

Farming: allowances for capital expenditure on the construction of farm buildings, etc. for control of pollution. FA97 s20(1) to (13) 659.—(1) This section shall apply to any person—

(a) carrying on farming, the profits or gains of which are chargeable to tax in accordance with section 655,

(b) for whom, in respect of capital expenditure to which paragraph (c) refers and in respect of farm land occupied by him or her, a farm nutrient management plan has been drawn up by an agency or planner approved to draw up such plans by the Department of Agriculture and Food, and drawn up in accordance with—

(i) the guidelines in relation to such plans entitled “Farm Nutrient Management Plan” issued by the Department of Agriculture, Food and Forestry on the 21st day of March, 1997, or

(ii) a plan drawn up under the scheme known as the Rural Environment Protection Scheme (REPS) or the scheme known as the Erne Catchment Nutrient Management Scheme, both being schemes administered by the Department of Agriculture and Food,

and

(c) who incurs capital expenditure on or after the 6th day of April, 1997, and before the 6th day of April, 2000, on the construction of those farm buildings (excluding a building or part of a building used as a dwelling) or structures specified in the Table to this section in the course of a trade of farming land occupied by such person where such building or structures are constructed in accordance with that farm nutrient management plan and are certified as being necessary by that agency or planner for the purpose of securing a reduction in or the elimination of any pollution arising from the trade of farming.

(2) Subject to the provisions of Article 6 of Council Regulation (EEC) No. 2328/91 of 15 July 19911 on improving the efficiency of agricultural structures, as amended, and subject to subsection (3), where a person to whom this section applies—

(a) has delivered to the Department of Agriculture and Food, a farm nutrient management plan referred to in subsection (1)(b), and

(b) incurs capital expenditure to which subsection (1) applies,

there shall be made to such person during a writing-down period of 8 years beginning with the chargeable period related to that expenditure, writing-down allowances (in this section referred to as “farm pollution control allowances”) in respect of that expenditure and such allowances shall be made in taxing the trade.

(3) The farm pollution control allowances to be made in accordance with subsection (2) in respect of capital expenditure incurred in a chargeable period shall be—

(a) as respects the first year of the writing-down period referred to in subsection (2)—

(i) where the capital expenditure incurred has not exceeded £20,000, an amount equal to 50 per cent of that expenditure, or

(ii) where the capital expenditure incurred has exceeded £20,000, an amount equal to £10,000,

(b) as respects the next 6 years of that writing-down period, an amount equal to 15 per cent of the balance of that expenditure after deducting the amount of any allowance made by virtue of paragraph (a), and

(c) as respects the last year of that writing-down period, an amount equal to 10 per cent of the balance of that expenditure after deducting the amount of any allowance made by virtue of paragraph (a).

(4) For the purposes of the application to this section of section 321, “basis period” has the meaning assigned to it by section 306.

(5) Any claim by a person for a farm pollution control allowance to be made to such person shall be included in the annual statement required to be delivered under the Income Tax Acts of the profits or gains from farming, and section 304 (4) shall apply in relation to the allowance as it applies in relation to allowances to be made under Part 9.

(6) Any claim for a farm pollution control allowance shall be made to and determined by the inspector, but any person aggrieved by any decision of the inspector on any such claim may, on giving notice in writing to the inspector within 21 days after the notification to the person of the decision, appeal to the Appeal Commissioners.

(7) The Appeal Commissioners shall hear and determine an appeal to them made under subsection (6) as if it were an appeal against an assessment to tax, and the provisions of the Income Tax Acts relating to the rehearing of an appeal and to the statement of a case for the opinion of the High Court on a point of law shall apply accordingly with any necessary modifications.

(8) Subject to subsection (9), where a person who is entitled to farm pollution control allowances in respect of farm land occupied by the person transfers his or her interest in that farm land or any part of that farm land to another person, that other person shall, to the exclusion of the first-mentioned person, be entitled to the allowances under this section for the chargeable periods following the chargeable period in which the transfer of interest took place.

(9) Where the transfer of interest to which subsection (8) refers took place in relation to part of the farm land, subsection (8) shall apply to so much of the farm pollution control allowance as is properly referable to that part of the land as if it were a separate allowance.

(10) Where expenditure is incurred partly for a purpose for which a farm pollution control allowance is to be made and partly for another purpose, subsection (2) shall apply to so much only of that expenditure as on a just apportionment ought fairly to be treated as incurred for the first-mentioned purpose.

(11) No farm pollution control allowance shall be made in respect of any expenditure if for the same or any other chargeable period an allowance is or has been made in respect of that expenditure under Chapter 1

of Part 9 or section 658.

(12) Expenditure shall not be regarded for the purposes of this section as having been incurred by a person in so far as it has been or is to be met directly or indirectly by the State or by any person other than the first-mentioned person.

(13) For the purposes only of determining, in relation to a claim for a farm pollution control allowance, whether and to what extent capital expenditure incurred on the construction of a building or structure to which this section applies is incurred or not incurred in the period specified in subsection (1)(c), only such an amount of that capital expenditure as is properly attributable to work on the construction of the building or structure actually carried out during that period shall (notwithstanding any other provision of the Tax Acts as to the time when any capital expenditure is or is to be treated as incurred) be treated as having been incurred in that period.

TABLE

Farm Buildings and Structures to Which Allowances for the Control of Pollution Apply

1. Waste storage facilities including slurry tanks.
2. Soiled water tanks.
3. Effluent tanks.
4. Tank fences and covers.
5. Dungsteads and manure pits.
6. Yard drains for storm and soiled water removal.
7. Walled silos, silage bases and silo aprons.
8. Housing for cattle, including drystock accommodation, byres, loose houses, slatted houses, sloped floor houses and kennels, roofed feed or exercise yards where such houses or structures eliminate soiled water.
9. Housing for sheep and unroofed wintering structures for sheep and sheep dipping tanks.

10.J. No. L218 of 6.8.1991, p. 1.