1989 No. 38

AGRICULTURE

HORTICULTURE

Farm and Conservation Grant Scheme (Northern Ireland) 1989

Made . . . . . 13th February 1989

Coming into operation . . 20th February 1989

The Department of Agriculture in exercise of the powers conferred on it by Article 16(1) and (2) of the Agriculture and Fisheries (Financial Assistance) (Northern Ireland) Order 1987(**a**) and of every other power enabling it in that behalf, with the approval of the Department of Finance and Personnel, hereby makes the following Scheme:

Citation and commencement

1. This Scheme may be cited as the Farm and Conservation Grant Scheme (Northern Ireland) 1989 and shall come into operation on 20th February 1989.

Interpretation

2. In this Scheme—

"agricultural business" means a business consisting in, or such part of any business as consists in, the pursuit of agriculture, including the storage, the transport and the preparation for market of the produce of the business;

"contractor" means any person who enters into an agreement to supply agricultural work or services in connection with agricultural land;

"the Council Regulation" means Council Regulation (EEC) No. 1942/81 for the stimulation of agricultural development in the less-favoured areas of Northern Ireland(**b**) as amended by Council Regulation (EEC) No. 3156/87(**c**);

"dairy cows" means cows which have calved and which by reason of their breed or suitability are exclusively or principally kept for the production of milk either for human consumption or for processing into milk products;

"designated map" means the map marked "map of less-favoured farming areas in Northern Ireland", dated 4th April 1984, signed by the Secretary of State and deposited at the offices of the Department at Dundonald House, Upper Newtownards Road, Belfast BT4 3SB;

(**a**) S.I. 1987/166 (N.I. 1)
(**b**) O.J. No. L197, 20.7.81, p. 17
(**c**) O.J. No. L301, 24.10.87, p. 1

"development plan" means a development plan approved under the Agriculture and Horticulture Regulations 1980(**a**), the Farm and Horticulture Development Regulations 1981(**b**), the Agriculture and Horticulture Development Regulations (Northern Ireland) 1987(**c**), or the Farm and Horticulture Development Regulations (Northern Ireland) 1987(**d**);

"excluded contractor" means a contractor other than a contractor who has entered into a written agreement with the occupier of the land on which is carried on the agricultural business in relation to which a claim for grant is made under this Scheme where that agreement is expressed to continue in force for a period which is not less than seven years from the day immediately preceding the day on which the claim is submitted;

"glasshouse" means a fixed or mobile structure, used for the production of horticultural produce for sale, which is mounted on durable foundations, is not less than 1.67 metres high at the ridge, and of which more than half the total area of the sides, ends and roof is of glass or such other translucent material as will give a durability and transparency similar to that of glass;

"horticultural produce" means—

(*a*) fruit;

(*b*) vegetables of a kind grown for human consumption, including fungi, but not including maincrop potatoes or peas grown for seed or for harvesting dry;

(*c*) flowers, pot plants and decorative foliage;

(*d*) herbs;

(*e*) seeds (other than pea seeds), bulbs and other material, being seeds, bulbs or material for—

(i) sowing or planting for the production of fruit, of the vegetables, flowers, plants or foliage mentioned in (*b*) and (*c*) or of herbs, or

(ii) reproduction of the seeds, bulbs or other material planted; or

(*f*) trees and shrubs, other than trees grown for the purpose of afforestation;

but does not include hops;

"improvement plan" means an improvement plan approved under the Agriculture Improvement Regulations 1985(**e**), the Agriculture Improvement Regulations (Northern Ireland) 1987(**f**), or the Farm and Conservation Grant Regulations (Northern Ireland) 1989(**g**);

(**a**) S.I. 1980/1298 as amended by S.I. 1981/1708, 1983/508, 924, 1763, 1984/618, 1922, 1985/1205
(**b**) S.I. 1981/1707 as amended by S.I. 1983/507, 925, 1762, 1904/620, 1924, 1985/1266, 1986/1295
(**c**) S.R. 1987 No. 154
(**d**) S.R. 1987 No. 155
(**e**) S.I. 1985/1266 as amended by S.I. 1987/1950, 1988/1201, 1982, 2065
(**f**) S.R. 1987 No. 156 as amended by S.R. 1987 No. 452, S.R. 1988 No. 265 and S.R. 1988 No. 412
(**g**) S.R. 1989 No. 39

"labour unit" means the amount of work, other than work done by an excluded contractor except to the extent that such work is carried out by seasonal labour, which would in the opinion of the Department occupy the full-time, not exceeding 2,200 hours per year, of a full-time worker;

"less-favoured area" means land—

(*a*) which is situated in an area included in the list of less-favoured farming areas adopted by the Council or the Commission of the European Communities under Article 2 of Council Directive No. 75/268/EEC on mountain and hill farming and farming in certain less-favoured areas(**a**), and

(*b*) which is, in the opinion of the Department, 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 Department, restricted in its range by, or by any combination of, soil, relief, aspect or climate,

which land is within the area shaded blue or shaded pink on the designated map;

"the Order" means the Agriculture and Fisheries (Financial Assistance) (Northern Ireland) Order 1987;

"preparation for market" in relation to produce does not include canning, bottling, pulping or cooking, or preserving by sterlising, by freezing or by de-hydrating;

"the 1987 Scheme" means the Agriculture Improvement Scheme (Northern Ireland) 1987(**b**);

"statutory provision" has the meaning assigned to it by section 1(*f*) of the Interpretation Act (Northern Ireland) 1954(**c**).

Payment of grants

3.—(1) Subject to the provisions of this Scheme, the Department may make to any person a grant towards expenditure incurred by him for the purposes of, or in connection with, the carrying on of any agricultural business, being expenditure which—

(*a*) has been incurred—

(i) on or after 20th February 1989 in respect of any work, facility or transaction of a kind specified in any of paragraphs 1 to 6 and 9 in column 1 of the Schedule;

(ii) on or after 1st December 1989 in respect of any work, facility or transaction of a kind specified in paragraph 7 or 8 in column 1 of the Schedule;

(**a**) O.J. No. L128, 19.5.75, p. 1; Article 2 was amended by Council Directive No. 80/666/EEC (O.J. No. L180, 14.7.80, p. 34)

(**b**) S.R. 1987 No. 157 as amended by S.R. 1988 No. 243 and S.R. 1988 No. 413

(**c**) 1954 c. 33 (N.I.)

(*b*) appears to the Department to be of a capital nature or incurred in connection with expenditure of a capital nature; and

(*c*) is approved by the Department for the purposes of a grant under this Scheme.

(2) Where it appears to the Department that expenditure in respect of which a grant is claimed under paragraph (1) has been incurred partly for the purposes of, or in connection with, the carrying on of an agricultural business and partly for non-agricultural purposes, the Department may for the purposes of a grant under that paragraph treat as having been incurred for the purposes of, or in connection with, the carrying on of an agricultural business so much of that expenditure as appears to the Department to relate to the carrying on of that agricultural business.

Restrictions on payment of grant

4.—(1) The Department shall not pay grant under Article 3(1) in relation to any expenditure—

(*a*) if at the time the expenditure was incurred the agricultural business in relation to which the expenditure was incurred was the subject of—

(i) a development plan or of an improvement plan; or

(ii) an improvement plan drawn up or a farm investment schedule approved under or by virtue of the Council Regulation;

(*b*) in connection with the breeding or keeping of pigs where that expenditure is in respect of any work, facility or transaction of a kind specified in paragraph 1(*b*) in column 1 of the Schedule which entails an increase in production;

(*c*) in connection with the breeding or keeping of poultry or the production of eggs except where that expenditure is in respect of any work, facility or transaction which is of a kind specified in any of paragraphs 1 to 5 in column 1 of the Schedule and which does not entail an increase in production;

(*d*) in connection with the breeding or keeping of dairy cows unless it appears to the Department that the effect of the work, facility or transaction in respect of which that expenditure has been incurred is not to exceed the reference quantity, increased where appropriate by the additional reference quantity, determined in accordance with Council Regulation (EEC) No. 857/84(**a**) adopting general rules for the application of the levy referred to in Article 5c of Council Regulation (EEC) No. 804/68(**b**) in the milk and milk products sector;

(**a**) O.J. No. L90, 1.4.84, p. 13, amended by Council Regulations (EEC) No. 1557/84 (O.J. No. L150, 6.6.84, p. 6), 590/85 (O.J. No. L68, 8. 3.85, p. 1), 1305/85 (O.J. No. L137, 27.5.85, p. 12), 2893/85 (O.J. No. L278, 18.10.85, p. 9), 1343/86 (O.J. No. L119, 8.5.86, p. 34), 1911/86 (O.J. No. L165, 21.6.86, p. 6), 2316/86 (O.J. No. L202, 25.7.86, p. 3), 774/87 (O.J. No. L78, 20.3.87, p. 3), 1899/87 (O.J. No. L182, 3.7.87, p. 39), 1110/88 (O.J. No. L110, 29.4.88, p. 28)

(**b**) O.J. No. L148, 28.6.68, p. 13; Article 5c was inserted by Council Regulation (EEC) No. 856/84 (O.J. No. L90, 1.4.84, p. 10) and subsequently amended by Council Regulations (EEC) No. 1298/85 (O.J. No. L137, 27.5.85, p. 5), 2893/85 (O.J. No. L278, 18.10.85, p. 9), 1335/86 (O.J. No. L119, 8.5.86, p. 19), 773/87 (O.J. No. L78, 20.3.87, p. 1), 2988/87 (O.J. No. L285, 8.10.87, p. 1), 744/88 (O.J. No. L78, 23.3.88, p. 1), 1109/88 (O.J. No. L110, 29.4.88, p. 27)

(*e*) in connection with any work, facility or transaction of a kind specified in paragraph 5 in column 1 of the Schedule unless the Department is satisfied that the person through whom the business is carried on practises farming as his main occupation, in that not less than half of his annual income, calculated in accordance with the provisions of paragraph (2), is derived from agricultural activities relating to that business and the amount of time spent by him in those activities is more than 1,100 hours per year;

(*f*) in connection with any work, facility or transaction unless written notification of the work, facility or transaction was given to the Department and that notification was acknowledged by the Department before the expenditure was incurred.

(2) For the purposes of paragraph (1)(*e*) a person's annual income shall be calculated by reference to the financial year immediately preceding the day on which the claim for grant is submitted or such other period as the Department shall determine, being a period which it is satisfied gives a fair indication of the normal amount of income of that person and the normal amount of income derived from agricultural activities in the business by that person.

(3) Where at the date on which a claim for grant under Article 3(1) is received by the Department—

(*a*) the amount of the expenditure which is included in the claim (in this Article referred to as "the present claim") and towards which grant is payable, or

(*b*) the aggregate of the amount of that expenditure and any other relevant expenditure towards which grant is payable or has been paid in respect of the same agricultural business, whether under this Scheme or otherwise, as the result of a claim received during the period of six years ending with the date of receipt of the present claim,

exceeds £35,000 per labour unit reasonably required in the carrying on of the agricultural business to which the present claim relates or £74,000 for the business, the Department shall not pay grant towards so much of that expenditure or, as the case may be, that aggregate as exceeds those figures.

(4) Where the agricultural business to which the present claim for grant under Article 3(1) relates includes the breeding or keeping of poultry or the production of eggs, work done in carrying on that part of the agricultural business shall be disregarded for the purposes of calculating under paragraph (3) the number of labour units reasonably required in the carrying on of the agricultural business, except where the present claim is in respect of any work, facility or transaction of a kind specified in any of paragraphs 1 to 5 in column 1 of the Schedule.

(5) In this Article "other relevant expenditure" means expenditure which is included in any previous improvement plan or towards which grant is payable or has been paid under this Scheme or the 1987 Scheme.

Amounts of grant

5.—(1) Subject to the provisions of this Article and Articles 8 and 9, the amount of any grant payable under Article 3(1) towards expenditure in respect of any work, facility or transaction of a kind specified in any of paragraphs 1 to 8 in column 1 of the Schedule shall be the percentage of that expenditure