1964 No. 577 (S. 36)

AGRICULTURE

HILL FARMING

The Hill Sheep (Scotland) Scheme 1964

Made - - - -	14*th April* 1964
Laid before Parliament	22*nd April* 1964
Coming into Operation	23*rd April* 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 Sheep (Scotland) Scheme 1964 and shall come into operation on 23rd April 1964.

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;

"December 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 occupiers of hill land as at a date in December in any year and "the date of the December Return" means such date;

"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 10 of this Scheme;

"relevant day" means in relation to any of the relevant years, such day of December in that year as coincides with the date of the December Return in that 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).

" relevant years " means the year 1963 and the three next succeeding years ;

" 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 for the interpretation of this Scheme as it applies for 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 make a subsidy payment in respect of every breeding ewe or gimmer to which this Scheme applies and which is comprised in a flock of sheep or which is a pack sheep on the relevant day in any of the relevant years.

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 section 14(3) 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 shall be payable to the person who, at the commencement of the relevant day in any of the relevant years, is maintaining the flock of sheep in which the ewe or gimmer is comprised.

(2) For the purposes of this Scheme the person maintaining a flock of sheep is the person who owns the flock or takes it on rent and, in either case, is responsible for the maintenance and for taking the commercial risks connected with the flock.

(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 landholder within the meaning of the Small Landholders (Scotland) Acts 1886 to 1931(b) or a crofter within the meaning of the Crofters (Scotland) Acts 1955 and 1961(c), is made in accordance with the provisions of Article 9(2) 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 comprised is maintained, or by such other person as is mentioned in said Article 9(2), 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 Article 9(3) of this Scheme.

(a) 52 & 53 Vict. c. 63.
(b) 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. (c) 3 & 4 Eliz. 2. c. 21 and 9 & 10 Eliz. 2. c. 58.

(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 Article 10(1) of this Scheme.

Breeding Ewes and Gimmers to which the Scheme applies

6. This Scheme shall apply to breeding ewes and gimmers of the Blackface, Cheviot, Shetland and Soay breeds or of 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 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:

Provided that where the Secretary of State is of the opinion that any breeding ewe or gimmer of the breeds or cross breeds referred to in this Article is not sufficiently hardy to be capable of living under natural conditions on hill land, he may disregard such ewe or gimmer for the purposes of this Scheme.

Flocks to which the Scheme applies

7.—(1) This Scheme shall apply in respect of any of the relevant years, to a flock of sheep which, throughout that year, in the opinion of the Secretary of State satisfies the following conditions—

(*a*) it was kept for the breeding and rearing of lambs;

(*b*) it was maintained on hill land under natural conditions in accordance with the recognised practices of hill sheep farming; and

(*c*) it was composed of stocks of breeding ewes and gimmers in regular ages so that there are at least three successive age groups, the youngest group being composed of gimmers:

Provided that where the Secretary of State is of the opinion that a flock does not satisfy such conditions on account of the small number of sheep comprised in the flock, or its recent formation, or of unavoidable and abnormal stock losses in the flock or other exceptional circumstances the Secretary of State may notwithstanding these conditions permit such number of sheep in the flock as he may determine to be treated as a flock to which this Scheme applies.

(2) 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.

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

8.—(1) Subject to the following provisions of this Article the number of subsidy payments to be made for the sheep comprised in any flock maintained on hill land in any of the relevant years shall be equal to the number of breeding ewes and gimmers comprised in that flock on the relevant day in that year and included in the December Return made in respect of that land for that year:

Provided that—

(i) if the number of breeding ewes and gimmers ascertained as aforesaid to be comprised 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) where a breeding ewe is introduced into a flock in any of the relevant years, such ewe shall for the purposes of this Scheme be deemed not to be comprised in that flock during that year unless the Secretary of State is satisfied that its introduction was exceptional and necessary for the proper management of that flock.

(2) Where the Secretary of State is satisfied that no such Return as is referred to in paragraph (1) of this Article has been made or that any such Return made as aforesaid is inaccurate in respect of the number of breeding ewes and gimmers included therein, the number of subsidy payments to be made as aforesaid shall be equal to the number of breeding ewes and gimmers which the Secretary of State, if in all the circumstances he thinks fit, deems to be the number of breeding ewes and gimmers in respect of which subsidy payments are to be computed.

(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

9.—(1) A subsidy payment shall not be made in respect of any breeding ewe or gimmer unless an application for that payment in such form and at such time as the Secretary of State may prescribe, has been made by the person maintaining the flock in which the breeding ewe or gimmer is comprised:

Provided that the Secretary of State may, in the case of any such application as is not received by the date prescribed 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 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) Acts 1955 and 1961 apply may, if not made by the person maintaining 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 person maintaining the ewe or gimmer, in any manner satisfactory to the Secretary of State, to make the application.

(3) An application for subsidy payment in respect of a breeding ewe or gimmer maintained by a Sheep Stock Club may 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

10.—(1) An application for subsidy payment in respect of a pack sheep may be made by the person who is maintaining the flock of sheep with which the pack sheep grazes but payment of the subsidy shall be made to the person to whom that sheep belongs.

(2) In making application in respect of a pack sheep the applicant shall specify that it is such a sheep, and also the name and the address of the person to whom it belongs.

(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 that ewe or gimmer grazes.

Prohibition against assignation of Subsidy Payments

11. Any subsidy payments falling to be made under this Scheme, in respect of breeding ewes or gimmers comprised in a flock on the relevant day in any of the relevant years, 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 person who then maintained the flock, 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.
13th April 1964.

We approve.

John Peel.
M. A. Hamilton,
Two of the Lords Commissioners of Her Majesty's Treasury.

14th April 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 amended by section 2 of the Agriculture (Miscellaneous Provisions) Act 1963, provides that schemes may be made for subsidy payments in respect of hill sheep. This Scheme follows with minor changes the Hill Sheep (Scotland) Scheme 1960 and relates to the relevant day in each of the years 1963 to 1966. It is made by the Secretary of State with the approval of Treasury and makes provision for subsidy payments in respect of breeding ewes and gimmers of specified breeds comprised in flocks of sheep kept on hill land in Scotland in accordance with the recognised practices of hill sheep farming. It defines " hill land " sets out the conditions under which the sheep must be kept and contains consequential provisions against overstocking: it also provides for the making of applications for subsidy payments and for other matters. The Scheme does not fix the amount of subsidy payment as the Hill Farming Act 1946 requires the Secretary of State to prescribe this in a separate Order; the Order for this purpose in relation to sheep stocks at 4th December 1963 is the Hill Sheep Subsidy Payment (Scotland) Order 1964 (S.I. 1964/578).