Agriculture Act 1967

1967 CHAPTER 22

PART II

FARM STRUCTURE AND FARM IMPROVEMENTS,
AND PROMOTION OF AGRICULTURAL INVESTMENT

Farm Structure

[F1 26 Grants for amalgamations and boundary adjustments.

(1) **[**F2 The appropriate Minister may in accordance with a scheme and subject to section 50 of the M1 Agriculture Act 1970 make, out of money provided by Parliament, 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 him in pursuance of the scheme, that is to say—**]**

(a) . . . . . F3 transactions for securing that agricultural land which is **[**F4 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, **[**F5 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 (as defined in the **[**F6 Agricultural Holdings Act 1986**]** or, in Scotland, **[**F7 the Agricultural Holdings (Scotland) Act 1991**]**, and**]**

(b) . . . . . F3 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, and

[F8 (bb) 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 as defined in the **[**F6 Agricultural Holdings Act 1968**]** (or,

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in Scotland, **[**[F7]the Agricultural Holdings (Scotland) Act 1991**]**), he comes to occupy that part or all those parts as owner or as such a tenant, and**]**

(c) . . . . . [F3] transfers or exchanges of agricultural land (or estates or interests in agricultural land) for the purpose of giving more satisfactory boundaries to one or more agricultural units;

and for the purposes of paragraph (a) above, such assumptions as the appropriate Minister may consider reasonable may be made as to the **[**[F9]works and facilities which will be carried out or provided**]** for the benefit of the unit to be formed.

[[F10]Transactions within paragraphs (a), (b) and (bb) above**]** are in this Part of this Act referred to as "amalgamations", and transactions within paragraph (c) are in this Part of this Act referred to as "boundary adjustments".

(2) A scheme under this section 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 **[**[F11]or, as respects transactions within subsection (1)(bb) of this section, cases where after the transaction has been effected the unit is not in single ownership**]**.

(3) . . . . . [F12]

(4) A scheme under this section may make different provision for **[**[F13]different circumstances**]**; . . . [F14].

(5) . . . . . [F12]

[[F15](6) **[**[F16]Any approval in pursuance of a scheme under this section of an amalgamation or boundary adjustment—**]**

(a) may be given either before or, in any case where the appropriate Minister thinks fit, after . . . [F17] the amalgamation or boundary adjustment has been carried out;

(b) may given subject to such conditions as the appropriate Minister 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 appropriate Minister to be necessary as a consequence of the amalgamation or boundary adjustment;

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

and the appropriate Minister may, if he thinks fit, for the purposes of a claim for grant under section 29 of the Agriculture Act 1970 issue a certificate with respect to any work or facility that he 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 that Minister in pursuance of the scheme**]**

(7) After the payment of any grant under this section **[**[F18]any grant under section 29 of the Agriculture Act 1970 in respect of any work or facility certified under subsection (6) above or any grant under**]** subsection (1)(a) of the next following section in connection with an amalgamation the relevant unit shall be subject to the provisions of Schedule 3 to this Act and—

(a) the appropriate Minister shall not approve . . . [F19] the amalgamation unless satisfied that all persons having an estate or interest in the relevant unit have given their written consent to the application of that Schedule to the relevant unit,

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(b) the relevant unit shall be, or be the part of, the agricultural unit or units specified for the purposes of this subsection by the appropriate Minister in the document giving his approval to the **[**[F20]amalgamation**]**, and

(c) in the said Schedule 3 as applied by this subsection "relevant Exchequer payments" shall mean—

[F21]**[** (i) any such grant as aforesaid in respect of such expenditure as the appropriate Minister may certify as being expenditure related to the relevant unit, and**]**

(ii) such sum as the appropriate Minister may certify as the sum representing his administrative expenses (including an appropriate proportion of overhead expenses and other fixed or general expenses) incurred in connection with making the grant,

and "the relevant date" shall, for any grant and the related administrative expenses, be the date when the grant was paid.

(8) In the case of the payment of any grant under this section **[**[F22]or any such grant under section 29 of the Agriculture Act 1970 as is referred to in the last foregoing subsection**]** in connection with a boundary adjustment the appropriate Minister may, if he thinks fit, designate in the document giving his approval to the **[**[F22]boundary adjustment**]** any land appearing to him to benefit from the boundary adjustment as land which, after the payment of that grant, is to be a relevant unit subject to the provisions of Schedule 3 to this Act, and paragraphs (a) and (c) of the last foregoing subsection shall apply in relation to the boundary adjustment as they apply in relation to an amalgamation.

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

(10) A grant shall not be made under [M2]section 16 of the Agriculture Act 1957 (which relates to grants towards costs of amalgamation and is superseded by this section) in respect of a transaction proposed in an application made under that section after the coming into force of the first scheme made under this section, and so much of subsection (2) of the said section 16 as limits the time within which applications may be made under that section shall cease to have effect.

(11) The following enactments—

(a) section 6(c) of the Hill Farming Act 1946,

(b) . . . . . [F23]

[F24](c) . . . . . .

(under which grant under those Acts may be recovered by the appropriate Minister if there is a failure to carry out proposals), and any provision to the like effect in regulations made under section 77(3) of the Agriculture (Scotland) Act 1948 or section 22(4) of the Crofters (Scotland) Act 1955, shall not apply where in the opinion of the appropriate Minister the carrying out of the proposals is, **[**[F25]as a consequence of an amalgamation or boundary adjustment approved in pursuance of a scheme under this section or in consequence of the carrying out or provision of works or facilities certified under subsection (6) thereof**]**, impracticable or to no purpose or unduly expensive.**]**

Textual Amendments

F1 S. 26 repealed (N.I.) by S.I. 1987/166 (N.I. 1), art. 20, **Sch.**

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F2 Words substituted by virtue of Agriculture (Miscellaneous Provisions) Act 1972 (c. 62) s. 9(1)(2)(*a*)(i)
F3 Words repealed by virtue of Agriculture Act 1970 c. 40 s. 32(2)(a)(i)
F4 Words inserted by virtue of Agriculture Act 1970 c. 40 s. 32(2)(a)(ii)
F5 Words substituted by virtue of SI 1973/1402
F6 Words substituted by Agricultural Holdings Act 1986 (c. 5) s. 100 sch. 14 para. 37
F7 Words in s. 26(1) substituted (25.9.1991) by Agricultural Holdings (Scotland) Act 1991 (c. 55, SIF 2:3), ss. 88(1), 89(2), **Sch. 11**, para. 26
F8 S. 26(1)(*bb*) inserted by virtue of Agriculture (Miscellaneous Provisions) Act 1972 (c. 62) s. 9(1)(2)(*a*)(ii)
F9 Words substituted by virtue of Agriculture Act 1970 c. 40 s. 32(2)(*a*)(iii)
F10 Words substituted by virtue of Agriculture (Miscellaneous Provisions) Act 1972 (c. 62) s. 9(1)(2)(*a*)(iii)
F11 Words inserted by virtue of Agriculture (Miscellaneous Provisions) Act 1972 (c. 62) s. 9(1)(2)(*b*)
F12 S. 26(3)(5) repealed by virtue of Agriculture (Miscellaneous Provisions) Act 1972 (c. 62) s. 9(1)(2)(*c*)
F13 Words substituted by virtue of Agriculture Act 1970 (c. 40) s. 32(2)(*c*)
F14 Words repealed by virtue of Agriculture Act 1970 (c. 40) s. 29(6) sch. 5
F15 S. 26(6) substituted by virtue of Agriculture Act 1970 c. 40 s. 32 (2)(*e*)
F16 Words substituted by virtue of Agriculture (Miscellaneous Provisions) Act 1972 (c. 62) s. 9(1)(2)(*d*)(i)
F17 Words repealed by virtue of Agriculture (Miscellaneous Provisions) Act 1972 (c. 62) s. 9(1)(2)(*d*)(ii)
F18 Words substituted by virtue of Agriculture Act 1970 c. 40 s. 32 (2)(*f*)
F19 Words repealed by virtue of Agriculture Act 1970 c. 40 s. 32 (2)(*g*)
F20 Word substituted by virtue of Agriculture Act 1970 c. 40 s. 32 (2)(*h*)
F21 S. 26(7)(c)(i) substituted by virtue of Agriculture Act 1970 c. 40 s. 32(2)(*i*)
F22 Words inserted by virtue of Agriculture Act 1970 c. 40 s. 32 (2)(*j*)
F23 S. 26(11)(*b*) repealed by Statute Law (Repeals) Act 1986 (c. 12) sch. 1 Pt. II
F24 S. 26(11)(c) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt.II**.
F25 Words substituted by virtue of Agriculture Act 1970 c. 40 s. 32 (2)(*k*)

Modifications etc. (not altering text)
C1 S. 26 applied by Rent Act 1977 (c. 42), s. 98, **sch. 15 Pt. II** Cases 17, 18
C2 S. 26(7)(8) excluded by Agriculture (Miscellaneous Provisions) Act 1972 (c. 62) s. 10(1)(3)

Marginal Citations
M1 1970 c. 40.
M2 1957 c. 57.

[F26 27 Grants for individuals relinquishing occupation of uncommercial units.

(1) The appropriate Minister 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 **[**F27 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 **[**F28 amalgamation approved in pursuance of a scheme under section 26 of this Act, or**]**

(b) in accordance with arrangements which the appropriate Minister or, subject to the provisions of Part III of this Act, a Rural Development Board makes with him (whether or not his landlord or any other person is a third party) to enable the appropriate Minister or the Board 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

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(c) subject to the provisions of Part III of this Act, in accordance with arrangements approved by a Rural Development Board as being for the purpose of facilitating the afforestation of land in the area of the Board, **[**[F29]or

(d) where the grant is made in pursuance of provisions of a scheme implementing, or arising out of or related to, **[**[F30]an EU**]** obligation.**]**

(2) A scheme under this section—

(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 **[**[F31]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 section may authorise the making of grant subject to such conditions as the appropriate Minister may specify.

(4) Grants shall not be payable under this section to any one individual in respect of more than one uncommercial unit, and a scheme under this section 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 section may provide that, after the death of a person in receipt of a grant by way of annuity, grant under this section of an amount specified in the scheme may be payable to a surviving widow or widower.

[F32]**[** (5A) A scheme under this section may make provision, in a case where a person who has submitted an application for a grant under this section, 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 section 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 payment for the benefit of the deceased's estate.**]**

[F33]**[** (5B) A scheme made **[**[F34]by virtue of subsection (1)(a), (b) or (d) of this section**]** 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 as defined in the **[**[F35]Agricultural Holdings Act 1986**]** (or, in Scotland, **[**[F36]the Agricultural Holdings (Scotland) Act 1991**]**);

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(b) as relinquishing his occupation of that land if he relinquishes his remaining estate or interest 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 subsection, subsections (2), (4) and (5A) of this section shall not apply but provision may be made in the scheme for corresponding purposes.**]**

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

(7) Any grant under this section shall be paid out of money provided by Parliament.**]**

Textual Amendments

F26 S. 27 repealed (N.I) by S.I. 1987/166 (N.I. 1) art. 20, Sch.

F27 Words substituted by Agriculture (Miscellaneous Provisions) Act 1972 (c. 62) , **s. 9(1)(3)(a)**

F28 Words substituted by Agriculture Act 1970 (c. 40) , **s. 32(3)(a)**

F29 S. 27(1)(d) substituted by S.I. 1976/1771 , **reg. 2**

F30 Words in Act substituted (22.4.2011) by The Treaty of Lisbon (Changes in Terminology) Order 2011 (S.I. 2011/1043) , **arts. 3** , 6 (with art. 3(2)(3)4(2)6(4)6(5))

F31 Words substituted by S.I. 1973/1402 , **reg. 4(b)**

F32 S. 27(5A) inserted by Agriculture Act 1970 (c. 40) , **s. 32(3)(b)**

F33 S. 27(5B) inserted by Agriculture (Miscellaneous Provisions) Act 1972 (c. 62) , **s. 9(1)(3)(b)**

F34 Words substituted by S.I. 1973/1402 , **reg. 4(c)**

F35 Words substituted by Agricultural Holdings Act 1986 (c. 5, SIF 2:3) , ss. 99 , 100 , Sch. 13 para. 3 , **Sch. 14** , para. 38

F36 Words in s. 27(5B) substituted (25.9.1991) by Agricultural Holdings (Scotland) Act 1991 (c. 55, SIF 2:3) , ss. 88(1) , 89(2) , **Sch. 11** , para.27

28 Loans to assist amalgamations and boundary adjustments.

[[F37](1) The appropriate Minister may with the approval of the Treasury make or guarantee loans to meet expenditure incurred in connection with an amalgamation or boundary adjustment approved by the appropriate Minister in pursuance of a scheme under section 26 of this Act, being—

(a) the costs of the amalgamation or boundary adjustment consisting of surveyor's fees and legal costs, stamp duty on any conveyance, lease, tenancy agreement or mortgage or heritable security and any compensation for disturbance under **[**[F38]section 60(2)(*a*) of the Agricultural Holdings Act 1986**]** or **[**[F39]section 43 of the Agricultural Holdings (Scotland) Act 1991**]**, or

(aa) expenditure incurred in the carrying out or provision of works or facilities which the appropriate Minister considers to be necessary or desirable as a consequence of the amalgamation, or to be necessary as a consequence of the boundary adjustment, or

(b) any part of the purchase price of any land acquired as part of the amalgamation or as the case may be any part of the purchase price of land acquired, or of money given by way of equality of exchange, as part of the boundary adjustment,

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or expenditure under all or any two of paragraphs (a), (aa) and (b) above.**]**

(2) A loan made by the appropriate Minister—

(a) may be effected through the agency of such body or bodies as the appropriate Minister may select,

(b) must have been approved by the appropriate Minister on an application made in the manner directed by him and within the period of duration of schemes under section 26 of this Act, or within such longer period as the appropriate Minister may determine.

(3) A loan guaranteed by the appropriate Minister shall be a loan made by such body or bodies as the appropriate Minister may select.

(4) A loan made or guaranteed by the appropriate Minister must be one repayable as to both capital and interest within a period of sixty years from the making of the loan.

(5) The appropriate Minister may in making a loan or guarantee under this section impose such conditions as he thinks fit.

(6) After the giving of a loan or guarantee under this section in connection with an amalgamation the relevant unit shall be subject to the provisions of Schedule 3 to this Act and—

(a) the appropriate Minister shall not approve the proposals for the amalgamation unless satisfied that all persons having an estate or interest in the relevant unit have given their written consent to the application of that Schedule to the relevant unit,

(b) the relevant unit shall be, or be the part of, the agricultural unit or units specified for the purposes of this subsection by the appropriate Minister in the document giving his approval to the proposals, and

(c) in the said Schedule 3 as applied by this subsection "relevant Exchequer payments" shall mean—

(i) in the case of a loan, the amount of the loan and interest outstanding and, so far as the lender has been required to accept repayment at a time earlier than that agreed in making the loan, the cost, or so much thereof as the appropriate Minister may determine, of reinvestment and, if the rate of interest on the loan is higher than can reasonably be expected to be obtained on reinvestment (regard being had to the current rate of interest) compensation in respect of the loss thereby sustained or such part thereof as the appropriate Minister may determine,

(ii) in the case of a guarantee, any amount paid by the appropriate Minister in fulfilment of the guarantee,

(iii) in either case, such sum as the appropriate Minister may certify as the sum representing his administrative expenses (including an appropriate proportion of overhead expenses and other fixed or general expenses) incurred in connection with making the loan or guarantee and, in the case of a guarantee, in fulfilling the guarantee,

(d) in the said Schedule 3 as applied by this section "relevant date" shall mean—

(i) for any administrative expenses related to a loan within subsection (6)(c)(i) above, the date when the loan is made,

(ii) for sums within subsection (6)(c)(ii) above, and any related administrative expenses, the date when the guarantee is fulfilled.

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(7) In the case of a loan or guarantee made under this section in connection with a boundary adjustment the appropriate Minister may, if he thinks fit, designate in the document giving his approval to the proposals any land appearing to him to benefit from the boundary adjustment as land which, after the making of the loan or guarantee, is to be a relevant unit subject to the provisions of Schedule 3 to this Act, and paragraphs (a),(c) and (d) of the last foregoing subsection shall apply in relation to the boundary adjustment as they apply in relation to an amalgamation.

(8) A mortgage, heritable security or charge securing a loan made or guaranteed by the appropriate Minister under this section may, notwithstanding any rule of law or equity to the contrary, contain a provision that the mortgage, heritable security or charge shall not be redeemable except in the manner specified in the mortgage, heritable security or charge.

(9) Any sums required by the appropriate Minister for making a loan under this section or fulfilling a guarantee made under this section shall be paid out of money provided by Parliament.

(10) References in this section to the guarantee of a loan include references to the guarantee of part of a loan, including a guarantee restricted to interest payable on a loan.

Textual Amendments

F37 S. 28(1) substituted by virtue of Agriculture (Miscellaneous Provisions) Act 1972 (c. 62), s. 9(9), **Sch. 4**

F38 Words substituted by Agricultural Holdings Act 1986 (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 39**

F39 Words in s. 28(1)(a) substituted (25.9.1991) by Agricultural Holdings (Scotland) Act 1991 (c. 55, SIF 2:3), ss. 88(1), 89(1), **Sch. 11**, para. 28

Modifications etc. (not altering text)

C3 S.28(5) amended by Agricultural (Miscellaneous Provisions) Act 1972 (c. 62), **s. 10(4)**

C4 S.28(6)(7) excluded by Agricultural (Miscellaneous Provisions) Act 1972 (c. 62), **s. 10(3)**

29 Promotion of amalgamations and boundary adjustments by Minister.

(1) It is hereby declared that the appropriate Minister has power under sections 82 and 90 of the [M3]Agriculture Act 1947 and sections 55 and 61 of the [M4]Agriculture (Scotland) Act 1948 (powers of acquiring land by agreement and managing land) to acquire, hold and dispose of land for the purposes of effecting amalgamations of agricultural land and reshaping agricultural units.

(2) That power shall include in particular power for the said purposes to enter into transactions involving loss, including—

(a) amalgamating holdings of land in a way which renders less valuable, or useless, any buildings or equipment on any of the land,

(b) allowing the occupier of an uncommercial unit to retain occupation of a dwelling-house on the land when the remainder of the unit is acquired by the appropriate Minister for the purposes of amalgamation,

(c) selling land resulting from an amalgamation effected by the appropriate Minister subject to depreciatory conditions imposed for the purpose of

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ensuring that the land continues to be held in single ownership and single occupation for agricultural purposes.

(3) A deed by which the appropriate Minister conveys land, or an estate or interest in land, may apply Schedule 3 to this Act to any of that land, and to any other land, but only if all the persons who will have an estate or interest in the land to which Schedule 3 is so applied **[**[F40]have executed**]** the deed; and in that Schedule as so applied "relevant Exchequer payments" shall mean such amounts as are specified in the deed for the purposes of this subsection under the heads of—

(a) the incidental costs incurred by the appropriate Minister in acquiring and disposing of the land, estate or interest conveyed by the deed, being costs consisting of surveyor's fees and legal costs, stamp duty on any conveyance, lease, tenancy agreement or mortgage or heritable security, and any compensation for disturbance under **[**[F41]section 60(2)(*a*) of the Agricultural Holdings Act 1986**]** or **[**[F42]section 43 of the Agricultural Holdings (Scotland) Act 1991**]**,

(b) any such loss as is described in subsection (2) of this section incurred by the appropriate Minister in dealing with the land, estate or interest so conveyed, including any reduction in the purchase price obtained by him on the transaction effected by the deed in consequence of the depreciatory conditions contained in the deed,

(c) such sum as the appropriate Minister may certify as the sum representing his administrative expenses (including an appropriate proportion of overhead expenses and other fixed or general expenses) incurred in connection with the transaction to which the deed gives effect,

and "relevant date" means the date on which the transaction to which the deed relates takes effect.

(4) Section 24(1) of the [M5]Agricultural Holdings Act 1948 and **[**[F42]section 22(1) of the Agricultural Holdings (Scotland) Act 1991**]** (which restrict the operation of a notice to quit an agricultural holding) shall not apply to a notice to quit given by the appropriate Minister where—

(a) the appropriate Minister certifies in writing that the notice to quit is given in order to enable him to use or dispose of the land for the purpose of effecting any amalgamation or the reshaping of any agricultural unit, and

(b) the instrument under which the tenancy was granted contains an acknowledgment signed by the tenant that the tenancy is subject to the provisions of this section.

(5) Where an instrument bearing to grant a tenancy contains such an acknowledgment as is mentioned in paragraph (b) of the last foregoing subsection, the grant of the tenancy shall have effect notwithstanding section 16 of the [M6]Crofters (Scotland) Act 1955 (vacant crofts), and during the subsistence of the tenancy the provisions of the [M7]Crofters (Scotland) Acts 1955 and 1961 and of the Small Landholders (Scotland) Acts 1886 to 1931 shall not apply to any land subject to the tenancy.

Textual Amendments

F40 Words substituted by Agriculture Act 1970 (c. 40), **s. 33(2)**

F41 Words substituted by Agricultural Holdings Act 1986 (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 40**

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F42 Words in s. 29(3)(a)(4) substituted (25.9.1991) by Agricultural Holdings (Scotland) Act 1991 (c. 55, SIF 2:3), ss. 88(1), 89(2), **Sch. 11**, para. 29(a)(b)

Modifications etc. (not altering text)

C5 S. 29(4) repealed (E.W.) by Agricultural Holdings (Notices to Quit) Act 1977 (c. 12), **Sch. 2**, except in relation to notices to quit given before 7.4.1978: see s. 14 of that 1977 Act.

Marginal Citations

M3 1947 c. 48.
M4 1948 c. 45.
M5 1948 c. 63.
M6 1955 c. 21.
M7 1961 c. 58.

30 . . . . . F43

Textual Amendments

F43 Ss. 30–32, 36, 37(3)(5) repealed by Agriculture Act 1970 (c. 40), ss. 29(6)(7), 113(3), **Sch. 5 Pt. I**

Promotion of agricultural investment

31, 32. . . . . F44

Textual Amendments

F44 Ss. 30–32, 36, 37(3)(5) repealed by Agriculture Act 1970 (c. 40), ss. 29(6)(7), 113(3), **Sch. 5 Pt. I**

F45 33 Supplements to improvement and water supply grants.

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Textual Amendments

F45 S. 33 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 2** Group 1

F46 34 Power to vary rates, and extend scope, of grants for agricultural investment.

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Textual Amendments

F46 S. 34 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 2** Group 1

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Supplemental

[35 [F47] General provisions for schemes under Part II.

A scheme under section 26 or section 27 of this Act—

(a) shall be made by the appropriate Minister with the approval of the Treasury,

(b) **[**[F48]without prejudice to the provisions of subsection (4) of the said section 26 as to schemes under that section, may, in the case of a scheme under the said section 27**]]** authorise the making of different grant in different circumstances,

(c) 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,

(d) 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 provided by Parliament or has been so made within a prescribed period ,

(e) may be made for England and Wales, for Scotland, for Northern Ireland, or for any two or all of those parts of the United Kingdom jointly,

(f) may contain such incidental and supplemental provisions as appear to the appropriate Minister expedient **[**[F48]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**]**

(g) may be varied or revoked by a subsequent scheme,

(h) shall be made by statutory instrument of which a draft has been laid before and approved by resolution of each House of Parliament.

Textual Amendments

F47 S. 35 repealed (N.I.) by S.I. 1987/166 (N.I. 1), art. 20, **Sch.**

F48 Words substituted by Agriculture Act 1970 (c. 40), **s. 32(5)**

36 . . . . . [F49]

Textual Amendments

F49 Ss. 30–32, 36, 37(3)(5) repealed by Agriculture Act 1970 (c. 40), ss. 29(6)(7), 113(3), **Sch. 5 Pt. I**

37 Recovery of grant and revocation of approval.

[[F50](1) If at any time after the approval of proposals under section 26, section 27 . . . [F51]of this Act, and whether before or after the proposals have been fully carried out, it appears to the appropriate Minister—

(a) that any condition imposed by the appropriate Minister in giving his approval has not been complied with, or

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(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 appropriate Minister may, on demand made after compliance with subsection (4) below, recover any grant or any part of a grant paid by him by reference to the proposals and revoke the approval in whole or in part.

(2) In the case of a grant under section 27 of this Act which is a lump sum payable by instalments or a grant by way of annuity the appropriate Minister may, in a case within paragraph (a) or paragraph (c) of subsection (1) above, after compliance with subsection (4) below direct that future instalments of the grant or annuity shall not be payable.

(3) F52

(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 appropriate Minister, 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 appropriate Minister, 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.**]**

(5) F52

(6) Where a grant by reference to which a supplementary grant has been made under section 33 of this Act becomes recoverable in whole or in part, the supplementary grant shall also become recoverable on demand.

Textual Amendments

F50 S. 37(1)–(4) repealed (N.I.) by S.I. 1987/166 (N.I. 1), **art. 20 Sch.**

F51 Words repealed by Agriculture Act 1970 (c. 40), ss. 29(6)(7), 113(3), **Sch. 5 Pt. I**

F52 Ss. 30–32, 36, 37(3)(5) repealed by Agriculture Act 1970 (c. 40), ss. 29(6)(7), 113(3), **Sch. 5 Pt. I**

Modifications etc. (not altering text)

C6 S. 37 extended by Agriculture Act 1970 (c. 40), **s. 32(6)**, which provision is repealed (N.I.) by S.I. 1987/166 (N.I.1), art. 20, **Sch.**

38 . . . . . F53

Textual Amendments

F53 s. 38 repealed by Rent Act 1968 (c. 23), **Sch. 17** and Rent (Scotland) Act 1971 (c. 28), **Sch. 20**

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39 Provisions relating to Northern Ireland.

(1) Subject to this section, this Part of this Act shall extend to Northern Ireland with the exception of section 28 and section 38 and, subject to the following provisions of this section, of section 29.

(2) **[**[F54]The Department of Agriculture for Northern Ireland**]** may acquire by agreement any estate or interest in—

(a) any land used for agriculture,

(b) any other agricultural land,

(c) where any such land as is mentioned in paragraph (a) or (b) above is offered to the said **[**[F54]Department**]** for acquisition by it on the condition that it also acquires other land not falling within either of those paragraphs, that other land,

for the purpose of effecting amalgamations of agricultural land and reshaping agricultural units.

(3) The said **[**[F54]Department**]** may manage, farm or dispose of land acquired by it under subsection (2) above—

(a) in such manner as appears to the said **[**[F54]Department**]** expedient for the purpose for which the land was acquired,

(b) if the said **[**[F54]Department**]** is satisfied that the land ought to be devoted to some other purpose, in such manner as appears to the said **[**[F54]Department**]** expedient therefor,

[[F55]and in section 27(1)(b)of this Act as it applies in Northern Ireland the reference to the appropriate Minister shall include a reference to the said **[**[F54]Department**]]**.

Section 45(3) of the [M8]Interpretation Act (Northern Ireland) 1954 shall have effect for the purposes of this subsection as it has effect for the purposes of an enactment of the Parliament of Northern Ireland passed after the commencement of that Act.

(4) Sections 4 and 5 of the [M9]Land Law (Ireland) Act 1881 shall not have effect in relation to any tenancy granted by the said **[**[F54]Department**]** under subsection (3) above.

(5) Subsections (2) and (3) above shall in particular confer power to enter into transactions involving loss, including transactions corresponding to those into which the appropriate Minister may enter under section 29(2) of this Act.

[[F56]**[** **[**[F58]Sections 26(1)(a) and (bb) and 27(5B)**]** of this Act shall, in their application to [F57](5A) Northern Ireland, have effect as if references to a tenant as defined in the Acts there mentioned were references to a tenant who holds under a contract of tenancy for a life or lives or for a term of years.**]]**

(6) Section 29(3) of this Act, and Schedule 3 to this Act when read with the said section 29(3), shall apply in Northern Ireland as if—

(a) the said **[**[F54]Department**]** were substituted for the appropriate Minister,

(b) the reference to legal costs in the said section 29(3)(a) included a reference to the costs of obtaining any requisite consent of **[**[F54]the Department of Finance for Northern Ireland**]**,

(c) the said section 29(3)(a) included a reference to compensation for disturbance under section 3 of the [M10]Landlord and Tenant (Ireland) Act 1870.

[[F59](7) The functions conferred by this section on the said **[**[F54]Department**]** shall be exercised in accordance with arrangements made between the **[**[F54]Department**]** and the Minister

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of Agriculture, Fisheries and Food with the approval of the Treasury, and the Minister of Agriculture, Fisheries and Food shall pay out of money provided by Parliament any expenses incurred by the said **[**[F54]Department**]** in exercising those functions, and any sums received by that **[**[F54]Department**]** in exercising those functions (including any sums so received or recovered under Schedule 3 to this Act) shall be paid over to the said Minister.**]**

Textual Amendments

F54 Words substituted by virtue of Northern Ireland Constitution Act 1973 (c.36), **Sch. 5 para.8(1)**
F55 Words repealed (N.I.) by S.I. 1987/166 (N.I. 1), art. 20, **Sch.**
F56 S. 39(5A) repealed (N.I.) by S.I. 1987/166 (N.I. 1), art. 20, **Sch.**
F57 S. 39(5A) inserted by Agriculture (Miscellaneous Provisions) Act 1972 (c. 62), **s.9(5)**
F58 Words substituted by S.I. 1973/1402, **reg. 5**
F59 S. 39(7) repealed (N.I.) by S.I. 1987/166 (N.I. 1), art. 20, **Sch.**

Marginal Citations

M8 1954 c. 53 (N.I.)
M9 1881 c. 49.
M10 1870 c. 46.

40 Interpretation of Part II.

(1) In this Part of this Act, except where the context otherwise requires—

"amalgamation" and "boundary adjustment" have the meanings given by section 26 of this Act;

"exchange" in relation to land in Scotland means excambion;

"prescribed", in relation to the contents of a scheme, means prescribed by the scheme.

(2) In this Part of this Act—

(a) "commercial unit" means an agricultural unit which in the opinion of the appropriate Minister 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);

(b) "intermediate unit" means an agricultural unit which, in the opinion of the appropriate Minister, is capable, when farmed under reasonably skilled management, of providing full-time employment for an individual occupying it.

In this subsection "full-time employment" shall be construed in accordance with any provisions defining that expression in any scheme made under section 26 of this Act.

(3) In this Part of this Act "uncommercial unit" shall be construed by reference to the definition of commercial unit, except that, where the appropriate Minister so directs, it may be treated as referring to the relevant agricultural unit exclusive of any one dwelling house of the unit **[**[F60]or of an area sufficient to provide a site for one dwelling house**]** and, if the Minister so directs, exclusive of any small portion of land to be occupied with that dwelling house.

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(4) Where any agricultural land in Scotland consists of or includes a croft or holding, for the purposes—

(a) of determining under the preceding provisions of this section whether an agricultural unit formed by that land is commercial, intermediate or uncommercial, and

(b) of calculating under section 27(2)(c) of this Act the income derived from the land,

the land shall be taken to include any right in pasture or grazing land held by the tenant or landholder whether alone or in common with others and deemed to form part of the croft or holding.

In this subsection "croft" and "holding" have the meanings ascribed to them by the [M11]Crofters (Scotland) Act 1955 and the Small Landholders (Scotland) Acts 1886 to 1931 respectively.

Textual Amendments

F60 Words inserted by Agriculture (Miscellaneous Provisions) Act 1972 (c. 62), **s. 9(6)**

Marginal Citations

M11 1955 c. 21.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

– s. 9(10A) inserted by 2003 c. 44 Sch. 27 para. 2(3)