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WELSH STATUTORY INSTRUMENTS

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**2001 No. 3709 (W.305)**

**AGRICULTURE, WALES**

**The Farm Waste Grant (Nitrate  
Vulnerable Zones) (Wales) Scheme 2001**

*Made* - - - - *15th November 2001*

*Coming into force* - - *7th December 2001*

The National Assembly for Wales (“the National Assembly”) in relation to Wales, in exercise of the powers conferred upon it by section 29 of the Agriculture Act 1970<sup>(1)</sup> and of all other powers enabling it in that behalf hereby makes the following Scheme.

**Title, commencement and application**

1.—(1) This Scheme may be cited as the Farm Waste Grant (Nitrate Vulnerable Zones) (Wales) Scheme 2001 and shall come into force on 7th December 2001

(2) This Scheme shall apply to Wales only.

**Interpretation**

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

“agricultural business” (“*busnes amaethyddol*”) means, for the purposes of this Scheme, an agricultural business which is at least partly carried out on land situated in a nitrate vulnerable zone;

“slurry” (“*slŷri*”) has the same meaning as in regulation 2 of the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations 1991<sup>(2)</sup>;

“nitrate vulnerable zone” (“*parth perygl nitradau*”) has the same meaning as in regulation 3 of the Protection of Water against Agricultural Nitrate Pollution (England and Wales) Regulations 1996<sup>(3)</sup>.

“the National Assembly” (“*y Cynulliad Cenedlaethol*”) mean the National Assembly for Wales.

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(1) 1970 c. 40; see section 28 for a definition of “the appropriate authority”. Under the National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672), article 2(a) and Schedule 1, the functions of the Secretary of State for Wales under section 29 of the Agriculture Act 1970, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales.

(2) SI 1991/324 amended by SI 1997/547.

(3) SI 1996/888 amended by SI 1997/2971 and 1998/1202.

(2) In this Scheme, any reference to—

- (a) a numbered paragraph is a reference to the paragraph in this Scheme so numbered;
- (b) a numbered sub-paragraph (with no corresponding reference to a specific paragraph) is a reference to the sub-paragraph so numbered in the paragraph in which the reference appears.

### **Payment and amount of grants**

3.—(1) Subject to the following provisions of this Scheme, the National Assembly may make to any person one or more grants representing 40 per cent of the expenditure incurred by that person for the purposes of or in connection with the carrying on of an agricultural business, being expenditure which has been incurred after 7 December 2001 but before 17 April 2003 and—

- (a) is in respect of—
  - (i) the provision, replacement or improvement of—
    - (aa) facilities (including safety fencing) for the handling and storage of manure, slurry and silage effluent,
    - (bb) fixed disposal facilities for slurry and silage effluent, or
    - (cc) facilities (other than roofing) for the separation of clean and dirty water, where those facilities reduce the need to store slurry; or
  - (ii) any work, facility or transaction (including conservation or amenity works) incidental to any matter in respect of which a grant may be made under the foregoing provisions of this paragraph;
- (b) appears to the National Assembly to be of a capital nature or incurred in connection with expenditure of a capital nature;
- (c) is approved by the National Assembly for the purposes of a grant under this Scheme; and
- (d) does not in aggregate exceed £85,000.

(2) Where it appears to the National Assembly that expenditure in respect of which a grant is claimed under sub-paragraph (1) has been incurred partly for the purposes of or in connection with the carrying on of an agricultural business and partly for other purposes the National Assembly may 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 National Assembly to be referable to the carrying on of that agricultural business.

### **Restrictions on the making of grants**

4.—(1) The National Assembly shall not make a grant under sub-paragraph (1) of paragraph 3—

- (a) in respect of any agricultural business which is not at least partly carried out on land situated in a nitrate vulnerable zone; or
- (b) towards any expenditure incurred in respect of an agricultural business which entails an increase in its production capacity.

(2) The National Assembly shall not make a grant under sub-paragraph (1) of paragraph 3 unless it is satisfied that the expenditure towards which the grant is to be made will result in at least some environmental benefit accruing to the nitrate vulnerable zone concerned.

### **Claims for Grant**

5.—(1) Any claim for a grant under this Scheme shall be made in such form and manner and by such date as the National Assembly may determine, and the claimant in question shall provide

all such particulars and information relating to the claim as the National Assembly may reasonably require, including, where so specified, all relevant documentation and records.

(2) In sub-paragraph (1), the reference to relevant documentation and records includes a reference to certified copies thereof.

(3) The National Assembly shall inform a claimant in writing whether the claim is eligible or not and if it is not eligible shall give the reasons.

### **Withholding of grants**

6.—(1) The National Assembly may withhold or recover the whole or any part of a grant otherwise payable under this Scheme where it considers that—

- (a) assistance in respect of expenditure towards which the grant is claimed has been obtained or is obtainable from another source;
  - (b) the work in respect of which the grant is claimed would frustrate the purposes served by assistance previously given out of money provided by the National Assembly, Parliament or the European Community;
  - (c) the expenditure towards which the grant is being claimed is excessive, having regard to all the circumstances of the case; or
  - (d) the carrying out of the work in respect of which the grant is to be made has already destroyed or damaged or as the case may be is likely to destroy or damage the natural beauty and amenity of the countryside to an extent which cannot be justified by any resulting agricultural benefit.
- (2) Before acting under sub-paragraph (1) the National Assembly, shall—
- (a) give to the person to be affected by its decision (“the affected person”) written notification of the reasons for withholding reducing or recovering the grant and the date on which such action will be taken;
  - (b) give the affected person the opportunity of appearing before and being heard by a person appointed for the purpose by the National Assembly
  - (c) consider the report of a person so appointed and give a copy of it to the affected person.

### **Revocation and transitional provisions**

7. The Farm Waste Grant (Nitrate Vulnerable Zones) (England and Wales) Scheme 1996<sup>(4)</sup> is hereby revoked in so far as it applies to Wales.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998<sup>(5)</sup>

15th November 2001

*John Marek*  
The Deputy Presiding Officer of the National  
Assembly

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<sup>(4)</sup> [SI 1996/908](#).

<sup>(5)</sup> [1998 c. 38](#).

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Scheme)*

This Scheme complies with Council Regulation (EC) No. 1257/99 of 17th May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund and in particular Articles 4 to 7 which deal with investment in agricultural holdings.

This Scheme applies to Wales only.

It makes provision for the making of grants in respect of agricultural businesses which are at least partly situated in nitrate vulnerable zones, as defined by regulation 2(1) of the Protection of Water against Agricultural Nitrate Pollution (England and Wales) Regulations 1996.

The grant aid is available (at the rate of 40%) towards expenditure (up to a maximum of £85,000) incurred by the agricultural business between the date of coming into force of the substantive part of the Scheme (7th December 2001) and 17th April 2003 in relation to facilities for the handling, storage and disposal of certain farm wastes and the separation of clean and dirty water (paragraph 3).

A number of restrictions are imposed on the making of grants under the Scheme (paragraph 4).

The Scheme indicates how grants are to be claimed (paragraph 5) and enables grant monies to be withheld in certain circumstances (paragraph 6).

The Farm Waste Grant (Nitrate Vulnerable Zones) (England and Wales) Scheme 1996 is revoked.

No Regulatory Appraisal has been prepared in respect of this Scheme.