

1989 No. 38

AGRICULTURE

HORTICULTURE

**Farm and Conservation Grant Scheme
(Northern Ireland) 1989**

Made 13th February 1989

Coming into operation 20th February 1989

The Department of Agriculture in exercise of the powers conferred on it by Article 16(1) and (2) of the Agriculture and Fisheries (Financial Assistance) (Northern Ireland) Order 1987(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 Scheme:

Citation and commencement

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

Interpretation

2. In this Scheme—

“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;

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

“the Council Regulation” means Council Regulation (EEC) No. 1942/81 for the stimulation of agricultural development in the less-favoured areas of Northern Ireland(b) as amended by Council Regulation (EEC) No. 3156/87(c);

“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 map” means the map marked “map of 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;

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

(b) O.J. No. L197, 20.7.81, p. 17

(c) O.J. No. L301, 24.10.87, p. 1

“development plan” means a development plan approved under the Agriculture and Horticulture Regulations 1980(a), the Farm and Horticulture Development Regulations 1981(b), the Agriculture and Horticulture Development Regulations (Northern Ireland) 1987(c), or the Farm and Horticulture Development Regulations (Northern Ireland) 1987(d);

“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;

“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) 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;

“improvement plan” means an improvement plan approved under the Agriculture Improvement Regulations 1985(e), the Agriculture Improvement Regulations (Northern Ireland) 1987(f), or the Farm and Conservation Grant Regulations (Northern Ireland) 1989(g);

(a) S.I. 1980/1298 as amended by S.I. 1981/1708, 1983/508, 924, 1763, 1984/618, 1922, 1985/1205
 (b) S.I. 1981/1707 as amended by S.I. 1983/507, 925, 1762, 1904/620, 1924, 1985/1266, 1986/1295
 (c) S.R. 1987 No. 154
 (d) S.R. 1987 No. 155
 (e) S.I. 1985/1266 as amended by S.I. 1987/1950, 1988/1201, 1982, 2065
 (f) S.R. 1987 No. 156 as amended by S.R. 1987 No. 452, S.R. 1988 No. 265 and S.R. 1988 No. 412
 (g) S.R. 1989 No. 39

“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 Department 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(a), and

(b) which is, in the opinion of the Department, 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 Department, restricted in its range by, or by any combination of, soil, relief, aspect or climate,

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

“the Order” means the Agriculture and Fisheries (Financial Assistance) (Northern Ireland) Order 1987;

“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 1987 Scheme” means the Agriculture Improvement Scheme (Northern Ireland) 1987(b);

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954(c).

Payment of grants

3.—(1) Subject to the provisions of this Scheme, the Department may make to any person a grant towards expenditure incurred by him for the purposes of, or in connection with, the carrying on of any 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 9 in column 1 of the Schedule;

(ii) 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 the Schedule;

(a) O.J. No. L128, 19.5.75, p. 1; Article 2 was amended by Council Directive No. 80/666/EEC (O.J. No. L180, 14.7.80, p. 34)

(b) S.R. 1987 No. 157 as amended by S.R. 1988 No. 243 and S.R. 1988 No. 413

(c) 1954 c. 33 (N.I.)

- (b) appears to the Department to be of a capital nature or incurred in connection with expenditure of a capital nature; and
- (c) is approved by the Department for the purposes of a grant under this Scheme.

(2) Where it appears to the Department that expenditure in respect of which a grant is claimed under paragraph (1) 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, the Department may for the purposes of a grant under that paragraph 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 the Department to relate to the carrying on of that agricultural business.

Restrictions on payment of grant

4.—(1) The Department shall not pay grant under Article 3(1) in relation to any expenditure—

- (a) if at the time the expenditure was incurred the agricultural business in relation to which the expenditure was incurred was the subject of—
 - (i) a development plan or of an improvement plan; or
 - (ii) an improvement plan drawn up or a farm investment schedule approved under or by virtue of the Council Regulation;
- (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 the Schedule 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 the Schedule and which does not entail an increase in production;
- (d) in connection with the breeding or keeping of dairy cows unless it appears to the Department 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(a) adopting general rules for the application of the levy referred to in Article 5c of Council Regulation (EEC) No. 804/68(b) in the milk and milk products sector;

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

(b) O.J. No. L148, 28.6.68, p. 13; Article 5c was inserted by Council Regulation (EEC) No. 856/84 (O.J. No. L90, 1.4.84, p. 10) and subsequently amended by Council Regulations (EEC) No. 1298/85 (O.J. No. L137, 27.5.85, p. 5), 2893/85 (O.J. No. L278, 18.10.85, p. 9), 1335/86 (O.J. No. L119, 8.5.86, p. 19), 773/87 (O.J. No. L78, 20.3.87, p. 1), 2988/87 (O.J. No. L285, 8.10.87, p. 1), 744/88 (O.J. No. L78, 23.3.88, p. 1), 1109/88 (O.J. No. L110, 29.4.88, p. 27)

- (e) in connection with any work, facility or transaction of a kind specified in paragraph 5 in column 1 of the Schedule unless the Department 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 paragraph (2), 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 unless written notification of the work, facility or transaction was given to the Department and that notification was acknowledged by the Department before the expenditure was incurred.

(2) For the purposes of paragraph (1)(e) 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 Department shall determine, being a period which it 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 Article 3(1) is received by the Department—

- (a) the amount of the expenditure which is included in the claim (in this Article 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,

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, the Department 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 for grant under Article 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 paragraph (3) 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 the Schedule.

(5) In this Article "other relevant expenditure" means expenditure which is included in any previous improvement plan or towards which grant is payable or has been paid under this Scheme or the 1987 Scheme.

Amounts of grant

5.—(1) Subject to the provisions of this Article and Articles 8 and 9, the amount of any grant payable under Article 3(1) towards expenditure in respect of any work, facility or transaction of a kind specified in any of paragraphs 1 to 8 in column 1 of the Schedule shall be the percentage of that expenditure

specified in relation to that work, facility or transaction in column 2 of the Schedule.

(2) Subject to the following provisions of this Article and Articles 8 and 9 in the case of any such work, facility or transaction which, in the opinion of the Department, 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 the Schedule.

(3) Where it appears to the Department that expenditure towards which grant is payable under Article 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 Department 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 the Department to relate to the carrying on of that part of the business.

(4) The amount of any grant payable under Article 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 8 in column 1 of the Schedule 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 Article.

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 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.

Closing dates for claims and incurring certain expenditure

7.—(1) Subject to paragraph (2) the Department shall not pay any grant under this Scheme unless the claim for grant is received by the Department on or before 31st January 1996.

(2) The Department 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 the Schedule unless the claim for grant is received by the Department 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 the Schedule unless the claim for grant is received by the Department on or before 31st December 1993;

(3) The Department shall not pay grant under this Scheme in relation to any expenditure 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 the Schedule.

Standard costs

8. In such cases, and subject to such conditions, as the Department 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 the Department may from time to time fix with the approval of the Department of Finance and Personnel.

Reduction or withholding of grant

9.—(1) The Department 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 the Department to frustrate the purposes served by assistance previously given out of money provided by or under any statutory provision or by the European Economic Community, or
- (c) the Department 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 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 agricultural benefit.

(2) Before reducing or withholding any grant under the provisions of paragraph (1)(c) or (d) the Department 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 the Department,
- (b) afford that person 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 the report to the person mentioned in sub-paragraph (a).

Amendment of the 1987 Scheme

10. The 1987 Scheme shall be amended in accordance with Articles 11, 12, 13 and 14.

11. In Article 2 thereof after the definition of “contractor” there shall be inserted the following definition—

“the Council Regulation” means Council Regulation (EEC) No. 1942/81 for the stimulation of agricultural development in the less-favoured areas of Northern Ireland as amended by Council Regulation (EEC) No. 3156/87;”.

12. For Article 7 thereof (closing dates for claims) there shall be substituted the following Article—

“Closing date for claims

7. The Department shall not pay grant under this Scheme in respect of—

- (a) any work facility or transaction which is of a kind specified in paragraph 5 or 6 in column 1 of Schedule 1 (heated glasshouses and glasshouse heating systems) 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 unless the claim for grant is received by the Department on or before 30th November 1989;
- (b) any work, facility or transaction which is of a kind specified in paragraph 1(b) in column 1 of Schedule 1 (agricultural effluent and waste facilities) and the expenditure on which is incurred on or after 29th November 1988 unless the claim for grant is received by the Department on or before 28th February 1989;
- (c) any work, facility or transaction in relation to an agricultural business which on 31st May 1989 is the subject of a current development plan or of a current improvement plan unless the claim for grant is received by the Department within one month of the date of closure of that plan;
- (d) any work, facility or transaction in relation to an agricultural business which on 31st May 1989 is the subject of an improvement plan drawn up or a farm investment schedule approved under or by virtue of the Council Regulation unless the claim for grant is received within one month of the completion of that plan, or, as the case may be, the completion of the works facilities or transactions in that schedule;
- (e) any work, facility or transaction not referred to in paragraph (a), (b), (c) or (d) unless the claim for grant is received by the Department on or before 31st May 1989, or such later date, not later than 30th June 1989, as the Department may in special circumstances permit.’’.

13. In Article 7A thereof (closing date for incurring expenditure) there shall be inserted at the end the following paragraph—

- “(c) on or after 20th February 1989 in relation to any work, facility or transaction incidental to any work, facility or transaction of a kind referred to in paragraph (b) or necessary or proper in carrying it out or providing it or securing the full benefit thereof.’’.

14. In column 1 of Schedule 1 thereto (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 horticulture produce.’’.

Sealed with the Official Seal of the Department of Agriculture on 13th
February 1989.

(L.S.)

L. Sinclair

Assistant Secretary

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

Sealed with the Official Seal of the Department of Finance and Personnel
on 13th February 1989.

(L.S.)

Derek A. Hill

Assistant Secretary

Eligible Works, Facilities and Transactions and Rates of Grant

Column 1	Column 2	Column 3
<i>Kind of work, facility or transaction</i>	<i>Business outside less-favoured area. Rate of grant. Per cent.</i>	<i>Business inside less-favoured area. Rate of grant. Per cent.</i>
<p>1. Provision, replacement or improvement of:</p> <p>(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;</p> <p>(b) facilities (except those specified in subparagraph (c)) for the handling, storage and treatment of agricultural effluents and waste (including safety fencing) and fixed disposal facilities for such effluents and waste;</p> <p>(c) poultry manure stores (excluding those integral with the poultry house), including fixed disposal facilities for agricultural effluents and waste and safety fencing;</p> <p>(d) shelter belts (including trees for shading livestock and associated protective fencing)—</p> <p style="padding-left: 2em;">(i) consisting of 50 per cent. or more broadleaved trees;</p> <p style="padding-left: 2em;">(ii) other shelter belts.</p> <p>2. Enclosure of areas of grazed woodland (consisting of 75 per cent. or more broadleaved trees) with fencing protecting the areas from livestock.</p> <p>3. Burning heather or grass or making muir-burn or regenerating heather by cutting; bracken control by means other than soil cultivation.</p> <p>4. Enclosure of areas of heather moorland and heathland with fencing protecting the areas from livestock.</p>	<p>40</p> <p>50</p> <p>50</p> <p>40</p> <p>15</p> <p>40</p> <p>40</p>	<p>50</p> <p>50</p> <p>50</p> <p>50</p> <p>50</p> <p>50</p> <p>50</p>

Column 1	Column 2	Column 3
<i>Kind of work, facility or transaction</i>	<i>Business outside less-favoured area. Rate of grant. Per cent.</i>	<i>Business inside less-favoured area. Rate of grant. Per cent.</i>
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. (a) Replacement of apple orchards (other than apple orchards consisting of trees producing 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.	25	25
(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.	25	25
7. Provision, installation or replacement of heating systems (including boilers) in glass-houses and in durable plastic-clad structures designed and intended for the production of horticultural produce.	25	25
8. 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 permanent thermal insulation) of such heated glass-houses.	30	30
9. 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 8 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 this Scheme.	

EXPLANATORY NOTE

(This note is not part of the Scheme.)

This Scheme complies with Article 8 of Council Regulation (EEC) No. 797/85 (O.J. No. L93, 30.5.85, p. 1) on improving the efficiency of agricultural structures, as amended by Council Regulation (EEC) No. 1760/87 (O.J. No. L167, 26.6.87, p. 1), and Article 1 of Council Directive No. 75/268/EEC (O.J. 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 Scheme makes provision for aid for agricultural businesses in the form of grants in respect of expenditure of a capital nature incurred in relation to the works, facilities and transactions specified in Column 1 of the Schedule (Article 3). The rates of grant applicable are set out (Article 5 and Columns 2 and 3 of the Schedule). Higher rates of grant may be payable for businesses in less-favoured areas (Article 5(2) and (3) and Column 3 of the Schedule). 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 2). Copies of the map may be inspected during normal office hours at any County Agricultural Executive Office or selected Area Offices of the Department of Agriculture for Northern Ireland.

The Scheme also—

- (a) imposes certain restrictions on the payment of grant (Article 4);
- (b) provides for standard costs (Article 8);
- (c) provides for the reduction or withholding of grant in certain circumstances where it would otherwise be payable (Article 9);
- (d) sets closing dates for claims and a closing date for incurring certain expenditure (Article 7).

Amendments are also made to the Agriculture Improvement Scheme (Northern Ireland) 1987 ("the 1987 Scheme"). A new closing date for receipt of claims under the 1987 Scheme is introduced where on 31st May 1989 the agricultural business to which the claim relates is the subject of an improvement plan drawn up or a farm investment schedule approved under or by virtue of Council Regulation (EEC) No. 1942/81 for the stimulation of agricultural development in the less-favoured areas of Northern Ireland (O.J. No. L197, 20.7.81, p. 1) as amended by Council Regulation (EEC) No. 3156/87 (O.J. No. L301, 24.10.87, p. 1). In such cases claims for grants must be received by the Department of Agriculture within one month of the completion of the plan or, as the case may be, the completion of the works, facilities or transactions in the farm investment schedule (Article 12). The provision, installation or replacement of heating systems in durable plastic-clad structures for horticultural produce is now eligible for grant (Article 14). Minor amendments are also made to the application of the closing dates for certain claims and provision is made for expenditure incidental to expenditure on heated glasshouses and glasshouse heating systems and which is incurred on or after 20th February 1989 to be grant-aided (Articles 12 and 13).