STATUTORY INSTRUMENTS

1972 No. 1616

AGRICULTURE

HILL LANDS

The Hill Sheep (England and Wales) Scheme 1972

Made - - -	*25th October* 1972
Laid before Parliament	*3rd November* 1972
Coming into Operation	*1st December* 1972

The Minister of Agriculture, Fisheries and Food and the Secretary of State, acting jointly, in exercise 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 jointly (**c**), and 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 Sheep (England and Wales) Scheme 1972, shall apply to England and Wales and shall come into operation on 1st December 1972.

Interpretation

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

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

"ewe" includes a shearling ewe, but no younger animal;

"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;

"qualified flock" means a flock of sheep kept on hill land in accordance with paragraph 7 of this scheme;

"shearling ewe" means a ewe whose age exceeds one year but does not exceed two years;

"subsidy payment" means a payment in respect of a ewe under this scheme;

"supplementary rate flock" has the meaning assigned to it by paragraph 6 of this scheme.

(2) Subject to sub-paragraph (3) below, "hill land" means for the purposes of this scheme land in those parts of England and Wales specified in the Schedule to this scheme which is also land situated in an area consisting predominantly of mountains, hills or heath and 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

(a) 1946 c. 73. (b) 1967 c. 22.

(c) S.I. 1969/388 (1969 I, p. 1070).

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.

(3) Where at any time after 21st December 1967 land is hill land as defined in sub-paragraph (2) above, the effect of any subsequent improvement to that land shall thereafter be disregarded in determining for the purpose of this scheme whether it is hill land as so defined.

(4) For the purposes of this scheme, subject to sub-paragraph (5) below, the person maintaining a flock is the person who owns or rents the flock and is responsible for its maintenance.

(5) Where a flock includes ewes taken into the flock for grazing under an agreement by which the person taking them in is entitled by way of payment to half the lamb crop and half the wool, or under any similar agreement, then the person taking them in shall be deemed to be the person maintaining that flock.

(6) 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 make a subsidy payment in respect of any ewe which on a relevant day is comprised in a qualified flock.

(2) The relevant days for the purposes of this scheme shall be 1st December in the year 1972 and each of the four following years.

(3) A subsidy payment shall be of such amount as may be prescribed by an order made under section 14(3) of the Act.

(4) Payment may be made to the person maintaining the flock at the beginning of the relevant day.

(5) A subsidy payment shall not be made in respect of a ewe as to which the Minister is satisfied—

(*a*) that it is unsuitable for breeding, or

(*b*) that it does not conform to the requirements of paragraph 7 below in so far as they apply to the flock in which it is comprised, unless in the opinion of the Minister such failure to conform is due to ill-health, weakness after lambing or other good reason.

Calculation of subsidy payments

4. Subsidy payments shall be calculated by reference to a basic rate of subsidy and a supplementary rate of subsidy.

Basic rate

5. The basic rate of subsidy may be paid in respect of a ewe comprised in a qualified flock.

Supplementary rate

6.—(1) Subject to sub-paragraph (3) below, the supplementary rate of subsidy may be paid, in addition to the basic rate of subsidy, in respect of a ewe to which this paragraph applies which is comprised in a supplementary rate flock, that is to say a qualified flock—

(**a**) 1889 c. 63.

(*a*) in which all, or substantially all, the ewes are ewes to which this paragraph applies;

(*b*) in which the ewes are kept in regular ages with at least three successive age groups, the youngest consisting of shearling ewes;

(*c*) in which sufficient ewe lambs are bred, reared and retained annually to maintain the size of the flock without introducing sheep from outside it; and

(*d*) which, subject to paragraph 8 below, is kept in accordance with the recognised practices of hill sheep farming in the district.

(2) A flock shall be a supplementary rate flock, although not fulfilling a requirement set out at (*b*) or (*c*) above, if the flock is in all other respects a supplementary rate flock and the Minister is satisfied that the requirement could not reasonably be fulfilled because of the small size of the flock, its recent formation, unavoidable and abnormal losses or other exceptional circumstances.

(3) Where the Minister is satisfied that a ewe does not conform to the requirements of sub-paragraph (1)(*d*) above in so far as they apply to the flock in which it is comprised, the supplementary rate of subsidy shall not be payable in respect of that ewe unless in the opinion of the Minister such failure to conform is due to ill-health, weakness after lambing or other good reason.

(4) This paragraph applies to ewes of the following breeds and crosses between breeds:—

(*a*) Cheviot, Dalesbred, Derbyshire Gritstone, Exmoor Horn, Herdwick, Lonk, Radnor, Rough Fell, Scottish Blackface, Shetland, Swaledale and Welsh Mountain;

(*b*) such local hardy hill breeds as the Minister may approve; and

(*c*) crossbred ewes derived solely from any of the breeds referred to in (*a*) or (*b*) above.

Management requirements

7. Subject to paragraph 8 below, a flock shall live by grazing for the greater part of the year on the hill land on which it is kept, and the ewes in a flock, when moved off the hill land for lambing or other good reason, shall return to it as soon as possible consistent with the recognised management practices of sheep farming in the district.

Exceptions for experimental purposes and good husbandry reasons

8. A requirement set out in paragraph 6(1)(*d*) or 7 above shall not apply to a flock:—

(*a*) where the Minister has approved, for experimental purposes, a variation from normal hill farming practices which conflicts with that requirement, and the flock has been managed in accordance with the terms of that approval; or

(*b*) where the Minister considers that in the interests of good sheep husbandry, or in circumstances beyond the control of the person maintaining the flock, it is reasonable that the requirement should not so apply.

Limitation of eligible numbers

9.—(1) In any flock, the number of ewes on a relevant day in respect of

which subsidy payments may be made under the preceding provisions of this scheme shall not exceed any of the following numbers:—

(*a*) the number of ewes comprised in the flock to the satisfaction of the Minister over the greater part of the year, disregarding seasonal variations and such losses as he is satisfied are made good within a reasonable period or cannot be so made good; or

(*b*) where the number of lambs produced by the flock is unusually low for a flock of that size, such number of ewes as the Minister considers to be a reasonable proportion of the flock, having regard to the number of lambs so produced; or

(*c*) $2\frac{1}{2}$ ewes for each acre of hill land on which the flock is grazed; or

(*d*) the number of ewes which in the opinion of the Minister may properly be kept on that hill land without overgrazing it.

(2) For the purposes of this paragraph the acreage of any hill land grazed by more than one flock may be apportioned by the Minister between the flocks as he thinks reasonable.

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

Application, counting and inspection

10.—(1) It shall be a condition of the making of a subsidy payment under this scheme that any person who desires such a payment shall—

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

(*b*) to the best of his ability facilitate any counting or inspection of sheep which the Minister considers necessary in order to determine whether such a payment should be made, and if requested gather the flock together at some convenient place for the purpose.

(2) When counting a flock the Minister may make a reasonable allowance for strayed sheep.

Payment otherwise than to person maintaining flock

11. A subsidy payment in respect of a ewe comprised in a flock on any of the relevant days 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 who then maintained the flock, would have been entitled to claim the payment otherwise than by virtue of an assignment.

Reduction where flock is partly grazed on ineligible land

12. Where a flock of sheep kept on hill land is grazed partly on hill land and partly on other land at a time when it should normally be grazed entirely on hill land, and the flock otherwise satisfies the requirements of this scheme, the number of ewes in the flock in respect of which subsidy payments may be made under the foregoing provisions of this scheme may be reduced by a number proportionate, in the Minister's opinion, to the extent to which the flock is so grazed on that other land, and the remainder of the flock may be treated by the Minister as having satisfied the requirements of this scheme.

Reduction for previous non-compliance

13.—(1) If, in the opinion of the Minister, any sheep in respect of which subsidy payments have been made to a person under this scheme or the previous scheme were not in the year to which the subsidy payments related grazed or maintained in accordance with the provisions of the scheme under which the payments were made, the number of sheep, computed in accordance with the foregoing provisions of this scheme, in respect of which subsidy payments would otherwise have been payable to that person in respect of the three next following years, or such of those years as this scheme applies to, may be reduced by a total number not exceeding the number which were not so grazed and maintained in that previous year, after allowing for any reductions in that behalf already made under paragraph 13 of the previous scheme.

(2) In this paragraph "the previous scheme" means the Hill Sheep (England and Wales) Scheme 1967(**a**), as amended (**b**).

Reduction for non-participation in improvement to common land

14. Where the Minister has in accordance with the provisions of 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 payable to him under the foregoing provisions of this scheme shall be withheld equivalent in value to such amount as the Minister determines should have been his share of half that cost, having regard to the benefit to him from the work, after crediting him with any contributions 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 23rd October 1972.

(L.S.)

J. M. L. Prior,
Minister of Agriculture, Fisheries and Food.

Given under my hand on 23rd October 1972.

Peter Thomas,
Secretary of State for Wales.

Tim Fortescue,
Hugh Rossi,
Two of the Lords Commissioners of
Her Majesty's Treasury.

We approve,
25th October 1972.

(a) S.I. 1967/1869 (1967 III, p. 5072). (b) S.I. 1969/697 (1969 II, p. 1913).

SCHEDULE

Paragraph 2(2).

PARTS OF ENGLAND AND WALES IN WHICH HILL LAND MAY LIE

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 by or immediately adjoins any of the above-mentioned Administrative Counties.

Wales, excluding Anglesey.

EXPLANATORY NOTE

(This Note is not part of the scheme.)

This scheme succeeds the Hill Sheep (England and Wales) Scheme 1967, as amended in 1969. It enables the Minister of Agriculture, Fisheries and Food to make subsidy payments on ewes (including shearlings) comprised in flocks of sheep kept on hill land in England and Wales in 1972 and the next four years. There are no material changes from the previous schemes, except to take account of the transfer of functions relating to Wales.

The scheme does not fix the amount of subsidy payments, which the Hill Farming Act 1946 requires to be prescribed in a separate order; this is done in the Hill Sheep Subsidy Payment (England and Wales) Order 1972 (S.I. 1972/1617).

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