1987 No. 157

AGRICULTURE

HORTICULTURE

Agriculture Improvement Scheme (Northern Ireland) 1987

Made	*30th March 1987*
Coming into operation . .	*1st April 1987*

The Department of Agriculture in exercise of the powers conferred on it by Articles 16(1), (2) and (3) and 19(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 Agriculture Improvement Scheme (Northern Ireland) 1987 and shall come into operation on 1st April 1987.

Interpretation

2. In this Scheme—

"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 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;

"development plan" means a development plan approved under the Agricultural and Horticulture Regulations 1980(**b**); the Farm and Horticulture Development Regulations 1981(**c**); the Agriculture and Horticulture Development Regulations (Northern Ireland) 1987(**d**); or the Farm and Horticulture Development Regulations (Northern Ireland) 1987(**e**);

"excluded contractor" means a contractor other than a contractor who has entered into a written agreement with the occupier of the land on

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(**a**) S.I. 1987/166 (N.I. 1)
(**b**) S.I. 1980/1298 as amended by S.I. 1981/1708, 1983/508, 924, 1763, 1984/618. 1922, 1985/1025
(**c**) S.I. 1981/1707 as amended by S.I. 1983/507, 925, 1762, 1984/620, 1924
(**d**) S.R. 1987 No. 154
(**e**) S.R. 1987 No. 155

which is carried on the agricultural business in relation to which a claim for grant is made under this Scheme and that agreement is expressed to continue in force for a period which is not less than seven years from the day immediately preceeding 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(**a**); or the Agriculture Improvement Regulations (Northern Ireland) 1987(**b**);

"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 2,300 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 in certain less-favoured areas(**c**), 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

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(**a**) S.I. 1985/1266
(**b**) S.R. 1987 No. 156
(**c**) 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)

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;

"main framework", in relation to a building or structure, means the floor, outer walls and roof of the building or structure and any internal dividing walls which are integral to that building or structure;

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

"pig place", for the purposes of Article 4(1)(*b*), means the facilities necessary to house one fattening pig; save that where the herd includes breeding sows, the facilities necessary to house one such sow shall be taken to be equivalent of 6.5 pig places;

"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;

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 on or after 1st October 1985 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;

(*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 of receipt of the claim for grant the agricultural business in relation to which the expenditure has been incurred is the subject of a current development plan or of a current improvement plan;

(*b*) in connection with the breeding or keeping of pigs unless—

(i) that expenditure was not incurred in respect of any work, facility or transaction which is of a kind specified in paragraph 2(*b*) in column 1 of Schedule 1 or, if the expenditure was so incurred it appears to the Department that, immediately after completion of the work, facility or transaction, the number of pig places does not exceed 500 in the case of expenditure incurred before 31st December 1986 or 400 in the case of expenditure incurred on or after that date but before 31st December 1987, on the land on which there will be carried on the agricultural business in relation to which the expenditure has been incurred, and

(ii) that land will be capable of producing not less than 35 per cent. of the feedingstuffs required for the pigs kept on that land;

(*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 paragraph 1(*c*) in column 1 of Schedule 1 and is required to be carried out in order to comply with the terms of a notice under section 110 of the Public Health (Ireland) Act 1878(**a**);

(*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 or, where appropriate, the additional reference quantity determined in accordance with Council Regulation (EEC) No. 857/84(**b**) adopting general rules for the application of the levy referred to in Article 5c of Council Regulation (EEC) No. 804/68(**c**) in the milk and milk products sector.

(2) 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 £50,000 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 except to the extent that such excess aggregate expenditure has been incurred in relation to any work, facility or transaction of a kind specified in paragraph 1(*a*) or (*d*), 5, 6 or 7 in column 1 of Schedule 1 and does not exceed the further sum of £24,000 for the business.

(**a**) 1878 c. 52 (Ir.)

(**b**) O.J. No. L90, 1.4.84, p. 13; amended by Council Regulation (EEC) No. 590/85 (O.J. No. L68, 8.3.85, p. 1) and Council Regulation (EEC) No. 1305/85 (O.J. No. L137, 27.5.85, p. 12)

(**c**) 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 Regulation (EEC) No. 1557/84 (O.J. No. L150, 6.6.84, p. 6) and Council Regulation (EEC) No. 1298/85 (O.J. No. L137, 27.5.85, p. 5)

(3) Where the agricultural business to which the present claim 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 (other than work required to comply with the statutory provisions referred to in sub-paragraph (1)(*c*)) shall be disregarded for the purposes of calculating under (2) the number of labour units reasonably required in the carrying on of the agricultural business.

(4) In this paragraph—

"other relevant expenditure" means expenditure which is included in any previous improvement plan; or towards which grant has been paid under the Agriculture Improvement Scheme 1985(**a**) or towards which grant is payable or has been paid under this 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 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) In the case of any 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 Schedule 1.

(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 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 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

(a) S.I. 1985/1029

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

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

(*a*) replacing any apple orchards or pear orchards unless the claim for grant is received by the Department on or before 31st March 1988;

(*b*) 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) unless the claim for grant is received by the Department on or before 30th November 1988;

(*c*) any work, facility or transaction which is of a kind not referred to in sub-paragraph (*a*) or (*b*) unless the claim for grant is received by the Department on or before 1st April 1993 or such later date, not later than 1st May 1993, as the Department may in special circumstances permit.

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 Parliament or 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 sub-paragraphs (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, and

(*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*) above.

10.—(1) For the purposes of this Scheme and, without prejudice to section 29 of the Interpretation Act (Northern Ireland) 1954(**a**), for the purposes of Article 16(6) of the Order (Recovery of Grant)—

(*a*) anything done by, or in relation to, the appropriate Minister under or for the purposes of a corresponding Scheme, shall have effect as if done by or in relation to the Department under or for the purposes of this Scheme, and

(*b*) anything done by, or in relation to, any other person under or for the purposes of a corresponding scheme, shall have effect as if done by or in relation to that person under or for the purposes of this Scheme.

(2) In this Article—

"appropriate Minister" means the Minister of Agriculture, Fisheries and Food; and

"corresponding scheme" means the Agriculture Improvement Scheme 1985.

Sealed with the Official Seal of the Department of Agriculture on 30th March 1987.

(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 30th March 1987.

(L.S.) *D. W. Alexander*
Assistant Secretary

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

SCHEDULE 1 Articles 3(1) and (2), 4(1) and (2), 5(1), (2) and (4) and 7

Eligible Works, Facilities and Transactions and Rates of Grant

Column 1	Column 2	Column 3
Kind of work or facility or transaction	*Business outside less-favoured area.* *Rate of grant Per cent.*	*Business inside less-favoured area.* *Rate of grant Per cent.*
1. Provision, replacement or improvement of:		
(*a*) hedges (including hedgerow trees), walls and dykes (where the walls and dykes are built of materials traditional in the locality) and associated gates, stiles and footbridges;	30	60
(*b*) facilities for the handling, storage and treatment of agricultural effluents and waste (except facilities specified in sub-paragraph (*c*) of this paragraph);	30	60
(*c*) manure stores excluding those integral with the poultry-house;	15	30
(*d*) shelter belts (including trees for shading stock)—		
(i) consisting of 50 per cent. or more broadleaved trees;	30	60
(ii) other shelter belts	15	60
2. Supply and installation of:		
(*a*) wind or water powered pumps and generators, solar and other forms of permanent and durable energy-saving agricultural investment (excluding any investment specified in sub-paragraph (*b*) below);	15	30
(*b*) permanent thermal insulation, vapour sealing or gas sealing for the control of temperature or atmosphere in buildings designed and intended for agricultural use (excluding glasshouses of a kind specified in paragraph 5 below).	15	30
3. Burning heather or grass or making muirburn or regenerating heather by cutting; bracken control by means other than soil cultivation.	15	30

Column 1	Column 2	Column 3
Kind of work or facility or transaction	*Business outside less-favoured area.* *Rate of grant Per cent.*	*Business inside less-favoured area.* *Rate of grant Per cent.*
4. Replacement, alteration or improvement of unheated glasshouses.	15	15
5. Replacement, alteration or other improvement (including the supply and installation of permanent thermal insulation) of heated glasshouses being heated internally by means of permanent installations for the consumption of fuel.	35	35
6. Provision, installation or replacement of glasshouse heating systems including boilers.	15	15
7. (*a*) replacement of apple orchards (other than apple orchards consisting of trees producing cider apples) which have been grubbed up after 7th November 1982 by an equal or smaller area of apple orchards consisting of— (i) the varieties of apple trees known as Cox's Orange Pippin apple, Bramley's Seedling apple or Spartan apple; (ii) any other named varieties of apple trees required for pollination (other than varieties producing cider apples) not exceeding in total one half of the number of trees of the varieties specified in sub-paragraph (i); (iii) any species of crab apple tree and any hybrid varieties of crab apple tree required for pollination.	25	25
(*b*) Replacement of pear orchards (other than pear orchards consisting of trees producing perry pears) which have been grubbed up after 7th November 1982 by an equal or smaller area of pear orchards consisting of—	25	25

Column 1	Column 2	Column 3
Kind of work or facility or transaction	*Business outside less-favoured area.* *Rate of grant Per cent.*	*Business inside less-favoured area.* *Rate of grant Per cent.*
(i) the varieties of pear trees known as Conference pear or Doyenne du Comice pear; (ii) any other named varieties of pear trees required for pollination (other than varieties producing perry pears) not exceeding in total one half of the number of trees of the varieties specified in sub-paragraph (i).		
8. Orchard grubbing	15	15
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 above 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 was made under the Agriculture and Fisheries (Financial Assistance) (Northern Ireland) Order 1987 (''the Order''). It re-enacts with amendments the Agriculture Improvement Scheme 1985 which applied throughout the United Kingdom and was repealed insofar as it applied to Northern Ireland with the coming into force of that Order. The amendments transfer from the Minister of Agriculture, Fisheries and Food to the Department of Agriculture for Northern Ireland (''the Department'') the functions in relation to the provision of grants towards expenditure incurred for the purposes of, or in connection with the carrying on or establishment of an agricultural business.

This Scheme complies with Article 8(2) and (4) of Council Regulations (EEC) No. 797/85 (O.J. No. L93, 30.3.85, p. 1) on improving the efficiency of agricultural structures and Council Directive No. 75/268/EEC (O.J. No. L128, 19.5.75, p. 1) on mountain and hill farming and farming in certain less-favoured areas. It 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 or transactions specified in column 1 of Schedule 1 (Article 3). The rates of grant applicable are set out (Article 5 and columns 2 and 3 of Schedule 1). Higher rates of grant may be payable for businesses in less-favoured areas (Article 5(2) and column 3 of Schedule 1). Less-favoured areas are defined by reference to designated maps which are available for inspection during normal office hours at the address specified in the definition of designated maps (Article 2). Copies of the maps 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 (Article 7).

Article 16(6) of the Order empowers the Department to revoke approval and, in certain circumstances, to recover grant paid. Article 16(8) creates an offence relating to the making of reckless or false statements for the purpose of obtaining grant (which is punishable on summary conviction by a fine not exceeding £2,000).