SCOTTISH STATUTORY INSTRUMENTS

2001 No. 259

AGRICULTURE

The Farm Business Development (Scotland) Scheme 2001

Approved by the Scottish Parliament

Made - - - -	*31st May 2001*
Laid before the Scottish Parliament - - - -	*31st May 2001*
Coming into force - -	*2nd July 2001*

The Scottish Ministers, in exercise of the powers conferred by sections 28 and 29 of the Agriculture Act 1970(**1**) and of all other powers enabling them in that behalf, hereby make the following Scheme:

Citation, commencement and extent

1.—(1) This Scheme may be cited as the Farm Business Development (Scotland) Scheme 2001 and shall come into force on 2nd July 2001.

(2) This Scheme extends to Scotland only.

Interpretation

2.—(1) In this Scheme, unless the context otherwise requires–

"agricultural holding" means an agricultural holding within the meaning of section 1 of the Agricultural Holdings (Scotland) Act 1991(**2**);

"agricultural unit" means an agricultural holding or smallholding (and includes a common grazing) which is located within the scheme area, or which is partly located within the scheme area and is deemed to be located within the scheme area by the Scottish Ministers if they think fit;

"application" means an application by an eligible person for financial assistance under the Scheme made in accordance with paragraph 4 below and "applicant" shall be construed accordingly;

(**1**) 1970 c. 40. Section 28 was amended by section 22 of the Agriculture Act 1986 (c. 49) and section 29 was amended by section 10 of the Agriculture (Miscellaneous Provisions) Act 1972 (c. 62), section 15 of the Agriculture (Miscellaneous Provisions) Act 1976 (c. 55) and Schedule 1 to the Statute Law (Repeals) Act 1986 (c. 12). Section 28 contains a definition of "the appropriate authority" and "the appropriate Minister". The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46). The requirement to obtain Treasury approval was removed by section 55 of that Act.

(**2**) 1991 c. 55.

"approved" means approved by the Scottish Ministers in writing and "approve" and "approval" shall be construed accordingly;

"collaborative venture" means a venture in respect of which an application for financial assistance under this Scheme is jointly submitted by three or more eligible persons in relation to three or more eligible businesses;

"eligible business" means a business which has been engaged in agriculture on an agricultural unit for a continuous period of two years ending with the date of the application;

"eligible expenditure" means expenditure (including reasonable professional fees and charges) approved in relation to measures to be undertaken under the Scheme;

"eligible person" means–

(a) a person who is a legal occupier of an agricultural unit and who operates an eligible business on that unit;

(b) a person authorised to act on behalf of such legal occupier; or

(c) any member of the immediate family of such legal occupier who resides on or adjacent to that agricultural unit and is acting with such legal occupier's consent;

"financial assistance" means a payment made under this Scheme;

"immediate family" means wife, husband, partner, son, stepson, daughter, stepdaughter, mother, father, brother or sister;

"less favoured area" has the same meaning as in the Agricultural Business Development Scheme (Scotland) Regulations 2000(**3**);

"measure" means a measure specified in the Schedule to this Scheme;

"scheme area" means that part of Scotland lying outwith the scheme area for the purposes of Agricultural Business Development Scheme (Scotland) Regulations 2000;

"smallholding" means any holding within the meaning of sections 2 and 32 of the Small Landholders (Scotland) Act 1911(**4**).

(2) A reference in this Scheme to anything done in writing or produced in written form includes a reference to an electronic communication, as defined in the Electronic Communications Act 2000(**5**), which has been recorded and is consequently capable of being reproduced.

Objectives

3. Subject to the provisions of this Scheme, the Scottish Ministers may make payments to an eligible person of financial assistance under the Scheme in relation to expenditure which is of a capital nature or is incurred in connection with expenditure of a capital nature, where they are satisfied that such payments will contribute to the carrying on and viability of eligible businesses and to the improvement of incomes of farming families in the scheme area by supporting measures which–

(a) provide income for eligible persons by creating new or improving existing diversified agricultural activities on an eligible person's agricultural holding;

(b) provide income for eligible persons by creating new or improving existing activities outwith agriculture; or

(c) improve collaboration and co-operation by encouraging eligible persons to participate in collaborative ventures for the purposes of sub-paragraphs (a) or (b) above.

(**3**) S.S.I. 2000/448, amended by S.S.I. 2001/40.
(**4**) 1911 c. 49; section 2 was extended by the Small Landholders and Agricultural Holdings Act 1931 (c. 44), section 14 and both sections 2 and 32 were restricted by the Crofters (Scotland) Act 1955 (c. 21), Schedule 6, Part I.
(**5**) 2000 c. 7.

Applications

4.—(1) Subject to sub-paragraph (6) below, an eligible person who wishes to obtain financial assistance towards the cost of any measure to be undertaken under the Scheme may submit an application to the Scottish Ministers for approval which shall be in accordance with the following provisions of this paragraph.

(2) An application shall be made in writing in such form as the Scottish Ministers reasonably may require and shall include–

(a) sufficient information to show that the measure is being undertaken by an eligible person;

(b) confirmation that the measure is located within the scheme area;

(c) a description of the measure proposed;

(d) a statement that the measure could not proceed without financial assistance under the Scheme;

(e) sufficient information to show that the measure is of a nature and is likely to meet at least one of the objectives specified in paragraph 3 of this Scheme within the scheme area; and

(f) confirmation–

(i) as to what public funding (if any) towards the cost of the measure has been sought, otherwise than under this Scheme; and

(ii) that it is not intended to seek any public funding towards such costs, otherwise than under this Scheme.

(3) The applicant shall furnish to the Scottish Ministers such further information and evidence in relation to the application as the Scottish Ministers reasonably may require in order to allow proper consideration of the application.

(4) An eligible person may submit more than one application under this paragraph.

(5) An application shall not be submitted in respect of more than one eligible business, unless it is an application in respect of a collaborative venture.

(6) The Scottish Ministers may at any time suspend the operation of the Scheme and, while so suspended, no application under sub-paragraph (1) above may be submitted to them.

Determination of applications

5.—(1) Subject to the provisions of this Scheme, the Scottish Ministers as they think fit may–

(a) refuse to approve an application or approve it in whole or in part;

(b) cause such approval to be given, and any payments by way of financial assistance to be made, subject to such conditions as they may impose; or

(c) at any time, but subject to sub-paragraphs (7) and (8) below, on giving reasonable notice vary the approval or amend such conditions attached to the approval.

(2) The Scottish Ministers shall in writing–

(a) notify the applicant of their decision in respect of that application; and

(b) notify the applicant whose application has been approved under this paragraph of any conditions, relating to such approval, which they have imposed or amended under sub-paragraph (1) above.

(3) The Scottish Ministers shall not approve an application for financial assistance in relation to a measure, unless they are satisfied that–

(a) the measure is to be carried out by the eligible person;

(b) completion of the measure is likely to meet at least one of the objectives specified in paragraph 3 of this Scheme within the scheme area;

(c) the application relates to one or more of the measures set out in the Schedule to this Scheme;

(d) in relation to applications for measures in Part I of the Schedule to this Scheme–

(i) the economic viability of the eligible business is demonstrated;

(ii) the eligible business complies with the minimum standards regarding the environment, hygiene and animal welfare; and

(iii) the eligible person possesses adequate agricultural skill and competence;

(e) subject to sub-paragraph (4) below, other public funding towards the cost of the measure has not been or will not be sought in respect of the measure, other than under this Scheme; and

(f) the provision of such a measure is appropriate having regard to the need for, and existing provision of, measures of that type in the scheme area.

(4) Where an applicant has sought public funding in respect of the measure concerned otherwise than under this Scheme, but the public funding so sought was not obtained, the duty of the Scottish Ministers to be satisfied as to the matters set out in sub-paragraph (3)(e) above shall not apply in relation to such public funding so sought and not obtained.

(5) Before approving an application (in whole or in part), the Scottish Ministers may consult such persons as they consider appropriate.

(6) The Scottish Ministers shall not approve an application after the seventh anniversary of the coming into force of this Scheme.

(7) The Scottish Ministers may vary the approval or amend conditions attached to the approval in accordance with sub-paragraph (1)(c) above only if they are satisfied as to the matters mentioned in sub-paragraph (3) above.

(8) Before varying the approval or amending conditions attached to the approval in accordance with sub-paragraph (1)(c) above, the Scottish Ministers shall–

(a) give to the person to whom the assistance has been granted written notification of the action proposed to be taken;

(b) give that person an opportunity to make representations about the action proposed to be taken within such time and in such form as the Scottish Ministers consider fit; and

(c) consider any such representations.

Financial assistance

6.—(1) The Scottish Ministers may give to an eligible person, whose application has been approved under paragraph 5 above, such financial assistance under the Scheme towards eligible expenditure on the approved measures as they may consider appropriate.

(2) Subject to sub-paragraphs (4) and (6) below, the amount of financial assistance payable in respect of any measure in Part I of the Schedule to this Scheme shall–

(a) in the case of an eligible business wholly located within a less-favoured area, be up to 50% of eligible expenditure;

(b) in the case of an eligible business wholly located outwith a less-favoured area, be up to 40% of eligible expenditure; or

(c) in the case of an eligible business located partly within and partly outwith a less-favoured area, be at the rate of up to 40% or up to 50%, as the Scottish Ministers may determine as they think fit.