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SCOTTISH STATUTORY INSTRUMENTS

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**2002 No. 44**

**AGRICULTURE**

**The Pig Industry Restructuring (Non-Capital Grant) (Scotland) Scheme 2002**

*Made* - - - - 6th February 2002  
*Laid before the Scottish Parliament* - - - - 7th February 2002  
*Coming into force* - - 29th March 2002

The Scottish Ministers, in exercise of the powers conferred by section 1 of the Farm Land and Rural Development Act 1988(1) and of all other powers enabling them in that behalf, hereby make the following Scheme:

**Citation, commencement and extent**

1.—(1) This Scheme may be cited as the Pig Industry Restructuring (Non-Capital Grant) (Scotland) Scheme 2002 and shall come into force on 29th March 2002.

(2) This Scheme shall extend to Scotland only.

**Interpretation**

2. In this Scheme—

“bank” means—

- (a) any institution authorised under a provision of the Banking Act 1987(2);
- (b) any person specified in any of paragraphs 2 to 10 of Schedule 2 to that Act (exempted persons); or
- (c) any person entitled by virtue of the Banking Co ordination (Second Council Directive) Regulations 1992(3) to accept deposits (within the meaning of that Act) in the United Kingdom;

“business plan” means a detailed plan setting out the objectives of the business, the strategy and tactics to achieve those objectives, estimates as to the financial and other circumstances

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(1) 1988 c. 16; section 1(5) as read with section 1(6) (added by S.I. 1999/1820) defines “the appropriate authority”. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46). The requirement for the approval of the Treasury was removed by section 55 of that Act.  
(2) 1987 c. 22.  
(3) S.I. 1992/3218.

of the business in the event that the objectives are achieved and the investment required to achieve those objectives;

“Capital Grant Scheme” means a scheme under section 29 of the Agriculture Act 1970(4) making provision in Scotland for the payment of grants towards the cost of loans ancillary to the restructuring of pig production business;

“pig production” means any form of pig production, including breeding, rearing and finishing.

### **Payment and amounts of grants**

3.—(1) For the purposes of this Scheme—

- (a) a qualifying loan is a loan which has been, or is to be, obtained from a bank for the purpose of implementing a business plan for the restructuring of a pig production business;
- (b) the relevant part of a qualifying loan is that part of the loan which has been or is to be obtained for the purposes of, in connection with or in connection with any proposals for restructuring by—
  - (i) the establishment or expansion of a farm business ancillary to a pig production business and relating to the products of pig production;
  - (ii) the promotion of a farm business ancillary to a pig production business and relating to the products of pig production; or
  - (iii) the marketing of anything produced or supplied in the course of a farm business ancillary to a pig production business and relating to the products of pig production;and
- (c) the loan or qualifying loan must appear to the Scottish Ministers to be neither expenditure of a capital nature nor expenditure which would fall to be treated for the purposes of section 29 of the Agriculture Act 1970 as incurred in connection with expenditure of a capital nature.

(2) Subject to the provisions of this Scheme, the Scottish Ministers may approve the payment to any eligible person of a grant towards expenditure incurred in servicing the relevant part of a qualifying loan, subject to such conditions as they may reasonably determine, and may make such payment.

(3) Where a loan has been obtained partly for the purposes of or in connection with the restructuring of a pig production business and partly for other purposes, the Scottish Ministers may for the purposes of a grant under this paragraph treat as a qualifying loan so much of that loan as appears to them to be referable to that restructuring.

(4) No grant under this Scheme when taken with any payment made under the Capital Grant Scheme shall exceed 5% of the qualifying loan (excluding any accrued interest thereon).

(5) The Scottish Ministers shall not approve any payment of grant after 29th March 2005.

(6) Where an eligible person is aggrieved by a decision of the Scottish Ministers as to—

- (a) whether a loan is neither expenditure of a capital nature nor expenditure which would fall to be treated for the purposes of section 29 of the Agriculture Act 1970 as incurred in connection with expenditure of a capital nature, under sub-paragraph (1)(c) above; or
- (b) the amount of a loan which is referable to restructuring under sub-paragraph (3) above,

that person may, within the period of 21 days of the date when that person is notified of the outcome of that decision, request that the decision be reviewed by the Scottish Ministers in accordance with sub-paragraph (7) below.

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(4) 1970 c. 40.

(7) In carrying out the review of the decision as required by sub-paragraph (6) above, the Scottish Ministers shall—

- (a) afford the aggrieved person an opportunity of making representations for consideration by an officer of the Scottish Ministers who has not been involved in the initial decision who will prepare a report following consideration of those representations;
- (b) supply a copy of the report by that officer to the aggrieved person;
- (c) consider the report by that officer before making a decision on the review; and
- (d) give to the aggrieved person notification of the decision on the review and the reasons for that decision.

#### **Eligible persons**

4. The following persons shall be eligible for a grant under this Scheme:—

- (a) a natural person carrying on a business involving pig production, to whom a qualifying loan has been or is to be made and who undertakes, in the event of payment of the grant being approved under this Scheme, to pursue the objectives of that person's business plan; and
- (b) a person (other than a natural person) carrying on a business involving pig production, to which a qualifying loan has been or is to be made and which undertakes or on behalf of which another person duly authorised for the purpose undertakes, in the event of payment of the grant being approved under this Scheme, to pursue the objectives of its business plan.

#### **Claims for payment of grant**

5. Any claim for payment of grant under this Scheme shall be made in such form and manner and at such time as the Scottish Ministers may from time to time reasonably require and a person making a claim for payment shall furnish all such particulars and information relating to the claim and copies of such documents and records relating thereto as the Scottish Ministers may reasonably require.

#### **Withholding or recovery of grant**

6.—(1) The Scottish Ministers may withhold the whole or any part of a grant otherwise payable under this Scheme or recover on demand an amount equal to the payment which has been made under this Scheme, or such part as they may specify, where it appears to them—

- (a) that any condition subject to which the grant is to be or has been paid is not being or has not been complied with;
- (b) that the eligible person gave information on any matter relevant to eligibility for a grant under this Scheme, or the claim for payment, which was false or misleading in a material respect; or
- (c) that the eligible person has failed to comply with the undertaking to pursue the objectives of that person's business plan.

(2) Before withholding the whole or any part of any grant or recovering any amount equal to the payment which has been made or part of the payment which has been specified under the provisions of sub-paragraph (1) above, the Scottish Ministers—

- (a) shall give to the person to whom any payment of grant would be payable, or from whom any such amount would be recoverable, notification of the reasons for the action proposed to be taken;

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- (b) shall afford that person an opportunity of appearing before and being heard by a person appointed for the purpose by the Scottish Ministers; and
- (c) shall consider the report of a person so appointed and supply a copy of the report to the person mentioned in sub-paragraph (a) above.

St Andrew's House,  
Edinburgh  
6th February 2002

*ROSS FINNIE*  
A member of the Scottish Executive

## EXPLANATORY NOTE

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

This Scheme makes provision in Scotland for the payment of grants towards the cost of loans incurred in connection with the establishment or promotion of farm businesses which are ancillary to pig production businesses and relate to the products of pig production as part of the restructuring of a pig production business (paragraph 3).

Those eligible under the Scheme for grants are described in paragraph 4.

The Scheme provides that claims for grant shall be made in such form as the Scottish Ministers may reasonably require (paragraph 5) and enables grant monies to be withheld or recovered in certain circumstances (paragraph 6).