1989 No. 39

AGRICULTURE

HORTICULTURE

Farm and Conservation Grant Regulations (Northern Ireland) 1989

Made . . . . . 13th February 1989

Coming into operation . . 20th February 1989

The Department of Agriculture, being a department designated(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) in relation to the common agricultural policy of the European Economic Community, in exercise of the powers conferred on it by the said section 2(2) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation and commencement

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

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(**c**) shall apply to these regulations as it applies to a Measure of the Northern Ireland Assembly.

(2) In these regulations, unless the context otherwise requires—

"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;

"agriculture" includes horticulture, fruit growing, seed growing, dairy farming, livestock breeding and keeping and freshwater fish farming, the use of land as grazing land, meadow land, osier land, reed beds, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and references to farming shall be construed accordingly;

(**a**) S.I. 1972/1811
(**b**) 1972 c. 68; section 2 is subject to Schedule 2 to that Act and is to be read with S.I. 1984/703 (N.I. 3) and S.R. (N.I.) 1984 No. 253
(**c**) 1954 c. 33 (N.I.)

"the Department" means the Department of Agriculture for Northern Ireland;

"approved" means approved by the Department in writing;

"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 for Northern Ireland and deposited at the offices of the Department at Dundonald House, Upper Newtownards Road, Belfast BT4 3SB;

"earned income", in relation to an agricultural business, means the revenue of the business as assessed by the Department, and in any such assessment the said revenue shall be taken to include net inventory changes and farmhouse consumption less remuneration of capital invested in the agricultural business and such charges and expenses as the Department may consider reasonable;

"eligible agricultural business" has the meaning assigned to that expression by regulation 4;

"eligible person" has the meaning assigned to that expression by regulation 3;

"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;

"labour unit" means the amount of work, other than work done by a contractor who does not satisfy the requirements of regulation 3(3) 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, and which land is within the area shaded blue or shaded pink on the designated map;

"pig place" for the purposes of regulation 6(3)(*b*), means the facilities necessary to house one fattening pig, save that where the herd includes breeding sows the facilities necessary to house such sow shall be taken to be the 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;

"statutory provision" has the meaning assigned to it by section 1(*f*) of the Interpretation Act (N.I.) 1954.

"the 1987 Regulations" means the Agriculture Improvement Regulations (Northern Ireland) 1987(**b**);

"the 1987 Scheme" means the Agriculture Improvement Scheme (Northern Ireland) 1987(**c**);

"the 1989 Scheme" means the Farm and Conservation Grant Scheme (Northern Ireland) 1989(**d**).

Eligible persons

3.—(1) Subject to the provisions of these regulations, the following classes of person shall be eligible for a grant under these regulations—

(*a*) an individual carrying on an eligible agricultural business if the Department is satisfied that that individual or, as the case may be, the farm manager or other person through whom the business is carried on—

(**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. 156 as amended by S.R. 1987 No. 452, S.R. 1988 No. 265 and S.R. 1988 No. 412
(**c**) S.R. 1987 No. 157 as amended by S.R. 1988 No. 243 and S.R. 1988 No. 413
(**d**) S.R. 1989 No. 38

(i) 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, and

(ii) possesses sufficient agricultural skill and competence, in that he holds an appropriate certificate issued by a teaching establishment recognised for this purpose by the Department or has been engaged in agricultural activities for not less than five years,

and if the individual carrying on that agricultural business submits an improvement plan in accordance with regulation 5, and undertakes, if that plan is approved, to carry it out and, for the duration of the plan, to keep accounts in accordance with regulation 11(1);

(*b*) any person representing a body carrying on an eligible agricultural business if—

(i) the Department is satisfied that the farm manager or other person through whom the business is carried on practises farming as his main occupation, as specified in sub-paragraph (*a*)(i) and possesses sufficient agricultural skill and competence, as specified in sub-paragraph (*a*)(ii), and

(ii) the said person representing the said body submits on behalf of the said body an improvement plan in accordance with regulation 5 and gives the undertakings required of an individual by sub-paragraph (*a*);

(*c*) persons carrying on an eligible agricultural business in partnership if—

(i) the Department is satisfied that the farm manager or other person through whom the business is carried on practises farming as his main occupation, as specified in sub-paragraph (*a*)(i), and possesses sufficient agricultural skill and competence, as specified in sub-paragraph (*a*)(ii), and

(ii) an improvement plan is submitted and the undertakings required of an individual by sub-paragraph (*a*) are given on behalf of the partnership;

(*d*) the owner of land occupied for the purposes of an eligible agriculture business who makes an application for approval of an improvement plan relating to such land jointly with one of the kinds of person eligible for grant under sub-paragraph (*a*), (*b*) or (*c*).

(2) For the purposes of this regulation a person's annual income shall be calculated in each case by reference to the financial year immediately preceding the day on which the improvement plan 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 a person eligible for grant under paragraph (1) is a contractor, it shall be a further condition of eligibility that he has entered into a written agreement with the occupier of the land on which the eligible business is

carried on which is expressed to continue in force for a period of not less than seven years from the day immediately preceding the day on which the improvement plan is submitted.

Eligible agricultural business

4. For the purposes of these regulations an eligible agricultural business is an agricultural business as to which the Department is satisfied that the earned income per labour unit reasonably required under the existing system of production is less than the reference income determined in accordance with regulation 14(*a*).

Improvement plans

5.—(1) An improvement plan submitted for approval shall be set out in such form as the Department may from time to time require and the person submitting it shall furnish all such particulars and information relating thereto as the Department may require, and in particular—

(*a*) sufficient information to show that the person undertaking to carry out the plan is an eligible person and that the plan relates to an eligible agricultural business;

(*b*) a description of that agricultural business at the time of submission of the plan for approval and of the land to which the plan relates;

(*c*) a description of that agricultural business on completion of the plan in the form of an estimated budget, an estimate of the earned income per labour unit reasonably required in the carrying on of the business on completion of the plan and an estimate of the number of such labour units;

(*d*) an indication of the measures to be taken and, in particular, of the investments to be made, in order to achieve the aim of the plan and a list of any agreements to purchase land or take land on lease made in order to achieve an increase in the area of land occupied for the purposes of the agricultural business to which the plan relates;

(*e*) an indication of any loan guarantee which may be required.

(2) The duration of an improvement plan shall be such period as is specified in the plan, being a period not exceeding six years from the date of approval of the plan.

Restrictions on approval of improvement plans

6.—(1) An improvement plan shall not be approved unless the Department is satisfied that the investments to be made under the plan are justified from the point of view of the situation of the agricultural business and its economy and that completion of the plan will bring about a lasting and substantial improvement of that situation, and in particular of the income per labour unit reasonably required in the carrying on of the business.

(2) An improvement plan shall not be approved under these regulations unless the Department is satisfied that if it is completed—

(*a*) the agricultural business to which it relates may reasonably be expected to achieve an earned income per labour unit which amounts to not more than 120 per cent. of the aggregate of—

(i) the reference income determined in accordance with regulation 14(*a*) in respect of the calendar year in which the plan is submitted for approval or such other year as the Department may for that purpose allow, and

(ii) annual increases at least equal to the annual percentage increases determined in accordance with regulation 14(*b*) in respect of each of the remaining calendar years in the period during which the plan is to be carried out (if any); and

(*b*) not less than half a labour unit may reasonably be expected to be required in the carrying on of the agricultural business to which the plan relates.

(3) The Department shall not approve for the purpose of grant an improvement plan in so far as it includes—

(*a*) proposed expenditure amounting in aggregate to less than £1,500;

(*b*) proposed expenditure 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*) or (*c*), 6(*b*), 7(*a*), 8 or 9(*a*) or (*b*) in column 1 of the Schedule unless the application for approval of the plan which includes that expenditure is received before 1st January 1991 and that the Department is satisfied—

(i) that the effect of the expenditure will not be to provide for an increase of more than 300 pig places on the land occupied for the purposes of the agricultural business to which the plan relates;

(ii) that after completion of the work, facility or transaction, the number of pig places on that land will not exceed 800; and

(iii) that the plan provides that on its completion not less than 35 per cent. of the feeding stuffs required for the pigs kept on the land occupied for the purposes of the agricultural business to which the plan relates can be produced from that land;

(*c*) proposed expenditure in connection with the keeping or breeding of poultry or the production of eggs;

(*d*) proposed expenditure in connection with the breeding or keeping of dairy cows unless the Department is satisfied that the effect of such expenditure will not be 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, and—

(**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)

(i) that such expenditure will not make possible an increase in the number of dairy cows kept on the land occupied for the purposes of the agricultural business to which the plan relates on completion of the plan to more than 40 dairy cows per labour unit reasonably required for that business under the system of production then existing up to a maximum of 1.5 labour units, or

(ii) in the case of an agricultural business which in the opinion of the Department reasonably requires more than 1.5 labour units under the existing system of production and in the carrying on of which dairy cows were kept at the date of submission of the plan, or of the variation thereto, for approval, that such expenditure will not make possible an increase of more than 15 per cent. in the number of dairy cows so kept at that date;

(*e*) proposed expenditure amounting in aggregate to more than £74,000;

(*f*) proposed expenditure which, in the opinion of the Department, would in any six-year period exceed the amount permitted in accordance with sub-paragraph (*e*) when added to other expenditure—

(i) which has been incurred in the six-year period in question, and

(ii) which is included in any previous improvement plan, relating to the same agricultural business, approved under these regulations or the 1987 Regulations or towards which grant is payable or has been paid under the 1987 Scheme or the 1989 Scheme;

(*g*) proposed expenditure amounting in aggregate to more than £35,000 for each labour unit which, in the opinion of the Department, can reasonably be expected to be required at the completion of the plan;

(*h*) proposed expenditure which, in the opinion of the Department, would in any six-year period exceed the amount permitted per labour unit in accordance with sub-paragraph (*g*) when added to other expenditure—

(i) which has been incurred in the six-year period in question, and

(ii) which is included in any previous improvement plan, relating to the same agricultural business, approved under these regulations or the 1987 Regulations or towards which grant is payable or has been paid under the 1987 Scheme or the 1989 Scheme.

(4) An improvement plan shall not be approved under these regulations if the greater part of the land affected by the plan—

(*a*) has been affected by two previous improvement plans received within the preceding six years and approved under these regulations or the 1987 Regulations, or

(*b*) is the subject of a current development plan approved under the Agriculture and Horticulture Development Regulations (Northern Ireland) 1987(**a**) or the Farm and Horticulture Development Regulations (Northern Ireland) 1987(**b**) or a current improvement plan approved under these regulations or the 1987 Regulations or

(**a**) S.R. 1987 No. 154
(**b**) S.R. 1987 No. 155

under or by virtue of Council Regulation (EEC) No. 1942/81(**a**) for the stimulation of agricultural development in the less-favoured areas of Northern Ireland as amended by Council Regulation (EEC) No. 3156/87(**b**).

(5) Where the agricultural business to which the improvement plan 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 the number of labour units under paragraph (3)(*g*) or (*h*).

(6) The Department may make the approval of an improvement plan under these regulations subject to such conditions as it thinks fit.

Closing date for submission of improvement plans

7. The Department shall not approve an improvement plan where the plan is received after 31st December 1994 or such later date as the Department may in special circumstances permit.

Variation and withdrawal of improvement plan

8. The Department may, on the written request of the person currently responsible for the carrying on of an agricultural business to which an improvement plan relates, vary or withdraw the approval of that plan where the Department considers that there are exceptional circumstances warranting such a variation or withdrawal.

Improvement grants

9.—(1) Subject to the provisions of these regulations, the Department may make to any eligible person a grant towards expenditure incurred by him for the purposes of, or in connection with, the carrying on of an eligible agricultural business, being expenditure which—

(*a*) has been incurred—

(i) in respect of any work, facility or transaction of a kind specified in any of paragraphs 1 to 10, 13 and 14 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 11 or 12 in column 1 of the Schedule; and

(*b*) appears to the Department to be of a capital nature or to have been incurred in connection with expenditure of a capital nature, and

(*c*) is included in an improvement plan approved under these regulations for that business and to be the responsibility of that person.

(2) The Department may make the payment of grant under paragraph (1) subject to such conditions as it thinks fit, and any payment of grant under these regulations may be made at such time as the Department may determine.

(3) Where it appears to the Department that expenditure in respect of which a grant is claimed under paragraph (1) has been incurred partly for

(**a**) O.J. No. L197, 20.7.81, p. 17
(**b**) O.J. No. L301, 24.10.87, p. 1

purposes which are eligible for grant under that paragraph and partly for purposes which are not so eligible, the Department may for the purposes of a grant under that paragraph treat as having been incurred for purposes which are so eligible so much of that expenditure as appears to the Department to be referable to those eligible purposes.

Amounts of grant under regulation 9(1)

10.—(1) Subject to the provisions of this regulation and regulations 13 and 15, the amount of any grant payable under regulation 9(1) towards expenditure in respect of any work, facility or transaction of a kind specified in any of paragraphs 1 to 12 and 14 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 regulation and regulations 13 and 15, 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 situated in a less-favoured area, or that part of such a business which is so situated, 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) 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 by—

(*a*) a young farmer who fulfils the requirements specified in paragraph (4); or

(*b*) a partnership in respect of which the requirements specified in paragraph (5) are fulfilled;

the amount of grant payable under regulation 9(1) shall be the percentage of that expenditure specified in relation to that work, facility or transaction in column 2 or 3 of the Schedule, increased by twenty-five per cent.

(4) The requirements in relation to a young farmer are that he—

(*a*) is less than forty years of age on the date on which an improvement plan relating to his agricultural business is submitted;

(*b*) is at that date the sole owner or sole tenant of the land on which the agricultural business to which the plan relates is carried on;

(*c*) submits an improvement plan relating to his agricultural business within five years of the date on which he became sole owner or tenant of the land on which the agricultural business to which the plan relates is carried on;

(*d*) has not prior to that date been responsible for carrying on an agricultural business on land in the capacity of sole owner or sole tenant;

(*e*) has not previously been responsible for carrying out an improvement plan under these regulations or the 1987 Regulations or under or by virtue of Council Regulation (EEC) No. 1942/81(**a**) as amended by Council Regulation (EEC) No. 3156/87(**b**) or a development plan

(**a**) O.J. No. L197, 20.7.81, p. 17 (**b**) O.J. No. L301, 24.10.87, p. 1

under the Agriculture and Horticulture Development Regulations (Northern Ireland) 1987(**a**) or the Farm and Horticulture Development Regulations (Northern Ireland) 1987(**b**) as an individual carrying on an eligible agricultural business or a person carrying on such a business in partnership or an owner of land occupied for the purposes of such a business; and

(*f*) holds an appropriate certificate relating to the possession of agricultural skill and competence issued by a teaching establishment recognised for that purpose by the Department.

(5) The requirements in relation to a partnership are—

(*a*) that a partner in that partnership fulfils the requirements set out in paragraph (4)(*a*), (*e*) and (*f*) submits an improvement plan to the Department within five years of the date on which he became an owner or tenant of the land on which the agricultural business to which the plan relates is carried on and has not prior to that date been responsible for carrying on an agricultural business on land in the capacity of sole owner or sole tenant;

(*b*) that all other partners in the partnership fulfil the requirement of paragraph (4)(*a*) in relation to the partnership business, except that this requirement shall not apply to a limited partner under the terms of a limited partnership agreement who takes no part in the management of the partnership business.

(6) Where it appears to the Department that expenditure towards which grant is payable under regulation 9(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, the part of the business situated in the less-favoured areas so much of that expenditure as appears to the Department to be referable to the carrying on of that part of the business.

(7) The amount of grant payable under regulation 9(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 12 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 regulation.

Accounts

11.—(1) The accounts referred to in regulation 3(1)(*a*) are accounts relating to an agricultural business to which an approved improvement plan relates, and the keeping of those accounts shall comprise—

(*a*) the recording of the revenue and expenditure of the business, with supporting documents, and

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(**a**) S.R. 1987 No. 154
(**b**) S.R. 1987 No. 155

(*b*) the drawing up of an annual balance sheet of the assets and liabilities of the business.

(2) The person currently responsible for the carrying on of an agricultural business to which an approved improvement plan relates shall furnish to the Department such copies of the accounts specified in paragraph (1)(*a*) and (*b*) as the Department may require.

Claims for grant and closing dates for incurring certain expenditure

12.—(1) Subject to paragraph (2) any claim for a grant under these regulations 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.

(2) The Department shall not pay grant under these regulations in respect of—

(*a*) any work, facility or transaction of a kind specified in paragraph 10 in column 1 of the Schedule unless the claim for grant is received on or before 31st March 1994;

(*b*) any work, facility or transaction of a kind specified in paragraph 11 or 12 in column 1 of the Schedule unless the claim for grant is received on or before 31st December 1993.

(3) The Department shall not pay grant under these regulations 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 10 in column 1 of the Schedule.

Standard costs

13. 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 these regulations 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.

Reference income

14. For the purposes of these regulations the Department shall determine in respect of each calendar year—

(*a*) a reference income per labour unit, which shall not exceed the average earnings of full-time workers in occupations other than agriculture;

(*b*) a percentage increase in the reference income, having regard to the average annual increase during the preceding five years in the earnings of full-time workers in occupations other than agriculture after adjustment for changes in retail prices.

Reduction or withholding of grant

15.—(1) The Department may reduce or withhold any grant payable under these regulations 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 these regulations, 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*) it 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 affected 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; 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*).

Revocation of approval and recovery of grant

16. If at any time after the Department has approved an improvement plan or paid a grant under these regulations it appears to the Department—

(*a*) that any condition subject to which the approval was given or the grant has been paid has not been complied with, or

(*b*) that any work, facility or transaction in respect of expenditure on which a grant has been paid has been badly done or provided, or

(*c*) that the person by whom the application for approval of the improvement plan or for the payment of grant was made gave information on any matter relevant to the giving of the approval or the making of the payment which was false or misleading in a material respect,

the Department may revoke the approval, in whole or in part, and, where any payment has been made, may recover on demand an amount equal to the payment which has been so made or such part thereof as the Department may specify; but before revoking an approval or making a demand under the preceding provisions of this regulation the Department shall—

(i) give to any person to whom any payment by way of such grant would be payable or from whom any such amount would be recoverable a written notification of the reasons for the action proposed to be taken by the Department, and

(ii) afford that person an opportunity of appearing before and being heard by a person appointed for the purpose by the Department, and

(iii) consider the report by a person so appointed and supply a copy of the report to the person mentioned in sub-paragraph (i).

False statements

17. If any person, for the purposes of obtaining for himself or any other person any grant under these regulations, knowingly or recklessly makes a false statement, he shall be liable on summary conviction to a fine not exceeding £2,000.

Rights of entry

18. For the purposes of these regulations and, in particular, for the purpose of securing that grants under these regulations are made in proper cases only, any person duly authorised in that behalf by the Department may, upon production if so required of his appointment or authority, at all reasonable times enter upon and inspect any land and inspect any premises, plant or equipment in respect of which grant under these regulations has been made or claimed.

Amendment of the 1987 Regulations

19. The 1987 Regulations shall be amended—

(*a*) by inserting in regulation 7 (closing dates for submission of improvement plans) in paragraph (3) after the words "heated glasshouses)" the words "any work, facility or transaction incidental thereto or necessary or proper in carrying it out or providing it or securing the full benefit thereof or the preparation of an improvement plan";

(*b*) by inserting in regulation 12(2) (closing dates for claims) in sub-paragraph (*b*) after the words "heated glasshouses)" the words "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";

(*c*) by substituting in column 1 of the Schedule (eligible works, facilities and transactions) for paragraph 9 the following paragraph—

"9. Provision, installation or replacement of heating systems (including boilers) in glasshouses and in durable plastic-clad structures designed and intended for the production of horticultural produce.".

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

(L.S.) *L. Sinclair*

Assistant Secretary

SCHEDULE

Regulations 6(3)(*b*), 9(1) and 10(1), (2), (3) and (7)

Eligible Works, facilities and transactions and Rates of Grant

Column 1	Column 2	Column 3
Kind of work, 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 and associated protective fencing), walls, banks (where the walls and banks are built of materials traditional in the locality) and associated gates, stiles and footbridges;	40	50
(*b*) facilities for the handling, storage and treatment of agricultural effluents and waste (including safety fencing) and fixed disposal facilities for such effluents and waste;	50	50
(*c*) shelter belts (including trees for shading livestock and associated protective fencing)—		
(i) consisting of 50 per cent or more broadleaved trees;	40	50
(ii) other shelter belts.	15	50
2. Enclosure of areas of grazed woodland (consisting of 75 per cent. or more broadleaved trees) with fencing protecting the areas from livestock.	40	50
3. Burning heather or grass or regenerating heather by cutting; bracken control by means other than soil cultivation.	40	50
4. Enclosure of areas of heather moorland or heathland with fencing protecting the areas from livestock.	40	50
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

Column 1	Column 2	Column 3
Kind of work, facility or transaction	*Business outside less-favoured area. Rate of grant. Per cent.*	*Business inside less-favoured area. Rate of grant. Per cent.*
6. 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*);	15	25
(*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 12).	15	25
7. Provision, replacement, improvement or alteration of:		
(*a*) fencing (excluding fencing specified in paragraphs 1, 2 and 4), shelter screens, and walls (where the walls are not built of materials traditional in the locality) and associated gates;	15	25
(*b*) works and facilities to prevent the flooding of agricultural land by water-courses.	15	25
8. Replacement of field drainage, including under-drainage and ditching and associated moling and subsoiling, but excluding the replacement of drainage on heathland and moorland.	15	25
9. (*a*) Reseeding and regeneration of grass-land (excluding heathland and moor-land), including as part of a complete programme of work the application of lime or fertiliser.	15	25
(*b*) Application of lime or fertiliser (other than normal husbandry applications) for the benefit of grassland (excluding heathland and moorland).	Nil	25
10. (*a*) Replacement of apple orchards (other than apple orchards consisting of trees producing cider apples) which have	35	35

Column 1	Column 2	Column 3
Kind of work, facility or transaction	*Business outside less-favoured area.* *Rate of grant.* *Per cent.*	*Business inside less-favoured area.* *Rate of grant.* *Per cent.*
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.		
(*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.	35	35
11. Provision, installation or replacement of heating systems (including boilers) in glasshouses and in durable plastic-clad structures designed and intended for the production of horticultural produce.	35	35
12. 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 glasshouses.	40	40
13. 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 12 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 these regulations.	
14. Preparation of improvement plans.	15	25

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations implement provisions in Title 1 of Council Regulation (EEC) No. 797/85 (O.J. No. L93, 30.3.85, 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 Council Regulation (EEC) No. 1137/88 (O.J. No. L108, 29.4.88, p. 1), and Article 1 of 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, as amended by Council Regulation (EEC) No. 797/85.

The regulations make provision for aid for agricultural businesses in the form of grants in respect of expenditure of a capital nature incurred in pursuance of approved improvement plans (regulation 9). The works, facilities or transactions eligible for grant and the rates of grant applicable to them are set out (regulation 10 and the Schedule). Higher rates of grant may be payable for businesses in less-favoured areas (regulation 10(2) and (7) or for businesses carried on by young farmers or by partnerships in which young farmers are partners (regulation 10(3) to (5)). Less-favoured areas are defined by reference to a designated map which is available for inspection during normal office hours at the offices of the Department at Dundonald House, Upper Newtownards Road, Belfast BT4 3SB (regulation 2(1)). Copies of the map may be inspected during normal office hours at any County Agricultural Executive Office or selected Area Offices of the Department.

The classes of person and type of agricultural business which may benefit from grant-aid are defined (regulations 3 and 4). To benefit from assistance an applicant must submit an improvement plan for approval by the Department (regulation 5). The plan must show that its completion will bring about a lasting and substantial improvement of the situation of the business and its economy, especially the income per labour unit required in carrying on the business (regulation 6(1)).

The regulations also—

(*a*) impose certain restrictions on approval of improvement plans (regulation 6(2) to (6));

(*b*) provide for the variation and withdrawal of plans (regulation 8);

(*c*) provide for standard costs (regulation 13);

(*d*) provide for the reduction or withholding of grant in certain circumstances where it would otherwise be payable (regulation 15) and for the recovery of grant paid (regulation 16);

(*e*) create an offence, punishable on summary conviction with a fine not exceeding £2,000, of knowingly or recklessly making a false statement to obtain grant (regulation 17);

(*f*) confer rights of entry (regulation 18);

(*g*) set a closing date of 31st December 1994 for receipt of applications for approval of improvement plans (regulation 7).

(*h*) set closing dates for receipt of claims for certain grants (regulation 12(2)) and for incurring certain expenditure (regulation 12(3)).

Amendments are also made to the Agriculture Improvement Regulations (Northern Ireland) 1987 being earlier regulations relating to improving agricultural structures. The provision, installation or replacement of heating systems in durable plastic-clad structures for horticultural produce is now eligible for grant (regulation 19(*c*)). Plans submitted for approval including proposed expenditure on such heating systems or glasshouse heating systems or heated glasshouses may now also include expenditure on incidental works and plan preparation charges (regulation 19(*a*)). A minor amendment is also made to the application of the closing date for certain claims in relation to expenditure on incidental works (regulation 19(*b*)).