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*Changes to legislation: There are currently no known outstanding effects for the The Agriculture and Fisheries (Financial Assistance) (Northern Ireland) Order 1987. (See end of Document for details)*

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## STATUTORY INSTRUMENTS

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# 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—

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- (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 uncommercial 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 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.

(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 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—

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- (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.

### **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 appointed 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;

“prescribed”, in relation to the contents of a scheme, means prescribed by the scheme;

“tenant” means a tenant who holds under a contract of tenancy for a life or lives or for a term of years;

“uncommercial unit” shall be construed by reference to the definition of commercial unit, except that, where the Department so directs, it may be treated as referring to the relevant agricultural unit exclusive of any one dwelling house of the unit or of an area sufficient to provide a site for one dwelling house and, if the Department so directs, exclusive of any small portion of land to be occupied with that dwelling house.

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(2) In paragraph (1) “full-time employment” shall be construed in accordance with any provisions defining that expression in any scheme made under Article 9.

## PART IV

### GRANTS FOR PURPOSES CONNECTED WITH CO-OPERATIVE ACTIVITIES

#### **Grants for purposes connected with co-operative activities**

**15.**—(1) The Department may, in accordance with a scheme made by it with the approval of the Department of Finance and Personnel make grants in connection with the carrying out by any person of proposals designed to organise, promote, encourage, develop or co-ordinate any form of co-operation in agriculture or horticulture including co-operation and mutual assistance in production, storage, preparation for market, marketing, transport, the provision of buildings, equipment and services for farmers and other producers, research and other incidental activities.

(2) Grants shall not be made under this Article to any associations or bodies whose objects consist of or include supplying goods to their members so far as the grants would assist them, directly and exclusively, in activities connected with the supply of such goods, but that shall not be taken as preventing the making of grants to meet expenditure incurred in research and study directed to promoting or facilitating mergers of such associations or bodies.

The goods referred to in this paragraph do not, in the case of any association or body, include agricultural or horticultural produce which has been wholly or mainly produced by members thereof, or anything derived wholly or in part from any such produce.

(3) A scheme under this Article—

- (a) shall provide for grant being payable by reference to proposals which have been submitted to and recommended by Food from Britain and approved by the Department, which recommendation and approval may be given before or, in such classes of cases as the Department may direct, after the carrying out of the proposals;
- (b) may authorise the approval of proposals to be varied or withdrawn by the Department with the written consent of the person making the proposals;
- (c) shall prescribe the functions to be performed by Food from Britain in connection with the administration of the scheme;
- (d) may confer on a person eligible for grant the amount of which depends on the carrying out of works of some kind or on some other cost, a right to elect to take that cost for purposes of grant as being of such standard amount as may from time to time be determined by the Department;
- (e) may authorise the reduction or withholding of grant where assistance in respect of expenditure for which the grant is made is given under any statutory provision other than this Article;
- (f) may make the payment of grant subject to any conditions;
- (g) may contain such incidental and supplemental provisions as appear to the Department expedient for the purposes of the scheme.

(4) If at any time after the approval of proposals under a scheme under this Article, and whether before or after the proposals have been fully carried out, it appears to the Department—

- (a) that any condition imposed under a scheme in relation to the proposals has not been complied with; or
- (b) 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 (5), recover any grant or any part of a grant paid with reference to the proposals, and may revoke the approval in whole or in part.

- (5) Before making a demand or revoking an approval under paragraph (4) the Department—
- (a) shall give to any person to whom any payment by way of a grant in relation to the proposals would be payable, or from whom any such payment would be recoverable, a written notification of the reasons for the proposed action; 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 of a person so appointed and supply a copy of the report to each person who is entitled to appear before the person submitting it.

(6) Proposals in respect of which grant is payable under this Article must be submitted to Food from Britain within the period ending on 14th May 1991 but the Department may from time to time by order made with the approval of the Department of Finance and Personnel extend or further extend that period by such additional period, not exceeding five years, as may be specified in the order.

(7) No scheme may be made under this Article and no order may be made under paragraph (6) unless a draft of the scheme or order has been laid before, and approved by resolution of, the Assembly.

(8) If any person, for the purpose of obtaining any grant under this Article 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.

## PART V

### FARM CAPITAL GRANTS

#### **Farm capital grants**

**16.**—(1) The Department may, with the approval of the Department of Finance and Personnel, by scheme provide for the making, subject to such exceptions or restrictions as may be provided for by the scheme, of grants of amounts determined in such manner as may be provided for by or under the scheme towards expenditure incurred or to be incurred for the purposes of, or in connection with, the carrying on or establishment of an agricultural business, being expenditure which—

- (a) has been or is to be incurred in respect of any such matters as may be specified in the scheme, or in respect of works or facilities certified under Article 9(4); and
- (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 the scheme.

(2) Any scheme under this Article shall come into operation on such date as is specified in the scheme and shall be laid before the Assembly as soon as may be after it is made, but shall cease to have effect upon the expiration of a period of 40 days beginning with the date on which it came into operation unless, before the expiration of that period, it is approved by a resolution of the Assembly.

(3) The duration of a scheme under this Article (that is to say, the period within which expenditure must qualify in accordance with the provisions of the scheme for consideration for a grant thereunder) 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 at a time.

(4) Any grant under such a scheme may be made, and any approval under such a scheme may be given, subject to such conditions as the Department thinks fit; and any payment by way of such

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a grant shall be made by the Department at such time, or by such instalments at such intervals or times, as the Department may determine.

(5) A condition imposed under paragraph (4) 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) If at any time after the Department has approved any expenditure for the purposes of a grant under such a scheme it appears to the Department—

- (a) that any condition subject to which the approval was given or the grant has been made has not been complied with; or
- (b) that any work in respect of expenditure on which the approval was given has been badly done, or has been or is being unreasonably delayed, or is unlikely to be completed; or
- (c) that the person by whom the application for that approval or for the making of any payment was made gave information on any matter relevant to the giving of the approval or the making of the payment which was false or misleading in a material respect,

the Department may, subject to paragraph (7), revoke the approval in respect of the whole or part of the expenditure and, where in pursuance of paragraph (4) any payment has been made by the Department by way of grant, the Department may on demand recover an amount equal to the payment which has been so made or such part thereof as the Department may specify.

(7) Before revoking an approval in whole or in part under paragraph (6) the Department—

- (a) shall give to the person to whom any payment by way of grant would be payable, or from whom any such amount would be recoverable, a written notification of the reasons for the action proposed to be taken by the Department;
- (b) shall afford that 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 appointed and supply a copy of the report to the person mentioned in sub-paragraph (a).

(8) If any person, for the purpose of obtaining for himself or any other person any grant under such a scheme, knowingly or recklessly makes a false statement, he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(9) The provisions of the Settled Land Act 1882 relating to improvements authorised by that Act shall, if it is so provided by regulations made by the Department with the approval of the Department of Finance and Personnel, have effect as if such as may be specified in the regulations of the matters in respect of which expenditure may be approved for grant under a scheme made under this Article were included in section 25 of that Act (which sets out the improvements so authorised).

(10) In this Article “agricultural business” means a business consisting in, or such part of any business as consists in, the pursuit of agriculture, and includes any other business, of a kind for the time being specified by an order made by the Department, which is carried on by a person also carrying on a business consisting in or partly in the pursuit of agriculture and is carried on on the same or adjacent land.

(11) Regulations under paragraph (9) and an order under paragraph (10) shall be subject to negative resolution.



## PART VI

### FINANCIAL ASSISTANCE FOR SEA FISH INDUSTRY

#### Schemes of financial assistance for sea fish industry

17.—(1) The Department may, in accordance with a scheme made by it with the approval of the Department of Finance and Personnel, make grants or loans for the purpose of re-organising, developing or promoting the sea fish industry or of contributing to the expenses of those engaged in it.

(2) A scheme under this Article may be limited so as to apply to a specified part or area of Northern Ireland and may authorise the Department to make provision for any purpose specified in the scheme.

(3) A scheme under this Article shall come into operation on such date as is specified in the scheme and shall be laid before the Assembly as soon as may be after being made and shall cease to have effect upon the expiration of the period of forty days beginning with the day on which it came into operation unless within that period it has been approved by a resolution of the Assembly.

(4) Any person who—

- (a) in furnishing any information in purported compliance with a requirement imposed by a scheme made under this Article makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular; or
- (b) in purported compliance with a requirement imposed by such a scheme produces a document which he knows to be false in a material particular or recklessly produces a document which is false in a material particular; or
- (c) wilfully refuses to supply any information, make any return or produce any document when required to do so by or under any such scheme,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) For the purposes of this Article “the sea fish industry” means the sea fish industry in Northern Ireland and a person shall be regarded as engaged in the sea fish industry if—

- (a) he carries on in Northern Ireland, or is employed in Northern Ireland in, the business of operating vessels for catching or processing sea fish or for transporting sea fish or sea fish products, being vessels registered in the United Kingdom; or
- (b) he carries on in Northern Ireland, or is employed in Northern Ireland in, the business of selling sea fish or sea fish products by wholesale or retail, of loading, unloading or the inland transport of sea fish or sea fish products or of processing sea fish (including the business of a fish fryer).

(6) In this Article “sea fish” means fish of any kind found in the sea, including shellfish, crustaceans and molluscs but not any fish of the salmon species or any species of trout which migrates to and from the sea.

## PART VII

### SUPPLEMENTARY PROVISIONS

#### Amendment

**18.** In Schedule 2 to the Statutory Rules (Northern Ireland) Order 1979 (schemes which are statutory rules) at the end there shall be added the following entry—

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

Part III Farm Structure grants

Part IV Grants for purposes connected with co-operative activities

Part V Farm capital grants

Part VI Financial assistance for sea fish industry

#### Transitional provisions

**19.**—(1) An order under Article 3 or 5 may contain such transitional provisions as appear to the Department to be necessary or expedient in relation to anything done before 1st April 1987 under or for the purposes of an order under section 1 or 5 of the Agriculture Act 1957.

(2) A scheme under Article 9, 10, 15 or 16 may—

- (a) contain such transitional provisions as appear to the Department to be necessary or expedient in relation to anything done before 1st April 1987 under or for the purposes of a scheme under a corresponding statutory provision repealed by this Order;
- (b) without prejudice to the generality of sub-paragraph (a), provide for the payment by the Department of grant in a case where—
  - (i) the period specified by a scheme under a corresponding statutory provision repealed by this Order for the duration of the scheme has expired; but
  - (ii) payment of grant would, apart from this Order, fall to be made under that scheme after 1st April 1987.

(3) A scheme under Article 17—

- (a) may contain such transitional provisions as appear to the Department to be necessary or expedient in relation to anything done before 1st April 1987 under or for the purposes of a scheme under section 15 of the Fisheries Act 1981;
- (b) without prejudice to the generality of sub-paragraph (a), provide for the payment by the Department of grant in a case where—
  - (i) the period specified by a scheme under section 15 of the Fisheries Act 1981 for the duration of the scheme has expired; but
  - (ii) payment of grant would, apart from this Order, fall to be made under that scheme after 1st April 1987.

(4) The Department may by order subject to negative resolution make such other transitional provisions as appear to the Department to be necessary or expedient in connection with the coming into operation of this Order.

#### Repeals

*Para. (1)—Repeals*

(2) A reference in any other statutory provision to a provision repealed by this Order shall be construed as a reference to the corresponding provisions of this Order.

## Schedule—Repeals.

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