
STATUTORY INSTRUMENTS

1997 No. 2673

AGRICULTURE

The Food Industry Development Scheme 1997

Made - - - - *7th November 1997*
Laid before Parliament *10th November 1997*
Coming into force - - *1st December 1997*

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 power conferred upon them by section 50(1), (2), (3) and (4) of the Agriculture Act 1993⁽¹⁾, and with the approval of the Treasury, hereby make the following Scheme:

Title and commencement

1. This Scheme may be cited as the Food Industry Development Scheme 1997 and shall come into force on 1st December 1997.

Interpretation

2. In this Scheme, unless the context otherwise requires—

“applicant” means the person who has made an application for grant under this Scheme and “application” shall be construed accordingly;

“association” means trade association and any other association of bodies which have grouped together for the purpose of making an application;

“partnership” means a group of people or businesses who have come together to carry out the objectives of an application and does not necessarily mean a legally constituted partnership, and “partners” shall be construed accordingly; and

“proposal” means an application which has been approved for payment of grant under this Scheme by the appropriate Minister.

Delegation

3. Any discretion under this Scheme exercisable by the Secretary of State for Scotland or the Secretary of State for Wales as to the payment of grant, as to the manner and timing of payment of grant and as to the amount of grant may be exercised by the Minister of Agriculture, Fisheries

(1) 1993 c. 37.

and Food as his delegate and their respective functions in connection with the administration of the Scheme may be carried out by that Minister.

Scope of the Scheme

4.—(1) In accordance with the following provisions of this Scheme the appropriate Minister may pay to any person satisfying the conditions set out in paragraph 5 below a grant representing any sum up to the specified percentage of the expenditure on eligible items (as referred to in paragraph 8 below) which has been incurred by that person in carrying out a proposal for the organisation, promotion, encouragement, development, co-ordination or facilitation of the marketing in Great Britain or elsewhere of—

- (a) the produce of agriculture (including horticulture);
- (b) the produce of fish farming;
- (c) the produce of an activity specified for the purposes of section 50(2) of the Agriculture Act 1993 by order made by the Ministers; or
- (d) anything derived from produce falling within any of paragraphs (a) to (c) above.

(2) For the purposes of this Scheme, where the person referred to in sub-paragraph (1) above as satisfying those conditions is a partnership, the expenditure of each partner shall be regarded as included in partnership expenditure.

(3) In sub-paragraph (1) above “the specified percentage”, in relation to expenditure incurred on eligible items, means—

- (a) in cases other than those to which paragraph (b) of this sub-paragraph applies, 50%, and
- (b) in cases where contributions under paragraph 9 below have been made—
 - (i) such percentage as is equal to the sum of 50% of the expenditure so incurred plus 50% of the expenditure on those contributions, or
 - (ii) 100% of the expenditure so incurred,whichever is the lower.

Eligibility for consideration for the payment of a grant under the Scheme

5.—(1) Applications may be made by associations or partnerships and from time to time the appropriate Minister may indicate that he will also accept applications from individual persons or bodies corporate.

(2) In order to be considered for the payment of a grant under this Scheme, an applicant must demonstrate to the satisfaction of the appropriate Minister that the purpose of the application is to improve business performance or increase business activity within the food industry.

(3) No application shall be eligible to be considered for the payment of a grant under this Scheme unless the applicant declares—

- (a) that the application would not be carried out but for the grant; and
- (b) that no assistance in respect of expenditure for which the grant is to be made is to be given under any enactment other than section 50 of the Agriculture Act 1993 or under any instrument of the European Economic Community.

Applications for grants under the Scheme

6.—(1) Any person wishing to be considered for the payment of a grant under this Scheme shall apply for such a grant in such a way as the appropriate Minister may from time to time determine.

(2) The appropriate Minister shall, from time to time, invite applications for grant, under this Scheme, such applications to be submitted by such deadlines as he decides.

(3) In considering whether or not to approve an application for a grant under this Scheme the appropriate Minister—

- (a) shall have regard to the considerations set out in Schedule 1 to this Scheme; and
- (b) may seek the advice of any specialist in order to assess the merits of the proposal to which the application relates.

(4) A person may apply for more than one grant under this Scheme.

(5) In making an offer to pay a grant under this Scheme, the appropriate Minister shall indicate to the applicant how long the proposal to which the grant relates will be funded under it, and any particular conditions which will apply to that grant.

(6) Each application shall contain the following information—

- (a) an indication of the area of the food industry it aims to benefit;
- (b) an explanation of why payment of grant under this Scheme is necessary to achieve the benefits described in the application;
- (c) evidence of the financial position of the applicant and (if the applicant is a partnership) of the partners concerned with the application;
- (d) a description of the objectives of the application and of the benefit to the food industry and to the United Kingdom's economy should grant under this Scheme be paid to the applicant;
- (e) a description as to how progress towards the achievement of objectives contained in the application will be monitored;
- (f) a description as to how the success of the application would be measured on completion if grant aid were to be paid to the applicant under this Scheme; and
- (g) a plan for the application of the results of achieving those objectives and for the dissemination of key information to the relevant parts of the food industry.

Priority in approving applications under the Food Industry Development Scheme

7.—(1) In the event that the total of the grant sought at a particular time by all applicants whose applications are suitable to be approved under the conditions set out in this Scheme exceeds the funds then available to the appropriate Minister to make grant payments, then the appropriate Minister shall so approve them in order of priority based on which of the applications in question best meets the considerations set out in Schedule 1 to this Scheme, until the availability of the funds in question is exhausted.

(2) In Schedule 1 to this Scheme, “small and medium sized enterprises” means enterprises which the appropriate Minister considers to be such, and for the purpose of considering that matter, he may take into account the meaning given in—

- (a) the Annex to Commission Recommendation 96/280/EC(2) on the definition of small and medium sized enterprises, and
- (b) any future amendment to or replacement of that Recommendation.

Items eligible for payments of grant

8. The items expenditure on which is eligible for payments of grant under this Scheme are set out in Schedule 2 and in paragraph 9 of this Scheme.

(2) OJ No. L107, 30.4.96, p.4.

Contributions from non-applicants

9.—(1) Where contributions to expenditure on proposal items referred to in paragraph 8 above are made by a person within this paragraph, those contributions shall be regarded as items expenditure on which is eligible for payment of grant under this Scheme.

- (2) A person comes within this paragraph where—
- (a) he is not the applicant or a partner of the applicant; and
 - (b) no charge has been or is to be made for his contributions.

Use of information

10.—(1) Subject to sub-paragraph (2) of this paragraph, no person may be paid a grant under this Scheme unless he has given to the appropriate Minister his written consent to the use by that Minister of information about the proposal for which the grant is sought.

(2) Such consent may be given subject to the condition that to the extent that the applicant can show to the appropriate Minister's satisfaction, that disclosure of such information would give rise to a significant risk of detriment to the applicant's commercial interests, then no such disclosure shall take place.

Record-keeping

11. Each person to whom a grant is paid under this Scheme shall—
- (a) keep records of all financial transactions connected with the proposal to which the grant relates for a period of at least one year after the cessation of the funding of that proposal; and
 - (b) comply with any reasonable request made by any person duly authorised by the appropriate Minister for the purposes of this Scheme to disclose to that person any of the records referred to in sub-paragraph (a) of this paragraph.

Prior written consent

12. The carrying out of any proposal funded under this Scheme shall not be commenced without the written consent of the appropriate Minister.

Variation and withdrawal of proposals

- 13.—(1) The appropriate Minister may permit the recipient of a grant under this Scheme—
- (a) to vary the proposal to which the grant relates; or
 - (b) to withdraw that proposal,

on written notice of such variation or withdrawal being given to him by that recipient.

(2) Where a proposal is withdrawn in accordance with sub-paragraph (1)(b) of this paragraph the appropriate Minister may on demand recover the whole or any part of a grant already paid with reference to the proposal.

Payment of grant

14. Unless the appropriate Minister otherwise agrees in writing, each claim for payment of grant must be accompanied by a written report which shall include—

- (a) details of progress of any work in accordance with any time-scale agreed as part of the conditions for payment of grant;

- (b) any change in the nature or scale of the proposal; and
- (c) any change in the ownership of, or beneficial interest in, any asset purchased as part of the proposal.

Right to inspect

15. It shall be a condition of any payment of grant under the Scheme that any person duly authorised by the appropriate Minister shall have the right to inspect at any reasonable time any work carried out in connection with the proposal for which grant has been approved and to require such further information to be supplied by the applicant as would appear to him to be necessary.

4th November 1997

Donoghue
Parliamentary Secretary Ministry of Agriculture,
Fisheries and Food

4th November 1997

Sewel
Parliamentary Under Secretary of State, Scottish
Office

Signed by authority of the Secretary of State for Wales

7th November 1997

Win Griffiths
Parliamentary Under Secretary of State, Welsh
Office

We approve,

5th November 1997

Jon Owen Jones
Graham Allen
Two of the Lords Commissioners of Her
Majesty's Treasury

SCHEDULE 1

Paragraph 7

CONSIDERATIONS THE APPROPRIATE MINISTER WILL
HAVE REGARD TO WHEN ASSESSING APPLICATIONS

1. The likely benefits to the part of the food industry at which the application is aimed and the importance of those benefits, together with the extent to which there are benefits to small and medium sized enterprises within that part of the food industry.
2. The relevance of the application to the food industry as a whole and to the United Kingdom economy.
3. The extent to which the methods proposed in the application of achieving the objectives set out in the application appear to him to be appropriate for that purpose.
4. The quality of the application and of any plan for the application of its objectives and for the dissemination of key information to the relevant parts of the food industry.
5. The ability of the applicant and, where the applicant is a partnership, any partners to secure the objectives contained in the application.
6. Any additional benefits that would accrue from the payment of grant.
7. The financial viability of the business of the applicant, and, where the applicant is a partnership, of the businesses of the partners.
8. The likelihood of lasting benefit arising from the objectives contained in the application being secured.

SCHEDULE 2

Paragraph 8

ITEMS ELIGIBLE FOR PAYMENTS OF GRANT UNDER THE SCHEME

1. The salaries of key staff, including the salaries of the applicants and where the applicant is a partnership, their partners.
2. National Insurance costs of employers, pension costs and contributions to health care.
3. Depreciation on new items of capital equipment purchased solely for the purposes of carrying out the objectives set in the application, such depreciation to be eligible from (and including) the date of approval of the application or purchase of the equipment (whichever is the later) to (and including) the date on which the objectives of the application are completed or the grant-aided period of the project covered by the application ends (whichever is the sooner).
4. The following costs, where it can be shown that they are necessary to carry out the objectives of the grant application—
 - (a) overheads;
 - (b) consumable materials;
 - (c) consultancy fees;
 - (d) project management costs, up to a maximum of 10% of all eligible costs;
 - (e) travel and associated accommodation, but not including the provision and use of company cars;
 - (f) the hiring and leasing of equipment;
 - (g) training.

5. In the case of small and medium sized enterprises only, the costs of an application for and registration of a patent which has arisen directly from carrying out the objectives contained in the application for grant.

6. Value added tax incurred on costs referred to in paragraphs 4 and 5 of this Schedule and which cannot be reclaimed from the Commissioners of Customs and Excise.

EXPLANATORY NOTE

(This note is not part of the Scheme)

1. This Scheme enables the appropriate Minister to pay to any person satisfying the conditions set out in paragraph 5 thereof a grant representing a sum up to 50% of the eligible expenditure which has been incurred by that person in carrying out a proposal for the organisation, promotion, encouragement, development, co-ordination or facilitation of the marketing in Great Britain or elsewhere of—

- (a) the produce of agriculture (including horticulture);
- (b) the produce of fish farming;
- (c) the produce of an activity specified for the purposes of section 50(2) of the Agriculture Act 1993 (1993 c. 37) by order made by the Ministers; or
- (d) anything derived from produce falling within sub-paragraphs (a) to (c) above.

The power to make payments is contained in paragraph 4 of this Scheme. “The Ministers”, “the appropriate Minister”, “agriculture” and “fish farming” are defined in section 50(9) of the Agriculture Act 1993. Where discretionary functions fall to be exercised in relation to Scotland or Wales, provision is made for the Minister of Agriculture, Fisheries and Food to act as delegate of the Secretary of State.

2. Paragraph 5 of this Scheme imposes conditions as to eligible applicants under the Scheme; paragraph 6 of and Schedule 1 to the Scheme impose conditions relating to applications for grants under it; paragraph 7 of the Scheme specifies which applications are entitled to priority for the payment of grant under the Scheme; paragraphs 8 and 9 of and Schedule 2 to the Scheme say which items are eligible for the payment of grant under the Scheme; paragraph 10 sets out the conditions for the use of information acquired under the Scheme; paragraph 11 of the Scheme imposes conditions on grant recipients regarding the keeping and disclosure of records relating to the proposal being funded under it; paragraph 12 of the Scheme specifies that the carrying out of any proposal funded under it may not be commenced without the written consent of the Minister; paragraph 13 of the Scheme enables the Minister (provided the condition specified therein is satisfied) to permit a project being funded under it to be varied or withdrawn by the grant recipient and to recover grant monies already paid in respect of a project which is withdrawn as aforesaid; paragraph 14 of the Scheme requires a claim for payment of grant to be accompanied by a written report; and paragraph 15 gives those duly authorised by the Minister the right to inspect work done on a proposal for which grant has been approved and to require further information in relation to the proposal.

3. “Small and medium sized enterprises”, benefits to which are factors to be taken into account under the Scheme, are currently defined in the Annex to Commission Recommendation 96/280/EC (OJNo. L107, 30.4.96, p.4) as enterprises which:

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- have fewer than 250 employees, and
 - have either,
 - an annual turnover not exceeding ECU 40 million, or
 - an annual balance-sheet total not exceeding ECU 27 million, and
 - (subject to qualifications) are not owned as to 25% or more of the capital or voting rights by enterprises outside the definition.
- 4.** Sanctions for failure to comply with grant conditions and for provision of false or misleading information on applications are contained in section 50(5) of the Agriculture Act 1993, which is itself qualified by section 50(6) of that Act.