STATUTORY INSTRUMENTS

1967 No. 1609

AGRICULTURE

AGRICULTURAL GRANTS, GOODS AND SERVICES

The Farm Structure (Payments to Outgoers) Scheme 1967

Laid before Parliament in draft

Made - - - 31*st October* 1967

Coming into Operation 31*st October* 1967

The Minister of Agriculture, Fisheries and Food and the Secretary of State acting jointly in exercise of the powers conferred on them by sections 27 and 35 of the Agriculture Act 1967(**a**) and of 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:—

Extent and citation

1. This scheme, which applies throughout the United Kingdom, may be cited as the Farm Structure (Payments to Outgoers) Scheme 1967.

Interpretation

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

" the Act " means the Agriculture Act.1967;

" croft " and " crofter " have the meanings assigned to them by the Crofters (Scotland) Acts 1955 and 1961(**b**);

"holding", "landholder" and " statutory small tenant " have the meanings assigned to them by the Small Landholders (Scotland) Acts 1886 to 1931(**c**);

" occupation " in relation to agricultural land means occupation as owner or tenant, and "occupy" shall be construed accordingly;

" owner " in relation to any land other than in Scotland, has the meaning assigned to it by paragraph 9 of Schedule 3 to the Act and, in relation to any land in Scotland, means a person who for the time being is entitled to receive, or would, if the land were let, be entitled to receive, the rent of the land;

" tenant "—

(*a*) in England and Wales, means an individual who is the holder of land under a contract of tenancy as defined in section 94(1) of the Agricultural Holdings Act 1948(**d**) or under an agreement which has effect by virtue of section 2(1) of that Act as an agreement for the letting of land

(**a**) 1967 c. 22.
(**b**) 3 & 4 Eliz. 2. c. 21; 1961 c. 58.
(**c**) 1886 c. 29; 1887 c. 24; 1891 c. 41; 1908 c. 50; 1911 c. 49; 1919 c. 97; 1931 c. 44.
(**d**) 1948 c. 63.

for a tenancy from year to year or which would have so had effect if it had been made after 1st March 1948; and

(*b*) in Scotland, means an individual who is the holder of land under a lease as defined in section 93(1) of the Agricultural Holdings (Scotland) Act 1949(**a**) or under a lease which has effect by virtue of section 2(1) of that Act as a lease from year to year or would have so had effect if it had been made after 1st November 1948, and includes a crofter, landholder or statutory small tenant; and

(*c*) in Northern Ireland, means an individual who by virtue of a contract of tenancy holds land for a life or lives or for a term of years or from year to year but does not include an individual whose rights in the land arise by virtue of a conacre agreement;

AND other expressions have the same meaning as in the Act.

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

(3) Any reference in this scheme to a numbered paragraph shall be construed as a reference to the paragraph in this scheme bearing that number.

Approval of proposals

3.—(1) Subject to the provisions of this scheme and of section 27 of the Act, a grant under section 27 of the Act may be made to or for the benefit of an individual who relinquishes occupation of an uncommercial unit of agricultural land in accordance with proposals approved by the appropriate Minister in writing, being proposals submitted before the relinquishment of occupation and within seven years from the commencement of this scheme, and such grant may be made subject to such conditions as the appropriate Minister may specify.

(2) No grant shall be payable under section 27(1)(*a*) of the Act unless the uncommercial unit of which occupation is relinquished is in the opinion of the appropriate Minister capable, when farmed under reasonably skilled mangement, of providing, for an individual occupying it, 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 the feeding stuffs required by any livestock kept on the unit is grown there.

(3) Each submission of proposals for approval shall be made in such form as the appropriate Minister may require and the applicant for grant shall furnish that Minister with all such particulars and information relating to the proposals as he may reasonably require.

Eligible occupation

4.—(1) Subject to the provisions of this and the next two succeeding paragraphs, a grant under section 27 of the Act shall not be payable unless each individual applying for grant has been entitled to occupy the uncommercial unit, or the land of which that unit consists, throughout the period beginning with 4th August 1965 and ending with the day of the submission of his proposals for such a grant in respect of the relinquishment of occupation of that unit.

(2) Grant shall not be payable if the individual has at any time during the aforesaid period been entitled to occupy any unit of land sufficiently large to constitute a commercial unit except that this bar shall not apply where the appropriate Minister is satisfied that that unit of land has been reduced to an uncommercial unit, or that the individual has relinquished his occupation of

(**a**) 1949 c. 75. (**b**) 1889 c. 63.

that unit of land, at the time of submission by the individual of his proposals for grant, otherwise than in consequence of any act or default of the individual.

5. The provisions of paragraph 4(1) shall not apply where the appropriate Minister is satisfied—

(*a*) that the individual has become entitled to occupy the whole or a major part of the uncommercial unit, or the land of which it consists, by way of devolution on death or of a transfer from a member of his family and that since 4th August 1965 any other transmission of the right to occupy the whole or part of that unit or land has been by way of such a devolution or transfer and through no other cause; and

(*b*) that the individual has farmed, or been employed in agriculture on, that unit or land for a period of not less than 2 consecutive years ending with the day of the submission of the proposals for grant or, where the individual is a surviving spouse, that he or she has throughout the said period either resided on the said unit or land as spouse of the occupier thereof or been entitled to occupy the whole or a major part thereof.

In this paragraph " family " has the meaning assigned to it by section 50(4) of the Act.

6. Notwithstanding the provisions of paragraph 4(1), grant under section 27 of the Act may be paid where the uncommercial unit of which occupation is relinquished includes land which on 4th August 1965 was an agricultural unit smaller in extent than the said uncommercial unit if the appropriate Minister is satisfied that the individual has been entitled to occupy all the land comprising that uncommercial unit for a period of not less than 2 consecutive years ending with the day on which his proposals for grant are submitted and that—

(*a*) throughout the period beginning with 4th August 1965 and ending with the aforesaid day he has occupied, or

(*b*) during such period no change of occupation other than by way of devolution or transfer of the kind referred to in paragraph 5(*a*) has taken place of,

so much of the aforesaid uncommercial unit as, at the aforesaid day, would have satisfied the requirements specified in paragraph 3(2) in relation to an uncommercial unit.

Income Test

7.—(1) Subject to the provisions of this paragraph, the appropriate Minister shall not approve any proposals for grant under section 27 of the Act unless it appears to him that the annual farm income of each individual applying for grant, calculated in accordance with sub-paragraph (2) of this paragraph and derived from the uncommercial unit of which occupation is to be relinquished, does not fall short of his total income for the same period by more than four hundred pounds or, if it does so fall short, that it does so by an amount not exceeding one third of his annual farm income.

(2) For the purposes of this paragraph, annual farm income means the annual income, calculated in each case by reference to such year within the five years immediately preceding the day on which the proposal for grant is submitted as the appropriate Minister shall determine and which he is satisfied gives a fair indication of the normal amount of such income, derived from the uncommercial unit the occupation of which is relinquished by the individual, including income derived from carrying on any agricultural activity on that unit less any expenses necessarily incurred in carrying on that activity, and includes any such income of the individual's spouse living with him or her.

(3) Where the individual applying for grant is a surviving spouse on whom the right to occupy the uncommercial unit has devolved on the death of his or her late spouse within the 5 years immediately preceding the day on which the proposal for grant is submitted and—

(*a*) the annual farm income is calculated in accordance with sub-paragraph (2) of this paragraph by reference to a year ended on or before the death of the late spouse there shall be taken into account for the purpose of sub-paragraph (1) of this paragraph the total income of the late spouse during that year;

(*b*) the annual farm income is calculated by reference to a year beginning after the death of the late spouse and the said individual, although entitled beneficially to all or part of the late spouse's estate arising on the death of the late spouse, has not had the same vested in him or her on or before the commencement of that year there shall be taken into account in arriving at the said individual's total income for such year for the said purpose such an amount as the appropriate Minister is satisfied, after consulting the said individual, represents a fair estimate of income to be derived from the beneficial interest.

(4) For the purposes of this paragraph, an individual's total income means income for purposes of income tax before deducting the charges specified in section 524(3)(*b*) of the Income Tax Act 1952(**a**) and each reference to a year shall be construed as a reference to a year commencing on 6th April and ending on the following 5th April.

Amount of grant

8.—(1) Subject to the provisions of this and the next following paragraph, the amount of the grant under section 27 of the Act shall be—

(*a*) in the case of an individual of less than 55 years of age, a lump sum payment of £1,000 plus a sum calculated at the rate of £10 per acre of eligible land;

(*b*) in the case of an individual of not less than 65 years of age, a life annuity consisting of the aggregate of £200 and a sum calculated at the rate of 15s. per acre of eligible land;

(*c*) in the case of an individual of not less than 55 but less than 65 years of age, an amount calculated in accordance with either sub-paragraph (*a*) or sub-paragraph (*b*) above as the individual may elect in writing before the appropriate Minister approves the proposals for grant.

In each case, the individual's age shall be calculated by reference to the date on which the appropriate Minister approves the proposals for grant, so however that if an individual of the class referred to in sub-paragraph (*c*) above submits proposals for grant before attaining 65 years of age, the individual may exercise the election for which provision is there made notwithstanding that he or she attains 65 years of age before the appropriate Minister approves the proposals for grant.

(2) For the purposes of calculating the amount of the grant there shall be taken into account as eligible land, having regard to the land being relinquished as on the day the proposals for grant are submitted and disregarding any part of that land which has previously been taken into account for the purposes of a grant paid under section 27 of the Act,—

(*a*) the area of any land within the uncommercial unit the occupation of which is being relinquished which the appropriate Minister is satisfied

(**a**) 1952 c. 10.

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*) the area of any land within that unit not exceeding in extent one twentieth of the area described in sub-paragraph (*a*) above which appears to the appropriate Minister to be necessary to the full and efficient farming of the unit;

(*c*) one sixth of the area of any land within that unit which appears to the appropriate Minister to be rough grazing land or to be woodland the use of which is ancillary to the farming of the unit;

(*d*) where a right to graze animals is enjoyed with that unit, not being such a unit as is mentioned in sub-paragraph (*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 that unit attributable to the enjoyment of that right;

(*e*) where an agricultural unit 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;

so however that only acreage in excess of an aggregate of 10 acres and not exceeding an aggregate of 110 acres shall be taken into account under the preceding provisions of this sub-paragraph. In calculating the aggregate of the land so taken into account, any fraction of an acre shall be rounded down to the nearest tenth of an acre.

9.—(1) In the case of an uncommercial unit occupied by more than one individual, there may be payable to each individual eligible for grant in respect of the relinquishment of occupation of that unit such proportion of an amount approximately equivalent to the grant which might have been payable to a single individual had the unit been in his sole occupation as appears to the appropriate Minister to be appropriate, having regard to any agreement between all the individuals so eligible of which he has been notified and to the extent of each individual's interest as regards the occupation of the unit considered in relation to such interests of the other individuals eligible for that grant.

(2) The form of a payment of grant to each individual under the last preceding sub-paragraph, though not the amount thereof, shall be in accordance with the provisions of paragraph 8(1).

Annuity to surviving spouse

10. After the death of a person in receipt of a grant by way of annuity, a grant under section 27 of the Act by way of an annuity equivalent in amount to half of the first mentioned annuity may be paid to a surviving spouse who was living with that person when proposals for the first mentioned grant were submitted, subject to compliance with such conditions as the appropriate Minister may specify when making the last mentioned grant. The last mentioned grant shall cease to be payable if the spouse re-marries.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 27th October 1967.

(L.S.) *Frederick Peart*,
Minister of Agriculture, Fisheries and Food.

Given under the Seal of the Secretary of State for Scotland on 30th October 1967.

(L.S.) *William Ross*,
Secretary of State for Scotland.

We approve the making of this scheme.

E. Alan Fitch,
Joseph Harper,
Lords Commissioners of
Her Majesty's Treasury.

31st October 1967.

EXPLANATORY NOTE

(*This Note is not part of the Scheme.*)

This scheme is made under section 27 of the Agriculture Act 1967 which authorises the making of a scheme for the payment of a grant by way of a lump sum or an annuity to an individual who relinquishes occupation of an uncommercial unit of agricultural land for the purpose of improving farm structure. In accordance with the Act, this scheme does not extend to any application for approval of proposals made after the expiration of 7 years from the commencement of the scheme. It applies to the whole of the United Kingdom.

The scheme provides that, for an individual to be eligible for grant, the uncommercial unit, occupation of which is relinquished for a private farm amalgamation, is to be one capable of providing work for the occupier equivalent to at least 100 days a year. The scheme lays down terms as to eligibility for grant, including occupation and income tests; it specifies the amounts of grant payable and the method by which grant is to be calculated; and provides that the type of grant payable is to depend on the age of the applicant. Under the scheme grant may be paid to a surviving spouse of an annuitant at the rate of half the original annuity, and payment would cease on re-marriage.