
WELSH STATUTORY INSTRUMENTS

2004 No. 1606 (W.165)

AGRICULTURE, WALES

**The Farm Waste Grant (Nitrate
Vulnerable Zones) (Wales) Scheme 2004**

Made - - - - 23 June 2004
Coming into force - - 30 June 2004

The National Assembly for Wales, acting in relation to Wales, in exercise of the powers conferred by section 29 of the Agriculture Act 1970(1), makes the following Scheme —

Title, application and commencement

1. This Scheme may be cited as the Farm Waste Grant (Nitrate Vulnerable Zones) (Wales) Scheme 2004, shall apply in Wales and shall come into force on the 30 June 2004.

Interpretation

2. In this Scheme —

“agricultural business” (*“busnes amaethyddol”*) means an agricultural business which is at least partly carried out on land situated in a nitrate vulnerable zone;

“slurry” (*“slyri”*) has the same meaning as in Regulation 2 of the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations 1991(2);

“nitrate vulnerable zone” (*“parth perygl nitradau”*) means any area designated as a nitrate vulnerable zone by paragraph 3B of the Protection of Nitrate Pollution (England and Wales) Regulations 1996(3).

Payment and amount of grants

3.—(1) Subject to the following provisions of this Scheme, the National Assembly for Wales may make to any person one or more grants representing 40 per cent of the expenditure to be incurred by him for the purposes of or in connection with the carrying on of an agricultural business, being expenditure incurred after 29 June 2004 but before 31 October 2005 and which —

(1) 1970 c. 40. See section 28 for a definition of “the appropriate authority”. Under the National Assembly for Wales Transfer of Functions (Wales) Order 1999, S.I.1999/672, article 2 (a) and Schedule 1, the functions of the Secretary of State for Wales under section 29 of the Agriculture Act, were transferred to the National Assembly for Wales.
(2) S.I. 1991/324, as amended by S.I 1991/324.
(3) S.I. 1996/888.

- (a) is incurred in respect of —
 - (i) the provision, replacement or improvement of —
 - (aa) facilities (including safety fencing) for the handling and storage of manure, slurry and silage effluent;
 - (bb) fixed disposal activities for slurry and silage effluent, or
 - (cc) facilities (other than roofing) for the separation of clean and dirty water, where those facilities reduce the need to store slurry; or
 - (ii) any work, facility or transaction (including conservation or amenity works) incidental to any matter in respect of which a grant may be made under the foregoing provisions of this paragraph;
- (b) appears to the National Assembly for Wales be of a capital nature or incurred in connection with expenditure of a capital nature;
- (c) is approved by the National Assembly for Wales for the purposes of a grant under this Scheme; and
- (d) does not in aggregate exceed £85,000.

(2) Where it appears to the National Assembly for Wales that expenditure, in respect of which an application is made for a grant under sub-paragraph (1), is to be incurred partly for the purposes of or in connection with the carrying on of an agricultural business and partly for other purposes it may treat as being incurred for the purposes of or in connection with the carrying on of an agricultural business so much of that expenditure as appears to it to be referable to the carrying on of that agricultural business.

Financial Limits

4.—(1) If, in view of the total number of applications for grant already approved or received, the National Assembly for Wales is at any time of the opinion that the financial resources which are available for payment of grant under this Scheme during any period are insufficient to satisfy any payment during the period which would result from the approval of any further application, it may, in respect of any application received at the date of its decision but not yet accepted, or any application it may receive during the relevant period —

- (a) suspend further consideration of any such application until such time as may subsequently be specified by it; or
 - (b) reject any such application without further consideration.
- (2) Notice of —
- (a) a decision —
 - (i) to suspend consideration of any application under sub-paragraph (1)(a), or
 - (ii) to reject any application without further consideration under sub-paragraph (1)(b); or
 - (b) of the termination of the relevant period, shall be published in The London Gazette.

(3) In sub-paragraphs (1) and (2), “the relevant period” means the period beginning with the day after the date of the decision of the National Assembly for Wales referred to in sub-paragraph (1), or any subsequent date specified by it in a notice under sub-paragraph (2)(a), and ending with such date as may be specified by it in a notice under sub-paragraph (2)(b).

Restrictions on the making of grants

5. The National Assembly for Wales shall not make a grant under sub-paragraph (1) of paragraph 3 —

- (a) in respect of any agricultural business which is not at least partly carried out on land situated in a nitrate vulnerable zone;
- (b) unless it is satisfied that the expenditure towards which the grant is to be made will result in some environmental benefit accruing to the nitrate vulnerable zone concerned;
- (c) unless the requirements of Article 5 of Council Regulation (EC) No. 1257/1999⁽⁴⁾ are satisfied;
- (d) if the objective of the expenditure, in respect of which an application for grant is made, is an increase in production for which no normal market outlets can be found; or
- (e) where the whole or part of such grant would duplicate assistance provided or to be provided out of monies by—
 - (i) the European Community;
 - (ii) Parliament; or
 - (iii) a body exercising public functions within the United Kingdom.

Application for grant

6.—(1) Any application for a grant under this Scheme shall be made in such form and manner and by such date as the National Assembly for Wales shall determine, and an applicant shall provide all such particulars and information relating to the application as the National Assembly for Wales may reasonably require, including, where specified by it, relevant documents and records.

(2) The National Assembly for Wales shall inform an applicant in writing whether the application is approved or not and, if it is not approved, shall give the reasons.

Revocation and transitional provisions

7.—(1) The Farm Waste Grant (Nitrate Vulnerable Zones) (Wales) Scheme 2001⁽⁵⁾ (which is superseded by this instrument) is revoked.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998⁽⁶⁾.

23 June 2004

D. Elis-Thomas
The Presiding Officer of the National Assembly

⁽⁴⁾ OJ No. L160, 26.6.1999, p.80.

⁽⁵⁾ S.I. 2001/3709.

⁽⁶⁾ 1998 c. 38.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Scheme)

This Scheme, which applies to Wales only, complies with Council Regulation (EC) No. 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund and, in particular, Articles 4 to 7 which deal with investment in agricultural holdings.

It makes provision for the making of grants in respect of agricultural businesses which are situated in nitrate vulnerable zones, as defined by paragraph 4 of the Schedule to the Protection of Water against Agricultural Nitrate Pollution (Amendment) (Wales) Regulations 2002. The provisions in this Regulation are similar to those contained in the Farm Waste Grant (Nitrate Vulnerable Zones) (England and Wales) Scheme 1996, save that the criteria for the eligibility of agricultural businesses has changed so that the only agricultural businesses now eligible for a grant are those situated within the Nitrate Vulnerable Zones designated by the Protection of Water against Nitrate Pollution (Amendment) (Wales) Regulations 2002.

The grant is available at the rate of 40% towards expenditure (up to a maximum of £85,000) incurred by the agricultural business between the date of coming into force of the Scheme on 30 June 2004 and 31 October 2005 in relation to facilities for the handling, storage and disposal of certain farm wastes and the separation of clean and dirty water (paragraph 3).

Provision is made by paragraph 4 of the Scheme for the consideration of applications during a period to be suspended or rejected if there are insufficient financial resources for the payment of grants under the Scheme.

A number of restrictions are imposed on the making of grants under the Scheme (paragraph 5).

The procedure for claiming a grant is determined by the National Assembly for Wales (paragraph 6).

The Farm Waste Grant (Nitrate Vulnerable Zones) (Wales) Scheme 2001 is revoked.

A Regulatory Appraisal has been prepared for this Order and placed in the library of the National Assembly for Wales. Copies can be obtained from the Food and Farming Development Division, Welsh Assembly Government, Cathays Park, Cardiff, CF10 3NQ.