Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Agricultural Business Development Scheme (Scotland) Regulations 2000. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCOTTISH STATUTORY INSTRUMENTS

2000 No. 448

AGRICULTURE

The Agricultural Business Development Scheme (Scotland) Regulations 2000

Made - - - -	*20th December 2000*
Laid before the Scottish Parliament - - - -	*21st December 2000*
Coming into force - -	*29th January 2001*

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972[F1] and of all other powers enabling them in that behalf, hereby make the following Regulations:

F1 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46), **Schedule 8**, paragraph 15(3). The functions conferred on a Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Agricultural Business Development Scheme (Scotland) Regulations 2000 and shall come into force on 29th January 2001.

(2) These Regulations shall extend to Scotland only.

Interpretation

2.—(1) In these Regulations–

"agriculture" includes horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that is ancillary to the farming of land for other agricultural purposes, and "agricultural" shall be construed accordingly;

"agricultural holding" means an agricultural holding within the meaning of section 1 of the Agricultural Holdings (Scotland) Act 1991 [F2];

"agricultural unit" means a croft, 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 for financial assistance under the scheme made in accordance with regulations 4 or 5 and "applicant" and "apply" shall be construed accordingly;

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

"authorised person" means a person appointed by the Scottish Ministers for the purpose of enforcement of these Regulations;

"Community legislation" means–

(a) Council Regulation (EC) No 1257/1999 of 17th May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations [F3];

(b) Council Regulation (EC) No 1260/1999 of 21st June 1999 laying down general provisions on the Structural Funds [F4]; and

(c) Commission Regulation (EC) No 1750/1999 of 23rd July 1999 laying down detailed rules for the application of Council Regulation (EC) No 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) [F5];

"croft" means a croft within the meaning of section 3 of the Crofters (Scotland) Act 1993 [F6];

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

"designated maps" means the four maps numbered 1 to 4, each such map being marked "map of less-favoured farming areas in Scotland" and with the number of the map, dated 5th May 1991, signed by the Secretary of State for Scotland and deposited at the offices of the Scottish Executive Rural Affairs Department, Pentland House, 47 Robb's Loan, Edinburgh EH14 1TW;

"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) in relation to any measure–

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

  (ii) a person authorised to act on behalf of such legal occupier; and

(b) in relation to a measure specified in Part II or III of the Schedule, any member of the immediate family of such legal occupier who resides on or adjacent to the agricultural unit and is acting with such legal occupier's consent;

"financial assistance" means a payment made under these Regulations, and may include a payment from the Guidance Section of the European Agricultural Guidance and Guarantee Fund payable under the Community legislation;

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

"less favoured area" means the land shown coloured in blue or in pink on the designated maps–

(a) which is situated in an area included in the list of less favoured farming areas adopted by Council Directive 84/169/EEC concerning the Community list of less favoured farming areas within the meaning of Directive 75/268/EEC (United Kingdom) as amended [F7]; and

(b) which is, in the opinion of the Scottish Ministers, inherently suitable for extensive livestock production but not for the production of crops in quantity materially greater than that necessary to feed such livestock as are capable of being maintained on such land, and whose agricultural production is, in the opinion of the Scottish Ministers, restricted in its range by, or any combination of, soil, relief, aspect or climate;

"measure" means a measure specified in the Schedule;

"scheme" means the measures to assist rural communities described at Priority 4, Sub Priority (a), Measures 1, 3, Sub-Measure (i), and 5 (Agriculture only) of the Highlands and Islands Special Transitional Programme approved by Commission Decision of 8th August 2000 on the adoption of the Single Programming Document for the Highlands and Islands Special Transitional Programme and entitled, for the purposes of these Regulations, the Agricultural Business Development Scheme;

"scheme area" means the area of Scotland comprising–

(a) the area of the Argyll and Bute Council, excluding the Parishes of Arrochar, Cardross, Luss, Rhu and Roseneath;

(b) the area of the Highland Council;

(c) the area of the Orkney Islands Council;

(d) the area of the Shetland Islands Council;

(e) the area of the Western Isles Council;

(f) in the area of the North Ayrshire Council, the islands of Arran, Great Cumbrae and Little Cumbrae; and

(g) in the area of the Moray Council, the Parishes of Aberlour, Cabrach, Dallas, Dyke, Edinkillie, Forres, Inveravon, Kinloss, Kirkmichael, Knockando, Mortlach, Rafford and Rothes;

"smallholding" means any holding within the meaning of sections 2 and 32 of the Small Landholders (Scotland) Act 1911 [F8].

(2) A reference in these Regulations 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 [F9], which has been recorded and is consequently capable of being reproduced.

(3) References in these Regulations to a numbered regulation or to the Schedule shall be construed as a reference to the regulation so numbered in or to the Schedule to these Regulations.

F2 1991 c.55.
F3 O.J. No. L 160, 26.6.99, p.80.
F4 O.J. No. L 161, 26.6.99, p.1.
F5 O.J. No. L 214, 13.8.99, p.31.
F6 1993 c.44.
F7 O.J. No. L 82, 26.3.84, p.67, as amended by Commission Decision 91/25/EEC altering the limits of the less favoured areas in the United Kingdom within the meaning of Council Directive 75/268/EEC (O.J. No. L 16, 22.1.91, p.25).
F8 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.
F9 2000 c.7.

Objectives

3. Subject to the provisions of these Regulations, the Scottish Ministers may in accordance with the Community legislation make payments of financial assistance under the scheme where they are satisfied that the payments will help to achieve one or more of the following objectives–

(a) re structuring of an eligible business or re-orientation of its agricultural production;

(b) diversification of farm incomes by creating new or improving existing agricultural activities;

(c) diversification outwith agricultural activities to provide alternative sources of income; or

(d) improvement of co-operation and collaboration by encouraging collaborative ventures.

Business Plans

4.—(1) The Scottish Ministers may require that an eligible person, who intends to make an application under regulation 5, prepares a business plan in accordance with the following paragraphs of this regulation.

(2) The business plan shall be in writing in such form as the Scottish Ministers reasonably may require and shall include statements of–

(a) the assets and liabilities of the eligible business;

(b) the current viability of the eligible business and proposals for enhancing its current viability; and

(c) the skills and training requirements for the eligible business.

(3) The Scottish Ministers may approve a business plan submitted in accordance with this regulation.

(4) The Scottish Ministers may pay to an eligible person financial assistance towards the costs of an approved business plan–

(a) if the business plan has been prepared by an independent adviser, at the rate of 50% subject to a maximum payment of £400; or

(b) in any other case, at a fixed amount of £100.

Applications

5.—(1) Subject to 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 regulation.

(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 business plan approved under regulation 4, if such a plan was required by the Scottish Ministers under regulation 4;

(e) a statement that the measure could not proceed without financial assistance under the scheme;

(f) sufficient information to show that the measure is likely to meet at least one of the objectives specified in regulation 3; and

(g) confirmation that public funding towards the cost of the measure has not been sought otherwise than under these Regulations and that it is not intended to seek such funding.

(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 regulation.

(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 paragraph (1) above may be submitted to them.

Determination of applications

6.—(1) Subject to the provisions of these Regulations, the Scottish Ministers as they think fit may in accordance with the Community legislation–

(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 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 regulation of any conditions, relating to such approval, which they have imposed or amended under 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 of the scheme specified in regulation 3;

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

(d) in relation to applications for measures in Parts I and II of the Schedule–

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