1964 No. 673 (S. 39)

AGRICULTURE

HILL FARMING

The Hill Cattle (Scotland) Scheme 1964

Made - - - -	*5th May* 1964
Laid before Parliament	*14th May* 1964
Coming into Operation	*15th May* 1964

In exercise of the powers conferred upon me by sections 13, 14 and 15 of the Hill Farming Act 1946(a), as amended by section 6 of the Livestock Rearing Act 1951(b), section 2 of the Hill Farming Act 1956(c), and section 2 of the Agriculture (Miscellaneous Provisions) Act 1963(d) and of all other powers enabling me in that behalf and with the approval of the Treasury, I hereby make the following Scheme:—

Citation and Commencement

1. This Scheme may be cited as the Hill Cattle (Scotland) Scheme 1964 and shall come into operation on 15th May 1964.

Interpretation

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

"agricultural unit" means land which is occupied as a unit for agricultural purposes, together with any other land, including land held in common, used in connection with such land for the purpose of grazing;

"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;

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

"the June Return" means the return of information required by the Secretary of State in exercise of the powers conferred on him by the Agricultural Statistics (Scotland) Regulations 1948(e), as amended by the Agricultural Statistics (Scotland) Amendment Regulations 1957(f) 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 the year next preceding the relevant year by such an occupier; and "the date of the June Return" and "the date of the December Return" means respectively those dates;

"qualifying day" means the day which coincides with the date of the June Return in the relevant year;

(a) 9 & 10 Geo. 6. c. 73.
(b) 14 & 15 Geo. 6. c. 18.
(c) 4 & 5 Eliz. 2. c. 72.
(d) 1963 c. 11.
(e) S.I. 1948/2239 (Rev. I, p. 589: 1948 I, p. 93).
(f) S.I. 1957/876 (1957 I, p. 83).

" regular breeding herd " means a herd of cattle maintained and managed in accordance with sound farming practice by the occupier of hill land for the production and rearing of calves and consisting mainly of breeding cows, being cows which have been grazed on hill land throughout the relevant period;

" relevant period " means the period from 1st October next preceding the qualifying day, to 30th September next succeeding that day, or where there occurs on a date between the qualifying day and the said 30th September, a change of occupancy of the hill land (being the hill land specified in the application), the period from the said 1st October to the date of the occurrence of that change;

" relevant year " in relation to any breeding cow means the year, being the year 1964 or one of the three next succeeding years, in respect of which an application has been made by an occupier in respect of that cow.

(2) In this Scheme " hill land " means—

(*a*) subject to the provisions of head (*b*) of this paragraph, land which is livestock rearing land as defined in section 1(3) 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; and

(*b*) in a case where land falling within head (*a*) of this paragraph forms part only of an agricultural unit, such land in so far as it, in the opinion of the Secretary of State, comprises an area suitable to be dealt with as a unit and is capable, taking into account the numbers of any other livestock normally grazed thereon, of carrying a regular breeding herd:

Provided that hill land shall be deemed to include, in respect of the year 1964, land which at any time during the period of 12 months immediately preceding the qualifying day in that year was accepted by the Secretary of State as livestock rearing land as defined as aforesaid and in respect of any other relevant year, land which at any time during the period of 12 months immediately preceding the qualifying day in that year was accepted by him as hill land within the meaning of heads (*a*) and (*b*) of this paragraph.

(3) The Interpretation Act 1889(a), shall apply for the interpretation of this Scheme as it applies for the interpretation of an Act of Parliament.

Subsidy Payments

3. Subject to the provisions of this Scheme, the Secretary of State may, in respect of the year 1964 and of each of the next three 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.

Description of Cattle and Management

4.—(1) Subject to the provisions of this Scheme, a subsidy payment may be made in respect of the relevant year in respect of a cow which is a

(a) 52 & 53 Vict. c. 63.

breeding cow on the qualifying day, 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 by him for that year in respect of it;

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

(*c*) except where the proviso to the definition of hill land in Article 2(2) of this Scheme applies, 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, 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 said occupier intends to continue to maintain a regular breeding herd on hill land.

5.—(1) This Article shall have effect for the purpose of determining whether the provisions of Article 4(1)(*b*) have, in the relevant year, been complied with in the case of any cow in respect of which an application is made in respect of that year—that is to say, in determining whether the cow has been grazed and maintained for the production and rearing of calves in accordance with sound farming practice on hill land throughout the relevant period.

(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) Acts 1955 and 1961(**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 grazings or common pasture and partly on the holding, and those grazings or that pasture or holding, or both those grazings or that pasture and that holding, as the case may be, are hill land, the provisions of Article 4(1)(*b*) shall be deemed to have been complied with.

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

(*a*) in all the circumstances it was necessary, other than on account of excessive stocking, to maintain all or some of the breeding cows or in-calf heifers included in the herd during the wintering period on land other than hill land during that period;

(*b*) the maintenance of the breeding cows or in-calf heifers during the wintering period conforms to sound farming practice; and

(*c*) 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 hill land but was, on a date before the date of the December Return made in that period, brought on to such land for the first time then no account shall be taken of any period occurring before the cow was brought on to that land.

(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 and 21 & 22 Geo. 5. c. 44.
(b) 3 & 4 Eliz. 2. c. 21 and 9 & 10 Eliz. 2. c. 58.

(5) Where the cow dies, or in accordance with sound farming practice ceases to be grazed and maintained on hill land, then provided a suitable replacement is brought on to such land within such time as is in the opinion of the Secretary of State not unreasonably long, the provisions of Article 4(1)(*b*) shall be deemed to have been complied with in the case of that cow.

(6) If during any period between the commencement of the relevant period and the date of the June Return made in the relevant period, the cow was an in-calf heifer, references in Article 4 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.

Application for subsidy payment

6.—(1) Subject to the following provisions of this Article, a subsidy payment in respect of a cow shall not be made in respect of the year 1964 or any of the next three succeeding years by the Secretary of State, unless an application therefor in respect of that cow in respect of that year is:—

(*a*) made, in such form as the Secretary of State may prescribe, by the person who is the occupier of the hill land specified in the application as at the beginning of the qualifying day in that year; and

(*b*) received by the Secretary of State not later than 30th June in that year:

Provided that the Secretary of State may, in the case of any such application as is not received by 30th June 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 received before 30th June aforesaid.

(2) An application made in respect of a cow belonging to the occupier of a holding to which the Small Landholders (Scotland) Acts 1886 to 1931, or the Crofters (Scotland) Acts 1955 and 1961 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.

Persons eligible for subsidy payment

7.—(1) Subject to the provisions of this and the next succeeding paragraph, a subsidy payment shall be made only to the person who is the occupier as at the beginning of the qualifying day of the hill land specified in his application.

(2) Where, in accordance with Article 6(2) an application is made by the Clerk or by such other person as may be authorised 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 person referred to in paragraph (1) of this Article of the subsidy payment, 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.

Number of cows, etc., qualifying for subsidy payment

8.—(1) Subject to the provisions of this and the next succeeding Article, the number of subsidy payments to be made to an occupier in respect of the relevant year shall be equal to the number of breeding cows grazed and maintained on hill land (being the land specified in his application or in the application made on his behalf) at the date of the June Return made in respect of that land in that year and included in the Return or the number of breeding cows and in-calf heifers so grazed and maintained on the date of the December Return next preceding that date and included in that Return, whichever is the less:

Provided that if 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 and maintained 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) Where the Secretary of State is satisfied that—

(*a*) no such Returns as are referred to in paragraph (1) of this Article have been made ; or

(*b*) any such Return made as aforesaid is inaccurate in respect of the number of breeding cows or in-calf heifers included therein ; or

(*c*) the number of breeding cows or in-calf heifers included in any such Return made as aforesaid is less having regard to the provisions of Article 5 of this Scheme than the number of breeding cows or in-calf heifers grazed and maintained by the occupier on hill land throughout the relevant period ;

the number of subsidy payments to be made as aforesaid shall be equal to such number of breeding cows as the Secretary of State, having regard to all the circumstances, deems to be the number of breeding cows in respect of which subsidy payments are to be computed.

Disqualification

9. If, in the opinion of the Secretary of State, any breeding cows in respect of which subsidy payments have been made to any person under this Scheme, or under the Hill Cattle (Scotland) Scheme 1957(**a**), were not in the year to which the subsidy payments related grazed and maintained in accordance with the provisions of the Scheme under which payment was made, the number of breeding cows, computed in accordance with the provisions of this Scheme, in respect of which subsidy payments would otherwise fall to be made to that person in respect of any subsequent year shall be reduced by such number as the Secretary of State may determine.

Amount of subsidy payment

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

11. A subsidy payment shall not be made in respect of any cow if the Secretary of State is satisfied that—

(*a*) it was not grazed on hill land at such time or times during the relevant period as is consistent with sound farming practice ;

(**a**) S.I. 1957/1086 (1957 I, p. 131).

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

(*c*) it was kept during the relevant period for production of milk for sale, or of milk to be used for the making of milk products for sale or of a domestic milk supply; and

(*d*) the management of the cow, including the selection of the bull used to produce a calf, was not in accordance with sound farming practice.

Improvements to land

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 or, where that subsidy payment has already been made, of any other subsidy payment falling to be made to the occupier under this Scheme in any succeeding year.

(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 Article 6(2)(*a*).

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

13. Any subsidy payments falling to be made under this Scheme, being payments which might be made to the person who at the beginning of the qualifying day was the occupier of the hill land specified in his application may be made to a person who, if any such payment had been a debt which, at the beginning of that day accrued due to the first mentioned person, would have been entitled to claim the payment otherwise than by virtue of an assignation.

Michael Noble,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.
1st May 1964.

We approve,

John Hill,
Ian MacArthur,
Two of the Lords Commissioners of Her Majesty's Treasury.

5th May 1964.

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, the Hill Farming Act 1956 and the Agriculture (Miscellaneous Provisions) Act 1963 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.

This Scheme, the Hill Cattle (Scotland) Scheme 1964 relates to Scotland and makes provision for subsidy payments from 1964 to 1967. 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 over-stocking, 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 1964 (S.I. 1964/674).