

Farm Consolidation

Guidelines relating to the application for and the issue of Farm Consolidation Certificates by Teagasc

These guidelines¹, made under the provisions of section 81C (further farm consolidation relief) of the Stamp Duties Consolidation Act 1999, are for the purposes of regulating the manner in which applications for Farm Consolidation Certificates are to be made to Teagasc, and the conditions necessary for the issue of such Certificates by Teagasc.

Note: *These guidelines do not purport to give a legal interpretation of the said section 81C and the issue of a Farm Consolidation Certificate does not give automatic entitlement to stamp duty relief under section 81C.*

1) Background

Section 104 of the Finance Act 2007 inserted a new section, section 81C, into the Stamp Duties Consolidation Act 1999 for the purposes of granting stamp duty relief where a farmer sells² qualifying land and purchases² qualifying land in order to consolidate his or her holding.

To be eligible to claim the stamp duty relief, the sale and purchase of qualifying land(s) must occur within 18 months of each other and within the relevant period i.e. the period commencing 1 July 2007 and ending on 30 June 2009.

The way that the stamp duty relief operates is that where there is a sale and purchase of qualifying land(s) within 18 months of each other that satisfy Farm Consolidation (see Paragraph 2 below), then stamp duty is only payable on the purchase to the extent that the value of the land that is purchased exceeds the value of the land that is sold. If the sale takes place before the purchase, then the relief will be given at the time of purchase. However, if the purchase takes place first, then stamp duty will have to be paid, in the normal manner, but on a subsequent sale, a claim for repayment of the stamp duty paid can be made to the Revenue Commissioners.

2) What is Farm Consolidation for the purposes of the stamp duty relief?

Farm Consolidation is the sale and purchase of qualifying land(s):

- a) where the parcel(s) of land sold, is sold by an individual farmer³ (or where sold by more than one individual jointly, at least one of the individuals is a farmer), and
- b) where the parcel(s) of land purchased, is purchased by the same individual farmer (or where purchased by more than one individual jointly, at least one of the individuals is the same farmer), and

¹ These Guidelines, which are subject to review from time to time, are issued by the Minister for Agriculture and Food with the consent of the Minister for Finance.

² A gift of qualifying land by or to a farmer is treated as a sale or purchase, respectively, for stamp duty purposes with the substitution of the market value of the land for the purchase price.

³ A farmer is an individual who spends not less than 50% of his or her normal working time farming.

- c) where the sale and purchase occur within 18 months of each other and within the period commencing 1 July 2007 and ending on 30 June 2009, and
- d) the interaction of the sale and purchase together result in a reduction in the number of separate parcels of land comprised in the existing farm*, or an overall reduction in the distance between existing parcels comprised in the farm, including land that has been leased for at least 2 years⁴ with a minimum of 5 years to run,
- e) thereby leading to a reduction in the fragmentation of the farm and an improvement in the operation and viability of the consolidated farm.

* The sale of an existing farm, comprising a number of separate parcels, and the replacement of it by the purchase of another farm, comprising a lesser number of separate parcels, is not Farm Consolidation for the purposes of the relief.

3) What is a parcel of land for the purposes of stamp duty relief?

A parcel of land means a stand alone piece of land.

4) What land can be sold and purchased in a Farm Consolidation?

Land sold and purchased as part of a Farm Consolidation must comply with the following conditions:

- a) the land must be in the State;
- b) the land must be agricultural land or afforested land – it cannot include bog land; and
- c) the land must not contain residential buildings.

5) What is a Farm Consolidation Certificate?

A Farm Consolidation Certificate is a certificate issued by Teagasc to the farmer consolidating his/her holding. It identifies the lands sold and purchased and it certifies that Teagasc is satisfied, on the basis of information available at the time of so certifying, that the sale and purchase of lands complies with the conditions of consolidation as set out in these Guidelines.

This stamp duty relief is available only in respect of deeds of transfer executed within 18 months of each other and within the period commencing on or after 1 July 2007 and ending on or before 30 June 2009.

6) What documentation is required by Teagasc in support of an application for a Farm Consolidation Certificate?

In order to consider whether a Farm Consolidation Certificate should be issued Teagasc will require the following:

- a) An application form (FC 2) completed by the applicant farmer;
- b) Area aid maps indicating the total area farmed by the farmer;

⁴ Farmland that has been leased must have been leased for a period of at least two years immediately prior to the submission of an application to Teagasc for a farm consolidation certificate.

- c) Copies of maps for all land owned, indicating the land parcel(s) sold, together with copies of maps of the land parcel(s) purchased;
- d) Copies of folios, deeds or other evidence of ownership for all land owned;
- e) Certified copies of the deeds of transfer in respect of the land parcels sold and purchased;
- f) Copies of lease agreement(s) for farmland that are relevant in relation to the application for a farm consolidation certificate, i.e. lease agreements for farmland that have been leased for at least 2 years immediately prior to the submission of the application for a farm consolidation certificate with a minimum of 5 years to run.

7) What is the procedure for obtaining a Farm Consolidation Certificate?

- a) The farmer consolidating his/her holding will approach Teagasc with the documentation referred to at paragraph 6;
- b) On the basis of information supplied at a), Teagasc will consider the application and whether the sale and purchase of the parcels of land is bona fide and complies with the conditions of farm consolidation as stipulated in these Guidelines.
- c) Where the outcome of b) is positive, Teagasc will issue to the farmer concerned a Farm Consolidation Certificate on the basis of the information available to it at that time. If the outcome of b) is negative, Teagasc will not issue a Farm Consolidation Certificate and will give reasons in writing for not doing so.
- d) Incomplete applications will not be considered and will be returned to the applicant.

8) Withdrawal of Farm Consolidation Certificates.

Teagasc may by notice in writing, withdraw any Farm Consolidation Certificate already issued. The reason for withdrawal of a Certificate will be stated.

9) Right to Appeal.

A farmer has the right to appeal to the Director of Teagasc within 14 days where he/she is refused a Farm Consolidation Certificate or where such a certificate already issued is withdrawn.

Further information can be obtained from your local Teagasc Office.