

2006 No. 24

CROFTERS, COTTARS AND SMALL LANDHOLDERS

**The Crofting Counties Agricultural Grants (Scotland) Scheme
2006**

<i>Made</i> - - - -	<i>18th January 2006</i>
<i>Laid before the Scottish Parliament</i>	<i>24th January 2006</i>
<i>Coming into force</i> - -	<i>25th January 2006</i>

The Scottish Ministers, in exercise of the powers conferred by sections 42(1), (2) and (3) and 46(4) of the Crofters (Scotland) Act 1993(a) and of all other powers enabling them in that behalf, and after consultation with the Crofters Commission in accordance with section 42(1) of that Act, hereby make the following Scheme:

**PART 1
INTRODUCTORY**

Citation and commencement

1. This Scheme may be cited as the Crofting Counties Agricultural Grants (Scotland) Scheme 2006 and shall come into force on 25th January 2006.

Interpretation

2. In this Scheme—

“the Act of 1993” means the Crofters (Scotland) Act 1993;

“approved” means approved by the Scottish Ministers in writing and “approve” and “approval” shall be construed accordingly;

“crofter” includes any grazings committee or grazings constable appointed under section 47 of the Act of 1993 and in the application of this Scheme to a grazings committee or a grazings constable any reference to a croft shall be construed as a reference to the common grazings for the management of which the committee or, as the case may be, the grazings constable is responsible;

“eligible occupier” means—

(a) the occupier of a croft who is also the owner thereof and who in the opinion of the Scottish Ministers is of substantially the same economic status as a crofter;

(a) 1993 c.44. The functions of the Secretary of State transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46). The requirement to obtain the approval of the Treasury was removed by section 55 of that Act.

- (b) the occupier of a holding, other than a croft, situated in the crofting counties which is either a holding of which the area does not exceed 30 hectares (exclusive of any common pasture or grazing held therewith) or a holding the annual rent of which, if it were a croft let to a crofter under the Act of 1993, would not, in the opinion of the Scottish Ministers, exceed £100, being an occupier who in the opinion of the Scottish Ministers is of substantially the same economic status as a crofter; or
- (c) the occupier of a holding, other than a croft, situated in the crofting counties which exceeds 30 hectares (exclusive of any common pasture or grazing held therewith) and of which the annual rent, if it were a croft so let, would in the opinion of the Scottish Ministers not be substantially larger than 30 hectares (exclusive of any common pasture or grazing held therewith) or is capable of being so let at an annual rent not substantially in excess of £100, being an occupier who in the opinion of the Scottish Ministers is of substantially the same economic status as a crofter; or
- (d) the sub-tenant of a croft or part of a croft occupying under a sub-lease granted by a crofter with the written consent of the Crofters Commission under section 27(2) of the Act of 1993 and in accordance with any conditions imposed by it under section 27(5) of that Act;

“Less Favoured Area” means the land shown coloured in blue or in pink on the designated maps—

- (a) which is situated in an area included in the list of less favoured farming areas adopted by Council Directive 84/169/EEC concerning the Community list of less-favoured farming areas^(a) within the meaning of Directive 75/268/EEC^(b) (United Kingdom) [11]; and
- (b) which is, in the opinion of the Scottish Ministers, 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 Scottish Ministers, restricted in its range by, or any combination of, soil, relief, aspect or climate;

“livestock” includes any creature kept for the production of food, wool, skins, or fur or for the purpose of its use in the farming of land; and

“operation” means any of the operations specified in the Schedule to this Scheme.

PART 2

GRANTS IN RESPECT OF OPERATIONS

Grants to be made

3.—(1) Subject to the provisions of this Scheme, the Scottish Ministers may make a grant under this Part of this Scheme to a crofter or eligible occupier towards the approved cost of any project or part of a project of a kind specified in the Schedule to this Scheme (except where the purpose of a project is to replace an existing asset) carried out for the purpose of aiding and developing agricultural production for one of the following purposes:—

- (a) to reduce production costs;
- (b) to improve and redeploy production;
- (c) to increase quality;
- (d) to preserve and improve the natural environment, hygiene conditions and animal welfare standards;
- (e) to promote the diversification of agricultural activities

^(a) O.J. L 82, 26.3.84, p.67.

^(b) O.J. L 128, 19.5.75, p.8.

in the case of a crofter or on behalf of a crofter, on the croft and, in the case of an eligible occupier, on the croft or holding or part of a croft, as the case may be, occupied by that eligible occupier.

(2) The Scottish Ministers may determine in each financial year the amount of grant payable—

- (a) nationally;
- (b) for specific areas as determined by the Scottish Ministers; or
- (c) for specific activities as defined by the Scottish Ministers.

(3) The Scottish Ministers may refuse an application for grant solely on the grounds that to approve that application would result in the amount determined under paragraph (2) nationally, for the specific area or for the specific activity being exceeded.

(4) For the purpose of this paragraph, “approved cost” shall mean the cost approved for the purposes of a grant under this Part of this Scheme and comprising the aggregate of—

- (a) the expenditure reasonably incurred by the crofter or eligible occupier in respect of materials required for the purpose of carrying out the relevant operation; and
- (b) such other sum as the Scottish Ministers may deem reasonable.

Application for and conditions of grant

4.—(1) Any application by a crofter or eligible occupier for approval of the cost of any such operation for the purpose of obtaining a grant shall be submitted by the crofter or eligible occupier, and approved by the Scottish Ministers prior to incurring costs, or to the commencement of any work, on the operation.

(2) The Scottish Ministers may, as they think fit, either refuse to approve the cost of any operation or approve it in whole or in part for the purposes of a grant under this Part of this Scheme, and any such approval may be given and any such grant may be made, subject to such conditions as the Scottish Ministers think fit.

(3) Any approval of approved cost as specified in paragraph 3(4) of this Scheme for the purposes of a grant under this Part of this Scheme may be varied or withdrawn by the Scottish Ministers with the written consent of the applicant.

(4) The Scottish Ministers may specify in approvals for applications referred to in paragraph 4(1) the date on which work may start on the operation, the date on which the first payment of grant shall be paid and the date on which the final payment shall be made.

Claims

5. The applicant shall make a claim for the grant in such form as the Scottish Ministers may direct and shall afford to the Scottish Ministers or their duly authorised officer all such facilities as are reasonably necessary to enable the Scottish Ministers to satisfy themselves that any conditions subject to which approval was given have been complied with.

Restrictions on payment of grant

6.—(1) Subject to the provisions of sub-paragraph (3) the amount of grant paid, payable or approved by the Scottish Ministers under paragraph 4(1) of this Scheme whether for an operation or part of an operation in any two year period to—

- (a) an eligible occupier, or a crofter shall not exceed £25,000; or
- (b) to grazing committees or to groups approved by the Scottish Ministers consisting of crofters and eligible occupiers or any of these shall not exceed £125,000.

(2) The two year period referred to in sub-paragraph (1) shall run from a date two years before the date on which the current application for grant was received by the Scottish Ministers.

(3) Where the grant referred to in sub-paragraph (1) is for part of a project and the maximum amount of grant has been paid, no further grant will be payable for the same project.

Amount of grant

7.—(1) The amount of grant payable under this Part of this Scheme towards the approved cost of any operation specified in paragraph 1 of the Schedule in a Less Favoured Area shall be 50% of the approved cost of that operation up to the total amount of grant specified in paragraph 6(1) and in all other areas shall be 40% of the approved cost of that operation up to the total amount of grant specified in paragraph 6(1).

(2) If the Scottish Ministers are satisfied that any condition subject to which a grant under this Part of this Scheme may be made has not been complied with in carrying out the relevant operation, they may, notwithstanding paragraph 7(1), either withhold payment of the grant or make payment of a grant of such amount as they may in all the circumstances in the case consider reasonable.

PART 3

GRANTS IN RESPECT OF CONTRIBUTIONS

Grants to be made

8. Subject to the provisions of this Scheme, the Scottish Ministers may make a grant under this Part of this Scheme to a crofter or eligible occupier in respect of any contribution made by him under any such agreement as is referred to in section 47 of the Roads (Scotland) Act 1984(a) towards the expenses of the provision of a cattle-grid for the purpose of aiding and developing agricultural production, in the case of a crofter, on his croft and, in the case of an eligible occupier, on the croft or holding or part of a croft, as the case may be, in respect of which he is the eligible occupier.

Application for and conditions of grant

9.—(1) Any application by a crofter or eligible occupier for a grant under this Part of this Scheme shall be made in such form and manner and at such time as the Scottish Ministers may from time to time require and the applicant shall furnish all such particulars and information relating to the cattle-grid provided or proposed to be provided as the Scottish Ministers may require.

(2) Any grant which may be made under this Part of this Scheme shall be subject to such conditions as may be intimated in writing to the applicant by the Scottish Ministers at the time of the making of the grant.

Amount of grant

10. Subject to the provisions of this Scheme, and to the provisions of paragraph 6, the amount of any grant payable under this Part of this Scheme shall not exceed a sum equal to 40% of the contribution or 50% of the contribution within the less favoured areas in respect of which it is to be made.

(a) 1984 c.54.

PART 4

GENERAL

Crofters Commission to be agent

11.—(1) The Scottish Ministers hereby appoint the Crofters Commission to be their agent for the purpose of the administration of any grant applied for or made under this Scheme: provided that nothing in this sub-paragraph shall be construed as enabling the Crofters Commission to make payment of any grant under this Scheme.

(2) In carrying out its function as agent of the Scottish Ministers under this Scheme, the Crofters Commission shall have the like powers, rights and duties as are conferred upon it by the Scottish Ministers.

Payment of grant in instalments

12. The Scottish Ministers may, at the request of the applicant, make payment of any grant under this Scheme in instalments, which instalments may be paid in such amounts, at such times, either during or after the carrying out of the relevant operation or work, and subject to such conditions as the Scottish Ministers may specify.

Recovery of grant, etc.

13.—(1) Where, after the date upon which any grant, or any instalment of grant, has been paid under this Scheme, the Scottish Ministers are satisfied that the applicant has not complied, or is not complying, with a condition imposed on the applicant—

- (a) under paragraph 4(2) of this Scheme, or paragraph 3 of the Schedule to this Scheme, in relation to the approval of the cost of an operation;
- (b) under paragraph 4(1) of this Scheme, or paragraph 9(2), or paragraph 3 of the Schedule to this Scheme, in relation to a grant; or
- (c) under paragraph 12 of this Scheme in relation to an instalment of grant,

they may recover from the applicant the amount of the grant or of the instalment of the grant paid to the applicant or such part thereof as they may in all the circumstances consider reasonable in like manner as if it were a debt due by the applicant to them.

(2) The Scottish Ministers may terminate an award of grant under paragraph 8 of this Scheme and if they do so, they may also prohibit the applicant from submitting any new grant application for such period from the date of termination as the Scottish Ministers may specify.

(3) The powers conferred on the Scottish Ministers by sub-paragraphs (1) and (2) shall be exercisable by a notice served on the applicant by post at his last known address and in sub-paragraph (2), “specify” means specify in such notice.

- (4) (a) Where the Scottish Ministers exercise the power to recover conferred by this paragraph of this Scheme they may also recover on demand interest on the sum to be recovered at a rate of interest one per centum above the sterling three month London interbank offered rate on a day to day basis from the date of payment until the date of recovery.
- (b) In any proceedings for recovery under this Scheme, a certificate issued by the Scottish Ministers stating the rate or rates of interest, the amount of such interest recoverable and the period for which such interest is calculated, shall unless the contrary is shown, be conclusive of those matters.

Revocation

14. The Crofting Counties Agricultural Grants (Scotland) Scheme 1988(a), the Crofting Counties Agricultural Grants (Scotland) Amendment Scheme 1992(b) and the Crofting Counties Agricultural Grants (Scotland) Amendment Scheme 1994(c) are hereby revoked.

Transitional Provisions

15.—(1) Notwithstanding the revocation of the Schemes referred to in paragraph 14, and subject to the provisions of sub-paragraph (2), any application made before 1st April 2006 for payment of grant under those Schemes shall be administered under those Schemes and grant shall be paid under those Schemes.

(2) In the case of any operation referred to in paragraph 5(1)(b) of the Crofting Counties Agricultural Grants (Scotland) Scheme 1988(d), any claim for grant made by 31st December 2006 may be administered and paid under that Scheme.

(3) Paragraph 7 of the Crofting Counties Agricultural Grants (Scotland) Scheme 1988 shall not apply to any claim for grant referred to in sub-paragraph (2).

RHONA BRANKIN
A member of the Scottish Executive

St Andrew's House,
Edinburgh
18th January 2006

(a) S.I. 1988/559, amended by S.I. 1992/3291 and 1994/1013.
(b) S.I.1992/3291.
(c) S.I. 1994/1013.
(d) S.I. 1988/559; paragraph 5(1)(b) was inserted by S.I. 1994/1013, paragraph 3.

SCHEDULE

Paragraphs 3(1) and 12

ELIGIBLE OPERATIONS

1. Subject to the provisions of this Schedule and of paragraph 7 of this Scheme, the approved cost of any operation specified in the following list is an operation under this Scheme:—

1. erection or improvement of agricultural buildings;
2. works associated with agricultural buildings, including yards, hard standings, dungsteads and slurry stores;
3. restoration of derelict land (excluding heathland and moorland) by regeneration, re-seeding, laying down to permanent pasture, bracken control or reconditioning;
4. formation or improvement of access tracks to land improvement areas;
5. field drainage including under drainage, hill drainage and ditching;
6. arterial drainage;
7. provision or improvement of silos (excluding grain silos);
8. erection or improvement of shelters for the temporary housing, sheltering and feeding of out-wintered livestock;
9. provision or improvement of facilities for the organised feeding of out-wintered livestock including permanently fixed troughs and feed barriers and associated concrete bases;
10. provision or improvement of equipment for the handling and treatment of livestock;
11. provision of fences, hedges, walls, gates or cattle-grids;
12. planting of shelter belts;
13. provision or improvement of water supplies;
14. provision or improvement of a mains electricity connection or supply;
15. supply and installation of an electricity generator;
16. provision of a gas supply;
17. provision of electrical equipment;
18. provision or improvement of roads, bridges, culverts or boat slips.

2. The amount of any grant payable under this Scheme towards the approved cost of carrying out any operation which is incidental to the carrying out of an operation of any kind specified in this Schedule or necessary or proper in the carrying out of that operation or for securing the full benefit thereof shall be calculated at the rate of grant appropriate to that in accordance with the provisions of this Schedule.

3. In such cases and subject to such conditions as the Scottish Ministers may from time to time determine, the amount of any cost towards which grant is payable under this Scheme shall, if the applicant so elects, be taken for the purpose of determining the amount of the grant as such standard amount as the Scottish Ministers may from time to time decide.

EXPLANATORY NOTE

(This note is not part of the Scheme)

This Scheme replaces the Crofting Counties Agricultural Grants (Scotland) Scheme 1988, the Crofting Counties Agricultural Grants (Scotland) Amendment Scheme 1992 and the Crofting Counties Agricultural Grants (Scotland) Amendment Scheme 1994. It provides that the Scottish Ministers may make grants to crofters and to certain other occupiers of land in the crofting counties—

- (a) in respect of specified operations carried out by them for the purpose of aiding and developing agricultural production on crofts or holdings (paragraphs 3-7 and the Schedule); and
- (b) in respect of contributions made by them under such agreements as are referred to in section 47 of the Roads (Scotland) Act 1984 towards the expenses of providing cattle grids for the said purpose (paragraphs 8-10).

This Scheme differs from the 1998 Scheme in that it sets grant rates at 50% in Less Favoured Areas and 40% in other areas of the Crofting Counties. It also provides that the maximum amount of grant is £25,000 for an individual and £125,000 for groups of individuals, in any two year period.

All applications have to be made and approved before work on the project commences and the Scottish Ministers have been given the power to specify in approvals of Schemes the relevant dates by which work may start and grant payments may be claimed.

The Scottish Ministers are given the additional power to set budgets nationally or for specific activities and also the power to refuse applications if the national or specific activity budget limit has been reached.

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