of intensive enterprises a facility with a minimum capacity of 5 production units as defined at 3.27;
- 5.7 have farmed either solely or with a family member/partner for the 10 years prior to the signing of the transfer/conveyance or operative date of lease;
- 5.8 have derived not less than 25% of total income from farming in the tax year prior to the transfer/lease. Evidence of the applicant's (and spouse/partner in joint management situations) non-farm and farm income shall be furnished for the tax year prior to the transfer/conveyance/lease. For the purposes of assessing eligibility in the case of joint owners/joint leaseholders, only the non-farm income of the applicant is taken into account. The total income of all parties in a joint management situation shall be aggregated;
- 5.9 have all his/her owned, including those rented out and leased lands (where applicable) disposed of by deed of transfer/conveyance/lease, with the relevant farm buildings, where required, to eligible transferee(s);
- 5.10 a company or corporate body is not eligible for the Early Retirement Scheme.

The following conditions apply in relation to a person's eligibility for a pension:

- 5.11 where separately owned/leased lands are managed as a joint enterprise more than one pension may be payable but the combined value of the pensions cannot exceed the maximum pension payable under the Scheme. For the purpose of the Scheme, agricultural holdings are regarded as being managed as joint enterprises if they share any of the following:
- common herd number or other Department Identifier
 - a common application for Single Payment Scheme
 - common handling facilities for livestock
 - common farm accounts/receipts and/or have
 - livestock intermixing and/or adjoining boundaries not stock-proof;
- 5.12 where separately owned/leased lands are managed as one agricultural holding any one person can apply for the pension based on their own area of ownership. If the person remaining in farming does not sign a waiver of their rights to the pension, the pension payable to the applicant will be calculated on the basis of land transferred/conveyed/leased by him/her to the transferee as a proportion of the area of the entire holding;
- 5.13 a partition of lands held in tenancy-in-common shall be completed unless
- the lands are declared as commonage for the purposes of SPS/Area Aid, or
 - all of the lands in the tenancy are transferred/conveyed/leased to the transferee;
- 5.14 where any agricultural lands are jointly owned/leased by the spouse/partner, each joint owner/joint leaseholder shall undertake to cease agricultural activity forever and all the applicants and spouse/partners jointly or solely owned/leased lands are regarded as pension lands and shall be disposed of to an eligible transferee(s);
- 5.15 all lands that are jointly owned/leased by the applicant/transferor and his/her transferee are ineligible for pension purposes. In such instances the joint interest shall be transferred to the transferee;
- 5.16 an applicant, who is not the owner/leaseholder of any of the pension lands, will only be admitted to the Scheme if he/she is in joint management of the holding with the owner/leaseholder. Each party shall undertake to cease all agricultural activity. Where joint management is being availed of, legal evidence of entitlement (e.g. Marriage or Birth Certificates) shall be supplied to support the application;

- 5.17 it is the responsibility of all applicants in consultation with his/her agricultural advisor/agricultural consultant or other professional advisor to ensure the accuracy of the documentation completed by them in relation to the application. The Department shall not accept any responsibility for errors or omissions contained therein. Applicants are advised to engage the services of appropriately qualified individuals or companies and ensure that they have the requisite professional indemnity insurance in place;
- 5.18 once a completed application has been approved by the Department, a participant(s) shall continue to abide by the terms and conditions of the Scheme for the full period for which he/she is eligible for the pension and is prohibited from returning to farming at any date in the future. Where a lease is terminated after five or more years the Scheme participant(s) shall immediately notify the Department in writing. The Scheme participant(s) shall also indicate whether he/she intends to obtain a replacement eligible transferee. If a replacement transferee cannot be found within 6 months from termination of the lease, pension payments shall cease from the date of expiration of the lease under the Scheme. Any pension payment made to the transferor subsequent to termination of the lease shall be repaid by the transferor to the Department;
- 5.19 if a participant comes into possession of additional agricultural land after entry to the Scheme, he/she shall dispose of this land within 6 months of the date of its acquisition by deed of transfer, conveyance, lease or letting. Alternatively the participant may have the land afforested within 9 months of the date of its acquisition (the non farmer afforestation rate shall apply). Failure to dispose of such land will result in the imposition of a penalty.

6. Selecting a Transferee

The transferor shall be satisfied that each transferee meets the relevant conditions of the Scheme. Having familiarised himself/herself with the Scheme conditions, the farming transferee is obliged to complete an application form and furnish it to the transferor with all the required documentation attached.

7. Person Eligible to Become a Transferee

7.1 The minimum agricultural area required by a transferee shall be 15 ha in less favoured areas and 20 ha in non-less favoured areas. For the purposes of determining the minimum agricultural area required by a transferee, where 50% or greater of the pension lands is contained in the less favoured areas, the lesser threshold (15 ha) will apply, except in the case of intensive enterprises where a transferee shall have the capacity to produce 20 production units;

7.2 a transferee shall on the date a completed application is received in the Department:-

A. be approved for payment under the Young Farmer's Installation Scheme (2007 – 2013) having been set up in farming on the pension lands received from the transferor and fulfil the conditions of that Scheme or have submitted an application for payment (YFIS 2) under that Scheme that results in the issue of an approval for payment. Both a complete YFIS and an ERS3 application may be submitted at the same time. However, the ERS3 application will not be approved until the YFIS application is approved for payment. If the YFIS application is subsequently deemed ineligible the transferee may meet the requirements for category B transferee, including the requirement for enlargement land. In this situation the ERS3 application will be returned and may be re-submitted when the transferee meets all the requirements of category B transferees;

Or

B. be a farmer who fulfils the following conditions:

- a) be between his/her 18th and 45th birthday
- b) be farming a minimum of 5 hectares of enlargement land/5 enlargement production units in the case of intensive enterprises in addition to the area of pension lands/production unit capacity received from the transferor
- c) be farming an enlarged holding of at least 20 hectares of agricultural land (non less favoured area) or, at least 15 hectares (less favoured area) of agricultural land, except in the case of intensive enterprises where the capacity to produce 20 production units is required
- d) have a non-farm income not exceeding €50,000 in the tax year prior to the signing of the last transfer/lease to the transferee(s) or in the tax year prior to application
- e) at the date of receipt of an application, if born before 1/1/75, have at least 5 years farming experience;

- f) at the date of receipt of an application, if born on or after 1/1/75, have a minimum of three years farming experience and have satisfactorily completed formal training in agriculture or horticulture of at least 180 hours.

Or

C. be a farmer who fulfils the following conditions:

- a) have been approved as a transferee under a previous Early Retirement Scheme (ERS1, 1994-1999 or ERS2, 2000-2006)
- b) be between his/her 45th and 50th birthday
- c) be farming a minimum of 5 hectares of enlargement land/5 enlargement production units in the case of intensive enterprises in addition to the area of pension lands/production unit capacity received from the transferor
- d) be farming an enlarged holding of at least 20 hectares of agricultural land (non less favoured area) or, at least 15 hectares (less favoured area) of agricultural land, except in the case of intensive enterprises where the capacity to produce 20 production units is required;

7.3 have a herd/flock/cereal number or other Department Identifier or have proof of application for such number;

7.4 provide a Personal Public Services Number (PPSN);

7.5 where pension lands are jointly leased or transferred jointly to two or more transferees one of the parties must be nominated as transferee;

- the nominated transferee shall meet the age limit, the educational qualifications and all other eligibility requirements of the relevant category of transferee
- the herd/flock/cereal number or other Department Identifier or application for such must be in the name of the nominated transferee and all lands owned, leased or farmed by either or both of the joint transferees must be farmed under this herd/flock/cereal number or other Department Identifier:

7.6 transferees may enter into a partnership arrangement with another head of a holding provided that

- the transferee brings in sufficient pension lands plus enlargement lands where appropriate to the overall partnership holding to meet his/her commitments as a transferee
- that the transferee's share of the profit/losses of the partnership is at least equal to the proportion of land brought into the partnership by the transferee
- a certified copy of the agreement shall be provided with the application or at the time of setting up of the partnership whichever is the later;

7.7 for a period of 5 years or for as long as the pension is granted to the transferor, whichever is the greater, undertake

- to practise farming on a holding of at least 20 hectares of agricultural land (non less favoured area) or at least 15 hectares (less favoured area) of agricultural land except in the case of intensive enterprises where the capacity to produce 20 production units is required;
- to practise farming/forestry/agri-tourism on all pension lands/facilities plus all enlargement lands/facilities where relevant or the equivalent area where re-parcelling has taken place; and
- declare all lands farmed under a Single Payment Scheme application annually.

7.8 **Other Lands farmed by Transferee**

Details of all other lands farmed by the Transferee if required for eligibility or enlargement shall be provided. Proof in the form of the following is required:-

- Single Payment Scheme (SPS) application; or
- Rental Agreement/Auctioneers Certificate stating the acreage and accompanied by a map of the land rented is acceptable.

The following conditions shall also apply to participating transferees

- 7.9 where it is not possible for an approved transferee to continue to comply with the conditions of the Scheme the pension lands may be demised to another eligible transferee for the remaining period of the pension or for five years whichever is the greater. An application form, together with the required documentation in respect of the new transferee, shall be received by the Department within six months of the termination of the old agreement. The new transferee must meet the eligibility criteria of the relevant category of transferee at the time of substitution;
- 7.10 if, after 5 years or more from the commencement date of the pension, the pension lands are disposed of, and not replaced or disposed of, to a party who is an ineligible transferee, the pension will cease but payments already made may be retained. If all or part of pension lands, other than lands permitted by Sections 4.9 and 4.10, are disposed of, and not replaced, to a party who is not another eligible transferee within 5 years of the date of entry into the Scheme the pension will cease and payments already made will have to be refunded to the Department.

8. Person Eligible as a Worker

On the date an Early Retirement application is received in the Department, the worker shall:

- 8.1 be between his/her 55th and 66th birthday;
- 8.2 have devoted at least half of his/her working time to farm work during the preceding 5 years as a family helper or farm worker;
- 8.3 have worked on the transferor's agricultural holding as an insured employee of the transferor for at least the equivalent of two years full-time during the four-year period preceding the early retirement of the transferor and have paid PRSI contributions in respect of the period of that employment;
- 8.4 undertake to stop farm work forever.

9. Calculation of Production Units for Intensive Enterprises

- 9.1 The table below sets out how Production Units on the holding are calculated in respect of the following intensive enterprises:

Enterprise	Units
Pig Production:	
Sow Breeding only	0.8 units/sow
Sow Breeding and Finishing	1.1 units/sow
Pigs Finishing only	6.0 units/100 pig places
Broilers	3.0 units/1000 bird places
Broiler Breeders	8.0 units/1000 birds
Layers	3.0 units/1000 birds
Turkeys (fattening)	3.0 units/1000 birds
Rabbits	1.0 units/100 does
Free Range Egg Production	1.5 units/100 birds
Mushrooms	20 units per 30m. tunnel
Glasshouse crops	125 units per hectare
Nursery (liner) production	75 units per hectare
Shrub production (containers)	50 units per hectare
Ornamental trees, field grown	25 units per hectare

10. Payments to Transferor

- 10.1 An approved transferor will be paid a flat rate of €9,300 per annum for the first 5 ha. or 5 production units plus €300 per hectare of agricultural land or production unit transferred/leased up to a maximum of €15,000 per annum. This will give a pension rate as follows (Table for illustrative purposes):

Area of Farm Transferred (Hectares)	Pension (€)
5	€9,300
10	€10,800
12	€11,400
16	€12,600
20	€13,800
24	€15,000

OR

No. of Production Units	Pension (€)
5	€9,300
10	€10,800
12	€11,400
16	€12,600
20	€13,800
24	€15,000

The eligible area for payment will be made on the lesser of the area of the pension lands calculated by reference to the legal documents and the agricultural land declared for the Single Payment Scheme (SPS)/Area Aid (as digitised under the Land Parcel Identification System). In the case of Intensive Enterprises payment will be made on the number of hectares or production units;

- 10.2 the pension will be paid for not more than 10 years from the date on which a fully completed application is received but in any event will not be paid beyond applicant's 66th birthday;
- 10.3 where a Scheme participant dies within the pension period, entitlement to the pension for the balance of the period, may be transferable to a spouse, partner and/or dependant family member(s), other than the transferee, subject to the following
- the conditions regarding transferee and pension lands continue to be met, and
 - the total annual income of the spouse, partner and/or dependant family member(s) (determined at the time of death of the participant) does not exceed €50,000.

11. Payments to Workers

- 11.1 Approved workers including family helpers displaced following the cessation of farming may be eligible for an annual pension of €4,000 for a period of 10 years but not beyond their 66th birthday;
- 11.2 where a worker dies within the pension period, entitlement to the pension for the balance of the period, may be transferred to a spouse, partner and/or dependant family member, other than the transferee providing that their total annual income (determined at the time of death of the participant) does not exceed €50,000.

12. Date of Payment

- 12.1 The date from which payment to transferors and retiring workers may be made is the date of receipt of a completed application. A completed application means an application accompanied by all necessary accompanying documents indicating that all the conditions for payment have been met and that can be approved by an authorised officer of the Department of Agriculture and Food.

13. Control and Penalties:

- 13.1 Failure by either the transferor or transferee to comply with the terms and conditions of the Early Retirement Scheme (ERS3) 2007 will result in the imposition of a monetary penalty as set out in Appendix 1.

14. Application Procedure

- 14.1 The application form and the terms and conditions of the Scheme, are available from the Department's Early Retirement Section in Johnstown Castle, Wexford or from the local AES Offices of the Department of Agriculture and Food;

- 14.2 the completed application for pension should be made to the Early Retirement Section, Department of Agriculture and Food, Johnstown Castle Estate, Co. Wexford;
- 14.3 the declarations at Sections 1 and 12 of the application form shall be signed by all partners in the following circumstances:
- where part or all of the pension lands are jointly owned or leased
 - where the pension lands are jointly managed with a farmer who is an owner or leaseholder
 - where pension lands are owned separately and jointly managed;
- 14.4 the applicant and his/her Agricultural Advisor/Consultant/Socio-Economic Advisor must complete the checklist certifying that all the required documentation is included with the application;
- 14.5 incorrect or incomplete applications will not be accepted. Such applications will be returned to the applicant and a new application must be made. Applicants may, at the Department's discretion, be given an opportunity to correct minor errors or omissions without affecting the date of payment.
- 15. Arrangement for Payment and Tax Requirements:**
- 15.1 The pension is paid to the participant on the last working day of each month. In the case of all Scheme payments made on or after October 2008 participants must provide the relevant bank/building society account details within the State to enable the payments to be made by electronic fund transfer. These details should be provided on the bank mandate form (BM1).
- 15.2 the Early Retirement pension is subject to the deduction of income tax as determined by the Revenue Commissioners.
- 15.3 compulsory PRSI deductions will not be made from payments under the Early Retirement Scheme. Subject to certain conditions, voluntary contributions may be made up to age 66 in order to qualify for the State Pension Contributory (Old Age Contributory). Enquiries should be made to the Department of Social and Family Affairs.
- 16. Requirements in Relation to National Retirement Pensions:**
- 16.1 The pension payable to an applicant shall be reduced by the amount of any National Retirement Pension subsequently paid to the participant. Where an applicant qualifies for the Scheme under joint management, the pension shall be reduced by the amount of any National Retirement Pension paid to the participant and their spouse/partner in the joint management arrangement.
- Where the participant has used his/her spouse's/partner's land in order to qualify for a higher rate of pension than that based on his/her own land, the pension shall be reduced by the amount of National Retirement Pension paid to the participant and their spouse/partner in joint management. However, where the participant transferred/leased in excess of 24 hectares in his/her own right (including jointly owned land) to qualify for the maximum pension, then any National Retirement Pension payable to the spouse/partner will not be deducted from the pension.
- In a tenancy-in-common situation, where the participant's undivided share transferred/leased is in excess of 24 hectares, the National Retirement Pension payable to the spouse/partner is not deducted from the Early Retirement pension. However, where the undivided share is less than 24 hectares and where the spouse/partner's share is used to increase the Early Retirement pension payable, the Early Retirement pension shall be reduced by the amount of National Retirement Pension payable to the participant and their spouse/partner.
- 16.2 The following pensions are National Retirement Pensions:
- State Pension Contributory (Old Age Contributory) (payable from age 66)
 - State Pension Non-Contributory (Old Age Non-Contributory) (payable from age 66)
 - Survivor's Contributory (Widow/Widowers Contributory) (payable from age 66)
 - Survivor's Non-Contributory (Widow/Widowers Non-Contributory) (payable from age 66)
 - State Pension Transition (Retirement) (payable from age 65)
 - Invalidity Pension (payable from age 66)

A National Retirement Pension may comprise a personal allowance, an adult dependant allowance, child dependant allowances, living alone allowance and an over 80 allowance. The total amount payable constitutes the National Retirement Pension, as a spouse and children do not have independent entitlement to the pension. Therefore, it is the total amount of the National Retirement Pension that shall be deducted from the Early Retirement pension and not just the personal rate payable to the applicant. Fuel allowances, however, are separate to the National Retirement Pension and are not deducted.

- 16.3 An applicant who is in receipt of or subsequently becomes entitled to any of the pensions in 16.2 shall notify the Department to that effect and provide full details. A spouse/partner in a joint management arrangement who at the time of application is in receipt of any of the pensions in 16.2 shall provide full details with the application. If at the time of application, a spouse/partner in a joint management arrangement, is aged 66 years or over, and has not yet applied for a National Retirement Pension, payment of the Early Retirement pension will not commence until evidence of their eligibility or otherwise for a National Retirement Pension has been received from the Department of Social and Family Affairs.
- 16.4 A participant's spouse/partner involved in the joint management of the holding(s), shall apply to the Department of Social and Family Affairs for a State Pension Contributory (Old Age Contributory) three months in advance of their 66th birthday. This is to allow sufficient time for their pension application to be processed before their 66th birthday. They should also indicate when applying for this pension that they wish to be considered for a State Pension Non-Contributory (Old Age Non-Contributory) in the event that the Contributory Pension application is not successful.
- Where a spouse/partner involved in the joint management of the holding(s), has been refused a pension by the Department of Social and Family Affairs, evidence of this refusal will be sufficient to enable their Early Retirement pension to continue.
- 16.5 A participant and their spouse/partner in a joint management arrangement who becomes entitled to any of the pensions in 16.2 shall immediately notify the Early Retirement Section, Department of Agriculture and Food, Johnstown Castle, Wexford in writing providing full details of the type, amount and effective date of the pension to be paid.
- 16.6 If a participant's spouse/partner involved in the joint management of the holding(s), has not submitted written confirmation to the Early Retirement Section, Department of Agriculture and Food, Johnstown Castle, Wexford of the decision they have received from the Department of Social and Family Affairs, by the time they have reached their 66th birthday, the pension payable to them under the Early Retirement Scheme will be suspended until such time as the necessary confirmation is furnished.
- 16.7 If the rate of National Retirement Pension payable to a participant and or their spouse/partner involved in the joint management of the holding(s) increases or decreases during their participation in the Scheme, the participant shall immediately notify this Department. The Early Retirement pension payment must be revised accordingly.
- 16.8 Where the amount of National Retirement Pension(s) payable by the Department of Social and Family Affairs exceeds the Early Retirement pension, payments under the Scheme shall cease. In that event, participants shall continue to comply with the terms and conditions of the Scheme and shall not return to farming.

17. Pension Declaration Form:

- 17.1 All participants under the Scheme are required to complete a Pension Declaration Form each year on the anniversary of his/her entry into the Scheme. This Form sets out the terms and conditions under which he/she entered the Scheme. He/she will be asked to confirm that he/she (and his/her spouse/partner in a joint management/joint ownership application) is complying with the terms and conditions of the Scheme and are not engaged in agricultural activity. This declaration shall be witnessed by one of the following: Agricultural Consultant, Agricultural Advisor, Socio-Economic Advisor, Medical Doctor, Accountant, Bank/Post Office/Credit Union Official, Minister of Religion, Teacher, Solicitor, Commissioner for Oaths or a member of the Garda Síochána. An official stamp, should also be affixed.
- 17.2 Failure to complete and return the Pension Declaration Form within the specified time will result in the suspension of the Early Retirement Pension.

18. Compulsory Purchase Orders:

18.1 Where pension lands are acquired under Compulsory Purchase Orders,

- a reduction in pension will not apply where the holding continues to be above 24 hectares
- where the land acquisition results in the holding being reduced below 24 hectares, such reduction shall result in a reduced pension from the date of acquisition based on a rate of €300 per year for each hectare reduced
- land acquired compulsorily need not be replaced. However if the land acquired is replaced within six months of acquisition, no reduction will apply.

19. Right of Entry:

19.1 The Department is required to carry out inspections under the EU Regulations governing the Early Retirement Scheme (ERS 3) 2007 and ensure compliance of all Scheme participants with the terms and conditions of the Scheme. The Department accordingly reserves the right to carry out, without notice to the transferor and/or transferee, on the spot inspections at all reasonable times of any land, premises, plant, equipment, livestock and to inspect records necessary for the administration of the Scheme. A percentage of applications will be subject to a prepayment compliance inspection to confirm eligibility with the terms and conditions of the Scheme. Further compliance inspections will be carried out on an annual basis in respect of approved applications. Cases will be selected on both a random and a risk-selected basis to ensure compliance with the terms and conditions of the Scheme.

Failure by a transferor, his/her spouse/partner in joint management, a transferee or other relevant person or agent to co-operate with an authorised officer of the Department, may result in a penalty being imposed (See Appendix 1).

20. Acceptance of Application:

20.1 The acceptance of an application will at all times be subject to the condition that, in the opinion of the Department, the application is within the terms of the Scheme.

21. Exceptional Circumstances

21.1 Where an intending applicant is unable to meet certain Scheme conditions for reasons beyond his/her control a case may be made in writing to the Department whereupon, after due consideration, the relevant Scheme conditions may be waived or modified with the Departments prior approval. Transferors/transferees already in the Scheme, or their representatives, shall inform the Department, in writing and without undue delay, of any likely request under this clause. The circumstances under which exceptional circumstances may be considered include (without prejudice to the generality of the foregoing):

- death
- long term professional incapacity (supported by medical evidence)
- expropriation of a large part of the holding if that could not have been anticipated on the day on which the commitment was given
- a severe natural disaster seriously affecting land on the holding
- the accidental destruction of livestock buildings on the holding
- an epizootic disease affecting all or part of the farmer's livestock
- an order of Court for separation or divorce resulting in the land subject to the Scheme having to be divided or sold where as a result the conditions of the Scheme cannot be met
- other Court order.

22. Responsibility of Participants and Transferees:

22.1 The approval or payment of pension is conditional on the Scheme participants' and transferees' compliance with the terms and conditions of the Scheme at all times. It will also be the responsibility of the participants and transferees to notify the Department in writing of any material changes in his/her circumstances including a change of postal address.

23. Review of Decisions

- 23.1 If an applicant believes that an incorrect decision has been made in his/her case, he/she may seek to have the decision reviewed. The letter notifying of the decision on the application includes the name and address of the person to whom the request for a review should be made. This person shall be a higher officer to the person who gave the decision. The request for review shall be made in writing within 21 working days of receipt by the applicant of notification of the decision and shall set out the ground(s) on which the review is sought. In cases where penalties are applied, participants will have 21 working days from the date of formal notification of the penalty to request a review setting out the grounds, in writing, on which they are basing their request. The applicant will be notified of the outcome in writing.

The applicant may subsequently also appeal a decision to the Agriculture Appeals Office, Kilminchy Court, Portlaoise, Co. Laois. The appeal must be made in writing within three months of the notification of the decision and must include the facts and contentions on which the appellant intends to rely together with any supporting documentary evidence.

24. Review of Financial Aids:

- 24.1 The Department reserves the right to vary, where occasion demands, the amount of pension wherever specified in the Scheme, subject at all times to the provisions of any relevant Community legislation.

25. Procedures:

- 25.1 The Department reserves the right to alter from time to time the procedures to be followed in the operation of this Scheme, subject at all times to the provisions of any relevant Community legislation.

- 25.2 In accordance with the provisions of Council Regulation 1290/2005, the Department of Agriculture, Fisheries and Food is required to publish on a website, details of the names, municipality of residence, and amounts received by beneficiaries of schemes funded or co-funded by the European Agricultural Guarantee Fund (EAGF) or the European Agricultural Fund for Rural Development (EAFRD). This data may be used by national and EU auditing and investigating bodies for the purpose of safeguarding the financial interests of the EU.

The rights of data subjects and how they may be exercised, in this respect, are laid down in the Data Protection Acts, 1988 and 2003. The publication of the details referred to above is a requirement of EU law and the data therein may not be used for direct marketing or other purposes and this will be made clear on the website.

26. Penalties and Overpayments

- 26.1 Monetary penalties and overpayments shall include interest due in accordance with the provisions of the European Commission (Recovery of Undue Amounts) Regulations 2003(SI 463/2003). Where monetary penalties and/or overpayments are not paid or recovered within the period requested, the Department may take whatever action is deemed necessary for their recovery.

APPENDIX 1: Penalties for certain breaches of the Scheme

Transferor Penalties

The following penalties will be recovered from future Early Retirement (ERS3) 2007 payments where possible. Where monetary penalties are not paid within the period specified, the Department will take whatever action is necessary for their recovery. Penalties will be based on the Transferor's Pension less all deductions.

	Offence	Penalty
(A)	Intentionally providing false or misleading information in an application form and/or accompanying documentation.	Exclusion from the Scheme for 2 years and recoupment of 100% of all payments made
(B)	Non co-operation with on-farm inspection. Refusal of the Right of Entry	Expulsion from the Scheme and recoupment of 100% of payments made
(C)	Signature on Pension Declaration Form not matching that at Section 1 of application form	Immediate suspension of Pension pending investigation. If confirmed, expulsion from Scheme and recoupment of payments from date of offence
(D)	Non-disposal of all agricultural land prior to application under the Scheme, other than allowable portion retained under the Scheme rules	<p>Less than 3% of total lands held - no penalty 3-10% of total lands held - 10% of annual pension 10% plus of total lands held - 50% of annual pension</p> <p>In addition to above, any lands found to be retained will have to be transferred/leased to the transferee</p>
(E)	Non-disposal of agricultural land acquired while in the Scheme (6 months allowed for disposal of such lands)	Monthly pension suspended from 7 th month until such lands are disposed.
(F)	Failure to find a new eligible transferee within 6 months in the event of the cessation of a previous agreement	Monthly pension suspended from 7 th month until eligibility restored
(G)	Unauthorised sale and/or failure to reparcel pension lands	<p>Penalty starts from 7th month and then</p> <p>1st offence - penalty of 20% of monthly pension for every non-compliant month 2nd offence - penalty of 50% of monthly pension for every non-compliant month</p>
(H)	<p>(i) Agricultural activity by transferor (ii) Use of land or buildings for agricultural activities by the transferor (iii) Farming transactions in transferor's name after application under the Scheme e.g. applying for SPS, grants, compensatory allowances etc.</p>	<p>Pension suspended pending investigation. If confirmed, expulsion from Scheme and recoupment of 100% of payments made.</p>

Transferee Penalties

The following penalties will be deducted from payments due to the transferee from the Department of Agriculture and Food where possible. Where monetary penalties are not paid within the period specified, the Department will take whatever action is necessary for their recovery. Penalties will be based on Transferor's pension less Social Welfare deductions.

	Offence	Penalty
(A)	Intentionally providing false or misleading information in an application form and/or accompanying documentation	100% of pension paid to date
(B)	Refusal of the Right of Entry	100% of pension paid to date
(C)	(i) Not farming a holding of at least 20 ha of agricultural land (non less favoured area) or at least 15 ha of agricultural land (less favoured area) except in the case of intensive enterprises where the penalty applies where the transferee is not farming at least 20 production units (ii) Not engaged in farming/forestry/agri-tourism on all pension lands plus all enlargement lands where relevant or the equivalent area where re-parcelling has taken place	1st offence - penalty of 20% of monthly pension for every non-compliant month 2nd offence - penalty of 50% of monthly pension for every non-compliant month
(D)	Unauthorised sale and/or failure to reparcel pension lands	Penalty starts from 7 th month and then 1 st offence - penalty of 20% of monthly pension for every non-compliant month 2nd offence - penalty of 50% of monthly pension for every non-compliant month

Appendix II

Legal Documentation Required from a Transferor

The following evidence of title is required for participation in the Early Retirement Scheme (ERS 3) 2007. Only copies of the following documentation, certified as true copies of the originals by an Agricultural Consultant/Agricultural Advisor, Socio Economic Adviser or Solicitor, should accompany the application. Unless specifically requested, original documents should not be furnished. All conveyances must be undertaken by a Solicitor.

A. Lands Owned by the Transferor

(i) **Registered Land** (*Land registered with the Property Registration Authority*).

Up-to-date copy Folio/s with File Plan(s) showing the Transferor as the registered owner/joint owner/tenant-in-common *or*, where registration has not been completed, a Deed of Transfer/Assent stamped where applicable transferring the land to the Transferor solely, jointly or in common together with Map of the land so transferred, Property Registration Authority Dealing Number and up-to-date copy/s of the parent Folio/s and File Plan/s.

(ii) **Unregistered Land** (*Land registered with the Property Registration Authority*).

The title Deeds to the land, the most recent of which is the Deed of Conveyance/Assent stamped where applicable conveying the land to the Transferor solely, jointly or in common and duly registered with the Property Registration Authority together with Map of the land so conveyed.

(iii) **First Registration.**

Land the subject of an Application for First Registration under Section 49, Land Registration Act, 1964 are not eligible for pension purposes unless registration is completed prior to making application under the Scheme. Applications for First Registration by way of Transmissions on Death, Compulsory Registration and those based on a full unregistered title are acceptable provided same are certified as such by the Property Registration Authority.

(iv) **Land Commission Land.**

Where the title to land allotted by the Land Commission has not yet been registered in the Property Registration Authority the following is acceptable evidence of title:-

- (a) Letter of confirmation of the Allotment to the Transferor from the Lands Division of the Department.
- (b) Where land was Allotted to a previous owner, the Transferor shall furnish documentary evidence, stamped Deed of Conveyance/Assent, of beneficial ownership and/or confirmation from Lands Division that the Transferor is now the present allottee.

(v) **Inheritance.**

A Transferor entitled to benefit from the estate of a deceased person shall provide, in addition to the documents of title of the deceased as per (i),(ii), (iii) and (iv) above, the relevant Grant of Probate/Letters of Administration (with Will annexed or Intestate) and Deed of Assent showing such entitlement together with Map and Property Registration Authority Dealing Number in the case of registered land or Property Registration Authority registration in the case of unregistered land.

B. Entailed Estate

Where the transferor holds title by way of a Life Interest, the Settlement, or relevant extract therefrom, shall be furnished with the Application.

C. Leases

- (a) For lands acquired under lease by a Transferor prior to 1st January 2007, which qualifies for pension purposes, the documents of title of the Lessor as defined in A and B above shall be furnished with the application.

Appendix II (contd.)

- (b) The term or residue of the Lease shall cover the full period of the pension or for a minimum of five years where the pension period is for less than five years and:-
- (i) be accompanied by a Map of the lands leased
 - (ii) be stamped by the Revenue Commissioners
 - (iii) state term and operative dates
 - (iv) state the annual rent
 - (v) state the area in hectares, location and Folio number/s and Register (registered land)
 - (vi) state area in hectares, townland, Barony and County (unregistered land)
 - (vii) have a valid provision for sub-leasing
 - (viii) may incorporate a clause providing for termination if the application by the Transferor is unsuccessful.
 - (ix) any amendments or extensions to Leases shall be effected by way of a deed of variation or endorsement.

D. Afforestation

All areas under forestry shall be mapped. Where lands have been afforested since the 1st January 2007 the following should accompany the application:

- (a) Copy of the Approval from the Department of Agriculture and Food (Forest Service)
- (b) Copy Certification by the Company/Agency/Consultant confirming details of the area planted, map and date on which the lands were planted.

E. Beneficially occupied lands where Transferor has inadequate title

Details of such beneficially occupied lands in the year prior to retirement and evidence of their disposal by way of Right Title and Interest shall be furnished. In addition a Sworn Affidavit detailing the reasons for the inadequacy of the title shall be provided.

F. Agricultural lands disposed of outside the Scheme since 1st January 2007

All the requisite legal documentation evidencing such disposal/s shall be furnished.

Appendix III

Legal Documentation Required in Relation to Pension Lands

The following evidence of title is required for participation in the Early Retirement Scheme (ERS3) 2007. Only copies of the following documentation, certified as true copies of the originals by an Agricultural Consultant/Agricultural Advisor, Socio Economic Adviser or Solicitor, should accompany the application. Unless specifically requested, original documents should not be furnished. All conveyances must be undertaken by a Solicitor.

A. Pension Lands transferred to Transferee

(i) **Registered Land** (*Land registered with the Property Registration Authority*).

Up-to-date copy Folio(s) with File Plan(s) showing the Transferee as the registered owner/joint owner/tenant-in-common *or*, where registration has not been completed, a Deed of Transfer/Assent stamped where applicable transferring the land to the transferee solely, jointly or in common together with Map of the land so transferred and Property Registration Authority Dealing Number

(ii) **Unregistered Land** (*Land registered with the Property Registration Authority*).

The title Deeds to the land, the most recent of which is the Deed of Conveyance/Assent stamped where applicable conveying the land to the Transferee solely, jointly or in common and duly registered with the Property Registration Authority together with Map of the land so conveyed.

(iii) **Land Commission Land.**

Where the title to land allotted by the Land Commission has not yet been registered with the Property Registration Authority the following is acceptable evidence of title:-

- a Deed of Transfer/Assent stamped where applicable transferring the land to the transferee solely, jointly or in common together with Map of the land so transferred, Property Registration Authority Dealing Number.

B. Pension Lands Leased to the Transferee

The term or residue of the Lease shall cover the full period of the pension or for a minimum of five years where the pension period is for less than five years and:-

- (i) be accompanied by a Map of the lands leased
- (ii) be stamped by the Revenue Commissioners
- (iii) state term and operative dates
- (iv) state the annual rent
- (v) state the area in hectares, location and Folio number/s and Register (registered land)
- (vi) state area in hectares, townland, Barony and County (unregistered land)
- (vii) may incorporate a termination clause by either party after a minimum of five years from the commencement date of the pension or a clause providing for termination if the application by the Transferor is unsuccessful.
- (viii) any amendments or extensions to Leases shall be effected by way of a deed of variation or endorsement.

General Note.

Documents of title of either a transferor or transferee, whether by Transfer, Conveyance, Assent, Lease or Assignment shall not be limited in any unacceptable way. Rights of Residence, Support and financial settlements are acceptable in addition to that set out at B (vii) & (viii) in Appendix III and C(b) (viii) & (ix) in Appendix II.