

1970 No. 2026

AGRICULTURE

AGRICULTURAL GRANTS, GOODS AND SERVICES

The Farm Structure (Payments to Outgoers) Scheme 1970

Laid before Parliament in draft

Made - - - -	29th December 1970
Coming into Operation	
Paragraph 12 - -	30th December 1970
Remainder - -	1st January 1971

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland and the Secretary of State for Wales, acting jointly in exercise of the powers conferred on them by sections 27 and 35 of the Agriculture Act 1967(a) (as those sections have effect by virtue of section 32 of the Agriculture Act 1970(b)), as read with the Transfer of Functions (Wales) Order 1969(c), and of all other powers enabling them in that behalf, with the approval of the Treasury, hereby make the following scheme, a draft whereof has been laid before Parliament and approved by a resolution of each House of Parliament :—

Citation, commencement and extent

1. This scheme, which may be cited as the Farm Structure (Payments to Outgoers) Scheme 1970, shall apply throughout the United Kingdom and shall come into operation on 1st January 1971, save that paragraph 12 shall come into operation at the expiration of the day on which the scheme is made.

Interpretation

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

“ the Act ” means the Agriculture Act 1967 ;

“ the appropriate Minister ” means—

(a) in relation to England or Northern Ireland, and in relation to Wales for the purpose of the making, receipt or recovery of any payment, the Minister of Agriculture, Fisheries and Food ;

(b) in relation to Wales, save for the purpose of the making, receipt or recovery of any payment, the Minister of Agriculture, Fisheries and Food and the Secretary of State, acting jointly ;

(c) in relation to Scotland, the Secretary of State ;

“ croft ” and “ crofter ” have the meanings assigned to them by the Crofters (Scotland) Acts 1955 and 1961(d) ;

“ holding ”, “ landholder ” and “ statutory small tenant ” have the meanings assigned to them by the Small Landholders (Scotland) Acts 1886 to 1931(e) ;

(a) 1967 c. 22.

(b) 1970 c. 40.

(c) S.I. 1969/388 (1969 I, p. 1070).

(d) 1955 c. 21; 1961 c. 58.

(e) See Small Landholders (Scotland) Act 1911 (c. 49).

“occupation”, in relation to agricultural land, means occupation as owner or tenant, and “occupy” shall be construed accordingly ;

“owner” in relation to—

- (a) any land other than in Scotland, means a person, other than a mortgagee not in possession, who is entitled to receive the rack rent of the land or, where the land is not let at a rack rent, would be so entitled if it were so let, but does not include an executor or administrator of an owner ;
- (b) any land in Scotland, means a person who for the time being is entitled to receive, or would, if the land were let, be entitled to receive, the rent of the land, but does not include the executor or administrator of an owner ;

“tenant”—

- (a) in England and Wales, means an individual who is the holder of land under a contract of tenancy as defined in section 94(1) of the Agricultural Holdings Act 1948(a) or under an agreement which has effect by virtue of section 2(1) of that Act as an agreement for the letting of land for a tenancy from year to year or which would have so had effect if it had been made after 1st March 1948, but does not include the executor or administrator of a tenant ; and
- (b) in Scotland, means an individual who is the holder of land under a lease as defined in section 93(1) of the Agricultural Holdings (Scotland) Act 1949(b) or under a lease which has effect by virtue of section 2(1) of that Act as a lease from year to year or would have so had effect if it had been made after 1st November 1948, and includes a crofter, landholder or statutory small tenant but does not include the executor or administrator of a tenant ; and
- (c) in Northern Ireland, means an individual who by virtue of a contract of tenancy holds land for a life or lives or for a term of years or from year to year, but does not include an individual whose rights in the land arise by virtue of a conacre agreement nor the executor or administrator of a tenant ;

“Wales” includes Monmouthshire and references to England shall be construed accordingly ;

AND other expressions have the same meaning as in the Act.

(2) The Interpretation Act 1889(c) shall apply to the interpretation of this scheme as it applies to the interpretation of an Act of Parliament.

(3) Except insofar as the context otherwise requires, any reference in this scheme to an enactment shall be construed as a reference to that enactment as amended or extended by any other enactment.

(4) Save in paragraph 12, any reference in this scheme to a numbered paragraph shall be construed as a reference to the paragraph in this scheme bearing that number.

Approval of proposals

3.—(1) Subject to the provisions of this scheme and of section 27 of the Act, a grant under section 27 of the Act may be made to or for the benefit of an individual who relinquishes occupation of an uncommercial unit of agricultural land in accordance with proposals approved by the appropriate

(a) 1948 c. 63. (b) 1949 c. 75. (c) 1889 c. 63.

Minister in writing, being proposals submitted before the relinquishment of occupation and within 7 years from the commencement of this scheme, and such grant may be made subject to such conditions as the appropriate Minister may specify.

(2) No grant shall be payable under section 27 of the Act unless the uncommercial unit of which occupation is relinquished, or such part or parts of that unit as are relinquished as part of an amalgamation or amalgamations approved in pursuance of a scheme under section 26 of the Act, is or are in the opinion of the appropriate Minister capable, when farmed under reasonably skilled management and in the case of such part or parts as aforesaid when farmed in conjunction with any dwelling house or other building included in the unit, of providing for an individual occupying it or them employment for at least 80 days in aggregate in a year on average if a system of husbandry suitable for the district is followed and the greater part of the feeding stuffs required by any livestock kept on the unit or, as the case may be, the said part or parts of that unit is grown on the unit or the said part or parts thereof.

(3) Each submission of proposals for approval shall be made in such form as the appropriate Minister may require and the applicant for grant shall furnish all such particulars and information relating to the proposals as that Minister may reasonably require.

Eligible occupation

4.—(1) Subject to the provisions of this and the next two succeeding paragraphs, a grant under section 27 of the Act shall not be payable unless the individual applying for grant has been entitled to occupy the uncommercial unit, or the land of which that unit consists, throughout the period beginning with 4th August 1965 and ending with the day of the submission of his proposals for such a grant in respect of the relinquishment of occupation of that unit.

(2) Grant shall not be payable if the individual has at any time during the aforesaid period been entitled to occupy any unit of land sufficiently large to constitute a commercial unit except that this bar shall not apply where the appropriate Minister is satisfied that that unit of land has been reduced to an uncommercial unit, or that the individual has relinquished his occupation of that unit of land, at the time of submission by the individual of his proposals for grant, otherwise than in consequence of any act or default of the individual.

(3) For the purposes of paragraphs 4(1), 5 and 6, an individual shall not be taken not to have been entitled to occupy land solely by reason of the fact that—

(a) in the case of land in England and Wales, he has let, or has granted a licence to occupy, that land—

(i) under an agreement which would, by virtue of section 2(1) of the Agricultural Holdings Act 1948, have taken effect as an agreement for the letting of land for a tenancy from year to year but for the fact that the appropriate Minister had approved the letting or, as the case may be, the grant of the licence before the agreement was entered into, or

- (ii) under an agreement made (whether or not the agreement expressly so provided) in contemplation of the use of the land only for grazing or mowing during some specified period of the year ;
- (b) in the case of land in Scotland, he has let that land—
 - (i) under a lease which would, by virtue of section 2(1) of the Agricultural Holdings (Scotland) Act 1949, have taken effect as a lease from year to year but for the fact that the appropriate Minister had approved the letting before the lease was entered into, or
 - (ii) under a lease entered into (whether or not the lease expressly so provided) in contemplation of the use of the land only for grazing or mowing during some specified period of the year.

5. The provisions of paragraph 4(1) shall not apply where the appropriate Minister is satisfied—

- (a) that the individual has become entitled to occupy the whole or a major part of the uncommercial unit, or the land of which it consists, by way of a transfer from a member of his family or by way of devolution on death and that since 4th August 1965 any other transmission of the right to occupy the whole or part of that unit or land has been by way of such a transfer or devolution and through no other cause ; and
- (b) that the individual has farmed, or been employed in agriculture on, that unit or land for a period of not less than 2 consecutive years ending with the day of the submission of the proposals for grant or, where the individual is a surviving spouse, that he or she has throughout the said period either resided on the said unit or land as spouse of the occupier thereof or been entitled to occupy the whole or a major part thereof.

In this paragraph “family” means the individual’s spouse, his brother, sister, uncle, aunt (the two last mentioned relations being respectively a brother and sister of either parent of the individual) and cousin (being a child of an uncle or aunt of the individual), the spouse and any child of his brother or sister, the brother or sister of the individual’s spouse, any lineal ancestor of the individual or the spouse and any lineal descendant of the individual, and in deducing any such relationship an adopted child shall be treated as a child of the adopter, any relationship of the half blood shall be treated as a relationship of the whole blood and any illegitimate relationship shall be treated as legitimate.

6. Notwithstanding the provisions of paragraph 4(1), grant under section 27 of the Act may be paid where the uncommercial unit of which occupation is relinquished includes—

- (a) land which on 4th August 1965 was an agricultural unit smaller in extent than the said uncommercial unit ; and
- (b) other land which the appropriate Minister is satisfied the individual has been entitled to occupy for a period of not less than 2 consecutive years ending with the day on which occupation of the said uncommercial unit is relinquished.

For the purposes of this paragraph, the other provisions of this scheme shall apply as if references therein to the uncommercial unit of which occupation is relinquished were references to so much of that uncommercial unit as consists of land such as is described in sub-paragraphs (a) and (b) above :

Provided that no grant shall be payable under section 27 of the Act in accordance with this paragraph unless the appropriate Minister is satisfied that—

- (i) throughout the period beginning with 4th August 1965 and ending with the day of the submission of his proposals for grant the individual has occupied, or
- (ii) during such period no change of occupation other than by way of transfer or devolution of the kind referred to in paragraph 5(a) has taken place of,

so much of the aforesaid uncommercial unit as, on the day of the submission of the individual's proposals for grant, would have satisfied the requirements specified in paragraph 3(2) in relation to an uncommercial unit.

Income Test

7.—(1) Subject to the provisions of this paragraph, the appropriate Minister shall not approve any proposals for grant under section 27 of the Act unless it appears to him that the annual farm income of each individual applying for grant, calculated in accordance with sub-paragraph (2) of this paragraph and derived from the uncommercial unit of which occupation is to be relinquished, does not fall short of his total income for the same period by more than £750 or, if it does so fall short, that it does so by an amount not exceeding one third of his annual farm income.

(2) For the purposes of this paragraph, annual farm income means the annual income, calculated in each case by reference to such year or years within the 5 years immediately preceding the day on which the proposal for grant is submitted as the appropriate Minister shall determine and which he is satisfied gives or give a fair indication of the normal amount of such income, derived from the uncommercial unit the occupation of which is relinquished by the individual, including income derived from carrying on any agricultural activity on that unit less any expenses necessarily incurred in carrying on that activity, and includes any such income of the individual's spouse living with him or her.

(3) Where the individual applying for grant is a surviving spouse on whom the right to occupy the uncommercial unit has devolved on the death of his or her late spouse within the 5 years immediately preceding the day on which the proposal for grant is submitted and—

- (a) the annual farm income is calculated in accordance with sub-paragraph (2) of this paragraph by reference to a year ended on or before the death of the late spouse there shall be taken into account for the purpose of sub-paragraph (1) of this paragraph the total income of the late spouse during that year ;
- (b) the annual farm income is calculated by reference to a year beginning after the death of the late spouse and the said individual, although entitled beneficially to all or part of the late spouse's estate arising on the death of the late spouse, has not had the same vested in him or her on or before the commencement of that year there shall be taken into account in arriving at the said individual's total income for such year for the said purpose such an amount as the appropriate Minister is satisfied, after consulting the said individual, represents a fair estimate of income to be derived from the beneficial interest.

(4) For the purposes of this paragraph, an individual's total income means income for purposes of income tax before deducting the charges specified in

section 528(3)(b) of the Income and Corporation Taxes Act 1970(a) and each reference to a year shall be construed as a reference to a year commencing on 6th April and ending on the following 5th April.

Amount of grant

8.—(1) Subject to the provisions of this paragraph and of paragraphs 6 and 9, the amount of the grant under section 27 of the Act shall be—

- (a) in the case of an individual of less than 55 years of age, a lump sum payment of £1,000 plus a sum calculated at the rate of £10 per acre of eligible land ;
- (b) in the case of an individual of not less than 65 years of age, a life annuity consisting of the aggregate of £200 and a sum calculated at the rate of 15s. per acre of eligible land ;
- (c) in the case of an individual of not less than 55 but less than 65 years of age, an amount calculated in accordance with either sub-paragraph (a) or sub-paragraph (b) above as the individual may elect in writing before the appropriate Minister approves the proposals for grant.

In each case, the individual's age shall be calculated by reference to the date on which the appropriate Minister approves the proposals for grant, so however that if an individual of the class referred to in sub-paragraph (c) above submits proposals for grant before attaining 65 years of age, the individual may exercise the election for which provision is there made notwithstanding that he or she attains 65 years of age before the appropriate Minister approves the proposals for grant.

(2) For the purposes of calculating the amount of the grant there shall be taken into account as eligible land, having regard to the land being relinquished as on the day on which the proposals for grant are submitted, or in the case of grant payable in accordance with paragraph 6 the day on which occupation of the uncommercial unit is relinquished, and disregarding any part of that land or unit which, on whichever of the aforesaid days the case may require, is subject to the provisions of Schedule 3 to the Act in accordance with section 26(7) thereof and has previously been taken into account for the purposes of a grant paid under section 27 of the Act—

- (a) the area of any land within the uncommercial unit the occupation of which is being relinquished which the appropriate Minister is satisfied is used, or prepared or cultivated for use, for the purpose of growing crops or grass, other than any area of rough grazing land ;
- (b) the area of any land within that unit, not coming within sub-paragraph (2)(a) above, which appears to the appropriate Minister to be necessary to the full and efficient farming of the unit ;
- (c) one sixth of the area of any land within that unit which appears to the appropriate Minister to be rough grazing land or to be woodland the use of which is ancillary to the farming of the unit ;
- (d) where a right to graze animals is enjoyed with that unit, not being such a unit as is mentioned in sub-paragraph (2)(e) of this paragraph, such acreage as may be determined by the appropriate Minister, having regard to the benefit, if any, to the farming of that unit attributable to the enjoyment of that right ;
- (e) where an agricultural unit in Scotland consists of or includes a croft or holding and there is deemed to form part of that croft or holding any

right in pasture held by the tenant or landholder whether alone or in common with others, such acreage as may be determined by the appropriate Minister having regard to the extent of the right and of the land over which it is exercisable ;

so however that only acreage in excess of an aggregate of 10 acres and not exceeding an aggregate of 110 acres shall be taken into account under the preceding provisions of this sub-paragraph. In calculating the aggregate of the land so taken into account, any fraction of an acre shall be rounded down to the nearest tenth of an acre.

(3) Where the relinquishment of any part of an uncommercial unit is effected otherwise than as part of an amalgamation or boundary adjustment approved in pursuance of a scheme under section 26 of the Act, the land of which that part of the unit consists shall not be taken into account as eligible land for the purposes of calculating the amount of any grant under section 27(1)(a) of the Act payable in respect of the relinquishment of that unit.

9.—(1) In the case of an uncommercial unit occupied by more than one individual, there may be payable to each individual eligible for grant in respect of the relinquishment of occupation of that unit such proportion of an amount approximately equivalent to the grant which might have been payable to a single individual had the unit been in his sole occupation as appears to the appropriate Minister to be appropriate, having regard to any agreement between all the individuals for the time being entitled to occupy the said unit of which the appropriate Minister has been notified and to the extent of each individual's interest as regards the occupation of the unit considered in relation to such interests of the other individuals entitled to occupy that unit.

(2) The form of a payment of grant to each individual under the last preceding sub-paragraph, though not the amount thereof, shall be in accordance with the provisions of paragraph 8(1).

Payment of grant after death of applicant

10. After the death of a person in receipt of a grant by way of annuity, a grant under section 27 of the Act by way of an annuity equivalent in amount to half of the first mentioned annuity may be paid to a surviving spouse who was living with that person when proposals for the first mentioned grant were submitted, subject to compliance with such conditions as the appropriate Minister may specify when making the last mentioned grant. The last mentioned grant shall cease to be payable if the spouse re-marries.

11. In a case where a person who has submitted an application for grant under section 27 of the Act within 7 years from the commencement of this scheme relinquishes, or becomes under an obligation to relinquish, occupation of the uncommercial unit of agricultural land in question and subsequently dies before the application has been dealt with, the application may be proceeded with after the death and, if the appropriate Minister approves the application, in a case where, if the grant had been payable to the deceased, the amount of grant would have fallen to be determined in accordance with—

(a) paragraph 8(1)(a), there may be paid for the benefit of the deceased's estate, subject to such conditions as the appropriate Minister may specify, a grant under the said section 27 by way of a lump sum payment equivalent in amount to the grant which would have been payable to the deceased ;

- (b) paragraph 8(1)(b), there may be paid, subject to such conditions as the appropriate Minister may specify—
- (i) in respect of any period after the relinquishment of occupation and before the death, for the benefit of the deceased's estate a grant under the said section 27 by way of an annuity equivalent in amount to the annuity which would have been payable to the deceased ;
 - (ii) in respect of any period falling both after the relinquishment and the death and before any subsequent marriage of the spouse, to any person who was, both at the date of the death and at the time when the application was made, the spouse living with the deceased a grant under the said section 27 by way of an annuity equivalent in amount to half of the annuity which would have been payable to the deceased ;
- (c) paragraph 8(1)(c) and the deceased before death did not exercise the election as to the method of payment provided for in the said subparagraph, grant under the said section 27 by way of a lump sum payment may be paid in accordance with the provisions of subparagraph (a) of this paragraph.

For the avoidance of doubt, for the purposes of this paragraph references in other provisions of this scheme to the individual are references to the individual who submitted the application for grant under section 27.

Variation of the Farm Structure (Payments to Outgoers) Scheme 1967

12. The Farm Structure (Payments to Outgoers) Scheme 1967(a) shall be varied by substituting in paragraph 3(1) thereof for the words " within seven years from the commencement of this scheme " the words " before 1st January 1971 ".

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 18th December 1970.

(L.S.)

J. M. L. Prior,
Minister of Agriculture, Fisheries and Food.

Given under the Seal of the Secretary of State for Scotland on 21st December 1970.

(L.S.)

Gordon Campbell,
Secretary of State for Scotland.

Given under my hand on 22nd December 1970.

Peter Thomas,
Secretary of State for Wales.

(a) S.I. 1967/1609 (1967 III, p. 4425).

We approve.
29th December 1970.

V. H. Goodhew,
Bernard Weatherill,
Two of the Lords Commissioners of
Her Majesty's Treasury.

EXPLANATORY NOTE

(This Note is not part of the Scheme.)

This scheme, which is made under section 27 of the Agriculture Act 1967 as amended by section 32(3) of the Agriculture Act 1970 and comes into operation on 1st January 1971, supersedes the Farm Structure (Payments to Outgoers) Scheme 1967. The scheme provides for the payment of a grant by way of a lump sum or an annuity to an individual who relinquishes occupation of an uncommercial unit of agricultural land for the purpose of improving farm structure. In accordance with the 1967 Act, the scheme does not extend to any application for approval of proposals made after the expiration of 7 years from the commencement of the scheme. It applies to the whole of the United Kingdom.

The scheme provides that, for an individual to be eligible for grant, the uncommercial unit of which occupation is to be relinquished is to be one capable of providing work for the occupier equivalent to at least 80 days a year, except that if only part of the unit is being absorbed in one or more approved private farm amalgamations, that part must have accounted for at least 80 days of the work provided by the unit being relinquished; in this respect the scheme differs from the 1967 scheme. The scheme also lays down terms as to eligibility for grant, including an occupation and a revised income test which disregards non-farm income of up to £750, instead of the previous limit of £400; it specifies the amounts of grant payable, which are the same as those provided for in the 1967 scheme, and the method by which grant is to be calculated; it also provides, as did the 1967 scheme, that the type of grant payable is to depend on the age of the applicant. The scheme makes provision, for the first time, for the payment of grant in cases where an applicant, having relinquished occupation of the unit or become under an obligation to do so, dies before the application has been dealt with: it also re-enacts the provisions of the 1967 scheme whereby grant may be paid to the surviving spouse of an annuitant at the rate of half the original annuity.

SI 1970/2026
ISBN 0-11-002026-X



780110 020266