STATUTORY INSTRUMENTS

1973 No. 1404

AGRICULTURE

AGRICULTURAL GRANTS, GOODS AND SERVICES

The Farm Amalgamations Scheme 1973

Laid before Parliament in draft

Made - - - -	*6th August* 1973
Coming into Operation	
Paragraph 9	*7th August* 1973
Remainder	*1st September* 1973

The Minister of Agriculture, Fisheries and Food, in relation to England and Northern Ireland, and that Minister and the Secretary of State for Wales acting jointly in relation to Wales, in exercise of powers conferred by sections 26, 35 (as those sections have effect by virtue of sections 29(6) and 32 of the Agriculture Act 1970(a) and, as respects the said section 26, by virtue of sections 9 and 10 of the Agriculture (Miscellaneous Provisions) Act 1972(b) and regulation 3 of the Agriculture Act 1967 (Amendment) Regulations 1973(c)) and 40(2) of the Agriculture Act 1967(d) and section 50 of the Agriculture Act 1970 (as that section has effect by virtue of section 9(7) of the said Act of 1972) and now vested in them jointly(e), and the Secretary of State for Scotland, in relation to Scotland, in exercise of the powers conferred on him by the said sections 26, 35 and 40(2), the said Ministers acting jointly in exercise of these and all other powers enabling them in that behalf, with the approval of the Treasury, hereby make the following scheme, a draft whereof has been laid before Parliament and approved by a resolution of each House of Parliament:—

Citation, commencement and extent

1.—(1) This scheme may be cited as the Farm Amalgamations Scheme 1973, and shall come into operation on 1st September 1973, save that paragraph 9 hereof shall come into operation at the expiration of the day on which the scheme is made.

(2) This scheme shall apply throughout the United Kingdom, save that paragraph 7 hereof shall apply to England and Wales only.

Interpretation

2.—(1) In this scheme, unless the context otherwise requires

"the Act" means the Agriculture Act 1967;

(a) 1970 c. 40.
(b) 1972 c. 62.
(c) S.I. 1973/1402 (1973 II, p. 4287).
(d) 1967 c. 22.
(e) S.I. 1969/388 (1969 I, p. 1070).

"agriculture", "agricultural land", "agricultural unit" and cognate expressions and references to farming shall be construed, except in relation to Scotland, in accordance with section 109 of the Agriculture Act 1947(a) and, in relation to Scotland, in accordance with section 86 of the Agriculture (Scotland) Act 1948(b);

"amalgamation" has the meaning assigned to it by section 26(1) of the Act;

"the appropriate Minister" means—

(*a*) in relation to England and Northern Ireland, and in relation to Wales for the purpose of the making, receipt or recovery of any payment, the Minister of Agriculture, Fisheries and Food;

(*b*) in relation to Wales, save for the purpose of the making, receipt or recovery of any payment, the Minister of Agriculture, Fisheries and Food and the Secretary of State, acting jointly;

(*c*) in relation to Scotland, the Secretary of State;

"approved" means approved by the appropriate Minister in writing, and "approve" and "approval" shall be construed accordingly;

"commercial unit" means an agricultural unit which in the opinion of the appropriate Minister is capable, when farmed under reasonably skilled management, of providing full-time employment for an individual occupying it and for at least one other man (or full-time employment for an individual occupying it and employment for members of his family or other persons equivalent to full-time employment for one man);

"full-time employment" in relation to an individual occupying a commercial unit and one other man means employment provided by such crops and livestock as would in the opinion of the appropriate Minister occupy the time of a farmer and one other man for at least 600 days in aggregate in a year on average if a system of husbandry suitable for the district is followed and the greater part of the feeding stuffs required by any livestock kept on the unit is grown there, and in relation to an individual occupying an intermediate unit means such employment as aforesaid as would, in the opinion of the appropriate Minister, occupy the time of a farmer for at least 275 days in aggregate in a year on average in similar circumstances;

"intermediate unit" means an agricultural unit which in the opinion of the appropriate Minister is capable, when farmed under reasonably skilled management, of providing full-time employment for an individual occupying it;

"land" includes any estate or interest in land;

"smallholdings authority" has the meaning assigned to it by section 38 of the Agriculture Act 1970;

"uncommercial unit" shall be construed in accordance with section 40(3) of the Act.

(2) Where any agricultural land in Scotland consists of or includes a croft or holding, for the purposes of determining under the preceding provisions of this paragraph whether an agricultural unit formed by that land is commercial, intermediate or uncommercial, the land shall be taken to include any right in pasture or grazing land held by the tenant or landholder whether alone or in common with others and deemed to form part of the croft or holding.

In this sub-paragraph "croft", "crofter" and "holding" have the meanings

(a) 1947 c. 48. (b) 1948 c. 45.

ascribed to them by the Crofters (Scotland) Acts 1955 and 1961**(a)** and the Small Landholders (Scotland) Acts 1886 to 1931**(b)** respectively, but for the purposes of this scheme "tenant" shall not be taken to include the sub-tenant of a croft.

(3) The Interpretation Act 1889**(c)** shall apply to the interpretation of this scheme as it applies to the interpretation of an Act of Parliament.

(4) Unless the context otherwise requires, any reference in this scheme to an enactment shall be construed as a reference to that enactment as amended or extended by any other enactment.

Restrictions on amalgamations to which this scheme applies

3.—(1) This scheme shall not apply to any amalgamation of a kind described in section 26(1)(*a*) of the Act—

(*a*) unless there is comprised in that amalgamation land which is, or forms part of, an uncommercial unit and unless the appropriate Minister is satisfied that that land or any part thereof either—

(i) has not reverted from being in single ownership or occupation with other agricultural land since 1st January 1973, or

(ii) has so reverted in consequence of the death or bankruptcy of the owner thereof, or

(iii) has so reverted in the interests of good estate management or good husbandry or otherwise than in consequence of any act or default of the applicant for grant;

(*b*) where any land comprised in the amalgamation, being land other than that mentioned in sub-paragraph (1)(*a*) above, has by reason of the amalgamation reverted as mentioned in sub-paragraph (1)(*a*)(i) hereof, unless the appropriate Minister is satisfied that the said land has so reverted for one of the reasons set out in sub-paragraph (1)(*a*)(iii) hereof;

(*c*) where, at any time since 1st January 1973, all the land comprised in the amalgamation has been either in single ownership and occupation or in single occupation by a person occupying any part of that land not owned by him as a tenant as provided in section 26(1)(*bb*) of the Act;

(*d*) unless—

(i) the land referred to in sub-paragraph (1)(*a*) hereof, or

(ii) where that land comprises part only of an uncommercial unit, any part or parts of that unit—

(*aa*) which is or are comprised in one or more amalgamations approved in pursuance of this scheme, or

(*bb*) in respect of the relinquishment of occupation of which proposals have been approved, in accordance with a scheme made under section 27 of the Act, for a purpose described in subsection (1)(*b*) or (*d*) of that section,

is or are together in the opinion of the appropriate Minister capable, when farmed under reasonably skilled management and in the case of such land comprising a part or parts of an uncommercial unit when farmed in conjunction with any dwelling-house or other building included in the unit, of providing for an individual occupying it or them employment for at least 100 days in aggregate in a year on average if a system of husbandry suitable for the district is followed and the greater part of

(a) 1955 c. 21; 1961 c. 58.
(b) *See* Small Landholders (Scotland) Act 1911 (c. 49).
(c) 1889 c. 63.

the feeding stuffs required by any livestock kept on the unit or, as the case may be, the said part or parts of that unit is grown on the unit or the said part or parts thereof;

(*e*) unless all other land comprised in the amalgamation, being land other than that mentioned in sub-paragraph (1)(*a*) above, is in the opinion of the appropriate Minister capable, when farmed under reasonably skilled management in conjunction with any dwelling-house or other building with which it was farmed immediately before the proposed amalgamation of providing for an individual occupying it employment for at least 80 days in aggregate in a year on average if a system of husbandry suitable for the district is followed and the greater part of the feeding stuffs required by any livestock kept on the land is grown thereon;

(*f*) unless immediately after the completion of the amalgamation the land forming the resulting intermediate unit or commercial unit will be in the same ownership and the same occupation or, if not in the same ownership, occupied by a person who shall occupy any part of that unit not owned by him—

(i) in England or Wales as a tenant (as defined in the Agricultural Holdings Act 1948**(a)**) for a term expiring not less than 12 years from the completion of the amalgamation;

(ii) in Scotland as a tenant (as defined in the Agricultural Holdings (Scotland) Act 1949**(b)**) for a term expiring not less than 12 years from the completion of the amalgamation, or as a crofter;

(iii) in Northern Ireland as a tenant who holds under a contract of tenancy for a life or lives or for a term of not less than 12 years from the completion of the amalgamation.

(2) This scheme shall not apply to any amalgamation of a kind described in section 26(1)(*bb*) unless—

(*a*) the land comprised in that part of the intermediate unit or commercial unit which, immediately prior to the proposed amalgamation, is occupied by a person as owner or—

(i) in England or Wales as a tenant (as defined in the Agricultural Holdings Act 1948), or

(ii) in Scotland as a tenant (as defined in the Agricultural Holdings (Scotland) Act 1949) or as a crofter, or

(iii) in Northern Ireland as a tenant who holds under a contract of tenancy for a life or lives or for a term of years,

is in the opinion of the appropriate Minister capable of providing employment for an individual occupying it for at least 80 days in aggregate in a year on average if a system of husbandry suitable for the district is followed and the greater part of the feeding stuffs required by any livestock kept on the land is grown thereon, and

(*b*) the land comprised in the part or parts of that unit which in consequence of the amalgamation are to come to be occupied by that person as owner or as a tenant or a crofter as aforesaid is in the opinion of the appropriate Minister capable of providing employment for an individual occupying it for at least 100 days in aggregate in a year on average if a system of husbandry suitable for the district is followed and the greater part of the feeding stuffs required by any livestock kept on the land is grown thereon, and

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(a) 1948 c. 63. **(b)** 1949 c. 75.

(*c*) immediately after the completion of the transaction either the whole of that unit is occupied by that person as owner, or any part or parts of that unit which is or are not occupied by that person as owner is or are occupied by him as a tenant or a crofter as described in sub-paragraph (1)(*f*) of this paragraph.

(3) For the purposes of sub-paragraphs (1)(*a*), (*b*) and (*c*) of this paragraph, no account shall be taken of any change in ownership or occupation of any piece of land which appears to the appropriate Minister to be of little, or no, farming significance; and for the purposes of sub-paragraph (1)(*a*) of this paragraph, in any case where the bankruptcy referred to took place in Scotland, the reference to bankruptcy of the owner shall be construed as a reference to his having become notour bankrupt or having executed a trust deed for behoof of his creditors.

Approval of amalgamations

4.—(1) Subject to the provisions of paragraph 7 of this scheme, application for the approval of an amalgamation of a kind described in section 26(1)(*a*) or (*bb*) of the Act in pursuance of this scheme shall be made to the appropriate Minister before, or within the period of one year immediately following, the completion of the transaction and within 7 years from the commencement of this scheme.

(2) Each such application shall be made in such form and manner as the appropriate Minister may require and the applicant shall furnish all such particulars and information relating to the application as that Minister may reasonably require.

(3) Subject to the provisions of paragraphs 5, 6 and 7 of this scheme, the appropriate Minister may as he thinks fit either refuse to approve an amalgamation submitted to him in accordance with the foregoing provisions of this paragraph or approve it wholly or in part.

(4) An application for approval of an amalgamation made, or an approval of an amalgamation given, in pursuance of the Farm Amalgamations and Boundary Adjustments Scheme 1967**(a)** or the Farm Amalgamations and Boundary Adjustments Scheme 1970**(b)** may be treated as such an application or approval made or given in pursuance of this scheme.

Amalgamations

5.—(1) The appropriate Minister shall not approve an amalgamation in pursuance of this scheme unless that Minister is satisfied that—

(*a*) the amalgamation is in the interests of the full and efficient use for agriculture of the land to be comprised in the resulting unit, and

(*b*) the resulting unit will be such as can effectively be farmed as an agricultural unit.

(2) Subject to the provisions of paragraph 7 of this scheme, the appropriate Minister shall not approve an amalgamation of a kind described in section 26(1)(*a*) of the Act which is designed to result in the formation or expansion of an intermediate unit or an amalgamation of a kind described in section 26(1)(*bb*) of the Act where the subject of the amalgamation is an intermediate unit, unless in either case that amalgamation appears to him to be expedient as a step towards the eventual formation of a commercial unit, having regard—

(*a*) in the case of an amalgamation of a kind described in section 26(1)(*a*) of the Act to—

(a) S.I. 1967/1608 (1967 III, p. 4418). **(b)** S.I. 1970/2025 (1970 III, p. 6603).

(i) the size and character of the uncommercial unit or the part thereof which is to be the nucleus of the resulting intermediate unit; and

(ii) the amount of other land that would have to be added to that uncommercial unit or to the part thereof to form a commercial unit; and

(iii) the suitability of the resulting unit to form the nucleus of a commercial unit;

(*b*) in the case of an amalgamation of a kind described in section 26(1)(*bb*) of the Act to the suitability of the intermediate unit after the amalgamation has been carried out to form the nucleus of a commercial unit.

6. The appropriate Minister shall not approve an amalgamation of a kind described in section 26(1)(*a*) or (*bb*) of the Act unless it appears to him that the unit to be formed by an amalgamation of a kind described in the said section 26(1)(*a*) or the unit in respect of which an amalgamation of a kind described in the said section 26(1)(*bb*) is to be carried out includes agricultural land in respect of the relinquishment of occupation of which a proposal has been approved for the purposes of grant under section 27 of the Act.

Grants towards amalgamations by smallholdings authorities

7.—(1) Without prejudice to the power of the appropriate Minister under section 26 of the Act and in accordance with the other provisions of this scheme to make grants to smallholdings authorities in connection with the carrying out of amalgamations, that Minister may, only in such cases as that Minister may with the approval of the Treasury determine, make grants under the said section 26 in accordance with the provisions of this scheme other than the provisions of paragraph 5 hereof to smallholdings authorities in connection with the carrying out of amalgamations of a kind described in section 26(1)(*a*) of the Act which are designed to result in the formation or expansion of intermediate units or amalgamations of a kind described in section 26(1)(*bb*) of the Act where the subject of the amalgamation is an intermediate unit being amalgamations which in both cases are not designed as steps towards the eventual formation of commercial units and being transactions to give effect to proposals approved and for the time being in force under sections 40 to 43 of the Agriculture Act 1970.

(2) Section 50 of the said Act of 1970 shall have effect in relation to this scheme and no grant shall be made under this scheme in accordance with this paragraph to a smallholdings authority in connection with any particular transaction unless an application for the making of the grant has been made by the authority in accordance with this scheme before the end of 1975 but—

(*a*) the application may be made at any time after the authority have submitted to the appropriate Minister proposals under the said section 40 which include proposals relating to that transaction or have submitted to that Minister proposals relating to that transaction under the said section 43; and

(*b*) where the transaction is comprised in proposals submitted under the said section 40, the grant may be made at any time after the appropriate Minister has approved so much of those proposals as relates to that transaction, whether any other part of the proposals submitted by the authority has then been approved or not.

Amounts and payment of grant

8.—(1) Subject to the provisions of this scheme the amount of grant under section 26(1)(*a*) or (*bb*) of the Act shall be calculated at the rate of £12·50 per acre

of land qualifying for grant, so however that no grant shall be payable in respect of any acreage in excess of 100 acres.

(2) For the purpose of calculating the amount of grant the acreage (calculated to the nearest whole acre) of land qualifying for grant shall be—

(*a*) in the case of an amalgamation of a kind described in section 26(1)(*a*) of the Act the difference between the total eligible acreage of the land comprised in the resulting amalgamated unit and the total eligible acreage of the larger or largest of the separate agricultural units, parts of such units or areas of land in one or the same occupation, as the case may be, brought together by the amalgamation;

(*b*) in the case of an amalgamation of a kind described in section 26(1)(*bb*) of the Act, the difference between the total eligible acreage of the land comprised in the intermediate unit or commercial unit which is the subject of the amalgamation and the greater of either—

(i) the total eligible acreage of the land comprised in the part, or if more than one part the larger or largest part, of the said intermediate unit or commercial unit which the person comes to occupy as owner or as a tenant as provided in section 26(1)(*bb*) of the Act, or

(ii) the eligible acreage of the land comprised in the part or parts of the said intermediate unit or commercial unit which the person already occupies as owner or as a tenant as aforesaid.

(3) For the purposes of this paragraph there shall be taken into account as eligible acreage of land—

(*a*) the acreage of any land which the appropriate Minister is satisfied is used, or prepared or cultivated for use, for the purpose of growing crops or grass, other than any area of rough grazing land;

(*b*) one sixth of the acreage of any land which appears to the appropriate Minister to be rough grazing land or to be woodland the use of which will be ancillary to the farming of the amalgamated unit;

(*c*) the acreage of any land, not coming within sub-paragraph (3)(*a*) or (*b*) above, which appears to the appropriate Minister to be necessary for the full and efficient farming of the amalgamated unit;

(*d*) where a right to graze animals is enjoyed with the land, not being such land as is mentioned in sub-paragraph (3)(*e*) of this paragraph, such acreage as may be determined by the appropriate Minister, having regard to the benefit, if any, to the farming of the amalgamated unit attributable to the enjoyment of the right;

(*e*) where land in Scotland consists of or includes a croft or holding and there is deemed to form part of that croft or holding any right in pasture held by the tenant or landholder whether alone or in common with others, such acreage as may be determined by the appropriate Minister having regard to the extent of the right and of the land over which it is exercisable.

(4) Grant under section 26(1)(*a*) or (*bb*) of the Act shall be payable to the person or persons by whom or on whose behalf the transaction is carried out.

Variation of the Farm Amalgamations and Boundary Adjustments Scheme 1970

9. The Farm Amalgamations and Boundary Adjustments Scheme 1970 shall be varied by substituting in paragraph 4(1) thereof for the words "within 7 years from the commencement of this scheme" the words "before 1st September 1973".

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 31st July 1973.

(L.S.)

Joseph Godber,
Minister of Agriculture, Fisheries and Food.

26th July 1973.

Gordon Campbell,
Secretary of State for Scotland.

26th July 1973.

Peter Thomas,
Secretary of State for Wales.

We approve.
6th August 1973.

Tim Fortescue,
Oscar Murton,
Two of the Lords Commissioners of Her Majesty's Treasury.

EXPLANATORY NOTE

(This Note is not part of the Scheme.)

This Scheme, which is made under section 26 of the Agriculture Act 1967, as amended by section 32(2) of the Agriculture Act 1970, sections 9 and 10 of the Agriculture (Miscellaneous Provisions) Act 1972 and Regulation 3 of the Agriculture Act 1967 (Amendment) Regulations 1973 and comes into operation on 1st September 1973, supersedes the Farm Amalgamations and Boundary Adjustments Scheme 1970. The Scheme provides for the approval of, and for the payment of grant in connection with, amalgamations of agricultural land. In accordance with the 1967 Act, the Scheme does not extend to any application for approval of an amalgamation made after the expiration of 7 years from the commencement of the Scheme. It applies to the whole of the United Kingdom, save that certain provisions relating to smallholdings (paragraph 7) apply to England and Wales only.

The Scheme provides that in the case of an amalgamation which is to result in the formation of either a commercial unit, which is large enough to provide not less than 600 days' work in a year in aggregate for two or more men, or an intermediate unit, which can provide at least 275 days' work a year for one man, if that amalgamation is to be eligible for approval it must absorb all or part of at least one uncommercial unit and that unit, or any part or parts of that unit (taken together) which are being absorbed in any approved amalgamation or in respect of the relinquishment of occupation of which proposals for a grant to an outgoer under section 27 of the Act have been approved, must be capable of providing work for an occupier for at least 100 days in a year (paragraph 3(1)).

Minimum requirements, related to the amount of work the land is capable of providing for the occupier, are also laid down in the case of an amalgamation in which the occupier of a commercial unit or intermediate unit comes to occupy part or parts of the unit as owner or as a tenant with a certain security of tenure (paragraph 3(2)).

The Scheme lays down tests to be satisfied in relation to the eligibility for approval of amalgamations (paragraphs 5 and 6). It makes provision for grant to be paid at the rate of £12·50 per acre of land qualifying for grant and specifies how the qualifying acreage is to be ascertained (paragraph 8).

The Scheme makes limited provision, in accordance with section 50 of the Agriculture Act 1970, for grants to smallholdings authorities towards amalgamations resulting in intermediate units which are not to be steps towards the eventual formation of commercial units, the amalgamations being among those which give effect to approved proposals for the reorganisation of smallholdings estates (paragraph 7).

The Scheme differs from the Scheme of 1970 in that an amalgamation may now only be approved if there is a corresponding approved outgoer's application under section 27 of the Act. It also makes no provision for grants in respect of boundary adjustments but makes eligible for grant an amalgamation in which the occupant of a commercial unit or an intermediate unit comes to occupy part or parts of that unit as owner or as tenant. Grant is no longer related to the costs of an amalgamation, but is calculated on an acreage basis. The provision made in the Scheme of 1970 for the issue of a certificate for the purposes of a claim for grant under section 29 of the Agriculture Act 1970 with respect to specified works and facilities carried out or provided in consequence of an amalgamation or boundary adjustment is not re-enacted.

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