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STATUTORY INSTRUMENTS

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**1989 No. 219**

**AGRICULTURE  
HORTICULTURE**

**The Farm and Conservation Grant Regulations 1989**

*Made* - - - - *19th February 1989*

*Coming into force* - - *20th February 1989*

The Minister of Agriculture, Fisheries and Food and the Secretary of State, acting jointly, being Ministers designated for the purposes of section 2(2) of the European Communities Act 1972<sup>(1)</sup> in relation to the common agricultural policy of the European Economic Community<sup>(2)</sup>, in exercise of the powers conferred on them by the said section 2(2) and of all other powers enabling them in that behalf, hereby make the following Regulations of which a draft has been laid before, and approved by resolution of, each House of Parliament:

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Farm and Conservation Grant Regulations 1989 and shall come into force on 20th February 1989.

(2) These Regulations shall apply to Great Britain.

**Interpretation**

2.—(1) In these Regulations, unless the context otherwise requires—

“agricultural business” means a business consisting in, or such part of any business as consists in, the pursuit of agriculture, including the storage, the transport and the preparation for market of the produce of the business;

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming, livestock breeding and keeping, the use of land as grazing land, meadow land, osier land, reed beds, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and “agricultural” and references to farming shall be construed accordingly;

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(1) 1972 c. 68; section 2 is subject to Schedule 2 to that Act and is to be read, as regards England and Wales, with sections 37, 40 and 46 of the Criminal Justice Act 1982 (c. 48), S.I.1984/447 and section 52(4) of the Criminal Justice Act 1988 (c. 33), and, as regards Scotland, with sections 289F and 289G of the Criminal Procedure (Scotland) Act 1975 (c. 21), as inserted by section 54 of the Criminal Justice Act 1982, S.I. 1984/526 and section 66 of the Criminal Justice (Scotland) Act 1987 (c. 41).

(2) S.I. 1972/1811.

“the appropriate Minister” means–

- (a) in relation to England, the Minister of Agriculture, Fisheries and Food;
- (b) in relation to Scotland or Wales, the Secretary of State;

“approved” means approved by the appropriate Minister in writing, and “approve” and “approval” shall be construed accordingly;

“contractor” means any person who enters into an agreement to supply agricultural work or services in connection with agricultural land;

“dairy cows” means cows which have calved and which by reason of their breed or suitability are exclusively or principally kept for the production of milk either for human consumption or for processing into milk products;

“designated maps” means–

- (a) in relation to England, the 3 volumes of maps numbered 1 to 3, each such volume being marked “volume of maps of less-favoured farming areas in England” and with the number of the volume, dated 3rd April 1984, signed and sealed by the appropriate Minister and deposited at the offices of the Ministry of Agriculture, Fisheries and Food at Nobel House, 17 Smith Square, London SW1P 3HX;
- (b) in relation to Wales, the 2 volumes of maps numbered 1 and 2, both volumes being marked “volume of maps of less-favoured farming areas in Wales” and with the number of the volume, dated 29th March 1984, signed by the appropriate Minister and deposited at the offices of the Welsh Office Agriculture Department at Plas Crug, Aberystwyth, Dyfed SY23 1NG;
- (c) in relation to Scotland, the 4 maps numbered 1 to 4, each such map being marked “map of less-favoured farming areas in Scotland” and with the number of the map, dated 2nd April 1984, signed by the appropriate Minister and deposited at the offices of the Department of Agriculture and Fisheries for Scotland at Pentland House, 47 Robb’s Loan, Edinburgh EH14 1TW;

“earned income”, in relation to an agricultural business, means the revenue of the business as assessed by the appropriate Minister, and in any such assessment the said revenue shall be taken to include net inventory changes and farmhouse consumption less remuneration of capital invested in the agricultural business and such charges and expenses as that Minister may consider reasonable;

“eligible agricultural business” has the meaning assigned to that expression by regulation 4;

“eligible person” has the meaning assigned to that expression by regulation 3;

“glasshouse” means a fixed or mobile structure, used for the production of horticultural produce for sale, which is mounted on durable foundations, is not less than 1.67 metres high at the ridge, and of which more than half the total area of the sides, ends and roof is of glass or such other translucent material as will give a durability and transparency similar to that of glass;

“horticultural produce” means–

- (a) fruit;
- (b) vegetables of a kind grown for human consumption, including fungi, but not including maincrop potatoes or peas grown for seed or for harvesting dry;
- (c) flowers, pot plants and decorative foliage;
- (d) herbs;
- (e) seeds (other than pea seeds), bulbs and other material, being seeds, bulbs or material for–
  - (i) sowing or planting for the production of fruit, of the vegetables, flowers, plants or foliage mentioned in (b) and (c) above or of herbs, or

- (ii) reproduction of the seeds, bulbs, or other material planted; or
  - (f) trees and shrubs, other than trees grown for the purpose of afforestation;
- but does not include hops;

“labour unit” means the amount of work, other than work done by a contractor who does not satisfy the requirements of regulation 3(3) except to the extent that such work is carried out by seasonal labour, which would in the opinion of the appropriate Minister occupy the full time, not exceeding 2,200 hours per year, of a full-time worker;

“less-favoured area” means land—

- (a) which is situated in an area included in the list of less-favoured farming areas adopted by the Council or the Commission of the European Communities under Article 2 of Council Directive No. 75/268/EEC on mountain and hill farming and farming in certain less-favoured areas(3), and
- (b) which—
  - (i) is, in the opinion of the appropriate Minister, inherently suitable for extensive livestock production but not for the production of crops in quantity materially greater than that necessary to feed such livestock as are capable of being maintained on such land, and whose agricultural production is, in the opinion of the appropriate Minister, restricted in its range by, or by any combination of, soil, relief, aspect or climate, or
  - (ii) is situated in the Isles of Scilly,

which land is within the area shaded blue or shaded pink on the designated maps;

“pig place”, for the purposes of regulation 6(3)(b), means the facilities necessary to house one fattening pig, save that where the herd includes breeding sows the facilities necessary to house one such sow shall be taken to be the equivalent of 6.5 pig places;

“preparation for market”, in relation to produce, does not include canning, bottling, pulping or cooking, or preserving by sterilising, by freezing or by de-hydrating;

“the 1980 Regulations” means the Agriculture and Horticulture Development Regulations 1980(4);

“the 1981 Regulations” means the Farm and Horticulture Development Regulations 1981(5);

“the 1985 Regulations” means the Agriculture Improvement Regulations 1985(6);

“the 1985 Scheme” means the Agriculture Improvement Scheme 1985(7);

“the 1989 Scheme” means the Farm and Conservation Grant Scheme 1989(8).

(2) Any reference in these Regulations to a numbered regulation or Schedule shall, unless the context otherwise requires, be construed as a reference to the regulation or Schedule bearing that number in these Regulations.

### Eligible persons

3.—(1) Subject to the provisions of these Regulations, the following classes of person shall be eligible for a grant under these Regulations—

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(3) OJ No. L128, 19.5.75, p. 1; Article 2 was amended by Council Directive No. 80/666/EEC (OJ No. L180, 14.7.80, p. 34).  
(4) S.I. 1980/1298, amended by S.I. 1981/1708, 1983/508, 924, 1763, 1984/618, 1922, 1985/1025.  
(5) S.I. 1981/1707, amended by S.I. 1983/507, 925, 1762, 1984/620, 1924, 1985/1266, 1986/1295.  
(6) S.I. 1985/1266, amended by S.I. 1987/1950, 1988/1201, 1982, 2065. By S.R. (N.I.) 1987 No. 156, the Agriculture Improvement Regulations were revoked in so far as they formed part of the law of Northern Ireland.  
(7) S.I. 1985/1029, amended by S.I. 1988/1056, 1983, 2066. By S.I. 1987/166 (N.I.1), the Agriculture Improvement Scheme was revoked in so far as it formed part of the law of Northern Ireland.  
(8) S.I. 1989/128.

- (a) an individual carrying on an eligible agricultural business if the appropriate Minister is satisfied that that individual or, as the case may be, the farm manager or other person through whom the business is carried on—
  - (i) practises farming as his main occupation, in that not less than half of his annual income, calculated in accordance with the provisions of paragraph (2) below, is derived from agricultural activities relating to that business and the amount of time spent by him in those activities is more than 1,100 hours per year, and
  - (ii) possesses sufficient agricultural skill and competence, in that he holds an appropriate certificate issued by a teaching establishment recognised for this purpose by that Minister or has been engaged in agricultural activities for not less than five years,
 and if the individual carrying on that agricultural business submits an improvement plan in accordance with regulation 5, and undertakes, if that plan is approved, to carry it out and, for the duration of the plan, to keep accounts in accordance with regulation 11(1);
- (b) any person representing a body carrying on an eligible agricultural business if—
  - (i) the appropriate Minister is satisfied that the farm manager or other person through whom the business is carried on practises farming as his main occupation, as specified in sub-paragraph (a)(i) above, and possesses sufficient agricultural skill and competence, as specified in sub-paragraph (a)(ii) above, and
  - (ii) the said person representing the said body submits on behalf of the said body an improvement plan in accordance with regulation 5 and gives the undertakings required of an individual by sub-paragraph (a) above;
- (c) persons carrying on an eligible agricultural business in partnership if—
  - (i) the appropriate Minister is satisfied that the farm manager or other person through whom the business is carried on practises farming as his main occupation, as specified in sub-paragraph (a)(i) above, and possesses sufficient agricultural skill and competence, as specified in sub-paragraph (a)(ii) above, and
  - (ii) an improvement plan is submitted and the undertakings required of an individual by sub-paragraph (a) above are given on behalf of the partnership;
- (d) the owner of land occupied for the purposes of an eligible agricultural business who makes an application for approval of an improvement plan relating to such land jointly with one of the kinds of person eligible for grant under sub-paragraph (a), (b) or (c) above.

(2) For the purposes of this regulation a person's annual income shall be calculated in each case by reference to the financial year immediately preceding the day on which the improvement plan is submitted or such other period as the appropriate Minister shall determine, being a period which he is satisfied gives a fair indication of the normal amount of income of that person and the normal amount of income derived from agricultural activities in the business by that person.

(3) Where a person eligible for grant under paragraph (1) above is a contractor, it shall be a further condition of eligibility that he has entered into a written agreement with the occupier of the land on which the eligible business is carried on which is expressed to continue in force for a period of not less than seven years from the day immediately preceding the day on which the improvement plan is submitted.

### **Eligible agricultural business**

**4.** For the purposes of these Regulations an eligible agricultural business is an agricultural business as to which the appropriate Minister is satisfied that the earned income per labour unit reasonably required under the existing system of production is less than the reference income determined in accordance with regulation 14(a).

## **Improvement plans**

5.—(1) An improvement plan submitted for approval shall be set out in such form as the appropriate Minister may from time to time require and the person submitting it shall furnish all such particulars and information relating thereto as the appropriate Minister may require, and in particular—

- (a) sufficient information to show that the person undertaking to carry out the plan is an eligible person and that the plan relates to an eligible agricultural business;
- (b) a description of that agricultural business at the time of submission of the plan for approval and of the land to which the plan relates;
- (c) a description of that agricultural business on completion of the plan in the form of an estimated budget, an estimate of the earned income per labour unit reasonably required in the carrying on of the business on completion of the plan and an estimate of the number of such labour units;
- (d) an indication of the measures to be taken and, in particular, of the investments to be made, in order to achieve the aim of the plan and a list of any agreements to purchase land or take land on lease made in order to achieve an increase in the area of land occupied for the purposes of the agricultural business to which the plan relates.

(2) The duration of an improvement plan shall be such period as is specified in the plan, being a period not exceeding six years from the date of approval of the plan.

## **Restrictions on approval of improvement plans**

6.—(1) An improvement plan shall not be approved under these Regulations unless the appropriate Minister is satisfied that the investments to be made under the plan are justified from the point of view of the situation of the agricultural business and its economy and that completion of the plan will bring about a lasting and substantial improvement of that situation, and in particular of the income per labour unit reasonably required in the carrying on of the business.

(2) An improvement plan shall not be approved under these Regulations unless the appropriate Minister is satisfied that if it is completed—

- (a) the agricultural business to which it relates may reasonably be expected to achieve an earned income per labour unit which amounts to not more than 120 per cent. of the aggregate of—
  - (i) the reference income determined in accordance with regulation 14(a) in respect of the calendar year in which the plan is submitted for approval or such other year as that Minister may for that purpose allow, and
  - (ii) annual increases at least equal to the annual percentage increases determined in accordance with regulation 14(b) in respect of each of the remaining calendar years in the period during which the plan is to be carried out (if any); and
- (b) not less than half a labour unit may reasonably be expected to be required in the carrying on of the agricultural business to which the plan relates.

(3) The appropriate Minister shall not approve for the purposes of grant an improvement plan in so far as it includes—

- (a) proposed expenditure amounting in aggregate to less than £1,500;
- (b) proposed expenditure in connection with the breeding or keeping of pigs where that expenditure is in respect of any work, facility or transaction of a kind specified in paragraph 1(b), 6(b), 7(a), 8 or 9(a) or (b) in column 1 of Schedule 1 unless the application for approval of the plan which includes that expenditure is received before 1st January 1991 and that Minister is satisfied—

- (i) that the effect of the expenditure will not be to provide for an increase of more than 300 pig places on the land occupied for the purposes of the agricultural business to which the plan relates;
- (ii) that after completion of the work, facility or transaction, the number of pig places on that land will not exceed 800; and
- (iii) that the plan provides that on its completion not less than 35 per cent. of the feeding stuffs required for the pigs kept on the land occupied for the purposes of the agricultural business to which the plan relates can be produced from that land;
- (c) proposed expenditure in connection with the keeping or breeding of poultry or the production of eggs;
- (d) proposed expenditure in connection with the breeding or keeping of dairy cows unless that Minister is satisfied that the effect of such expenditure will not be to exceed the reference quantity, increased where appropriate by the additional reference quantity, determined in accordance with Council Regulation (EEC) No. 857/84<sup>(9)</sup> adopting general rules for the application of the levy referred to in Article 5c of Council Regulation (EEC) No. 804/68<sup>(10)</sup> in the milk and milk products sector, and—
  - (i) that such expenditure will not make possible an increase in the number of dairy cows kept on the land occupied for the purposes of the agricultural business to which the plan relates on completion of the plan to more than 40 dairy cows per labour unit reasonably required for that business under the system of production then existing up to a maximum of 1.5 labour units, or
  - (ii) in the case of an agricultural business which in the opinion of that Minister reasonably requires more than 1.5 labour units under the existing system of production and in the carrying on of which dairy cows were kept at the date of submission of the plan, or of the variation thereto, for approval, that such expenditure will not make possible an increase of more than 15 per cent. in the number of dairy cows so kept at that date;
- (e) proposed expenditure amounting in aggregate to more than £74,000 unless the excess expenditure is in respect of any work, facility or transaction of a kind specified in paragraph 5 in column 1 of Schedule 2;
- (f) proposed expenditure which, in the opinion of the appropriate Minister, would in any six-year period exceed the amount permitted in accordance with sub-paragraph (e) above when added to other expenditure—
  - (i) which has been incurred in the six-year period in question, and
  - (ii) which is included in any previous improvement plan, relating to the same agricultural business, approved under these Regulations or the 1985 Regulations or towards which grant is payable or has been paid under the 1985 Scheme or the 1989 Scheme;
- (g) proposed expenditure amounting in aggregate to more than £35,000 for each labour unit which, in the opinion of the appropriate Minister, can reasonably be expected to be required at the completion of the plan unless the excess expenditure is in respect of any work, facility or transaction of a kind specified in paragraph 5 in column 1 of Schedule 2;

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<sup>(9)</sup> OJ No. L90, 1.4.84, p. 13; amended by Council Regulations (EEC) No. 1557/84 (OJ No. L150, 6.6.84, p. 6), 590/85 (OJ No. L68, 8.3.85, p. 1), 1305/85, (OJ No. L137, 27.5.85, p. 12), 2893/85 (OJ No. L278, 18.10.85, p. 9), 1343/86 (OJ No. L119, 8.5.86, p. 34), 1911/86 (OJ No. L165, 21.6.86, p. 6), 2316/86 (OJ No. L202, 25.7.86, p. 3), 774/87 (OJ No. L78, 20.3.87, p.3), 1899/87 (OJ No. L182, 3.7.87, p.39), 1110/88 (OJ No. L110, 29.4.88, p.28).

<sup>(10)</sup> OJ No. L148, 28.6.68, p. 13; Article 5c was inserted by Council Regulation (EEC) No. 856/84 (OJ No. L90, 1.4.84, p. 10) and subsequently amended by Council Regulations (EEC) No. 1298/85 (OJ No. L137, 27.5.85, p. 5), 2893/85, 1335/86 (OJ No. L119, 8.5.86, p. 19), 773/87 (OJ No. L78, 20.3.87, p. 1), 2988/87 (OJ No. L285, 8.10.87, p. 1), 744/88 (OJ No. L78, 23.3.88, p. 1), 1109/88 (OJ No. L110, 29.4.88, p. 27).

- (h) proposed expenditure which, in the opinion of the appropriate Minister, would in any six-year period exceed the amount permitted per labour unit in accordance with subparagraph (g) above when added to other expenditure—
  - (i) which has been incurred in the six-year period in question, and
  - (ii) which is included in any previous improvement plan, relating to the same agricultural business, approved under these Regulations or the 1985 Regulations or towards which grant is payable or has been paid under the 1985 Scheme or the 1989 Scheme.
- (4) An improvement plan shall not be approved under these Regulations if the greater part of the land affected by the plan—
  - (a) has been affected by two previous improvement plans received within the preceding six years and approved under these Regulations or the 1985 Regulations, or
  - (b) is the subject of a current development plan approved under the 1980 Regulations or the 1981 Regulations or a current improvement plan approved under these Regulations or the 1985 Regulations.
- (5) For the purposes of paragraph (3)(f) and (h) above “other expenditure” does not include expenditure incurred in respect of any work, facility or transaction—
  - (a) of a kind specified in paragraph 9 in column 1 of Schedule 1 or paragraph 5 in column 1 of Schedule 1A to the 1985 Scheme;
  - (b) of a kind specified in paragraph 9 in column 1 of Schedule 1 or paragraph 5 in column 1 of Schedule 2 to the 1989 Scheme;
  - (c) of a kind specified in paragraph 5 in column 1 of Schedule 2 to these Regulations;
  - (d) of a kind specified in paragraph 5 in column 1 of Schedule 2 to the 1985 Regulations.
- (6) Where the agricultural business to which the improvement plan relates includes the breeding or keeping of poultry or the production of eggs, work done in carrying on that part of the agricultural business shall be disregarded for the purposes of calculating the number of labour units under paragraph (3)(g) or (h) above.
- (7) The appropriate Minister may make the approval of an improvement plan under these Regulations subject to such conditions as he thinks fit.

### **Closing date for submission of improvement plans**

7. The appropriate Minister shall not approve an improvement plan under these Regulations where the plan is received by him after 31st December 1994 or such later date as that Minister may in special circumstances permit.

### **Variation and withdrawal of improvement plans**

8. The appropriate Minister may, on the written request of the person currently responsible for the carrying on of an agricultural business to which an improvement plan relates, vary or withdraw the approval of that plan where that Minister considers that there are exceptional circumstances warranting such a variation or withdrawal.

### **Improvement grants**

9.—(1) Subject to the provisions of these Regulations, the appropriate Minister may make to any eligible person a grant towards expenditure incurred by him for the purposes of, or in connection with, the carrying on of an eligible agricultural business, being expenditure which—

- (a) has been incurred—

- (i) in respect of any work, facility or transaction of a kind specified in any of paragraphs 1 to 10, 13 and 14 in column 1 of Schedule 1 or, in relation to the Isles of Scilly only, in column 1 of Schedule 2;
  - (ii) on or after 1st December 1989 in respect of any work, facility or transaction of a kind specified in paragraph 11 or 12 in column 1 of Schedule 1; and
- (b) appears to the appropriate Minister to be of a capital nature or to have been incurred in connection with expenditure of a capital nature, and
  - (c) is included in an improvement plan approved under these Regulations for that business and to be the responsibility of that person.

(2) The appropriate Minister may make the payment of grant under paragraph (1) above subject to such conditions as that Minister thinks fit, and any payment of grant under these Regulations may be made at such time as that Minister may determine.

(3) Where it appears to the appropriate Minister that expenditure in respect of which a grant is claimed under paragraph (1) above has been incurred partly for purposes which are eligible for grant under that paragraph and partly for purposes which are not so eligible, that Minister may for the purposes of a grant under that paragraph treat as having been incurred for purposes which are so eligible so much of that expenditure as appears to that Minister to be referable to those eligible purposes.

#### **Amounts of grant under regulation 9(1)**

**10.—(1)** Subject to the provisions of this regulation and regulations 13 and 15, the amount of any grant payable under regulation 9(1) towards expenditure in respect of any work, facility or transaction of a kind specified in any of paragraphs 1 to 12 and 14 in column 1 of Schedule 1 shall be the percentage of that expenditure specified in relation to that work, facility or transaction in column 2 of that Schedule.

(2) Subject to the following provisions of this regulation and regulations 13 and 15, in the case of any such work, facility or transaction which, in the opinion of the appropriate Minister, is for the purposes of, or in connection with, the carrying on of an agricultural business situated in a less-favoured area, or that part of such a business which is so situated, the amount of grant so payable shall be the percentage of that expenditure specified in relation to that work, facility or transaction in column 3 of Schedule 1.

(3) Subject to the provisions of paragraph (4) below and regulations 13 and 15, the amount of any grant payable under regulation 9(1) towards expenditure in respect of any work, facility or transaction of a kind specified in any of paragraphs 1 to 5 in column 1 of Schedule 2 shall be the percentage of that expenditure specified in relation to that work, facility or transaction in column 2 of that Schedule.

(4) In the case of any work, facility or transaction which, in the opinion of the appropriate Minister, is for the purposes of, or in connection with, the carrying on of an agricultural business by—

- (a) a young farmer who fulfils the requirements specified in paragraph (5) below; or
- (b) a partnership in respect of which the requirements specified in paragraph (6) below are fulfilled;

the amount of grant payable under regulation 9(1) shall be the percentage of that expenditure specified in relation to that work, facility or transaction in column 2 or 3 of Schedule 1, or in column 2 of Schedule 2, as appropriate, increased by twenty-five per cent.

(5) The requirements in relation to a young farmer are that he—

- (a) is less than forty years of age on the date on which an improvement plan relating to his agricultural business is submitted to the appropriate Minister;



- (b) is at that date the sole owner or sole tenant of the land on which the agricultural business to which the plan relates is carried on;
  - (c) submits an improvement plan relating to his agricultural business to the appropriate Minister within five years of the date on which he became sole owner or tenant of the land on which the agricultural business to which the plan relates is carried on;
  - (d) has not prior to that date been responsible for carrying on an agricultural business on land in the capacity of sole owner or sole tenant;
  - (e) has not previously been responsible for carrying out an improvement plan under these Regulations or the 1985 Regulations or a development plan under the 1980 Regulations or the 1981 Regulations as an individual carrying on an eligible agricultural business or a person carrying on such a business in partnership or an owner of land occupied for the purposes of such a business; and
  - (f) holds an appropriate certificate relating to the possession of agricultural skill and competence issued by an establishment recognised for that purpose by the appropriate Minister.
- (6) The requirements in relation to a partnership are—
- (a) that a partner in that partnership fulfils the requirements set out in paragraph (5)(a), (e) and (f) above, submits an improvement plan to the appropriate Minister within five years of the date on which he became an owner or tenant of the land on which the agricultural business to which the plan relates is carried on and has not prior to that date been responsible for carrying on an agricultural business on land in the capacity of sole owner or sole tenant;
  - (b) that all other partners in the partnership fulfil the requirement of paragraph (5)(a) above in relation to the partnership business, except that this requirement shall not apply to a limited partner under the terms of a limited partnership agreement who takes no part in the management of the partnership business.
- (7) Where it appears to the appropriate Minister that expenditure towards which grant is payable under regulation 9(1) has been incurred for the purposes of, or in connection with, the carrying on of an agricultural business situated partly in a less-favoured area, the appropriate Minister may for the purpose of determining the amount of grant so payable towards that expenditure treat as having been incurred for, or in connection with, that part of the business situated in the less-favoured area so much of that expenditure as appears to that Minister to be referable to the carrying on of that part of the business.
- (8) Subject to paragraph (9) below, the amount of any grant payable under regulation 9(1) towards expenditure in respect of the carrying out or provision of any work, facility or transaction (including conservation or amenity works) which is not of a kind specified in any of paragraphs 1 to 12 in column 1 of Schedule 1 but is incidental to, or necessary or proper in, the carrying out or provision of any other work, facility or transaction which is of a kind so specified or for securing the full benefit thereof shall be calculated at the rate of grant appropriate to that other work, facility or transaction in accordance with the provisions of this regulation.
- (9) Subject to the provisions of regulations 13 and 15, in the case of expenditure incurred in relation to the Isles of Scilly in respect of any work, facility or transaction of a kind specified in column 1 of both Schedule 1 and Schedule 2, the amount of any grant payable under regulation 9(1) shall be the percentage of that expenditure specified in relation to that work, facility or transaction in column 2 of Schedule 2, and paragraph (8) above shall not apply.

## Accounts

**11.—**(1) The accounts referred to in regulation 3(1)(a) are accounts relating to an agricultural business to which an approved improvement plan relates, and the keeping of those accounts shall comprise—

- (a) the recording of the revenue and expenditure of the business, with supporting documents, and
  - (b) the drawing up of an annual balance sheet of the assets and liabilities of the business.
- (2) The person currently responsible for the carrying on of an agricultural business to which an approved improvement plan relates shall furnish to the appropriate Minister such copies of the accounts specified in paragraph (1)(a) and (b) above as that Minister may require.

### **Claims for grant and closing dates for incurring certain expenditure**

**12.**—(1) Subject to paragraph (2) below, any claim for a grant under these Regulations shall be made in such form and manner and at such time as the appropriate Minister may from time to time require, and the claimant for grant shall furnish all such particulars and information relating to the claim and copies of such documents and records relating thereto as that Minister may require.

- (2) The appropriate Minister shall not pay grant under these Regulations in respect of—
- (a) any work, facility or transaction of a kind specified in paragraph 10 in column 1 of Schedule 1 unless the claim for grant is received by him on or before 31st March 1994;
  - (b) any work, facility or transaction of a kind specified in paragraph 11 or 12 in column 1 of Schedule 1 unless the claim for grant is received by him on or before 31st December 1993;
  - (c) any work, facility or transaction of a kind specified in any of paragraphs 1 to 5 in column 1 of Schedule 2 unless the claim for grant is received by him on or before 16th November 1994.
- (3) The appropriate Minister shall not pay grant under these Regulations in relation to any expenditure—
- (a) incurred on or after 1st January 1994 in respect of any work, facility or transaction of a kind specified in paragraph 10 in column 1 of Schedule 1;
  - (b) incurred on or after 17th November 1993 in respect of any work, facility or transaction of a kind specified in any of paragraphs 1 to 5 in column 1 of Schedule 2.

### **Standard costs**

**13.** In such cases, and subject to such conditions, as the appropriate Minister may from time to time determine, the cost of any work, facility or transaction or the amount of any other cost or expenditure, shall, if the claimant so elects, be taken for the purpose of determining the amount of any grant payable under these Regulations as such standard cost or amount as that Minister may from time to time fix with the approval of the Treasury.

### **Reference income**

**14.** For the purposes of these Regulations the appropriate Minister shall determine in respect of each calendar year—

- (a) a reference income per labour unit, which shall not exceed the average earnings of full-time workers in occupations other than agriculture;
- (b) a percentage increase in the reference income, having regard to the average annual increase during the preceding five years in the earnings of full-time workers in occupations other than agriculture after adjustment for changes in retail prices.

### **Reduction or withholding of grant**

**15.**—(1) The appropriate Minister may reduce or withhold any grant payable under these Regulations in any case where—

- (a) assistance in respect of expenditure towards which such grant is claimed has been or may be given otherwise than under these Regulations, or
  - (b) the carrying out or provision of the work, facility or transaction towards the expenditure on which such grant is claimed appears to that Minister to frustrate the purposes served by assistance previously given out of money provided by Parliament or the European Economic Community, or
  - (c) he considers that the expenditure towards which such grant is claimed is excessive having regard to the work, facility or transaction carried out or provided to which the claim relates; or
  - (d) the carrying out of the work, facility or transaction towards the expenditure on which such grant is claimed has been effected in a way which appears to that Minister to have destroyed or damaged the natural beauty and amenity of the countryside to an extent which cannot be justified by any resulting agricultural benefit.
- (2) Before reducing or withholding any grant under the provisions of paragraph (1)(c) or (d) above the appropriate Minister shall—
- (a) give to any person whose grant it is proposed to reduce or withhold a written notification of the reasons for the action proposed to be taken by that Minister; and
  - (b) afford that person an opportunity of appearing before and being heard by a person appointed for the purpose by the appropriate Minister, and
  - (c) consider the report by a person so appointed and supply a copy of the report to the person mentioned in sub-paragraph (a) above.

#### **Revocation of approval and recovery of grant**

**16.** If at any time after the appropriate Minister has approved an improvement plan or paid a grant under these Regulations it appears to that Minister—

- (a) that any condition subject to which the approval was given or the grant has been paid has not been complied with, or
  - (b) that any work, facility or transaction in respect of expenditure on which a grant has been paid has been badly done or provided, or
  - (c) that the person by whom the application for approval of the improvement plan or for the payment of grant 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,
- that Minister may revoke the approval, in whole or in part, and, where any payment has been made, may recover on demand an amount equal to the payment which has been so made or such part thereof as that Minister may specify; but before revoking an approval or making a demand under the preceding provisions of this regulation that Minister shall—
- (i) give to any person to whom any payment by way of such 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 that Minister, and
  - (ii) afford that person an opportunity of appearing before and being heard by a person appointed for the purpose by the appropriate Minister, and
  - (iii) consider the report by a person so appointed and supply a copy of the report to the person mentioned in sub-paragraph (i) above.

### **False statements**

17. If any person, for the purposes of obtaining for himself or any other person any grant under these Regulations, 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.

### **Rights of entry**

18. For the purposes of these Regulations and, in particular, for the purpose of securing that grants under these Regulations are made in proper cases only, any person duly authorised in that behalf by the appropriate Minister may, upon production if so required of his appointment or authority, at all reasonable times enter upon and inspect any land, and inspect any premises, plant or equipment in respect of which grant under these Regulations has been made or claimed.

### **Amendment of the 1985 Regulations**

19. The 1985 Regulations shall be amended—

- (a) by inserting in regulation 7 thereof (closing dates for submission of improvement plans)—
  - (i) in paragraph (3)(a) after the words “heated glasshouses)” the words “, any work, facility or transaction incidental thereto or necessary or proper in carrying it out or providing it or securing the full benefit thereof or the preparation of an improvement plan”;
  - (ii) in paragraph (3)(b) at the end the words “and the plan is received by the appropriate Minister on or before 19th February 1989”;
- (b) by inserting in regulation 12(2) thereof (closing dates for claims) in sub-paragraph (b) after the words “heated glasshouses)” the words “or any work, facility or transaction incidental thereto or necessary or proper in carrying it out or providing it or securing the full benefit thereof”;
- (c) by substituting in column 1 of Schedule 1 thereto (eligible works, facilities and transactions) for paragraph 9 the following paragraph—

“9. Provision, installation or replacement of heating systems (including boilers) in glasshouses and in durable plastic-clad structures designed and intended for the production of horticultural produce.”.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 17th February 1989.

L.S.

*John MacGregor*  
Minister of Agriculture, Fisheries and Food

19th February 1989

*Sanderson of Bowden*  
Minister of State, Scottish Office

SCHEDULE 1

Regulations 6(3)(b), 9(1) and 10(1), (2), (4), (8) and (9) and 12(2) and (3)

ELIGIBLE WORKS, FACILITIES AND TRANSACTIONS AND RATES OF GRANT

Column 1 Kind of work, facility or transaction	Column 2 Business outside less-favoured area. Rate of grant. Per cent.	Column 3 Business inside less-favoured area. Rate of grant. Per cent.
<b>1.</b> Provision, replacement or improvement of:	40	50
(a) hedges (including hedgerow trees and associated protective fencing), walls and banks (where the walls and banks are built of materials traditional in the locality) and associated gates, stiles and footbridges;		
(b) (b) facilities for the handling, storage and treatment of agricultural effluents and waste (including safety fencing) and fixed disposal facilities for such effluents and waste;	50	50
(c) (c) shelter belts (including trees for shading livestock and associated protective fencing)–	40	50
(i) consisting of 50 per cent. or more broadleaved trees;		
(ii) other shelter belts.	15	50
<b>2.</b> Enclosure of areas of grazed woodland (consisting of 75 per cent. or more broadleaved trees or, in Scotland only, consisting of 75 per cent. or more Scots	40	50

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Column 1 Kind of work, facility or transaction	Column 2 Business outside less-favoured area. Rate of grant. Per cent.	Column 3 Business inside less-favoured area. Rate of grant. Per cent.
pine) with fencing protecting the areas from livestock.		
3. Burning heather or grass or making muirburn or regenerating heather by cutting; bracken control by means other than soil cultivation.	40	50
4. Enclosure of areas of heather moorland or heathland with fencing protecting the areas from livestock.	40	50
5. Repair or reinstatement of vernacular buildings in agricultural use and made of materials traditional in the locality where the repair or reinstatement is carried out using similar materials.	35	35
6. Supply and installation of:	15	25
(a) wind or water powered pumps and generators, solar and other forms of permanent and durable energy-saving agricultural investment (excluding any investment specified in sub-paragraph (b) below);		
(b) permanent thermal insulation, vapour sealing or gas sealing for the control of temperature or atmosphere in buildings designed and intended for agricultural use (excluding glasshouses of a kind specified in paragraph 12 below).	15	25

Column 1 Kind of work, facility or transaction	Column 2 Business outside less-favoured area. Rate of grant. Per cent.	Column 3 Business inside less-favoured area. Rate of grant. Per cent.
7. Provision, replacement, improvement or alteration of:	15	25
(a) fencing (excluding fencing specified in paragraphs 1, 2 and 4 above), shelter screens and walls (where the walls are not built of materials traditional in the locality) and associated gates;		
(b) (b) works and facilities to prevent the flooding of agricultural land by watercourses.	15	25
8. Replacement of field drainage, including underdrainage and ditching and associated moling and subsoiling, but excluding the replacement of drainage on healthland and moorland.	15	25
(a) (a) Reseeding and regeneration of grassland (excluding healthland and moorland), including as part of a complete programme of work the application of lime or fertiliser.	15	25
(b) (b) Application of lime or fertiliser (other than normal husbandry applications) for the benefit of grassland (excluding heathland and moorland).	Nil	25
(a) (a) Replacement of apple orchards (other than apple orchards consisting of trees producing	35	35

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Column 1 Kind of work, facility or transaction	Column 2 Business outside less-favoured area. Rate of grant. Per cent.	Column 3 Business inside less-favoured area. Rate of grant. Per cent.
<p>cider apples) which have been grubbed up after 1st July 1988 by an equal or smaller area of apple orchards consisting of commercial varieties of apple trees and associated trees required for their pollination.</p>		
<p>(b) (b) Replacement of pear orchards (other than pear orchards consisting of trees producing perry pears) which have been grubbed up after 1st July 1988 by an equal or smaller area of pear orchards consisting of commercial varieties of pear trees and associated trees required for their pollination.</p>	35	35
<p><b>11.</b> Provision, installation or replacement of heating systems (including boilers) in glasshouses and in durable plastic-clad structures designed and intended for the production of horticultural produce.</p>	35	35
<p><b>12.</b> Replacement of heated glasshouses (being heated internally by means of permanent installations for the consumption of fuel) by other glasshouses so heated or by heated durable plastic-clad structures designed and intended for the production of horticultural produce; alteration or improvement (including the supply and installation of</p>	40	40



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Column 1 Kind of work, facility or transaction	Column 2 Business outside less-favoured area. Rate of grant. Per cent.	Column 3 Business inside less-favoured area. Rate of grant. Per cent.
permanent thermal insulation) of such heated glasshouses.		
<b>13.</b> Any work, facility or transaction (including conservation or amenity works) incidental to the carrying out of any work, facility or transaction specified in any of paragraphs 1 to 12 above or necessary or proper in carrying it out or providing it or securing the full benefit thereof.	The rate appropriate to that work, facility or transaction in accordance with the provisions of these Regulations.	
<b>14.</b> Preparation of improvement plans.	15	25

SCHEDULE 2

Regulations 6(3( and (5), 9(1), 10(3), (4) and (9) and 12(2) and (3)

ELIGIBLE WORKS, FACILITIES AND TRANSACTIONS  
AND RATES OF GRANT IN THE ISLES OF SCILLY

Column 1 Kind of work, facility or transaction	Column 2 Rate of grant. Per cent.
<b>1.</b> Provision, replacement, improvement or alteration of temperature-controlled stores for the treatment and holding of bulbs and flowers, including plant for the cooling and heating of such stores.	45
<b>2.</b> Application of lime (other than normal husbandry applications) raising the soil pH to 5.5.	30
<b>3.</b> Equipment for the production or preparation for market of horticultural produce, comprising bulb sterilising tanks; specialist soil sterilant incorporation machines; bulb lifters; bulb graders; bulb cleaners; bulb chipping machines; flower sleeving machines; polythene laying equipment; bulb planters and flame cultivators.	30
<b>4.</b> Provision, replacement, improvement or alteration of:	45

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Column 1	Column 2
Kind of work, facility or transaction	Rate of grant. Per cent.
(a) facilities for the storage, supply and distribution of water for agricultural purposes;	
(b) (b) facilities for the supply and distribution of electricity for agricultural purposes.	45
5. Provision, replacement or improvement of shelter hedges (including hedgerow trees and associated protective fencing).	60

## EXPLANATORY NOTE

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

These Regulations implement provisions in Title 1 of Council Regulation (EEC) No. 797/85 (OJ No. L93, 30.3.85, p. 1) on improving the efficiency of agricultural structures, as amended by Council Regulation (EEC) No. 1760/87 (OJ No. L167, 26.6.87, p. 1) and Council Regulation (EEC) No. 1137/88 (OJ No. L108, 29.4.88, p. 1), and Article 1 of Council Directive No. 75/268/EEC (OJ No. L128, 19.5.75, p.1) on mountain and hill farming and farming in certain less-favoured areas, as amended by Council Regulation (EEC) No. 797/85.

The Regulations, which apply to Great Britain, make provision for aid for agricultural businesses in the form of grants in respect of expenditure of a capital nature incurred in pursuance of approved improvement plans (regulation 9). The works, facilities or transactions eligible for grant and the rates of grant applicable to them are set out (regulation 10 and Schedules 1 and 2). Higher rates of grant may be payable for agricultural businesses in the Isles of Scilly (regulation 10(3) and Schedule 2) or in other less-favoured areas (regulation 10(2) and (7) and Schedule 1) or for businesses carried on by young farmers or by partnerships in which young farmers are partners (regulation 10(4) to (6)). Less-favoured areas are defined by reference to designated maps which are available for inspection during normal office hours at the addresses specified in the definition of designated maps (regulation 2(1)). Copies of the maps may be inspected during normal office hours at any Regional or Divisional Office of the Ministry of Agriculture, Fisheries and Food, at any Divisional Office of the Welsh Office Agriculture Department or at any Area Office of the Department of Agriculture and Fisheries for Scotland.

The classes of person and type of agricultural business which may benefit from grant-aid are defined (regulations 3 and 4). To benefit from assistance an applicant must submit an improvement plan for approval by the appropriate Minister (regulation 5). The plan must show that its completion will bring about a lasting and substantial improvement of the situation of the business and its economy, especially the income per labour unit required in carrying on the business (regulation 6(1)).

The Regulations also—

- (a) impose certain restrictions on approval of improvement plans (regulation 6(2) to (7));
- (b) provide for the variation and withdrawal of plans (regulation 8);

- (c) provide for standard costs (regulation 13);
- (d) provide for the reduction or withholding of grant in certain circumstances where it would otherwise be payable (regulation 15) and for the recovery of grant paid (regulation 16);
- (e) create an offence, punishable on summary conviction with a fine not exceeding level 5 on the standard scale (currently £2,000), of knowingly or recklessly making a false statement to obtain grant (regulation 17);
- (f) confer rights of entry (regulation 18);
- (g) set a closing date of 31st December 1994 for receipt of applications for approval of improvement plans (regulation 7);
- (h) set closing dates for receipt of claims for certain grants (regulation 12(2)) and for incurring certain expenditure (regulation 12(3)).

Amendments are also made to the Agriculture Improvement Regulations 1985 being earlier Regulations relating to improving agricultural structures. A closing date of 19th February 1989 is introduced for receipt of applications for the approval of an improvement plan under those Regulations which includes only proposed expenditure in the Isles of Scilly relating to any of the items in Schedule 2 to those Regulations (regulation 19(a)(ii)). The provision, installation or replacement of heating systems in durable plastic-clad structures for horticultural produce is now eligible for grant (regulation 19(c)). Plans submitted for approval including proposed expenditure on such heating systems or glasshouse heating systems or heated glasshouses may now also include expenditure on incidental works and plan preparation charges (regulation 19(a)(i)). A minor amendment is also made to the application of the closing date for certain claims in relation to expenditure on incidental works (regulation 19(b)).