

Statutory Instrument 1988 No. 1291

The Farm Woodland Scheme 1988

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STATUTORY INSTRUMENTS

1988 No. 1291

AGRICULTURE

The Farm Woodland Scheme 1988

Made 25th July 1988

Coming into force 1st October 1988

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland and the Secretary of State for Wales, acting jointly, in exercise of the powers conferred on them by section 2 of the Farm Land and Rural Development Act 1988^[1] and of all other powers enabling them in that behalf, with the approval of the Treasury, hereby make the following Scheme of which a draft has been laid before and approved by resolution of each House of Parliament:—

Title, commencement and extent

1.—(1) This Scheme may be cited as the Farm Woodland Scheme 1988 and shall come into force on 1st October 1988.

(2) This Scheme shall apply to Great Britain.

Interpretation

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

"agricultural business" means a business consisting in, or such part of a business as consists in, the pursuit of agriculture;

"agricultural unit" means land which is occupied as a unit for agricultural purposes;

"agriculture" and cognate expressions shall be construed, in relation to England and Wales, in accordance with section 109 of the Agriculture Act 1947^[2] and, in relation to Scotland, in accordance with section 86 of the Agriculture (Scotland) Act 1948^[3] except that in either case such expressions shall not include the use of land for woodlands;

"the appropriate Minister" means, in relation to England, the Minister of Agriculture, Fisheries and Food, and in relation to Scotland or Wales, the Secretary of State;

"converted woodlands" means eligible land converted from agricultural use to use for woodlands in accordance with a plan of operations;

"designated maps" means—

(a) in relation to England, the 3 volumes of maps numbered 1 to 3, each such volume being marked "volume of maps of less-favoured farming areas in England" and with the number of the volume, dated 3rd April 1984, signed and sealed by the Minister of Agriculture, Fisheries and Food and deposited at the offices of the Ministry of Agriculture, Fisheries and Food at Great Westminster House, Horseferry Road, London SW1P 2AE;

(b) in relation to Wales, the 2 volumes of maps numbered 1 and 2, both volumes being marked "volume of maps of less-favoured farming areas in Wales" and with the number of the volume, dated 29th March 1984, signed by the Secretary of State for Wales and deposited at the offices of the Welsh Office Agriculture Department at Plas Crug, Aberystwyth, Dyfed SY23 1NG;

(c) in relation to Scotland, the 4 maps numbered 1 to 4, each such map being marked "map of less-favoured farming areas in Scotland" and with the number of the map, dated 2nd April 1984, signed by the Secretary of State for Scotland and deposited at the offices of the Department of Agriculture and Fisheries for Scotland at Chesser House, Gorgie Road, Edinburgh EH11 3AW;

"disadvantaged land" means land—

(a) which is, in the opinion of the appropriate Minister, 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

(b) whose agricultural production is, in the opinion of the appropriate Minister, restricted in its range by, or by any combination of, soil, relief, aspect or climate,

which land is within the area shaded blue on the designated maps;

"eligible land" means—

(a) arable land except where such land has been converted to arable since 31st December 1987;

(b) improved grassland except where such land has been cultivated and re-seeded for the first time since 31st December 1987; or

(c) agricultural land other than arable land and improved grassland which is either severely disadvantaged land or disadvantaged land, except where such land has been converted to agricultural use for the first time since 31st December 1987,

but does not include woodlands used for grazing cattle or sheep or land used for grazing horses;

"improved grassland" means grassland which has been cultivated and re-seeded within ten years prior to the date of an application for grant under this

scheme which relates to that land;

"initial entrant" means an entrant into this Scheme whose application for grant is accepted under paragraph 3(1);

"nature reserve" means—

- (a) land subject to an agreement under section 16 of the National Parks and Access to the Countryside Act 1949^[4] that it shall be managed as a nature reserve;
- (b) land declared to be a national nature reserve by the Nature Conservancy Council pursuant to section 35 of the Wildlife and Countryside Act 1981^[5] ;

"occupier" means a person who jointly or severally occupies land either as an owner or lessee and references to "occupies" and "occupation" shall be construed accordingly;

"plan of operations" means a plan of operations for the conversion of an area of eligible land to woodlands in pursuance of this Scheme which has been approved by the Forestry Commissioners under the Woodland Grant Scheme (being a scheme under which the Forestry Commissioners enter into agreements to make grants pursuant to section 1 of the Forestry Act 1979^[6] for and in connection with the use and management of land for forestry purposes);

"severely disadvantaged land" means land—

- (a)
 - (i) which is, in the opinion of the appropriate Minister, 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
 - (ii) whose agricultural production is, in the opinion of the appropriate Minister, severely restricted in its range by, or by any combination of, soil, relief, aspect or climate, or
- (b) situated in the Isles of Scilly

which land is within the area shaded pink on the designated maps;

"subsequent entrant" means an entrant into this Scheme whose application for grant is accepted under paragraph 3(2).

(2) Any reference in this Scheme to a numbered paragraph or Schedule shall be construed as a reference to the paragraph or Schedule bearing that number in this Scheme.

Requirements for entry into the Scheme

- 3.—(1) Subject to the provisions of this Scheme, a person may be accepted by the appropriate Minister as an initial entrant if, in the opinion of that Minister, he—
- (a) occupies eligible land in relation to which he makes an application to join the Scheme; and
 - (b) carries on, whether personally or by a manager, an agricultural business on an agricultural unit which includes that land; and
 - (c) has agreed with the Forestry Commissioners a plan of operations for conversion of that land from agricultural use to use for woodlands.
- (2) Subject to the provisions of this Scheme, a person may be accepted by the appropriate Minister as a subsequent entrant if, in the opinion of that Minister, he—
- (a) occupies converted woodlands, either with or without eligible land which remains the subject of a plan of operations which he agrees to complete, in relation to which he makes an application to join the Scheme; and
 - (b) carries on, whether personally or by a manager, an agricultural business

on an agricultural unit which includes those woodlands and (where applicable) that eligible land or is adjacent to them; and
(c) occupies the land referred to in sub-paragraph (a) above in immediate succession to a previous occupier who had been accepted as an entrant into this Scheme.

(3) In paragraph (2) above "immediate succession" means occupation of the land in question within 12 months of the termination of occupation by the previous occupier who was an entrant into this Scheme or by his personal representatives.

Applications for grant

4. Every application for grant under this Scheme shall be made in such form as the appropriate Minister may require.

Restrictions on acceptance of applications

5. —(1) The appropriate Minister shall not approve an application to enter this Scheme which relates to land which—

- (a) is registered as common land pursuant to the Commons Registration Act 1965^[7] ;
- (b) forms part of a nature reserve;
- (c) was, in the opinion of the appropriate Minister, planted with woodlands to an appreciable degree before the plan of operations relating to that land was approved;
- (d) is occupied by a lessee unless the owner of that land has given his consent in writing to the occupier's participation in the Scheme.

(2) The appropriate Minister may refuse an application to enter this Scheme which relates to land—

- (a) in respect of which the payment of grant under this Scheme appears to that Minister to frustrate the purposes of any assistance previously given or to be given out of money provided by Parliament or the European Economic Community;
- (b) which is occupied by a person who has been accepted as an initial entrant in relation to other land within three years of the coming into force of this Scheme.

(3) For the purposes of sub-paragraph (1)(d) above, where land is occupied by a sub-tenant "owner" includes a superior tenant.

6.—(1) The appropriate Minister shall not approve an application to enter this Scheme which relates to land in England or Wales possession of which was obtained from a tenant of that land by means of a notice to quit—

- (a) to which Case B in Part I of Schedule 3 to the Agricultural Holdings Act 1986^[8] applied; or
- (b) in respect of which a counter-notice could have been served under section 26(1)(b) of the Agricultural Holdings Act 1986 unless no such counter-notice was served or unless the Agricultural Land Tribunal consented to the operation of the notice to quit on the grounds set out in section 27(3)(e) of that Act (with or without other grounds).

(2) The appropriate Minister shall not approve an application to enter this Scheme which relates to land in Scotland possession of which was obtained from a tenant of that land by means of—

- (a) a notice to quit to which section 25(2)(c) of the Agricultural Holdings

- (Scotland) Act 1949^[9] applied; or
- (b) a notice to quit in respect of which a counter-notice could have been served under section 25(1) of the Agricultural Holdings (Scotland) Act 1949 unless no such counter-notice was served or unless the Scottish Land Court consented to the operation of the notice to quit on the grounds set out in section 26(1)(d) of that Act (with or without other grounds); or
- (c) an authorisation given by the Scottish Land Court under section 12(1) of the Crofters (Scotland) Act 1955^[10] to resume a croft or part of a croft; or
- (d) an authorisation given by the Scottish Land Court under section 12(3) of the Crofters (Scotland) Act 1955 to resume any land forming part of a common grazing; or
- (e) a notice served pursuant to a resumption clause in a lease.

7. The appropriate Minister shall not approve an application to enter this Scheme under paragraph 3(1) which relates to the conversion to woodlands of an aggregate of more than 40 hectares or less than 3 hectares of eligible land forming part of any one agricultural unit or which provides for the planting of any separate plantation of less than one hectare.

Requirements for persons taking part in the Scheme

8.—(1) A person whose application to enter this Scheme is approved shall thereupon enter into an undertaking with the appropriate Minister that he or his personal representatives will—

- (a) carry out the work described in any plan of operations relating to any land to which his application relates, being land which he or his personal representatives occupy, within the times and in the manner specified in the plan and to the satisfaction of the appropriate Minister;
- (b) maintain converted woodlands in respect of which he or they have received any grant under this Scheme in accordance with the rules and practice of good forestry to the satisfaction of the appropriate Minister throughout the period during which he or they receive payments of grant;
- (c) notify the appropriate Minister in writing—
 - (i) of any change in occupation of the eligible land or converted woodlands which he or they occupy within one month of its occurrence;
 - (ii) of the termination of the agricultural business carried on by him or them on the agricultural unit which includes or is adjacent to the eligible land or converted woodlands which he or they occupy;
- (d) furnish such information as to the agricultural business carried on by him or them on the agricultural unit which includes or formerly included or is or was adjacent to the eligible land or converted woodlands which he or they occupy, and as to those woodlands, as the appropriate Minister may require to evaluate the effectiveness of this Scheme.

(2) An initial entrant or a subsequent entrant or their personal representatives shall cease to be eligible for payments of grant under this Scheme if at any time he or they cease to carry on an agricultural business on the agricultural unit which includes or is adjacent to the eligible land or converted woodlands which he or they occupy.

Farm woodland grants

9.—(1) Subject to the provisions of this Scheme, the appropriate Minister may make to an initial entrant or a subsequent entrant or their personal representatives grants for abating any financial loss which has been or will be suffered in consequence of their occupation of converted woodlands.

(2) Grants under sub-paragraph (1) above shall be made by annual payments, in relation to the categories of converted woodlands specified in column 1 of Schedule

1 at the rate per hectare specified in column 2 of that Schedule and shall be paid in respect of the area of such converted woodlands remaining in the occupation of the claimant at the time the claim for grant is made.

Duration and payment of grant

10.—(1) Subject to the provisions of this Scheme, the number of annual payments under paragraph 9 paid in respect of any area of converted woodlands of a category specified in column 1 of Schedule 2 shall not exceed the maximum number of payments specified in column 2 of that Schedule in relation to converted woodlands of that category.

(2) For the purposes of this paragraph the description of any area of converted woodlands specified in column 1 of Schedule 2 which applies when the plan of operations is complete shall remain applicable to any part of that area so long as payments of grant under this Scheme are being made in relation to that area.

(3) In respect of each area of converted woodlands—

- (a) the first annual payment of grant under the Scheme shall be made, subject to the delivery of a duly completed claim form to the appropriate Minister, during the twelve months following the payment of the first instalment of grant made by the Forestry Commissioners in pursuance of the plan of operations for the conversion of that land;
- (b) subsequent annual payments shall be made on 1st October in each year or on such other date or dates in each year as the appropriate Minister may decide until the total number of annual payments equals the maximum number specified in the relevant section of column 2 of Schedule 2.

Claims for grant

11. Every claim for grant under this Scheme shall be made in such form and at such times as the appropriate Minister may require.

Financial limits

12. —(1) When by reason of the total of applications for grant under this Scheme already approved or received, the appropriate Minister is at any time of the opinion that the financial resources which should be made available for payment of grant under this Scheme during any period will be insufficient to satisfy the payments of grants in relation to England, Wales or Scotland as the case may be during the same period resulting from the approval of further applications from initial entrants, he may decide—

- (a) that he will not accept any such further applications for consideration under this Scheme until a time subsequently specified by that Minister;
- (b) that he will cease to approve existing applications from such entrants or postpone approval of them.

(2) A decision by the appropriate Minister under sub-paragraph (1) above may relate to applications—

- (a) for grant under this Scheme in respect of any category of converted woodlands referred to in column 1 of Schedule 1; or
- (b) for any grant under this Scheme,

and in the case of a decision under sub-paragraph (1)(a) not to accept further applications and to specify a time when further applications may be accepted shall be published by notice in the London or Edinburgh Gazette, as appropriate.

Variation of plans of operations

13. The occupier of land in respect of which grant is being paid, or is due to be paid, under this Scheme, may, with the agreement of the Forestry Commissioners and the appropriate Minister, vary his plan of operations in any manner they may approve consistent with this Scheme, and may thereafter claim the payment of grant in respect of the conversion to woodlands in accordance with the plan as so varied.

Withholding and recovery of grant

14.—(1) If at any time after the appropriate Minister has approved the entry of any person into this Scheme it appears to that Minister that that person with a view to obtaining the payment of grant under this Scheme has made any statement or furnished any information which is false or misleading in a material respect, the appropriate Minister may—

- (a) reduce or withhold any payment of grant due under the Scheme to the entrant or his personal representatives; and
- (b) recover from him or them an amount equal to any payments made under the Scheme or such part thereof as the appropriate Minister may specify; and
- (c) terminate the participation in the Scheme of the entrant or his personal representatives.

(2) If at any time after the appropriate Minister has approved the entry of any person into this Scheme it appears to that Minister that that person or his personal representatives have without reasonable cause failed to carry out any undertaking given by him pursuant to paragraph 8 or to comply with any other requirement of this Scheme the appropriate Minister may—

- (a) postpone, reduce or withhold any payment of grant under this Scheme to the entrant or his personal representatives; or
- (b) recover from him or them an amount equal to any payments made under the Scheme or such part thereof as the appropriate Minister may specify; and
- (c) terminate the participation in the Scheme of the entrant or his personal representatives.

(3) Before postponing, reducing, withholding or recovering any grant or terminating participation in the Scheme under this paragraph the appropriate Minister shall—

- (a) give to any person to whom any payment of such grant would be payable or from whom any such amount would be recoverable or whose participation in the Scheme is proposed to be terminated a written notification of the reasons for the action proposed to be taken by that Minister, and
- (b) afford that person an opportunity of appearing before and being heard by a person appointed for the purpose by the appropriate Minister, 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.

(4) The appropriate Minister shall not approve a further application to enter this Scheme made by a person whose participation in the Scheme has been terminated under this paragraph within three years of the date of that termination.

(5) For the purposes of sub-paragraph (2) "reasonable cause" shall be taken to refer to ill-health or death of the entrant concerned or his personal representatives, severe weather conditions, shortage of suitable tree plants, or compulsory purchase of land in respect of which the applicant's entry to the Scheme was approved, or such other exceptional circumstances as the appropriate Minister considers justify failure to carry out any undertaking or comply with any requirement under this Scheme.

Obligation to permit entry and inspection

15.—(1) The occupier of land to which an application for entry into this Scheme relates, or which is being converted to woodlands in pursuance of a plan of operations or which is converted woodlands and in respect of which grant is still

being claimed, shall permit any officer duly authorised by the appropriate Minister, accompanied by such persons acting under his instructions as appear to the officer to be necessary for the purpose, at all reasonable times and on production of his authority on demand, to enter upon and inspect any such land in order to verify the accuracy of any particulars given in any application or claim made under this Scheme, and compliance with the requirements of the Scheme.

(2) The occupier shall render all reasonable assistance to the authorised officer in relation to the matters mentioned in sub-paragraph (1) above, and in particular shall, at the request of that officer, accompany him in making the inspection and shall identify any areas of land which are concerned in the application or claim in question.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 20th July 1988.

John MacGregor

Minister of Agriculture, Fisheries and Food

Sanderson of Bowden

Minister of State, Scottish Office

20th July 1988

Peter Walker

Secretary of State for Wales

25th July 1988

We approve

Michael Neubert

Mark Lennox-Boyd

Two of the Lords Commissioners of Her Majesty's Treasury

25th July 1988

Notes:

[1] 1988 c. 16. The "appropriate authority" upon whom the powers of section 2 of the Farm Land and Rural Development Act 1988 are conferred is defined in sections 2(6) and 1(5) of that Act and, as read with the definition of "the appropriate Minister" in those subsections, refers to the Minister of Agriculture, Fisheries and Food in relation to England and the Secretary of State in relation to Scotland or Wales.

[2] 1947 c. 48.

[3] 1948 c. 45.

[4] 1949 c. 97.

[5] 1981 c. 69.

[6] 1979 c. 21.

[7] 1965 c. 64.

[8] 1986 c. 5.

[9] 1949 c. 75.

[10] 1955 c. 21.