1957 No. 1086 (S. 57)

The Hill Cattle (Scotland) Scheme, 1957

Made - - - -	*24th June*, 1957
Laid before Parliament	*28th June*, 1957
Coming into Operation	*29th June*, 1957

In exercise of the powers conferred upon me by section 13 of the Hill Farming Act, 1946(a), as extended by section 6 of the Livestock Rearing Act, 1951(b), and as amended by the Hill Farming Act, 1956(c), and of all other powers enabling me in that behalf and with the approval of the Treasury, I hereby make the following scheme :

1.—(1) This Scheme shall be cited as the Hill Cattle (Scotland) Scheme, 1957, and shall come into operation on the 29th day of June, 1957.

(2) The Interpretation Act, 1889(d), applies to the interpretation of this Scheme as it applies to the interpretation of an Act of Parliament.

2. In this Scheme, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them:—

" application " means an application for a subsidy payment made in respect of a cow in accordance with Article 6 of this Scheme ;

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

" hill land " means land which is livestock rearing land as defined in subsection (3) of section 1 of the Livestock Rearing Act, 1951, that is to say, land situated in an area consisting predominantly of mountains, hills or heath, being land which is, or by improvement could be made, suitable for use for the breeding, rearing and maintenance of sheep or cattle but not 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 than that necessary to feed the number of sheep or cattle capable of being maintained on the land ;

" hill farming land " means so much of hill land as is mountain, hill or heath suitable for use for the maintenance of sheep of a hardy kind, but not of sheep of other kinds or which, by improvement, could be made so suitable, and any other land used in conjunction with the mountain, hill and heath land so as to secure the proper management and maintenance of it ;

" in-calf heifer " means a female bovine animal which is with calf for the first time ;

" occupier " means the occupier at the commencement of the qualifying date in the relevant year of the hill land on which the breeding cow, in respect of which an application for subsidy payment is made was grazed during the relevant period, but does not include a person who occupies such land otherwise than as the owner or as the tenant of it ;

(a) 9 & 10 Geo. 6. c. 73. (b) 14 & 15 Geo. 6. c. 18. (c) 4 & 5 Eliz. 2. c. 72.
(d) 52 & 53 Vict. c. 63.

"qualifying date" means the date of the June Return in the relevant year;

"regular breeding herd" has the meaning assigned to it by paragraph 2 of Article 4 of this Scheme;

"the June Return" means the return of information required by the Secretary of State in exercise of the powers conferred on him by regulation 4 of the Agricultural Statistics (Scotland) Regulations, 1948(a), to be made by the occupiers of hill land as at a date in June in the relevant year, and "December Return" means such a return so required to be made as at a date in December in that year by such an occupier; and "the date of the June Return" and "the date of the December Return" means respectively those dates;

"relevant period" means the period from the fourth day of December next preceding the qualifying date, to the third day of December next succeeding that date, or where there occurs on a date between the qualifying date and the said third day of December, a change of occupancy of the hill land on which the breeding cow, in respect of which an application for subsidy has been made, has been grazed, the period from the said fourth day of December to the date of the occurrence of that change;

"relevant year" in relation to any breeding cow means the year being the year 1957 or one of the next succeeding years in respect of which an application for a subsidy payment has been made by an occupier in respect of that cow;

"tenant" has the same meaning as in the Agricultural Holdings (Scotland) Act, 1949;

"works of improvement" means draining, fencing, bracken cutting, and other works required to be executed in the course of sound farming practice.

3. The Secretary of State may, in the year 1957 and in each of the next six succeeding years, make a subsidy payment in respect of every cow in the case of which the provisions of this Scheme have been complied with.

4.—(1) Subject to the provisions of this Scheme a subsidy payment may be made in the relevant year in respect of a cow which is a breeding cow on the date as at which the June Return is required to be made in that year is of a type and quality approved by the Secretary of State and in the case of which he is satisfied that it—

(*a*) has been grazed and maintained for the production and rearing of calves in accordance with sound farming practice by the occupier of the hill land specified in the application made for that year in respect of it;

(*b*) has been so grazed and maintained on that land throughout the relevant period; and

(*c*) will continue to be grazed on hill land for a substantial part of its breeding life.

(2) Where a breeding cow is included in a regular breeding herd, that is to say a herd of cattle maintained and managed in accordance with sound farming practice by the occupier of hill land (being the hill land specified in the application made by him in respect of that cow) for the production and rearing of calves and consisting mainly of breeding cows being cows

(a) S.I. 1948/2239 (Rev. I, p. 589: 1948 I, p. 93).

which have been grazed on that hill land throughout the relevant period, head (*c*) of the last foregoing paragraph shall be deemed to be complied with in the case of that cow in any year if the Secretary of State is satisfied that the occupier intends to continue to maintain a regular breeding herd on that hill land.

5.—(1) This Article shall have effect for the purpose of determining whether the provisions of head (*b*) of the last foregoing Article have, in the relevant year, been complied with in the case of any cow in respect of which an application is made for that year—that is to say, in determining whether the cow has been grazed and maintained in accordance with sound farming practice throughout the relevant period on the hill land specified in the application.

(2) Where the cow is owned by the occupier of a holding to which the Small Landholders (Scotland) Acts, 1886 to 1931(**a**), or, as the case may be, the Crofters (Scotland) Act, 1955(**b**), apply, being a holding comprised in a township, and has been grazed and maintained either on the common grazings or common pasture of the township or on that holding or partly on the common grazing and partly on the holding, and those grazings or that pasture or holding, or both, as the case may be, are hill land, the provisions aforesaid shall be deemed to have been complied with.

(3) No account shall be taken of any period (hereafter in this paragraph referred to as "a wintering period") during which a cow included in a regular breeding herd grazed and maintained on hill farming land (being the hill land specified in the application in respect of that cow) has, in the winter months occurring in the relevant year, been grazed on land other than that hill farming land if the Secretary of State is satisfied:—

(*a*) that, having regard in general to the extent of the hill farming land available in the wintering period to the occupier (hereafter in this paragraph referred to as "the available land") which is suitable or could by improvement be made suitable for the grazing, during that wintering period, of the breeding cows and in-calf heifers then included in the herd, it was, or, if the available lands were all suitable for that purpose, would have been, necessary for the occupier to graze all or some of those cows or heifers on the other land during that period;

(*b*) that the number of breeding cows and in-calf heifers included in the herd during the wintering period, together with the number of any other livestock normally grazed on the available land, were not, in the aggregate, excessive in relation to the carrying capacity of that land;

(*c*) that the grazing of the breeding cows or in-calf heifers on the land on which they were grazed during the wintering period conforms to sound farming practice; and

(*d*) that the wintering period was not longer than was in all the circumstances necessary.

(4) Where the cow was not being grazed and maintained at the commencement of the relevant period on the hill land specified in the application but was, on a date before the date of the June Return made by the occupier in that period, brought on to that land by the occupier within such time

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(**a**) 49 & 50 Vict. c. 29; 50 & 51 Vict. c. 24; 54 & 55 Vict. c. 41; 8 Edw. 7. c 50; 1 & 2 Geo. 5. c. 49; 9 & 10 Geo. 5. c. 97; 21 & 22 Geo. 5. c. 44. (**b**) 3 & 4 Eliz. 2. c. 21.

after the first mentioned date as is, in the opinion of the Secretary of State, not unreasonably long, in replacement in accordance with sound farming practice of a breeding cow or in-calf heifer which was being grazed and maintained thereon at the commencement of that period (being a breeding cow or in-calf heifer which ceased thereafter to be grazed on that land for reasons complying with sound farming practice) then no account shall be taken of any period occurring before the cow was brought on to that land.

(5) Where the cow was being grazed and maintained on the date at which the June Return is required to be made in the relevant year, on the hill land specified in the application, but either—

(*a*) ceased, in compliance with sound farming practice, on a date between the date of the June Return and the end of the relevant period to be so grazed and maintained thereon, and was replaced within such time after it had ceased to be so grazed and maintained as is, in the opinion of the Secretary of State, not unreasonably long, on the land by another breeding cow or an in-calf heifer then, if that breeding cow or in-calf heifer is grazed and maintained on that land from the date upon which it is brought on to it until the end of the relevant period, or

(*b*) where the cow was not so replaced but having borne a calf in that year ceased to be so grazed and maintained as aforesaid on a date occurring in that year after the 30th day of September, upon being sold in accordance with sound farming practice

the provisions of head (*b*) aforesaid shall be deemed to have been complied with in the case of that cow.

(6) If during any period between the date of the December Return and the date of the June Return made in the relevant period, the cow was an in-calf heifer, references in the said provisions to a breeding cow shall, in their application to that cow, in respect of that period include references to it as if it had then been a breeding cow.

(7) Where the occupier making an application for a subsidy payment in respect of a cow in the relevant year first came into occupation of the hill land specified in the application on a day in November in the next foregoing year, and the cow was brought by him on to that land for the first time at a date subsequent to the date of the December Return made in the relevant year, (hereafter in the paragraph referred to as "the later date") then if the Secretary of State is satisfied that, in all the circumstances, he could not have brought the cow on to the land before the date of that Return, no account shall be taken of the period between that date and the later date.

6.—(1) Subject to the following provisions of this Article, a subsidy payment in respect of a cow shall not be made for the year 1957 or any of the six next succeeding years by the Secretary of State unless an application therefor in respect of that cow for that year is made by the occupier to the Secretary of State on a form provided by him at the occupier's request, and received by him not later than the thirtieth day of June in that year:

Provided that the Secretary of State may, in the case of any such application as is not received by the date aforesaid, but in regard to which it appears to him that the circumstances are exceptional and that the application should be entertained, treat the application as having been made before that date.

(2) An application for subsidy payment in respect of a cow belonging to the occupier of a holding to which the Small Landholders (Scotland) Acts, 1886–1931, or the Crofters (Scotland) Act, 1955, apply, being a holding comprised in a township having common grazings or a common pasture, may, if not made by the occupier, be made in accordance with the following provisions of this paragraph, that is to say—

(*a*) where a committee has been appointed for the management of the common grazings or common pasture, and there is in office a Clerk to that committee, by the Clerk:

(*b*) in any other case, by a person who has been duly authorised by the occupiers of all the holdings in that township in a manner satisfactory to the Secretary of State to make the application.

7.—(1) Subject to the provisions of this and the two next succeeding paragraphs, a subsidy payment shall be made only to the occupier of the hill land on which the breeding cow, in respect of which the payment is made, was grazed and maintained during the relevant period.

(2) Where in the case of any hill land, there occurs on any day in May in the relevant year (hereafter in this paragraph referred to as "the removal date"), a change in its occupancy, any subsidy payment made for that year in respect of any breeding cow grazed and maintained on that hill land shall, notwithstanding anything contained in the last foregoing paragraph, be made, to the extent of one-half, to the occupier and, to the extent of the remaining one-half, to the person who was in occupation of that land immediately before the removal date.

(3) Where an application is made in respect of a breeding cow owned by the occupier of any such holding as is referred to in paragraph (2) of the last foregoing Article by the Clerk to the committee appointed for the management of the common grazings or common pasture of the township in which the holding is comprised or by such other person as may be authorised in accordance with that paragraph to make the application, the subsidy payment falling to be made by virtue of the application shall be made to the Clerk or, as the case may be, to that other person and the Clerk, or that other person shall make payment to the occupier of the subsidy payment in respect of that cow, diminished by such amount (if any) as may be determined by the committee for the purpose of the management of the common grazings or common pasture.

8.—(1) The number of subsidy payments to be made to an occupier of hill land in the relevant year shall be equal to the number of breeding cows grazed and maintained by him on that land on the date of the June Return made in that year and included in that Return by him, or the number of breeding cows and in-calf heifers so grazed by him on the date of the December Return next preceding that date and included in that Return by him, whichever is the less:

Provided that if the cow is included in a regular breeding herd and the number of subsidy payments so determined is greater than the number of breeding cows which in the opinion of the Secretary of State the hill land on which the herd was grazed during the relevant period was, taking into account the number of any other livestock normally grazed on that land, capable of carrying, the Secretary of State may make payment of such lesser number of subsidy payments as he may determine.

(2) Notwithstanding the failure by an occupier

(*a*) to make a June Return or as the case may be to make a December Return, or

(*b*) to include in the June Return or the December Return made by him all the breeding cows or in-calf heifers grazed by him on the hill land aforesaid on the date of the June Return or the date of the December Return respectively.

the Secretary of State may, if in all the circumstances he thinks fit, make the subsidy payments to which the occupier would be entitled but for that failure.

9. A subsidy payment shall be of such amount as is prescribed by the Secretary of State by Order made under subsection (3) of section 14 of the Hill Farming Act, 1946.

10.—(1) A subsidy payment shall not be made in respect of any cow if the Secretary of State is satisfied—

(*a*) where the cow was grazed on hill farming land, that it was not grazed on such part of that land as is mountain, hill and heath, at such time or times during the relevant period as is consistent with sound farming practice;

(*b*) where the cow was grazed on hill land other than hill farming land, that it was not grazed on that land during the relevant period in such a manner as to bring about the maximum improvement of that land;

(*c*) where the cow is of the Ayrshire or Channel Island Breeds, that it was kept during the relevant period solely for domestic milk supply;

(*d*) where a cow is of any breed that it was kept during the relevant period for production of milk for sale, or

(*e*) that any calf which the cow is to bear in the year immediately succeeding the relevant year will be the progeny of a bull of a type and quality not approved by the Secretary of State as suitable for breeding with that cow.

11. If, in the case of any subsidy payment made by him to an occupier in respect of a cow, the Secretary of State is satisfied in the light of information made available to him after payment has been made either

(*a*) that the land upon which the cow was grazed during the relevant period was not hill land, or

(*b*) that the cow, having been grazed on hill land, was not grazed thereon in such a manner as to comply with the provisions of this Scheme;

the Secretary of State may recover the subsidy payment so made and without prejudice to any other mode of recovery available to him, may recover that payment by withholding payment of any other subsidy payment falling to be made by him, to that occupier under this Scheme in the next succeeding year.

12.—(1) The Secretary of State may, by notice in writing, require any occupier to whom a subsidy payment has been, or is to be, made, to carry out such works of improvement to the hill land on which the breeding cow, in respect of which that subsidy payment falls to be made, was grazed during the relevant period, as are, in the Secretary of State's opinion, necessary to bring that land into a good state of fertility and may, if the works are not carried out by the occupier within a reasonable time after any such notice has been given to him, withhold payment of that subsidy payment.

(2) For the purposes of this Article, "occupier" shall include a committee appointed for the management of any common grazings or common pasture, such as is mentioned in head (*a*) of paragraph (2) of Article 6.

13. The right to receive any subsidy payment falling to be made under this Scheme to an occupier shall not be assigned by him and any agreement purporting to assign or to effect a charge on any such payment shall be void.

14. The Hill Cattle (Scotland) Scheme, 1951(a), is hereby revoked.

John S. Maclay,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.
18th June, 1957.

We approve

Peter Legh,
Edward Wakefield,
Two of the Lord's Commissioners of Her Majesty's Treasury.

24th June, 1957.

EXPLANATORY NOTE

(This Note is not part of the Scheme, but is intended to indicate its general purport.)

The Hill Farming Act, 1946, as extended by the Livestock Rearing Act, 1951, empowers the Secretary of State, with the approval of the Treasury, to make schemes providing for subsidy payments in respect of cattle grazed and maintained on hill land for the ten years to 1956. The Hill Farming Act, 1956, extends the period by an additional seven years.

This Scheme, the Hill Cattle (Scotland) Scheme, 1957, relates to Scotland and makes provision for subsidy payments from 1957 to 1963. It defines hill land and the descriptions of cattle to which it applies. It also specifies the conditions under which the cattle must be grazed and maintained and contains provisions against overstocking, for making applications for subsidy annually, for the computation of the number of cattle qualifying for subsidy, and other matters.

The Hill Farming Act, 1946, requires the amount of subsidy payment in respect of an animal to be prescribed in a separate Order; the Order for this purpose is the Hill Cattle Subsidy Payment (Scotland) Order, 1957 (S.I. 1957/1087).

(a) S.I. 1951/2059 (1951 I, p. 35).