STATUTORY INSTRUMENTS

1987 No. 166 (N.I. 1)

The Agriculture and Fisheries (Financial Assistance) (Northern Ireland) Order 1987

- - - - - - 10th February 1987

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Agriculture and Fisheries (Financial Assistance) (Northern Ireland) Order 1987.

(2) This Order shall come into operation on 1st April 1987.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order "the Department" means the Department of Agriculture.

(3) Subject to paragraph (4), in this Order "agriculture" and "agricultural land" have the same meanings as in section 43(1) of the Agriculture Act (Northern Ireland) 1949.

(4) For the purposes of this Order, the definition of "agriculture" in the said section 43(1) shall have effect as if the words " osier land, " were inserted after the words "meadow land,".

Part II (arts. 3#8) rep. with saving by 1993 NI 10

PART III

FARM STRUCTURE GRANTS

Grants for amalgamations and boundary adjustments

9.—(1) The Department may in accordance with a scheme make grants of amounts determined in such manner as may be provided by or under the scheme in connection with the carrying out of any of the following transactions approved by the Department in pursuance of the scheme, that is to say—

(a) transactions for securing that agricultural land which is or forms part of an uncommercial unit, but which together with some other agricultural land could form an intermediate unit or commercial unit, shall be owned and occupied with that other land or, if not so owned, occupied with that other land by a person who shall occupy any part of the resulting unit not owned by him as a tenant;

(b) transactions for securing that, where an intermediate unit or a commercial unit is not all in the same ownership, any part of it comes to be in the same ownership as the rest of that unit, or in the same ownership as some other part of that unit, but excluding transactions which bring into the same ownership and occupation two or more parts of the unit each of which could by itself form a commercial unit;

(c) transactions for securing that, where the person occupying an intermediate unit or a commercial unit occupies any part or parts of it otherwise than as owner or as a tenant, he comes to occupy that part or all those parts as owner or as a tenant; and

(d) transfers or exchanges of agricultural land for the purpose of giving more satisfactory boundaries to one or more agricultural units,

and for the purposes of sub-paragraph (a) such assumptions as the Department may consider reasonable may be made as to the works and facilities which will be carried out or provided for the benefit of the unit to be formed.

(2) Transactions within paragraph (1)(a), (b) and (c) are in this part referred to as "amalgamations", and transactions within paragraph (1)(d) are in this part referred to as "boundary adjustments".

(3) A scheme under this Article may restrict the amalgamations and boundary adjustments to which it applies in any way, and may in particular exclude amalgamations of land which has reverted from being in single ownership or occupation or, as respects transactions within paragraph (1)(c), cases where after the transaction has been effected the unit is not in single ownership.

(4) Any approval in pursuance of a scheme under this Article of an amalgamation or boundary adjustment—

(a) may be given either before or, in any case where the Department thinks fit, after the amalgamation or boundary adjustment has been carried out;

(b) may be given subject to such conditions as the Department may specify, and in particular subject to any condition as to the time within which the amalgamation or boundary adjustment is to be carried out or as to the carrying out or provision within a specified period of specified works or facilities appearing to the Department to be necessary as a consequence of the amalgamation or boundary adjustment;

(c) may be varied or withdrawn by the Department with the written consent of the person on whose application the approval was given;

and the Department may, if it thinks fit, for the purposes of a claim for grant under Article 16 issue a certificate with respect to any work or facility that the Department considers it to be necessary or desirable as a consequence of an amalgamation, or to be necessary as a consequence of a boundary adjustment, approved by the Department in pursuance of the scheme.

(5) In making a grant under this Article the Department may impose such conditions as it thinks fit; and any such conditions may require the recipient of the grant to make such repayments to the Department in such circumstances as may be specified in the conditions.

(6) The duration of a scheme under this Article shall be a period not exceeding seven years, but that period may from time to time be extended by further schemes under this Article for periods not exceeding seven years.

Grants for individuals relinquishing occupation of uncommercial units

10.—(1) The Department may in accordance with a scheme make a grant by way of a lump sum payment or an annuity to or for the benefit of an individual who in prescribed circumstances relinquishes his occupation of, or of a part of, an uncommerical unit of agricultural land—

(a) where the relinquishment of all or any part of that uncommercial unit is effected as part of an amalgamation approved in pursuance of a scheme under Article 9; or

(b) in accordance with arrangements which the Department makes with him (whether or not his landlord or any other person is a third party) to enable the Department to dispose of the unit so that it is owned or occupied with other land, or so as to improve the shape of any agricultural units; or

(c) where the grant is made in pursuance of provisions of a scheme implementing, or arising out of or related to, a Community obligation.

(2) A scheme under this Article—

(a) may, subject to any prescribed exceptions, require the individual to have been in occupation of the whole of the uncommercial unit for a prescribed period;

(b) may exclude an individual who occupied the uncommercial unit under a short-term letting as defined in the scheme;

(c) may apply to the individual a test by reference to the income (calculated in a prescribed way) derived from the trade or business of, or employment in, agriculture including, if the scheme so provides, income so derived by the individual's wife or husband **[**F1or civil partner**]** or partner or by any other person jointly occupying the land.

(3) A scheme under this Article may authorise the making of grant subject to such conditions as the Department may specify.

(4) Grants shall not be payable under this Article to any one individual in respect of more than one uncommercial unit, and a scheme under this Article shall contain provisions for securing that the amount of the grant payable in respect of an uncommercial unit occupied by more than one individual is an amount which is not more than approximately equivalent to the amount which would be payable if it had been occupied by a single individual.

(5) A scheme under this Article may provide that, after the death of a person in receipt of a grant by way of annuity, grant under this Article of an amount specified in the scheme may be payable to a surviving widow or widower **[**F2or civil partner**]** .

(6) A scheme under this Article may make provision, in a case where a person who has submitted an application for a grant under this Article, and who has in prescribed circumstances either relinquished or become under an obligation to relinquish occupation of the uncommercial unit of agricultural land in question, subsequently dies before the application has been dealt with, for the application to be proceeded with after the death and for grants under this Article of such respective amounts as may be determined by or under the scheme to be payable either—

(a) by way of annuity—

(i) in respect of any period after the relinquishment and before the death, for the benefit of the deceased's estate; and

(ii) in respect of any period falling after both the relinquishment and the death, to any person who was both at the date of the death and at the time when the application was made the spouse **[**F3or civil partner**]** of the deceased; or

(b) by way of a lump sum payable for the benefit of the deceased's estate.

(7) A scheme under this Article may make provision whereby a person is treated for the purposes of the scheme, to such extent and in such cases as may be prescribed—

(a) as the occupier of any land in respect of which he has granted, or agreed to grant, to another person a licence or tenancy of a kind not making that other person a tenant;

(b) as relinquishing his occupation of that land if he relinquishes his remaining estate in the land;

(c) as relinquishing his occupation of, or of part of, an uncommercial unit of agricultural land if the land was, or was part of, such a unit immediately before he first granted or agreed to grant such a licence or tenancy as aforesaid;

and in relation to any provision made by virtue of this paragraph, paragraphs (2), (4) and (6) shall not apply but provision may be made in the scheme for corresponding purposes.

(8) The duration of a scheme under this Article (that is to say, the period within which applications for approval of proposals qualifying for grant under the scheme must be made) shall be a period not exceeding seven years, but that period may be extended from time to time by subsequent schemes under this Article for periods not exceeding seven years.

F1 Words in art. 10(2)(c) inserted (13.1.2020) by The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514), regs. 1(2), **141(2)** (with regs. 6-9)

F2 Words in art. 10(5) inserted (13.1.2020) by The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514), regs. 1(2), **141(3)** (with regs. 6-9)

F3 Words in art. 10(6)(a)(ii) inserted (13.1.2020) by The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514), regs. 1(2), **141(4)** (with regs. 6-9)

General provisions as to schemes under this part

11. A scheme under Article 9 or 10—

(a) shall be made by the Department with the approval of the Department of Finance and Personnel;

(b) may authorise the reduction or withholding of grant where assistance in respect of expenditure for which the grant is made is or may be given otherwise than under the scheme, but so that where expenditure, or part of expenditure, is eligible for grant at different rates, grant at the higher rate shall be allowed;

(c) may authorise the reduction or withholding of grant in respect of land for the benefit of which any other prescribed grant or contribution has been made out of money appropriated by Measure or has been so made within a prescribed period;

(d) may contain such incidental and supplemental provisions as appear to the Department to be expedient, including transitional provisions treating as having been done under or in pursuance of the scheme anything done under or in pursuance of a previous scheme; and

(e) shall not be made unless a draft of the scheme has been laid before and approved by a resolution of the Assembly.

Recovery of grant and revocation of approval

12.—(1) If at any time after the approval of proposals under Article 9 or 10, and whether before or after the proposals have been fully carried out, it appears to the Department—

(a) that any condition imposed by the Department in giving its approval has not been complied with; or

(b) in the case of proposals for the carrying out of work, that the work has been badly done, or has been or is being unreasonably delayed, or is unlikely to be completed; or

(c) that in connection with the submission of the proposals the person submitting them gave information on any matter which was false or misleading in a material respect,

the Department may, on demand made after compliance with paragraph (3), recover any grant or any part of a grant paid by it by reference to the proposals and revoke the approval in whole or in part.

(2) In the case of a grant under Article 10 which is a lump sum payable by instalments or a grant by way of annuity the Department may, in a case within paragraph (1)(a) or (c), after compliance with paragraph (3) direct that future instalments of the grant or annuity shall not be payable.

(3) Before making a demand, revoking an approval or giving a direction under paragraph (1) or (2), the Department—

(a) shall give to any person to whom any payment by way of grant would be payable by reference to the proposals, or from whom any such payment would be recoverable, a written notification of the reasons for the action proposed to be taken by the Department; and

(b) shall accord to each such person an opportunity of appearing before and being heard by a person appointed for the purpose by the Department; and

(c) shall consider the report by a person so approinted and supply a copy of the report to each person who is entitled to appear before the person submitting it.

Offences

13. If any person, for the purpose of obtaining any grant under this part for himself or any other person, knowingly or recklessly makes a false statement he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale or to imprisonment for a term not exceeding three months, or to both.

Interpretation of part III

14.—(1) In this Part—

"agricultural unit" means land which is occupied as a unit for agricultural purposes including—

(a) any dwelling house or other building occupied by the same person for the purpose of farming the land; and

(b) any other agricultural land which is in the occupation of the same person, being land as to which the Department is satisfied that, having regard to the character and situation thereof and other relevant circumstances, it ought in the interests of full and efficient production to be farmed in conjunction with the agricultural unit, and directs accordingly; but the Department shall not give such a direction as respects any land unless it is for the time being not in use for any purpose which appears to it to be substantial having regard to the use to which it might be put for agriculture;

"amalgamation" and "boundary adjustment" have the meanings given by Article 9;

"commercial unit" means an agricultural unit which in the opinion of the Department is capable, when farmed under reasonably skilled management, of providing full-time employment for an individual occupying it and for at least one other man (or full-time employment for an individual occupying it and employment for members of his family or other persons equivalent to full-time employment for one man);

"intermediate unit" means an agricultural unit which, in the opinion of the Department, is capable, when farmed under reasonably skilled management, of providing full-time employment for an individual occupying it;