STATUTORY INSTRUMENTS

1973 No. 828

AGRICULTURE

HILL LANDS

The Hill Cattle (Breeding Herds) (England and Wales) Scheme 1973

Made - - - -	30*th April* 1973
Laid before Parliament	9*th May* 1973
Coming into Operation	31*st May* 1973

The Minister of Agriculture, Fisheries and Food and the Secretary of State, acting jointly, in pursuance of the powers conferred by sections 13, 14 and 15 of the Hill Farming Act 1946(**a**), as extended by section 43 of the Agriculture Act 1967(**b**), and now vested in them (**c**), and of all their other enabling powers, with the approval of the Treasury, hereby make the following scheme:—

Citation, extent and commencement

1. This scheme, which may be cited as the Hill Cattle (Breeding Herds) (England and Wales) Scheme 1973, applies to England and Wales, and shall come into operation on 31st May 1973.

Interpretation

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

"the Act" means the Hill Farming Act 1946, as amended by any other enactment;

"breeding cow" means a female bovine animal which has borne a calf;

"county district" has the meaning assigned to it in section 305 of the Local Government Act 1933(**d**);

"hill land" has the meaning assigned to it by paragraph 5 of this scheme;

"in-calf heifer" means a female bovine animal which is in-calf for the first time on the 1st January immediately preceding the qualifying day, and which calves on or before the qualifying day;

(**a**) 1946 c. 73. (**b**) 1967 c. 22.
(**c**) S.I. 1969/388 (1969 I, p. 1070). (**d**) 1933 c. 51.

"the Minister", in relation to England, and in relation to Wales for the purpose of the making, receipt or recovery of any payment, means the Minister of Agriculture, Fisheries and Food, and in relation to Wales for any other purpose means the Minister of Agriculture, Fisheries and Food and the Secretary of State acting jointly;

"qualifying day" means 4th June (or, if the Minister so appoints, such other date in June) in any year in respect of which a subsidy payment falls to be made.

(2) The Interpretation Act 1889(a) applies to the interpretation of this scheme as it applies to the interpretation of an Act of Parliament.

Subsidy payments

3.—(1) Subject to the provisions of this scheme, the Minister may, in respect of the year 1973 and each of the four following years, make subsidy payments in respect of cattle grazed on hill land (being cattle of a description to which this scheme applies) to the person who is the occupier of the land at the beginning of the qualifying day, or to one of the persons referred to in subparagraphs (2) and (3) below.

(2) Where at the beginning of the qualifying day the occupier of any land is grazing cattle on common land used with it, any payment under this scheme in respect of those cattle may be made to him.

(3) In any other case where at the beginning of the qualifying day cattle are being grazed on land subject to customary grazing rights, any payment under this scheme in respect of those cattle may be made, at the Minister's discretion, either to their owner at that time, or to the person then responsible for their care and management.

Description of cattle

4.—(1) Subject to subparagraph (2) below, this scheme shall apply to breeding cows and in-calf heifers of such type and quality as may from time to time be approved by the Minister, and which form part of a regular breeding herd; and for the purposes of this scheme, "regular breeding herd" means a herd of cows and in-calf heifers maintained throughout their normal breeding life for the purpose of breeding store cattle.

(2) This scheme shall not apply to cows kept solely for domestic milk supply.

Hill land

5.—(1) Subject to subparagraph (2) below, "hill land" means for the purposes of this scheme land in those parts of England and Wales specified in Part I of the Schedule to this scheme which is—

(*a*) land situated in an area consisting predominantly of mountains, hills or heath, or

---

(a) 1889 c. 63.

(*b*) land situated outside such an area in the county districts and parish specified in column 2 of Part II of the said Schedule, shown opposite the counties and county borough in which such districts and parish are respectively situated specified in column 1 of the said Part II,

being in either case land which is, or by improvement could be made, suitable for use for the breeding, rearing and maintenance of sheep or cattle but not, in the opinion of the Minister, for the carrying on, to any material extent, of dairy farming, the production, to any material extent, of fat sheep or fat cattle or the production of crops in quantity materially greater that that necessary to feed the number of sheep or cattle capable of being maintained on the land; and for the purposes of this scheme, the areas respectively defined in Part II of the Schedule hereto shall apply, notwithstanding the provisions of the Local Government Act 1972(**a**).

(2) Where at any time after 13th June 1968 land is hill land as defined in subparagraph (1) above, the effect of any subsequent improvement to that land shall thereafter be disregarded in determining for the purposes of this scheme whether it is hill land as so defined.

Subsidy payments (supplementary provisions)

6.—(1) Subject to subparagraph (2) below, a subsidy payment shall be of such amount as shall be prescribed by an order made by the Minister and the Secretary of State, acting jointly, under the provisions of section 14(3) of the Act.

(2) Except in special cases where the Minister, with the consent of the Treasury, otherwise directs, subsidy payments shall not be made under this scheme in respect of hill cattle grazed on hill land as mentioned in paragraph 5(1)(*b*) of this scheme unless the land in respect of which subsidy payments are claimed was, for the purposes of the Hill Cattle (Breeding Herds) (England and Wales) Scheme 1953(**b**), as extended (**c**), accepted by the Minister in respect of the year 1962, as being livestock rearing land as defined in section 1(3) of the Livestock Rearing Act 1951(**d**).

Number of cows, etc., qualifying for subsidy payments

7.—(1) Subject to subparagraph (2) below, the number of cattle for which subsidy payments may be made under this scheme to any person in respect of any year shall be—

(*a*) the number of breeding cows and in-calf heifers in the breeding herd on the 1st January immediately preceding the qualifying day, or in the case of a newly established or re-established herd, such other day, if any, as the Minister may appoint, or

(*b*) the number of breeding cows in the herd on the qualifying day, whichever of these numbers is the less.

(2) Any temporary reduction in numbers due to the death or disposal of cattle comprised in the herd shall be disregarded for the purposes of subparagraph (1)(*a*) above if the cattle are replaced by other breeding cows or in-calf heifers as soon as appears to the Minister to be reasonably practicable.

(**a**) 1972 c. 70.
(**b**) S.I. 1953/1179 (1953 I, p. 42).
(**c**) S.I. 1957/691 (1957 I, p. 128).
(**d**) 1951 c. 18.

Reduction of numbers for milk production

8. If in any year, in the opinion of the Minister, an appreciable quantity of milk is produced by a herd, and is sold or used for the making on the farm of cheese for sale, the number of cattle in respect of which subsidy payments may be made under the foregoing provisions of this scheme shall be reduced by the number of cows reasonably capable, in the opinion of the Minister, of producing that quantity of milk.

Limitation of eligible numbers

9.—(1) In any herd, the number of cattle in respect of which subsidy payments may be made in respect of any year under the foregoing provisions of this scheme shall not exceed any of the following numbers:—

(*a*) where the number of calves born to cows in the herd is unusually low for a herd of that size, such number of breeding cows as the Minister considers to be a reasonable proportion of the herd on the qualifying day, having regard to the number of calves so produced; or

(*b*) one cow for each four acres of hill land available for the maintenance of the herd; or

(*c*) the number of cows which, in the opinion of the Minister, may properly be kept in any year on the land on which the herd is substantially maintained without overgrazing it.

(2) For the purposes of this paragraph, the acreage of any hill land grazed by more than one herd may be apportioned by the Minister among the herds as he thinks reasonable.

(3) Where the result of a calculation under subparagraph (1)(*b*) above includes a fraction, it shall be rounded off to the nearest whole number, a half counting as one.

Management

10.—(1) It shall be a condition of the making of subsidy payments under this scheme that, subject to the provisions of the scheme, cattle to the number in respect of which subsidy payments may be made—

(*a*) have been maintained throughout the period of the year before the qualifying day on hill land or on land used together with such hill land for their breeding, rearing and maintenance and other activities carried on in connection therewith, and, except where after the qualifying day there is a change of occupation (whether by death or otherwise) of any hill land in respect of which an application for subsidy payments is made, are to be so maintained for the remainder of the year; and

(*b*) are grazed on the hill land at appropriate seasons in accordance with sound farming practice of the area in which the land is situated.

(2) Where by reason of exceptional circumstances it is impracticable to comply with the foregoing condition so far as it requires the maintenance of the cattle throughout the year on hill land or on other land used together therewith, the Minister may, if, in his opinion (having regard to all the circumstances, in-

cluding the length of the period for which the cattle have been or are to be so maintained on such land) it is right so to do, relax the requirement to such extent as he may determine.

(3) For the purposes of this paragraph, any temporary reduction in numbers due to the death or disposal of breeding cattle comprised in the herd may be disregarded, where the Minister considers it appropriate, if they are replaced as soon as appears to him to be reasonably practicable.

(4) Where after a qualifying day for the purposes of this scheme or the previous scheme there is during the same year a reduction in numbers of cattle in the herd which are maintained or grazed in accordance with this paragraph or paraparagraph 11 of the previous scheme, any consequent reduction in the number of cattle qualifying for subsidy payments in that year, instead of being made in respect of that year, may be made in respect of any of the next three following years for which payments may be made under this scheme; and for the purposes of this subparagraph, "the previous scheme" means the Hill Cattle (Breeding Herds) (England and Wales) Scheme 1968(a), as amended (b).

Application for subsidy payment

11. It shall be a condition of the making of a subsidy payment under this scheme that any person who desires to be paid in accordance with the provisions of this scheme—

(*a*) shall apply in writing in such form and at such time as the Minister may from time to time require; and

(*b*) shall to the best of his ability facilitate any counting or inspection of the cattle which the Minister may consider necessary and shall, if so requested, gather them at some convenient place for the purpose.

Subsidy payments to persons entitled to claim otherwise than by virtue of an assignment

12. A subsidy payment in respect of a breeding cow grazed on any land on a qualifying day may be made to any person who, if such payment had been a debt which, at the beginning of that day, accrued due to the person to whom payment might otherwise have been made under paragraph 3 of this scheme, would have been entitled to claim the payment otherwise than by virtue of an assignment.

Reduction for non-participation in improvement to common land

13. Where the Minister has in accordance with section 12 of the Act done work for making improvements for the benefit of any land which is subject to rights of common of pasture, then if the Minister, after giving any person enjoying rights of common over the land an opportunity to make representations, is satisfied that the person has benefited from the work although he did not agree to bear a part of its cost, subsidy payments which would otherwise have been

(a) S.I. 1968/875 (1968 II, p. 2310).

(b) S.I. 1969/695, 1970/877, 1971/940 (1969 II, p. 1909; 1970 II, p. 2805; 1971 II, p. 2695).

payable to him under the foregoing provisions of this scheme shall be withheld equal in value to such amount as the Minister determines should have been his share of half of that cost, having regard to the benefit to him from the work, after crediting him with any contribution towards that cost which he has nevertheless made.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 18th April 1973.

(L.S.)

Joseph Godber,
Minister of Agriculture, Fisheries and Food.

Given under my hand on 24th April 1973.

Peter Thomas,
Secretary of State for Wales.

We approve,
30th April 1973.

Tim Fortescue,

V. H. Goodhew,

Two of the Lords Commissioners of Her Majesty's Treasury.

SCHEDULE

PART I

The administrative counties of Chester, Cornwall, Cumberland, Derby, Devon, Durham, Hereford, Lancaster, Monmouth, Northumberland, Salop, Somerset, Stafford, Westmorland, York (North Riding), York (West Riding).

Any county borough which is surrounded in whole or in part by any of the above-mentioned administrative counties.
Wales, excluding Anglesey.

PART II

Administrative Counties (and County Borough) Column 1	County Districts (and Parish) Column 2
England	
Chester	The rural district of Congleton
Derby	The urban district of Matlock
Devon	The rural districts of Bideford, Holsworthy, Okehampton and Tavistock
Durham	The rural districts of Barnard Castle and Lanchester, and the urban district of Stanley
Lancaster	The rural district of Lancaster
Northumberland	The rural districts of Castle Ward, Hexham and Morpeth
Stafford	The rural district of Uttoxeter
Wales and Monmouthshire	
Caernarvon	The rural districts of Gwyrfai, Lleyn and Nant Conwy The urban districts of Criccieth, Llandudno and Portmadoc. The urban district of Conwy
Cardigan	The rural districts of Aberaeron, Aberystwyth, Teifiside and Tregaron The municipal borough of Lampeter
Carmarthen	The rural districts of Carmarthen, Llandeilo, Llanelli and Newcastle Emlyn The urban district of Cwmamman
Denbigh	The rural districts of Aled and Hiraethog The municipal borough of Colwyn Bay
Glamorgan	The rural district of Penybont
Merioneth	The rural districts of Deudraeth and Dolgellau The urban districts of Barmouth and Ffestiniog

Administrative Counties (and County Borough) Column 1	County Districts (and Parish) Column 2
Monmouth	The rural districts of Chepstow, Magor and St. Mellons, Monmouth and Pontypool The municipal borough of Monmouth
Pembroke	The rural districts of Cemaes, Haverfordwest and Narberth
County Borough of Swansea	The parish of Swansea

EXPLANATORY NOTE

(This Note is not part of the Scheme.)

This Scheme, made by the Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales with the approval of the Treasury under sections 13 to 15 of the Hill Farming Act 1946 (as extended by section 43 of the Agriculture Act 1967), specifies in respect of the years 1973 to 1977 the conditions subject to which subsidy payments may be made in respect of "hill cattle" grazed on "hill land"—as these terms are respectively defined in the scheme.

Apart from some minor drafting amendments, the principal difference in this scheme from the Hill Cattle (Breeding Herds) (England and Wales) Scheme 1968, as amended, (which governed the payment of hill cattle subsidy until 1973), is that the scheme no longer provides for the payment of brucellosis incentives which are now made in respect of beef animals under the Brucellosis (Beef Incentives) Payments Scheme 1972 (S.I. 1972/1329). Consequently, the amount of subsidy payable under the scheme will now be the same in respect of each eligible animal, and that amount is separately prescribed for the period of the scheme by an order made under section 14(3) of the 1946 Act.

Printed in England by McCorquodale Printers Ltd., and published by Her Majesty's Stationery Office

27/P48213/9 J11 K20 5/73

8p net

SBN 11 030828 X