

## 1988 No. 321

## AGRICULTURE

**The Farm Business (Non-Capital Grant Scheme)  
Order (Northern Ireland) 1988**

*Made* . . . . . 7th September 1988

*Coming into operation* . . . . . 1st October 1988

The Department of Agriculture, in exercise of the powers conferred on it by Article 3(1) and (2) of the Farm Businesses (Northern Ireland) Order 1988(a) and of every other power enabling it in that behalf, with the approval of the Department of Finance and Personnel, hereby makes the following Order:—

*Citation and commencement*

1. This Order may be cited as the Farm Business (Non-Capital Grant Scheme) Order (Northern Ireland) 1988 and shall come into operation on 1st October 1988.

*The Farm Business Non-Capital Grant Scheme (Northern Ireland) 1988*

2. The Department hereby makes the Farm Business Non-Capital Grant Scheme (Northern Ireland) 1988 set out in the Schedule:

Sealed with the Official Seal of the Department of Agriculture on 7th September 1988.

(L.S.)

*L. Sinclair*

Assistant Secretary

The Department of Finance and Personnel hereby approves the foregoing Order.

Sealed with the Official Seal of the Department of Finance and Personnel on 7th September 1988.

(L.S.)

*J. O. M. Frame*

Assistant Secretary

**Farm Business Non-Capital Grant Scheme (Northern Ireland) 1988***Interpretation*

## 1. In this Scheme —

“approved” means approved by the Department;

“company” means a company as defined in Article 3(1) of the Companies (Northern Ireland) Order 1986(a) or a company as defined in section 735(1) of the Companies Act 1985(b);

“co-operative” means a registered society as defined in section 101(1) of the Industrial and Provident Societies Act (Northern Ireland) 1969(c) or a registered society as defined in section 74 of the Industrial and Provident Societies Act 1965(d);

“designated map” means the map marked “map of the less-favoured farming areas in Northern Ireland” dated 4th April 1984, signed by the Secretary of State and deposited at the offices of the Department at Dundonald House, Upper Newtownards Road, Belfast, BT4 3SB;

“eligible group” has the meaning assigned to that expression in Article 3;

“eligible person” has the meaning assigned to that expression in Article 2;

“farm-based industry” means—

- (a) the manufacture of craft items and tourist souvenirs;
- (b) food processing and the purification, carbonation and bottling of spring water;
- (c) the processing of timber;
- (d) the processing of agricultural produce for purposes other than human or animal consumption; or
- (e) the repair and renovation of agricultural machinery;

“farm shop” means a shop primarily used for the sale of the produce of the agricultural business of which the shop forms part;

“feasibility study plan” means a plan to study the feasibility of producing a new product on, or supplying a new service from, the land on which the agricultural business or specified farm business is carried on by an eligible person or by each member of an eligible group, by means of—

- (a) establishing a specified farm business or expanding an existing specified farm business; or
- (b) expanding, for purposes connected with the establishment, expansion or carrying on of a specified farm business, an agricultural business;

“food processing” means the application of any process or treatment to agricultural produce for the purposes of human consumption but does not include—

- (a) the cleaning and trimming of raw fruit and vegetables to which no further process or treatment is applied and the packaging of such fruit and vegetables;

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(a) S.I. 1986/1032 (N.I. 6)

(b) 1985 c.6

(c) 1969 c.24 (N.I.)

(d) 1965 c.12

- (b) the slaughter of livestock and the skinning and gutting of animal carcasses;
- (c) any process or treatment applied for the purposes of the manufacture of wine; or
- (d) any process or treatment applied to cows' milk for the purposes of the liquid consumption of that milk or for the purposes of the manufacture of any milk-based drink as defined in regulation 2 of the Milk Regulations (Northern Ireland) 1987(a) and any process or treatment applied to any such milk-based drink;

“less-favoured area” means land which is within the area shaded blue or pink on the designated map;

“livery” means the provision of accommodation and care for horses and ponies;

“marketing plan” means a plan to promote the specified farm business being carried on by an eligible person or by each member of an eligible group or to market, from the land on which the specified farm business is being carried on by an eligible person or by each member of an eligible group, anything produced or supplied in the course of a specified farm business;

“provision of accommodation”, in relation to persons, includes provision of facilities for camping and caravanning;

“specified farm business” means any business of a type specified in the Annex to this Scheme consisting in, or such part of any business as consists in, a business which is carried on by a person who also carries on an agricultural business at the same time and on the same or adjacent land;

“sports” means any game or exercise other than field sports, horse riding and sports involving the use of motor vehicles, firearms or cross-bows.

#### *Eligible persons*

2.—(1) Subject to the provisions of this Article, the following classes of person shall be eligible for grant under this Scheme—

- (a) an individual carrying on an agricultural business if the Department 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) derives more than half of his annual income calculated in accordance with paragraph (2) from that business and any specified farm business; and
  - (ii) spends not less than 1,100 hours per year in agricultural activities relating to that business; and
  - (iii) possesses sufficient agricultural skill and competence, in that he holds an appropriate certificate issued by a teaching establishment recognised for this purpose by the Department or has been engaged in agricultural activities for not less than five years,

and if the individual carrying on that agricultural business submits a feasibility study plan or a marketing plan in accordance with Article 4;

- (b) any person representing a body carrying on an agricultural business if—
  - (i) the Department is satisfied that the main purpose of that business is the pursuit of agriculture and that the farm manager or other person through whom the business is carried on satisfies the requirements as to income, hours spent in agricultural activities and as to agricultural skill and competence, as specified in paragraph (1)(a), and

- (ii) the said person representing the said body submits on behalf of the said body a feasibility study plan or a marketing plan in accordance with Article 4;
  - (c) persons carrying on an agricultural business in partnership if—
    - (i) the Department is satisfied that the farm manager or other person through whom the business is carried on satisfies the requirements as to income, hours spent in agricultural activities and as to agricultural skill and competence as specified in paragraph (1)(a), and
    - (ii) a feasibility study plan or a marketing plan is submitted in accordance with Article 4;
  - (d) the owner of land occupied for the purposes of the pursuit of agriculture who submits a feasibility study plan or a marketing plan relating to such land or adjacent land jointly with one of the kinds of person eligible for grant under sub-paragraph (a), (b) or (c).
- (2) For the purposes of this Article, a person's annual income shall be calculated in each case by reference to such year or years within the three years immediately preceding the day on which the feasibility study plan or the marketing plan is submitted as the Department shall determine, being a year or years which it is satisfied gives or give a fair indication of the normal amount of income of that person and the normal amount of income derived by that person from the agricultural business and any specified farm business.

#### *Eligible groups*

- 3.—(1) Subject to the provisions of paragraph (2) a group shall be eligible for grant under this Scheme provided that—
- (a) it consists of at least three members each carrying on an agricultural business;
  - (b) a minimum of seventy-five per cent of the members are eligible persons at the time when the feasibility study plan or the marketing plan is submitted to the Department for approval in accordance with Article 4;
  - (c) that part, if any, of the membership which is not comprised of eligible persons does not include a company or a co-operative; and
  - (d) a feasibility study plan or a marketing plan is submitted in accordance with Article 4 by a member of the group.
- (2) A group consisting of ten or more members which satisfies the conditions specified in paragraph (1) shall nevertheless not be eligible for grant under this Scheme if each of the members also carries on a business involving food processing or the purification, carbonation and bottling of spring water.

#### *Feasibility study plans and marketing plans*

- 4.—(1) The Department shall not approve proposed expenditure for the purpose of grant under this Scheme unless a feasibility study plan or a marketing plan relating to that expenditure is submitted for the approval of the Department and is approved by it and may make such approval subject to such conditions as it shall determine.
- (2) A feasibility study plan and a marketing plan submitted for approval shall be set out in such form as the Department may from time to time specify and the person or group submitting the plan shall furnish all such particulars and information relating thereto as the Department may specify.
- (3) Without prejudice to paragraph (2), the person or group submitting a feasibility study plan or a marketing plan for approval shall furnish—
- (a) sufficient information to show that that person or group is an eligible person or eligible group;

- (b) details of the establishment, expansion or promoting of the specified farm business or agricultural business to which the plan relates and of any product or service to be marketed in accordance with the plan;
  - (c) an indication of the measures to be taken to achieve the aim of the plan;
  - (d) a statement of the name, qualifications and relevant experience of the person to be employed or contracted to implement the plan;
  - (e) a written statement by the person referred to in sub-paragraph (d) unless that person is an employee of the eligible person or eligible group, of the expenditure, within Article 7(1)(a), to be incurred in carrying out the plan.
- (4) The duration of a marketing plan shall be such period as is specified in the plan, being a period not less than three years from the date of approval of the plan.

*Restrictions on approval of feasibility study plans and marketing plans*

5. The Department shall not approve for the purposes of grant a feasibility study plan or a marketing plan in so far as—

- (a) such a plan includes—
  - (i) proposed expenditure which would in aggregate result in the payment of grant under this Scheme of less than £250 in respect of a feasibility study plan or less than £250 during a period of any one year in respect of a marketing plan;
  - (ii) proposed expenditure in relation to the provision of horses and ponies for hire outside a less-favoured area;
  - (iii) proposed expenditure in relation to any activity in respect of a specified farm business or agricultural business which the eligible person or eligible group has previously carried out and; in particular, in relation to the employment of, or the contracting for the services of, any person to promote a specified farm business or to market a product of, or a service supplied by, a specified farm business where the eligible person or eligible group has previously employed, or contracted for the services of, any person to promote the same specified farm business or to market the same product of, or service supplied by, that specified farm business;
- (b) the person nominated to implement the plan under Article 4(3)(d) is not—
  - (i) a member of an organisation recognised from time to time by the Department for the purposes of this Scheme; or
  - (ii) a suitable person to carry out the plan, in the opinion of the Department, having regard, in particular, to his qualifications and relevant experience;
- (c) the plan which is submitted is a marketing plan and a payment of grant under this Scheme in respect of such a plan has previously been made to the eligible person or eligible group responsible for submitting the plan, or to any person being a member of that eligible group or to any other eligible group of which such a person has been a member, within the period of three years immediately prior to the receipt of the plan by the Department;
- (d) the plan which is submitted is a feasibility study plan, and a payment of grant under this Scheme has previously been made in respect of such a plan in the circumstances and within the period specified in paragraph (c) unless the eligible person or eligible group responsible for submitting the plan has—
  - (i) previously withdrawn from carrying out a feasibility study plan under Article 6(3) and received a payment of grant in accordance with that paragraph, or
  - (ii) previously fully completed the carrying out of such a plan and received a payment of grant in accordance with this Scheme in circumstances where

the person nominated to implement the plan under Article 4(3)(d) has made a declaration in writing to the eligible person or eligible group, at the time of completion of the plan, to the effect that the production of the new product or the supply of the new service to which the plan relates is not feasible;

- (e) the eligible person or eligible group responsible for submitting a feasibility study plan, or any person being a member of that group, or any other eligible group of which such a person has previously been a member, has, within the period of three years immediately prior to the receipt of the plan by the Department, received a payment of grant in respect of such a plan having at any time previously also received a payment of grant in the circumstances specified in paragraph (d)(i) or (ii).

*Variation and withdrawal of feasibility study plans and marketing plans*

6.—(1) For the purposes of this Scheme and in respect of an approved feasibility study plan, the Department may, at any time, upon the written request of the eligible person or eligible group responsible for submitting the plan, permit that person or group to withdraw from carrying out the plan.

(2) Where an eligible person or eligible group has withdrawn from carrying out a feasibility study plan under paragraph (1), the Department shall not make a payment of grant in respect of expenditure incurred in respect of that plan and the eligible person may, at any time, submit a different feasibility plan or the same plan to the Department for approval.

(3) If the eligible person or eligible group responsible for submitting the feasibility study plan submits to the Department a declaration in writing made by the person nominated to implement that plan under Article 4(3)(d) to the effect that the production of the new product or the supply of the new service to which the plan relates will not be feasible and that no further work can usefully be undertaken pursuant to the plan, the Department may permit that person or group to withdraw from carrying out the plan and may make a payment of grant, subject to the provisions of this Scheme, in respect of expenditure which has been incurred at the time of the said declaration.

(4) For the purposes of this Scheme and in respect of an approved marketing plan, the Department—

- (a) may, upon the written request of the eligible person or eligible group responsible for submitting the plan, permit a variation thereto provided that—
- (i) the written request is made simultaneously with the application for payment of grant, in accordance with conditions specified pursuant to Article 10, and is made after the period of one year from the commencement of the plan, and
  - (ii) the additional expenditure, if any, to be incurred as a result of the variation does not exceed the total estimate of expenditure specified, in accordance with Article 4, in respect of the marketing plan originally approved by a percentage rate to be determined by the Department from time to time;
- (b) shall, at any time, upon the written request of the eligible person or eligible group responsible for submitting the plan, permit that person or group to withdraw from carrying out the plan.
- (5) Where an eligible person or eligible group has withdrawn from carrying out a marketing plan under paragraph (4)(b)—
- (a) the Department shall, upon a claim made by that person in accordance with conditions specified pursuant to Article 10, make a payment of grant, subject to the provisions of this Scheme, in respect of expenditure which has been incurred at the time of the withdrawal;

- (b) that person or group may, provided that no payment of grant has been made under sub-paragraph (a), submit a different marketing plan or the same plan to the Department for its approval.

#### *Farm business grants*

7.—(1) Subject to the provisions of this Scheme, the Department may make to any eligible person or eligible group a grant towards expenditure incurred by that person or group being expenditure which—

- (a) has been incurred for the purposes of, or in connection with—
- (i) carrying out a feasibility study plan which has been approved by the Department;
  - (ii) carrying out a marketing plan, which has been approved by the Department, by means of the employment of, or contract for the services of, a person to promote a specified farm business, to market anything produced or supplied in the course of a specified farm business or to design or print material the object of which is to promote a specified farm business or to market any product or service of a specified farm business;
- (b) appears to the Department to be neither expenditure of a capital nature nor expenditure which would fall to be treated for the purposes of Article 16 of the Agriculture and Fisheries (Financial Assistance) (Northern Ireland) Order 1987(a) as incurred in connection with expenditure of a capital nature;
- (c) appears to the Department to be necessary or appropriate for the purposes of an approved feasibility study plan or marketing plan; and
- (d) had not been incurred in connection with any item of expenditure notified to the eligible person or eligible group by the Department at the time of approval of the feasibility study plan or marketing plan as an item of expenditure in respect of which the Department will not make a payment of grant under this Scheme.

(2) The Department may make the payment of grant under paragraph (1) subject to such conditions as it sees fit, and in particular may require that the person currently responsible for the carrying on of the specified farm business or the agricultural business in respect of which the expenditure has been incurred shall furnish to the Department such documents, or copies thereof, relating to the carrying out of a feasibility study plan or marketing plan as the Department may determine at any time not exceeding three years after the completion of such a plan.

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

#### *Amounts of grant*

8.—(1) Subject to the provisions of this Article and Article 11 of the amount of grant payable under Article 7(1) towards expenditure in respect of—

- (a) a feasibility study plan shall be—
- (i) fifty per cent of the expenditure specified in the feasibility study plan or of the actual expenditure incurred in carrying out the plan whichever is less, and
  - (ii) subject to a maximum of £3,000 in respect of an eligible person and £10,000 in respect of an eligible group;

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(a) S.I. 1987/166 (N.I. 1)

(b) the employment of, or a contract for the services of, a person to promote a specified farm business, to market anything produced or supplied in the course of a specified farm business or to design or print material the object of which is to promote a specified farm business or to market any product or service of a specified farm business shall be—

- (i) forty per cent of the expenditure specified in the marketing plan or in any varied plan in respect of the first year thereof, thirty per cent of the expenditure so specified in respect of the second year and twenty per cent of the expenditure specified in respect of the third year, or the equivalent percentages of the expenditure actually incurred in the respective years, whichever is less; and
- (ii) subject to a maximum of £3,000 per annum in respect of an eligible person and £10,000 per annum in respect of an eligible group.

(2) The expenditure referred to in Article 7(1)(a)(ii) in respect of which the Department may make a grant shall be restricted to the salary and National Insurance contributions paid in respect of the employment of any person or the fees paid in respect of a contract for the services of any person.

(3) The Department shall not make a grant in respect of any expenditure which is claimed in respect of any work or service—

- (a) which has been carried out or performed prior to the approval of the feasibility study plan or marketing plan; or
- (b) which has not been carried out or performed at the time of the claim.

#### *Financial limits*

9.—(1) When by reason of the total of applications for approval of plans under Article 4(1), for the purpose of grant under this Scheme, which already have been approved or received, the Department is at any time of the opinion that the financial resources which should be made available for payment of grant under this Scheme during any period will be insufficient to satisfy the payments of grant during the same period resulting from the approval of further applications, it may decide—

- (a) that it will not accept any further applications for consideration under this Scheme until a time subsequently specified by the Department;
- (b) that it will cease to approve existing applications.

(2) A decision by the department under paragraph (1) may relate to applications—

- (a) for grant under this Scheme towards expenditure of such a kind as it shall determine; or
- (b) for any grant under this Scheme;

and in the case of a decision not to accept further applications and to specify a time when further applications may be accepted shall be published by notice in the Belfast Gazette.

#### *Claims for grant*

10. Any claims for grant under this Scheme shall be made in such form and manner, at such times and in respect of such periods as the Department 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 the Department may require.

#### *Reduction or withholding of grant*

11.—(1) The Department may reduce or withhold any grant payable under this Scheme where —



- (a) assistance in respect of expenditure towards which such grant is claimed has been given otherwise than under this Scheme, or
  - (b) it considers that the expenditure towards which such grant is claimed is excessive having regard to the work carried out or the services provided, or
  - (c) in respect of a marketing plan, the carrying out of the work or the provision of the services towards the expenditure on which such grant is claimed has been effected in a way which appears to the Department to have destroyed or damaged the natural beauty and amenity of the countryside to an extent which cannot be justified by any resulting benefit to any agricultural business or specified farm business.
- (2) Before reducing or withholding any grant under the provisions of paragraph (1)(b) or (c) which would otherwise have been payable to an eligible person or eligible group, the Department shall—
- (a) give to any such person or group a written notification of the reasons for the action proposed to be taken by the Department,
  - (b) afford that person or group an opportunity of appearing before and being heard by a person appointed for the purpose by the Department, and
  - (c) consider the report by a person so appointed and supply a copy of that report to the person or group mentioned in sub-paragraph (a).

*Revocation of approval and recovery of grant*

12. If at any time after the Department has approved a feasibility study plan or marketing plan or paid a grant under this Scheme it appears to the Department—

- (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 the eligible person or eligible group responsible for submitting the plan or the claim for grant 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,

the Department 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 made or such part thereof as the Department may specify; but before revoking an approval or making a demand under this Article the Department shall—

- (i) give to any eligible person or eligible group to whom or to which any payment of grant would be payable or from whom or from which any such amount would be recoverable a written notification of the reasons for the action proposed to be taken by the Department,
- (ii) afford that person or group an opportunity of appearing before and being heard by a person appointed for the purpose by the Department, and
- (iii) consider the report by a person so appointed and supply a copy of the report to the person or group mentioned in paragraph (i).

ANNEX  
SPECIFIED FARM BUSINESSES

1. Farm-based industry.
2. Farm shops.
3. Direct sale to farm visitors of fruit and vegetables which the visitors pick themselves.
4. Provision of accommodation, food and drink.
5. Provision of facilities for sports and recreation.
6. Provision of educational facilities relating to farming and the countryside and to farm-based industry.
7. Provision of livery.
8. Provision of horses and ponies for hire.
9. Letting of any land or buildings for the purposes of the carrying on of any business of a type specified above.

## EXPLANATORY NOTE

*(This note is not part of the Order.)*

The Scheme set out in the Schedule to this Order makes provision for aid for the diversification of agricultural businesses in the form of grant in respect of expenditure of a non-capital nature incurred in pursuance of approved feasibility study plans and marketing plans (Article 7(1)). Such plans must be concerned with the feasibility of producing a new product or supplying a new service from land on which an agricultural business or a specified farm business is carried on, the promotion of a specified farm business, or the marketing of anything produced or supplied in the course of a specified farm business (Article 1). The types of specified farm business to which feasibility study plans and marketing plans may relate are specified in the Annex to the Scheme.

The kinds of expenditure eligible for grant, the rates of grant and grant ceilings are set out (Articles 7 and 8). Grant in relation to the provision of horses and ponies for hire is only available in less-favoured areas (Article 5(a)(ii)). Less-favoured areas are defined by reference to a designated map which is available for inspection during normal office hours at the address specified in the definition of designated map (Article 1). Copies of the map may also be inspected during normal office hours at any County Agricultural Executive Office or selected Area offices of the Department of Agriculture.

The classes of person and group which may benefit from grant are defined (Articles 2 and 3). To benefit from assistance, an applicant must submit a feasibility study plan or a marketing plan for approval by the Department of Agriculture (Article 4).

The Scheme also—

- (a) imposes certain restrictions on approval of feasibility study plans and marketing plans (Article 5);
- (b) provides for the variation and withdrawal of plans (Article 6);
- (c) enables the Department of Agriculture, having regard to the financial resources which should be made available, to cease to approve existing applications and to refuse to accept any further applications for approval until such time as it may determine (Article 9);
- (d) provides for the reduction or withholding of grant in certain circumstances where it would otherwise be payable (Article 11) and for the revocation of the approval of a plan by the Department of Agriculture and the recovery of grant paid (Article 12).