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STATUTORY INSTRUMENTS

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**1989 No. 128**

**The Farm and Conservation Grant Scheme 1989**

**Citation, commencement and extent**

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

(2) This Scheme shall apply to Great Britain.

**Interpretation**

2.—(1) In this Scheme, 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;

“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;

“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;

“excluded contractor” means a contractor other than a contractor who has entered into a written agreement with the occupier of the land on which is carried on the agricultural business in relation to which a claim for grant is made under this Scheme where that agreement is expressed

to continue in force for a period which is not less than seven years from the day immediately preceding the day on which the claim is submitted;

“the Farm and Conservation Grant Regulations” means any regulations, other than the 1985 Regulations, made under section 2(2) of the European Communities Act 1972<sup>(1)</sup> implementing provisions in Title I of Council Regulation (EEC) No. 797/85<sup>(2)</sup> on improving the efficiency of agricultural structures and Article 1 of Council Directive No. 75/268/EEC<sup>(3)</sup> on mountain and hill farming and farming in certain less-favoured areas;

“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 an excluded contractor 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<sup>(4)</sup>, 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;

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(1) 1972 c. 68.

(2) OJ No. L93, 30.3.85, p.1, amended by Council Regulations (EEC) No. 1760/87 (OJ No. L167, 26.6.87, p.1), 1137/88 (OJ No. L108, 29.4.88, p.1).

(3) OJ No. L128, 19.5.75, p.1, amended by Council Regulation (EEC) No. 797/85.

(4) Article 2 was amended by Council Directive No. 80/666/EEC (OJ No. L180, 14.7.80, p.34).

“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(5);

“the 1981 Regulations” means the Farm and Horticulture Development Regulations 1981(6);

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

“the 1985 Scheme” means the Agriculture Improvement Scheme 1985(8).

(2) Unless the context otherwise requires, any reference in this Scheme to a numbered paragraph or Schedule shall be construed as a reference to the paragraph or Schedule bearing that number in this Scheme.

### **Payment of grants**

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

(a) has been incurred—

(i) on or after 20th February 1989 in respect of any work, facility or transaction of a kind specified in any of paragraphs 1 to 6 and 10 in column 1 of Schedule 1;

(ii) on or after 20th February 1989 in relation to Scotland only in respect of any work, facility or transaction of a kind specified in paragraph 9 in column 1 of Schedule 1;

(iii) on or after 20th February 1989 in relation to the Isles of Scilly only in respect of any work, facility or transaction of a kind specified in column 1 of Schedule 2;

(iv) on or after 1st December 1989 in respect of any work, facility or transaction of a kind specified in paragraph 7 or 8 in column 1 of Schedule 1;

(b) appears to that Minister to be of a capital nature or incurred in connection with expenditure of a capital nature; and

(c) is approved by that Minister for the purposes of a grant under this Scheme.

(2) The appropriate Minister may make the payment of grant under sub-paragraph (1) above subject to such conditions as that Minister thinks fit, and any payment of such grant 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 sub-paragraph (1) above has been incurred partly for the purposes of, or in connection with, the carrying on of an agricultural business and partly for non-agricultural purposes, that Minister may for the purposes of a grant under the said sub-paragraph (1) treat as having been incurred for the purposes of, or in connection with, the carrying on of an agricultural business so much of that expenditure as appears to that Minister to be referable to the carrying on of that agricultural business.

### **Restrictions on payment of grant**

4.—(1) The appropriate Minister shall not pay grant under paragraph 3(1) in relation to any expenditure—

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(5) S.I.1980/1298, amended by S.I. 1981/1708, 1983/508, 924, 1763, 1984/618, 1922, 1985/1205.

(6) S.I. 1981/1707, amended by S.I. 1983/507, 925, 1762, 1984/620, 1924, 1985/1266, 1986/1295.

(7) 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.

(8) S.I. 1985/1029, varied 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.

- (a) if at the time the expenditure was incurred the agricultural business in relation to which the expenditure was incurred was the subject of a development plan approved under the 1980 Regulations or the 1981 Regulations or of an improvement plan approved under the 1980 Regulations and subsisting at that time;
  - (b) 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) in column 1 of Schedule 1 which entails an increase in production;
  - (c) in connection with the breeding or keeping of poultry or the production of eggs except where that expenditure is in respect of any work, facility or transaction which is of a kind specified in any of paragraphs 1 to 5 in column 1 of Schedule 1 and which does not entail an increase in production;
  - (d) in connection with the breeding or keeping of dairy cows unless it appears to that Minister that the effect of the work, facility or transaction in respect of which that expenditure has been incurred is not 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;
  - (e) in connection with any work, facility or transaction of a kind specified in paragraph 5 in column 1 of Schedule 1 unless that Minister is satisfied that the person through whom the business is carried on practises farming as his main occupation, in that not less than half of his annual income, calculated in accordance with the provisions of sub-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;
  - (f) in connection with any work, facility or transaction of a kind specified in paragraph 1(b) or (c) or 5 in column 1 of Schedule 1 unless written notification of the work, facility or transaction was given to the appropriate Minister in such form as he may require and that notification was acknowledged by him before the expenditure was incurred.
- (2) For the purposes of sub-paragraph (1)(e) above a person's annual income shall be calculated by reference to the financial year immediately preceding the day on which the claim for grant 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 at the date on which a claim for grant under paragraph 3(1) is received by the appropriate Minister—
- (a) the amount of the expenditure, other than expenditure incurred in respect of any work, facility or transaction of a kind specified in paragraph 5 in column 1 of Schedule 2, which is included in the claim (hereinafter in this paragraph referred to as “the present claim”) and towards which grant is payable, or
  - (b) the aggregate of the amount of that expenditure and any other relevant expenditure towards which grant is payable or has been paid in respect of the same agricultural business, whether under this Scheme or otherwise, as the result of a claim received during the period of six years ending with the date of receipt of the present claim,

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(9) 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).

(10) 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).

exceeds £35,000 per labour unit reasonably required in the carrying on of the agricultural business to which the present claim relates or £74,000 for the business, that Minister shall not pay grant towards so much of that expenditure or, as the case may be, that aggregate as exceeds those figures.

(4) Where the agricultural business to which the present claim under paragraph 3(1) 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 under sub-paragraph (3) above the number of labour units reasonably required in the carrying on of the agricultural business, except where the present claim is in respect of any work, facility or transaction of a kind specified in any of paragraphs 1 to 5 in column 1 of Schedule 1.

(5) In this paragraph—

“expenditure” does not include expenditure incurred in respect of any work, facility or transaction of a kind specified in paragraph 9 in column 1 of Schedule 1;

“other relevant expenditure” means expenditure which is included in any previous improvement plan approved under the 1980 Regulations or towards which grant is payable or has been paid under this Scheme or the 1985 Scheme, but does not include expenditure incurred in respect of any work, facility or transaction of a kind specified in paragraph 9 in column 1 of Schedule 1 to this Scheme or to the 1985 Scheme or expenditure incurred in respect of the provision, replacement or improvement of shelter hedges (including hedgerow trees and associated protective fencing).

### **Amounts of grant**

5.—(1) Subject to the provisions of this paragraph and paragraphs 8 and 9, the amount of any grant payable under paragraph 3(1) towards expenditure in respect of any work, facility or transaction of a kind specified in any of paragraphs 1 to 9 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 paragraph and paragraphs 8 and 9, 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 or that part thereof situated in a less-favoured area, 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) Where it appears to the appropriate Minister that expenditure towards which grant is payable under paragraph 3(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.

(4) Subject to sub-paragraph (6) below, the amount of any grant payable under paragraph 3(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 9 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 paragraph.

(5) Subject to the provisions of paragraphs 8 and 9, the amount of any grant payable under paragraph 3(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.

(6) Subject to the provisions of paragraphs 8 and 9, 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 paragraph 3(1) shall be the percentage of that expenditure specified in relation to that work, facility or transaction in column 2 of Schedule 2, and sub-paragraph (4) above shall not apply.

### **Claims for grant**

6. Any claim for a grant under this Scheme 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.

### **Closing dates for claims and incurring certain expenditure**

7.—(1) Subject to paragraph (2) below, the appropriate Minister shall not pay any grant under this Scheme unless the claim for grant is received by him on or before 19th February 1996.

- (2) The appropriate Minister shall not pay any grant under this Scheme in respect of—
- (a) any work, facility or transaction of a kind specified in paragraph 6 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 7 or 8 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 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 this Scheme 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 6 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**

8. 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 this Scheme as such standard cost or amount as that Minister may from time to time fix with the approval of the Treasury.

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

9.—(1) The appropriate Minister may reduce or withhold any grant payable under this Scheme 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 this Scheme, 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 sub-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 paragraph (a) above.

### **Variation of the 1985 Scheme**

- 10.**—(1) The 1985 Scheme shall be varied in accordance with sub-paragraphs (2) to (4) below.
- (2) In paragraph 7 thereof (closing dates for claims)—
- (a) in sub-paragraph (b) there shall be inserted after the words “glasshouse heating systems)” 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”;
  - (b) in sub-paragraph (bA) there shall be substituted for the date “16th November 1994” the date “30th November 1989”;
  - (c) in sub-paragraph (bB) there shall be inserted after the words “in Scotland)” 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”.
- (3) In paragraph 7A thereof (closing dates for incurring expenditure)—
- (a) in sub-paragraph (a) there shall be inserted at the end 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”;
  - (b) in sub-paragraph (b) there shall be inserted after the words “Schedule 1” 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) in sub-paragraph (c) there shall be substituted for the date “16th November 1993” the date “19th February 1989”.
- (4) In Schedule 1 thereto in column 1 (eligible works, facilities and transactions) there shall be substituted for paragraph 6 the following paragraph—
- “**6.** 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.”.

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

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In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 27th January 1989.

L.S.

*Trumpington*  
Parliamentary Secretary, Ministry of Agriculture,  
Fisheries and Food

30th January 1989

*Sanderson of Bowden*  
Minister of State, Scottish Office

27th January 1989

*Peter Walker*  
Secretary of State for Wales

We approve,

31st January 1989

*David Maclean*  
*David Lightbown*  
Two of the Lords Commissioners of Her  
Majesty's Treasury