1960 No. 672 (S. 26)

The Hill Sheep (Scotland) Scheme, 1960

Made - - - -	*4th April*, 1960
Laid before Parliament	*7th April*, 1960
Coming into Operation	*8th April*, 1960

In exercise of the powers conferred upon me by sections 13 and 17 of the Hill Farming Act, 1946(a), as extended by section 6 of the Livestock Rearing Act, 1951(b), and as amended by section 2 of 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:—

Citation and commencement

1. This Scheme may be cited as the Hill Sheep (Scotland) Scheme, 1960, and shall come into operation on the eighth day of April, 1960.

Interpretation

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

"applicant" means the person making an application for a subsidy payment under this Scheme;

"crofting counties" has the same meaning as assigned to it by section 37 of the Crofters (Scotland) Act, 1955(d);

"flock of sheep" has the meaning assigned to it by Article 7 of this Scheme;

"gimmer" includes "shearling ewe" and means a female sheep the age of which on the relevant day exceeds one year, but does not exceed two years;

"hill land" means mountain, hill and heath land used for grazing and suitable for use for the maintenance of sheep of a hardy kind but not of sheep of other kinds;

"pack sheep" has the meaning assigned to it by Article 11 of this Scheme;

"relevant day" means in relation to the years 1959, 1961 and 1962 the fourth day of December, and in relation to the year 1960, the third day of December;

"return" means a 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(e), as amended by the Agricultural Statistics (Scotland) Amendment Regulations, 1957(f), to be made by the occupier of hill land on the relevant day;

(a) 9 & 10 Geo. 6. c. 73.
(b) 14 & 15 Geo. 6. c. 18.
(c) 4 & 5 Eliz. 2. c. 72.
(d) 3 & 4 Eliz. 2. c. 21.
(e) S.I. 1948/2239 (Rev. I, p. 589: 1948 I, p. 93).
(f) S.I. 1957/876 (1957 I, p. 83).

"subsidy payment" means any payment falling to be made in accordance with the provisions of this Scheme in respect of a breeding ewe or gimmer.

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

Power to make Subsidy Payment

3. Subject to the provisions of this Scheme, the Secretary of State may for the year 1959 and for each of the three next succeeding years make a subsidy payment in respect of every breeding ewe and gimmer to which this Scheme applies and which is included in a flock of sheep or which is a pack sheep.

Amount of Subsidy Payment

4. 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.

Person to whom Subsidy Payment is to be made

5.—(1) Subject to the following provisions of this Article a subsidy payment to be made in respect of any breeding ewe or gimmer for any year shall be payable to the person who, at the commencement of the relevant day in that year, owns the flock of sheep in which the ewe or gimmer is included.

(2) Where the owner of a flock of sheep has, in consideration of the payment of a rent or hiring charge, hired or rented the flock for a period including the relevant day in any year to another person who takes the commercial risks connected with the flock, the subsidy payment to be made for the year in respect of any breeding ewe or gimmer in the flock shall be payable to that other person.

(3) Notwithstanding the foregoing provisions of this Article, where an application for a subsidy payment in respect of any breeding ewe or gimmer owned by a small landholder within the meaning of the Small Landholders (Scotland) Acts, 1886 to 1931 or a crofter within the meaning of the Crofters (Scotland) Act, 1955, is made in accordance with the provisions of paragraph (3) of Article 10 of this Scheme by the Clerk to the Committee appointed for the management of the common grazings or common pasture on which the flock of sheep in which the breeding ewe or gimmer is included is maintained, or by such other person as is mentioned in that paragraph, the payment shall be made to the Clerk or, as the case may be, to that other person who shall forthwith make payment thereof to the owner of the breeding ewe or gimmer 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.

(4) A subsidy payment in respect of any breeding ewe or gimmer included in a flock of sheep maintained by a Sheep Stock Club shall be paid to the person who makes an application therefor in accordance with the provisions of paragraph (4) of Article 10 of this Scheme.

(5) A subsidy payment in respect of a pack sheep shall be made to the person owning the sheep in accordance with the provisions of paragraph (1) of Article 11 of this Scheme.

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

Breeding Ewes and Gimmers to which the Scheme applies

6. This Scheme shall apply to breeding ewes and gimmers of the Blackface, Cheviot, Shetland, Soay and such other breeds of sheep of a hardy kind as the Secretary of State may approve, and to any cross-bred breeding ewe or gimmer being a first cross derived from a ewe of any of the breeds aforesaid and a ram of any other of those breeds or of the Border-Leicester breed.

Flocks to which the Scheme applies

7.—(1) Subject to the provisions of the next succeeding Article this Scheme shall apply to any flock of sheep in the case of which the Secretary of State is satisfied that on the relevant day it was—

(*a*) being maintained on hill land in accordance with the recognised practices of hill sheep farming for the keeping of breeding ewes and gimmers under natural conditions on hill land and the rearing by ewes of their lambs under those conditions ; and

(*b*) composed of stocks of breeding ewes and gimmers in regular ages.

(2) For the purposes of this Scheme the breeding ewes and gimmers in a flock shall not be deemed to be in regular ages unless on being classified by age they fall into at least three successive age groups, the youngest group being composed of gimmers.

(3) For the purposes of this Scheme a pack sheep shall be deemed not to be included in the flock of sheep with which it grazes.

Exceptional cases in which Article 7 is to be treated as complied with

8.—(1) During severe weather in winter or during lambing time, the provision on the hill land on which a flock of sheep is maintained or the occasional provision on such other land as may be approved by the Secretary of State, of supplementary feeding shall be deemed for the purpose of the last foregoing Article to be a recognised practice of hill sheep farming.

(2) If the Secretary of State is satisfied that, where breeding ewes have been introduced into a flock of sheep otherwise than in accordance with the recognised practices of hill sheep farming, their introduction into the flock has been made in order to maintain the number of sheep in the flock following exceptional stock losses caused by disease or severe weather conditions or other cause outwith the control of the person maintaining the flock, or as part of the process of the formation of a flock first formed in the year in which the relevant day occurs or in the year immediately preceding that year, the provisions of the last foregoing Article shall be deemed to be complied with in the case of that flock.

(3) Where the Secretary of State is satisfied in regard to a flock of sheep in the case of which the provisions of the last foregoing Article are not complied with, that the failure to maintain the flock in the manner required by those provisions is due to circumstances (whether circumstances arising out of difficulties of an exceptional nature associated with the geographical location of the hill land on which, or with the climatic conditions under which, the flock is being maintained, or otherwise) beyond the control of the person so maintaining the flock he may notwithstanding those provisions permit such number of sheep in the flock as he may determine to be treated for the purpose of this Scheme as a flock in respect of which those provisions are complied with.

(4) Notwithstanding that the breeding ewes and gimmers in any flock of sheep are not in regular ages as required by head (*b*) of paragraph (1) of the last foregoing Article, the requirements of that head shall be deemed to be complied with if the Secretary of State is satisfied in the case of that flock that—

(*a*) the absence of regularity of age in the flock is the unavoidable result of losses of sheep attributable to abnormal weather conditions; or

(*b*) in the case of a flock comprising a small number of sheep maintained on hill land in the crofting counties, that the small number of sheep in the flock precludes regularity of age in the flock; or

(*c*) in the case of a flock first formed in the year in which the relevant day occurs, or in the year immediately preceding that year, that the applicant intends to build up a flock composed of breeding ewes and gimmers in regular ages.

Computation of number of Subsidy Payments in respect of sheep in a flock

9.—(1) The number of subsidy payments to be made for the sheep included in any flock maintained on hill land shall be equal to the number of breeding ewes and gimmers included in that flock on the relevant day and in respect of which a return has been made.

Provided that—

(i) if the number of breeding ewes and gimmers ascertained as aforesaid to be included in the flock is greater than the number which, in the opinion of the Secretary of State, the hill land aforesaid is capable of maintaining, or, as the case may be, than the number of sheep which the applicant has a right to graze on that land, the Secretary of State may make payment of such number of subsidy payments as is equal to the number of breeding ewes and gimmers which the hill land is so capable of maintaining or which the applicant has a right to graze thereon, as the case may be;

(ii) where, on a count being made in accordance with the following provisions of this Article, the Secretary of State is satisfied that the number of breeding ewes and gimmers being maintained on any hill land as aforesaid is smaller than the number arrived at in accordance with the foregoing provisions of this paragraph, he may reduce the number of subsidy payments to be made by him accordingly;

(iii) a subsidy payment shall not be made in respect of any breeding ewe introduced into a flock other than a ewe to which paragraph (2) of Article 8 applies;

(2) Notwithstanding the failure by an occupier to make a return on the relevant day, or to include in that return all of the breeding ewes or gimmers, or any of them, included in the flock maintained by him as aforesaid, the Secretary of State may, if in the circumstances he thinks fit, make the subsidy payments to which the occupier would be entitled but for that failure.

(3) A person authorised by the Secretary of State in that behalf may require an applicant to gather, or cause to be gathered, the breeding ewes and gimmers to which an application relates so that they may be counted by that person and, if he so determines, inspected by him, and to give all reasonable assistance to that person for the purposes of any such authority as aforesaid, and failure by the applicant to gather the sheep or to cause

them to be gathered or to give such assistance shall be a ground upon which the Secretary of State may withhold all or any of the subsidy payments which would otherwise be payable to the applicant.

Application for Subsidy Payment

10.—(1) A subsidy payment shall not be made in respect of any breeding ewe or gimmer for the year 1959, or for any of the three next succeeding years, unless an application for that payment has been made by the person maintaining the flock in which the breeding ewe or gimmer is included and has been received by the Secretary of State on or before the fifteenth day of May in the year next following that for which the payment is being applied.

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 shall be made on a form which shall be supplied by the Secretary of State upon a request being made in that behalf to him by the person desiring to make the application.

(3) An application for subsidy payment in respect of a breeding ewe or gimmer included in a flock maintained on common grazings or common pasture to which the provisions of the Small Landholders (Scotland) Acts, 1886 to 1931, or the Crofters (Scotland) Act, 1955, apply may, if not made by the person who owns the ewe or gimmer, be made—

(*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 owner of the ewe or gimmer, in any manner satisfactory to the Secretary of State, to make the application.

(4) An application for subsidy payment in respect of a breeding ewe or gimmer maintained by a Sheep Stock Club shall be made by the Secretary of the Club or by such other person as may be prescribed for that purpose in the rules thereof.

Special Provisions as to Pack Sheep

11.—(1) An application for subsidy payments in respect of pack sheep shall be made by the person who is maintaining the flock of sheep with which the pack sheep graze but payment of the subsidy shall be made to the person to whom the sheep belong.

(2) In making application in respect of any pack sheep the applicant shall specify the number of the sheep, the person to whom they belong, and the address of that person.

(3) For the purposes of this Scheme a "pack sheep" means a breeding ewe or gimmer belonging to the shepherd, or other employee, of the person maintaining the flock of sheep with which the ewe or gimmer grazes.

Prohibition against assignation of Subsidy Payments

12. The right to receive any subsidy payments falling to be made to any person under this Scheme shall not be assigned by him and any agreement purporting to assign, or to effect a charge on, any such payments shall be void.

Revocations

13. The Hill Sheep (Scotland) No. 2 Scheme, 1947(**a**), as amended by the Hill Sheep (Scotland) No. 2 (Extension) Scheme, 1951(**b**), and the Hill Sheep (Scotland) No. 2 (Amendment) Scheme, 1955(**c**), are hereby revoked.

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

St. Andrew's House,
Edinburgh, 1.
4th April, 1960.

We approve.

R. Brooman-White,
J. D. Gibson-Watt,
Two of the Lords Commissioners of Her Majesty's Treasury.

4th April, 1960.

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, and as amended by the Hill Farming Act, 1956, empowers the Secretary of State, with the approval of the Treasury, to make schemes providing for subsidy payments in respect of hill sheep in any of the seventeen years up to and including 1963.

This Scheme enables subsidy payments to be made in each of the years from 1960-1963 in respect of the breeding ewes and gimmers of certain breeds included in flocks of sheep kept on hill land in Scotland in accordance with the recognised practices of hill sheep farming. It specifies the breeds of breeding ewes in respect of which payments may be made and contains provisions about the conditions under which flocks are to be maintained on hill land, the computation of the number of sheep in respect of which subsidy is to be paid, and the making of applications.

The Hill Farming Act, 1946, requires the amount of subsidy payment to be prescribed by order. The amount to be paid in relation to the year 1959 is prescribed by the Hill Sheep Subsidy Payment (Scotland) Order, 1960 (S.I. 1960/673).

(**a**) S.R. & O. 1947/2905 (Rev. I, p. 660: 1947 I, p. 46).
(**b**) S.I. 1951/1764 (1951 I, p. 53). (**c**) S.I. 1955/686 (1955 I, p. 118).