



# Hill Farming Act 1946

1946 CHAPTER 73 9 and 10 Geo 6

An Act to make provision for promoting the rehabilitation of hill farming land; for the payment of subsidies in respect of hill sheep and hill cattle; for controlling the keeping of rams and ram lambs; for regulating the burning of heather and grass; for amending the law as to the valuation of sheep stocks in Scotland; and for purposes connected with the matters aforesaid. [6th November 1946]

## Extent Information

E1 For the extent of this act in relation to Northern Ireland see [s. 40](#).

## Modifications etc. (not altering text)

- C1 Act amended with the substitution for references to hill farming land and hill farming purposes of references to livestock rearing land and livestock rearing purposes and for references to hill farming land improvement schemes of references to livestock rearing land improvement schemes by [Livestock Rearing Act 1951 \(c. 18\), ss. 1\(2\)\(b\)](#)
- C2 Words of enactment omitted under authority of [Statute Law Revision Act 1948 \(c. 62\), s. 3](#)
- C3 Certain functions of Minister of Agriculture, Fisheries and Food transferred by [S.I. 1978/272, art. 2](#)

## *Rehabilitation of Hill Farming Land*

### 1 Grants under schemes for improvement of hill farming land.

(1) ..... F1

(2) ..... F1

(3) In this Act—

[<sup>F2</sup>the expression “livestock rearing land” means 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

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necessary to feed the number of sheep or cattle capable of being maintained on the land;]

[<sup>F2</sup>the expression “livestock rearing purposes” means the breeding, rearing and maintenance of sheep or cattle, and includes other activities carried on in connection therewith,] and

the expression “improvement” means, subject to the provisions of this section, an operation of any of the kinds specified in the First Schedule to this Act, and any operation incidental to, or necessary or proper in the carrying out of, an operation of any such kind or for securing the full benefit thereof.

- (4) Subject to the provisions of section thirty-seven of this Act, the Ministers may from time to time by order modify the kinds of operations that are to be treated as improvements for the purposes of this Act by adding to the First Schedule to this Act, or by deleting therefrom, or modifying the description of, a kind of operation for the time being therein specified:

... <sup>F3</sup>

- (5) ..... <sup>F1</sup>

**Textual Amendments**  
**F1** S. 1(1)(2)(5) repealed by [Agriculture Act 1970 \(c. 40\)](#), ss. 35(1), 113(3), **Sch. 5 Pt. II**  
**F2** Definitions substituted by [Livestock Rearing Act 1951 \(c. 18\)](#), **s. 1(2)(a), (3)(a),(b)**  
**F3** Proviso repealed by [Agriculture Act 1970 \(c. 40\)](#), ss. 35(1), 113(3), **Sch. 5 Pt. II**

**Modifications etc. (not altering text)**  
**C4** S. 1 amended (E.W.) (S.) by [Livestock Rearing Act 1951 \(c. 18\)](#), **s. 4**; extended by [Agriculture Act 1970 \(c. 40\)](#), **s. 34(1)(2)**  
**C5** S. 1(4): Functions of the Secretary of State, the Secretary of State for Scotland or the Secretary of State for Wales transferred to the Minister of Agriculture, Fisheries and Food (27.12.1999) by [S.I. 1999/3141](#), arts. 2(1)(5), 3, **Sch.**  
**C6** S. 1(4) amended by [Livestock Rearing Act 1951 \(c. 18\)](#), **s. 8**

- 2 ..... <sup>F4</sup>

**Textual Amendments**  
**F4** S. 2 repealed by [Agriculture Act 1970 \(c. 40\)](#), ss. 35(1), 113(3), **Sch. 5 Pt. II**

- 3 ..... <sup>F5</sup>

**Textual Amendments**  
**F5** S. 3 repealed by [Agriculture Act 1970 \(c. 40\)](#), ss. 35(1), 113(3), **Sch. 5 Pt. II**

- 4 ..... <sup>F6</sup>

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**Textual Amendments**

**F6** S. 4 repealed by [Agriculture Act 1970 \(c. 40\)](#), ss. 35(1), 113(3), [Sch. 5 Pt. II](#)

**5** ..... **F7**

**Textual Amendments**

**F7** S. 5 repealed by [Agriculture Act 1970 \(c. 40\)](#), ss. 35(1), 113(3), [Sch. 5 Pt. II](#)

**6** ..... **F8**

**Textual Amendments**

**F8** S. 6 repealed by [Agriculture Act 1970 \(c. 40\)](#), ss. 35(1), 113(3), [Sch. 5 Pt. II](#)

**7** ..... **F9**

**Textual Amendments**

**F9** S. 7 repealed by [Agriculture Act 1970 \(c. 40\)](#), ss. 35(1), 113(3), [Sch. 5 Pt. II](#)

**8** ..... **F10**

**Textual Amendments**

**F10** S. 8 repealed by [Agriculture Act 1970 \(c. 40\)](#), ss. 35(1), 113(3), [Sch. 5 Pt. II](#)

**[<sup>F119</sup> Operation of the Agricultural Holdings Act, 1948, &c., in relation to improvement schemes.**

- (1) Subject to the provisions of this section, the <sup>M1</sup>Agricultural Holdings Act, 1948, shall apply to improvements for which provision is made by an approved hill farming land improvement scheme as it applies to other improvements.
- (2) Where a tenant of an agricultural holding within the meaning of the said Act of 1948 has made thereon an improvement specified in the Third Schedule to that Act in accordance with provision in such a scheme for the making of the improvement and for the tenant's being responsible for doing the work, being provision included in the scheme at the instance or with the consent of the landlord, then, the landlord shall be deemed to have consented as mentioned in subsection (1) of section forty-nine of that Act, and any agreement as to compensation or otherwise made between the landlord and the tenant in relation to the improvement shall have effect as if it had been such an agreement on terms as is mentioned in the said subsection (1):

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Provided, as respects an improvement comprised in Part II of that Schedule, that the provisions of section fifty of that Act as to the carrying out of improvements by the landlord shall not apply.

- (3) If on the ground of work's being badly done the appropriate Minister withholds or reduces the improvement grant in respect of an improvement, he may direct that any right conferred by section nine of the Agricultural Holdings Act, 1948, to have the rent of an agricultural holding increased shall not be exercisable in respect of the improvement, or shall be exercisable only to such extent as may be specified in the direction, and any such direction given after that right has been exercised shall be retrospective and any excess rent paid shall be repaid accordingly.
- (4) In assessing the amount of any compensation payable under custom or agreement to the tenant of an agricultural holding, if it is shown to the satisfaction of the person assessing the compensation that the cultivations in respect of which the compensation is claimed were wholly or in part the result of or incidental to work in respect of the cost of which an improvement grant has been paid or will be payable, the amount of the grant shall be taken into account as if it had been a benefit allowed to the tenant in consideration of his executing the cultivations and the compensation shall be reduced to such extent as that person considers appropriate.]

#### Textual Amendments

**F11** S. 9 (which was substituted E.W. by [Agricultural Holdings Act 1948 \(c. 63\)](#), [Sch. 7](#)) repealed (E.W.) by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 101, [Sch. 13 para. 3](#), [Sch. 15 Pt. I](#)

#### Marginal Citations

**M1** 1948 c. 63.

### [<sup>F129</sup> **Operation of the Agricultural Holdings (Scotland) Act, 1949, in relation to improvement schemes.**

- (1) Subject to the provisions of this section, the Agricultural Holdings (Scotland) Act, 1949, shall apply to improvements for which provision is made by an approved hill farming land improvement scheme as it applies to other improvements.
- (2) Where a tenant of an agricultural holding within the meaning of the <sup>M2</sup>said Act of 1949 has carried out thereon an improvement specified in Part I or Part II of the First Schedule to that Act in accordance with provision in such a scheme for the carrying out of the improvement and for the tenant's being responsible for doing the work, being provision included in the scheme at the instance or with the consent of the landlord, then—
  - (a) in the case of an improvement specified in the said Part I, the landlord shall be deemed to have consented as mentioned in section fifty of that Act in relation to the improvement; or
  - (b) in the case of an improvement specified in the said Part II, the tenant shall be deemed to have given notice to the landlord as mentioned in section fifty-one of that Act in relation to the improvement and the landlord shall be deemed to have received the notice and to have given no such notice to the tenant as is mentioned in section fifty-two of that Act objecting to the carrying out of the improvement or to the manner in which the tenant proposes to carry out the work;

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and any agreement as to compensation or otherwise made between the landlord and the tenant in relation to the improvement shall have effect as if it had been such an agreement on terms as is mentioned in the said section fifty or the said section fifty-one as the case may be.

- (3) If on the ground of work being badly done the appropriate Minister withholds or reduces the improvement grant in respect of an improvement, he may direct that any right conferred by section eight of the Agricultural Holdings (Scotland) Act, 1949, to have the rent of an agricultural holding increased shall not be exercisable in respect of the improvement, or shall be exercisable only to such extent as may be specified in the direction, and any such direction given after that right has been exercised shall be retrospective and any excess rent paid shall be repaid accordingly.
- (4) In assessing the amount of any compensation payable, whether under the said Act of 1949 or under custom or agreement, to the tenant of an agricultural holding, if it is shown to the satisfaction of the person assessing the compensation that the improvement of cultivations in respect of which the compensation is claimed was or were wholly or in part the result of or incidental to work in respect of the cost of which an improvement grant has been paid or will be payable, the amount of the grant shall be taken into account as if it had been a benefit allowed to the tenant in consideration of his executing the improvement or cultivations, and the compensation shall be reduced to such extent as that person considers appropriate.]

#### Textual Amendments

**F12** S. 9 substituted (S.) with saving by [Agricultural Holdings \(Scotland\) Act 1949 \(c. 75\)](#), s. 8(3), [Sch. 7](#)

#### Marginal Citations

**M2** 1949 c. 75.

## 10 Attachment of conditions as to letting, etc., of new and improved cottages.

- (1) Regulations shall be made by the appropriate Minister—
  - (a) for securing that, where an improvement grant has been made in respect of cost of work done for the erection, improvement or reconditioning of a cottage, conditions with respect to the occupation and maintenance thereof shall apply to the cottage for such period from the date on which it first becomes fit for occupation after the completion of the work (not being longer than twenty years) as may be specified in the regulations, including (without prejudice to the generality of this subsection) a condition prohibiting the occupation of the cottage otherwise than by the owner or a tenant thereof; and
  - (b) in the event of a breach of any of the conditions for the recovery by the appropriate Minister from the owner of the cottage of sums paid (whether before or after the breach) on account of the grant, together with interest thereon at such rate as may be specified in the regulations and for withholding any sums which, apart from the breach, would be payable to him.
- (2) Regulations under the preceding subsection shall provide for the conditions thereby applied to a cottage ceasing to apply on payment to the appropriate Minister by such person as may be specified in the regulations of such amount as may be so specified, and may contain such incidental and supplementary provisions as appear to the appropriate Minister to be requisite or expedient for the purposes thereof, and

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in this section the expressions “owner” and “tenant” mean, respectively, owner and tenant as defined by the regulations.

**Modifications etc. (not altering text)**

C7 S. 10 amended by [Hill Farming Act 1954 \(c. 23\)](#), s. 1

**11 Provision as to application of capital for improvements to settled hill farming land.**

- (1) For the purposes of the provisions of the <sup>M3</sup>Settled Land Act, 1925, relating to improvements authorised by that Act, any operation which is to be treated as an improvement for the purposes of this Act, and which is of a kind prescribed by regulations made by the Minister of Agriculture and Fisheries as being of a permanent character, shall be treated as if it were included in the Third Schedule to that Act and were specified in Part I thereof (which specifies improvements the cost of which is not liable to be replaced by instalments).
- (2) The preceding subsection shall apply for the purposes of the said provisions of the <sup>M4</sup>Settled Land Act, 1925, as extended to trusts for sale by section twenty-eight of the Law of Property Act, 1925.

**Marginal Citations**

M3 1925 c. 18.  
M4 1925. c. 20.

**12 Improvements of hill farming land subject to rights of common.**

- (1) Where the Minister of Agriculture and Fisheries (in this section referred to as “the Minister”) is of opinion that it is expedient so to do for the purpose of rehabilitating hill farming land in England or Wales that is subject to rights of common of pasture, he shall have power, subject to the provisions of this section, to do work required for making improvements for the benefit thereof, and the provisions in that behalf of this section shall have effect as to the recovery by the Minister from persons claiming to enjoy rights over such land of sums amounting in the aggregate to one half of the cost of work done by him under this section.
- (2) Before beginning to do work under this section, the Minister shall publish, in such manner as he thinks best adapted for informing persons enjoying rights of common over the land for the benefit of which the improvements are intended and any person entitled as lord of the manor or otherwise to the soil of that land, a notice—
  - (a) stating that he is of the opinion aforesaid, specifying what improvements ought, in his opinion, to be made and the work required for making them, the land on which he proposes to do the work, the estimated cost of the work and the period (which shall not be less than twenty-eight days from the date of the publication of the notice) within which written objection to the doing of the work may be made to him by any person claiming to be such a person as aforesaid; and
  - (b) inviting any person so claiming who is willing to bear an apportioned part of half the estimated cost of the work to furnish to the Minister, within the period

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aforesaid, his name and address and particulars of such matters relating to the rights which he claims to enjoy as may be specified in the notice.

- (3) If an objection to the doing of the work is duly made to the Minister by any person so claiming as aforesaid within the time limited by the notice for making objections, then, unless either—
  - (a) the objection is withdrawn by that person or appears to the Minister to be frivolous; or
  - (b) the Minister is satisfied that the claim is groundless;no further steps shall be taken under this section in pursuance of the notice, but without prejudice to the publication of a fresh notice.
- (4) Subject to the provisions of the last preceding subsection, the Minister, after the expiration of the said period, shall, by an instrument executed by him, apportion half the amount stated in the notice as the estimated cost of the work amongst the persons who have furnished their names under subsection (2) of this section as being willing to bear apportioned parts thereof, in such amount as he thinks just, and shall serve on each of them, at the address furnished by him under that subsection, a copy of the said instrument having annexed thereto particulars of the matters by reference to which each of the amounts has been arrived at and a statement of the period (which shall not be less than twenty-eight days from the date of the service of the copy) within which written objection to the amount apportioned to that person may be made by him to the Minister.
- (5) If no objection is duly made under the last preceding subsection within the time limited for the making of objections, or if all objections so made are withdrawn by the persons by whom they were respectively made, the Minister may do the work.
- (6) If an objection duly made as aforesaid is not withdrawn by the person by whom it was made, the Minister may revise the apportionment, and the provisions of the two last preceding subsections shall apply to a revised apportionment as they apply to an original apportionment.
- (7) Where the Minister has done work under this section, the amount apportioned to any person under the instrument by virtue of the execution of which the Minister became entitled to do the work or, where the actual cost of the work falls short of the estimated cost thereof, that amount abated rateably as between it and the remainder of the amounts so apportioned, shall be recoverable from that person by the Minister on the completion of the work.
- (8) Where work under this section for making improvements consists of or includes the making or restoration of permanent fences, subsections (1) and (2) of this section shall have effect as if references therein to persons enjoying or claiming to enjoy rights of common over the land for the benefit of which the improvements are intended included references to persons occupying adjoining land, and as if, in relation to any such person, there were substituted, for the reference in paragraph (b) of the said subsection (2) to rights claimed to be enjoyed, a reference to the adjoining land occupied by him.
- (9) Nothing done under this section shall be treated as an admission of the existence or non-existence of an obligation on the part of a person occupying land adjoining land subject to rights of common of pasture to fence against animals on the last-mentioned land, or as to the extent of any such obligation.

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- (10) No work under this section on land subject to rights of common of pasture shall be so done as to prevent or impede access to that land or any part thereof for a period exceeding three years from the beginning of the work.
- (11) Notwithstanding the provisions of subsection (4) of section one of this Act, an operation specified in a notice published under subsection (2) of this section shall not, so far as the operation of this section is dependent on the publication of that notice, be deemed to cease to be an improvement by reason of the deletion from the First Schedule to this Act of that operation or any modification of the description thereof.
- (12) The power conferred by this section on the Minister to do work required for making improvements for the benefit of any land shall not be construed as extending so as to authorise the Minister to do work for that purpose on other land without the consent of all persons interested in that other land whose consent to the doing of the work would be requisite apart from this section.
- (13) ..... F13

**Textual Amendments**  
 F13 S. 12(13) repealed by [Statute Law \(Repeals\) Act 1986 \(c. 12\)](#), s. 1(1), [Sch. 1 Pt. II](#)

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**Modifications etc. (not altering text)**  
 C8 Power to extend s. 12 given by [Agriculture Act 1967 \(c. 22\)](#), s. 42(1)  
 C9 Power to apply with modifications s. 12(1)—(12) given by [Agriculture Act 1970 \(c. 40\)](#), s. 30(3)

13—17 ..... F14

**Textual Amendments**  
 F14 Ss. 13—17 repealed by [Statute Law \(Repeals\) Act 1986 \(c. 12\)](#), s. 1(1), [Sch. 1 Pt. II](#)

*Control of Rams (England and Wales)*

**18 Control of rams in England and Wales.**

- (1) For the purpose of improving the quality of sheep the Minister of Agriculture and Fisheries may make regulations for controlling the keeping of rams and uncastrated ram lambs on land in England or Wales of such description as may be specified in the regulations, and, without prejudice to the generality of this subsection, any such regulations—
  - (a) may prohibit persons from permitting to be on any such land as aforesaid in any area specified in the regulations—
    - (i) any ram or uncastrated ram lamb unless it has been approved under the regulations as being suitable for the purpose of breeding from the flocks from time to time on any such land in that area; or
    - (ii) any ram or uncastrated ram lamb declared, in manner provided by the regulations, to be, in the opinion of the said Minister, not so suitable;



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- (b) may prohibit persons from permitting any ram or uncastrated ram lamb to be, during such period as may be specified in the regulations, on any such land as aforesaid in any area so specified, except under the authority of a licence granted in that behalf by the said Minister;
- (c) may provide for the inspection of rams and uncastrated ram lambs;
- (d) may provide for the marking, in accordance with the regulations, of any ram or uncastrated ram lamb inspected under the regulations according as it appears to the person or authority by whom the inspection is carried out to be suitable or unsuitable for the purpose of breeding from the flocks from time to time on land in any area specified in the regulations; and
- (e) may provide for requiring the slaughter or castration within such time as may be specified in the requisition of any ram or uncastrated ram lamb which, upon being inspected under the regulations, appears to the person or authority by whom the inspection is carried out to be—
  - (i) of defective or inferior conformation and likely to beget defective or inferior progeny;
  - (ii) permanently affected with any contagious or infectious disease; or
  - (iii) permanently affected with any other disease rendering the ram or lamb unsuitable for breeding purposes;

and may empower such person or authority as may be specified in the regulations to cause a ram or ram lamb in respect of which default is made in complying with any such requisition as aforesaid to be castrated or slaughtered, and provide for the recovery of the cost incurred thereby from the person in default.

- (2) Regulations under this section may contain such incidental and supplemental provisions as appear to the Minister of Agriculture and Fisheries to be requisite or expedient for the purposes thereof, and may make different provision in relation to land in difficult areas and different descriptions of rams and lambs.

**Modifications etc. (not altering text)**

**C10** S. 18(1) extended by [Livestock Rearing Act 1951 \(c. 18\), s. 7\(1\)](#)

**19 Penalties for offences in connection with control of rams.**

- (1) If any person permits a ram or lamb to be on any land in contravention of regulations made under the last preceding section, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [<sup>F15</sup>five pounds][<sup>F15</sup>level 1 on the standard scale], and, if any such contravention in respect of which a person has been convicted continues after the conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding five pounds for each day on which the contravention so continues.
- (2) If any person with intent to deceive—
  - (a) .....<sup>F16</sup>uses, or lends to or allows to be used by another person, a licence granted under regulations made under the last preceding section; or
  - (b) makes or has in his possession a document so closely resembling such a licence as to be calculated to deceive; or

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- (c) alters or defaces a mark placed on a ram or lamb in pursuance of regulations so made;

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [<sup>F17</sup>twenty pounds][<sup>F17</sup>level 2 on the standard scale] or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

- (3) If any person—

- (a) places on a ram or lamb, otherwise than in pursuance of regulations made under the last preceding section, a mark prescribed by regulations so made; or  
(b) places on a ram or lamb a mark so closely resembling a mark so prescribed as to be calculated to deceive;

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [<sup>F17</sup>twenty pounds][<sup>F17</sup>level 2 on the standard scale] or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

- (4) If a person on whom a requisition for the slaughter or castration of a ram or lamb has been duly served under regulations made under the last preceding section fails to comply with the requisition, he shall be liable on summary conviction to a fine not exceeding [<sup>F17</sup>twenty pounds][<sup>F17</sup>level 2 on the standard scale], and, if any such failure in respect of which a person has been convicted continues after the conviction, he shall be guilty of a further offence and liable on summary conviction to a further fine not exceeding five pounds for every day during which the failure so continues.
- (5) If any person, without the permission of the Minister of Agriculture and Fisheries, at any time after such requisition as aforesaid has been duly served on him under regulations made under the last preceding section removes (otherwise than to a slaughter-house for the purpose of slaughter) the ram or lamb to which the requisition relates, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding five pounds in the case of the first offence or twenty pounds in the case of a second or any subsequent offence.
- (6) If any person obstructs or impedes any person in the exercise of any power conferred upon him by virtue of the last preceding section, he shall be liable on summary conviction to a fine not exceeding five pounds in the case of a first offence or twenty pounds in the case of a second or any subsequent offence.

#### Textual Amendments

- F15** Words “level 1 on the standard scale” substituted (E.W.) for “five pounds” by virtue of [Criminal Law Act 1977 \(c. 45, SIF 39:1\)](#), [s. 31](#) and [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#)
- F16** Words repealed by [Forgery and Counterfeiting Act 1981 \(c. 45, SIF 39:7\)](#), [s. 30](#), [Sch. Pt. I](#)
- F17** Words “level 2 on the standard scale” substituted (E.W.) for “twenty pounds” by virtue of [Criminal Law Act 1977 \(c. 45, SIF 39:1\)](#), [s. 31](#) and [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#)

#### Modifications etc. (not altering text)

- C11** [S. 19\(5\)\(6\)](#) amended by [Criminal Law Act 1977 \(c. 45, SIF 39:1\)](#), [s. 31](#) and [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 35](#) (in relation to liability on first and subsequent convictions), [38](#) (increase of fines) and [46](#) (substitution of references to levels on the standard scale) apply (E.W.)

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### *Burning of Heather and Grass (England and Wales)*

## **20 Power to regulate heather and grass burning in England and Wales.**

- (1) The Minister of Agriculture and Fisheries may by regulations make provision for regulating or prohibiting the burning of heather [<sup>F18</sup>grass, bracken, gorse and vaccinium] on land in England or Wales, and any such regulations may be made so as to extend to the whole of England and Wales or to any specified area therein, may regulate or prohibit the burning of heather [<sup>F18</sup>grass, bracken, gorse and vaccinium] at all times or during such period as may be specified in the regulations and may contain different provisions with respect to land in different parts of England and Wales and to different periods.
- (2) If any person contravenes any provision of regulations made under this section, he shall be liable on summary conviction to a fine not exceeding [<sup>F19</sup>five pounds or to imprisonment for a term not exceeding one month or to both such fine and such imprisonment.] [<sup>F19</sup>level 3 on the standard scale]

#### **Textual Amendments**

**F18** Words substituted by [Hill Farming Act 1985 \(c. 32, SIF 2:8\), s. 1](#)

**F19** Words “level 3 on the standard scale” substituted (E.W.) for “five pounds” onwards by virtue of [Wildlife and Countryside Act 1981 \(c. 69, SIF 4:5\), s. 72\(2\)](#) and [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#)

## **21 Avoidance or relaxation of covenants against heather and grass burning in England and Wales.**

- <sup>F20</sup>(1) Where a lease of land in England or Wales contains a covenant, condition or agreement whereby the burning of heather or grass by the tenant is prohibited or restricted, the Agricultural Land Tribunal, on an application by the tenant, may if it appears to them that the covenant, condition or agreement is preventing or impeding the proper use for agricultural purposes of the land comprised in the lease or any of that land and that it is expedient in all the circumstances so to do, give such directions for avoiding or relaxing the covenant, condition or agreement as they think fit.]
- (2) This section applies to leases made before or after the commencement of this Act and shall have effect notwithstanding any stipulation to the contrary.
- (3) In this section the expressions “landlord”, “tenant” and “lease” have the meanings assigned to them respectively by the <sup>M5</sup>Landlord and Tenant Act, 1927.

#### **Textual Amendments**

**F20** [S. 21\(1\)](#) substituted by [Agriculture Act 1958 \(c. 71\), Sch. 1 Pt. I para. 1](#)

#### **Marginal Citations**

**M5** [1927 c. 36.](#)

*Status: Point in time view as at 01/02/1991.*

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### Muirburn (Scotland)

22 ..... F21

#### Textual Amendments

F21 S. 22 repealed by [Statute Law Revision Act 1950 \(14 Geo. 6 c. 6\)](#)

### 23 Prohibition of muirburn at certain times.

- (1) Subject to the provisions of this section it shall not be lawful to make muirburn except before the sixteenth day of April or after the thirtieth day of September in any year:

Provided that it shall be lawful for the proprietor of any lands, or for the tenant with the written authority of the proprietor or of his factor or commissioner, to make muirburn thereon during the period from the sixteenth day to the thirtieth day of April both days inclusive.

- (2) In the case of lands more than [<sup>F22</sup>four hundred and fifty metres]above sea level the preceding subsection shall have effect as if for the thirtieth day of April there were substituted the fifteenth day of May.
- (3) The Secretary of State may in any year, if it appears to him necessary or expedient so to do for the purpose of facilitating the making of muirburn, direct that subsection (1) of this section shall have effect as respects such lands as may be specified in the direction as if for the sixteenth day of April there were substituted such day thereafter as he may deem proper, being a day not later than the first day of May or, in the case of lands more than [<sup>F22</sup>four hundred and fifty metres]above sea level, the sixteenth day of May. Any such direction may be given as respects all lands in Scotland, or as respects the lands in any county or any part of a county, or as respects any particular lands or classes of lands.

Notice of the giving of any direction under this subsection (other than a direction given only as respects any particular lands) shall be published in one or more newspapers circulating in the locality in which the lands to which the direction relates are situated.

- (4) Any person who makes muirburn or causes or procures the making of muirburn on any lands in contravention of this section shall be guilty of an offence.

#### Textual Amendments

F22 Words substituted by [S.I. 1977/2007, reg. 2, Sch. 2](#)

### 24 Right of tenant to make muirburn notwithstanding terms of lease.

- (1) Where the tenant of any land is of the opinion that it is necessary or expedient for the purpose of conserving or improving that land to make muirburn thereon, it shall, subject to the provisions of this Act, be lawful for him to make muirburn thereon notwithstanding any provision in the lease of such land prohibiting, whether absolutely or subject to conditions, or restricting in any way, the making of muirburn.

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- (2) Not less than twenty-eight days before so making muirburn the tenant shall give notice to the proprietor of the land of the places at which, and the approximate extent to which he proposes to make muirburn; and if the proprietor is dissatisfied as to the places at which, or the extent to which the tenant proposes to make muirburn, he shall, within seven days after the receipt of the intimation from the tenant, give notice to the tenant stating the grounds of his dissatisfaction and shall refer the matter to the Secretary of State for his decision, and pending such decision the tenant shall not proceed with the operation of muirburn with respect to which reference has been so made.
- (3) On any reference under the foregoing subsection the Secretary of State, after such inquiry as he may think fit, and after considering any representations made by the parties interested, shall give such directions as he may deem proper regulating the muirburn, and it shall thereupon be lawful for the tenant to make muirburn in accordance with the direction. Any direction given by the Secretary of State under this subsection shall be final.
- (4) It shall subject to the provisions of this Act be lawful for the tenant of any land, notwithstanding any provision in the lease of such land prohibiting, whether absolutely or subject to conditions, or restricting in any way, the making of muirburn, to make muirburn thereon if the work is done in accordance with an approved hill farming land improvement scheme; and the provisions of subsections (2) and (3) of this section shall not apply to the making of such muirburn.

## **25 Regulation of muirburn.**

Any person who—

- (a) commences to make muirburn between one hour after sunset and one hour before sunrise; or
- (b) fails to provide at the place where he is about to make muirburn, or to maintain there while he is making muirburn, a sufficient staff and equipment to control and regulate the burning operations so as to prevent damage to any woodlands on or adjoining the land where the operations are taking place or to any adjoining lands, march fences or other subjects; or
- (c) makes muirburn on any land without having given to the proprietors of the lands or woodlands adjoining the land and, if he is a tenant, to the proprietor of the land, not less than twenty-four hours' notice of his intention to make muirburn and of the day on which, the places at which and the approximate extent to which, he intends to make muirburn; or
- (d) makes muirburn on any land without due care so as to cause damage to any woodlands on or adjoining the land or any adjoining lands, woodlands, march fences or other subjects,

shall be guilty of an offence.

## **26 Notices as to muirburn.**

- (1) Any notice required to be given under either of the two last preceding sections shall be given in writing.
- (2) Any notice so required to be given to the proprietor shall be deemed to be given to the proprietor if it is given to his factor, commissioner or other local representative.

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## 27 Offences as to muirburn.

Any person guilty of an offence against section twenty-three or section twenty-five of this Act shall be liable on summary conviction to a fine not exceeding [<sup>F23</sup>five pounds or to imprisonment for a term not exceeding thirty days or to both such fine and such imprisonment.][<sup>F23</sup>level 3 on the standard scale]

### Textual Amendments

**F23** Words “level 3 on the standard scale” substituted (S.) for “five pounds or to imprisonment for a term not exceeding thirty days or to both such fine and such imprisonment” by virtue of [Wildlife and Countryside Act 1981 \(c. 69, SIF 4:5\)](#), [s. 72\(3\)](#) and [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#)

### *Valuation of Sheep Stocks (Scotland)*

## 28 Rules as to valuation of sheep stocks.

(1) In any arbitration in pursuance of any lease of an agricultural holding in Scotland entered into after the commencement of this Act as to the value of sheep stock to be taken over at the termination of the tenancy by the landlord or the incoming tenant, the arbiter shall fix the value of the sheep stock in accordance, in the case of a valuation made in respect of a tenancy terminating at Whitsunday in any year, with the provisions of Part I of the Second Schedule to this Act, or in the case of a valuation made in respect of a tenancy terminating at Martinmas in any year, with the provisions of Part II of the said Schedule.

[<sup>F24</sup>(1A) The Secretary of State may by order made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament, vary the provisions of the said Schedule.

(1B) A variation made under subsection (1A) above shall not apply for the purposes of a valuation made in respect of a lease entered into before the variation was made.]

(2) Subsection (1) of section one of the <sup>M6</sup>Sheep Stocks Valuation (Scotland) Act, 1937 (which requires certain particulars to be given in an arbiter’s award) shall, in relation to an arbitration to which subsection (1) of this section applies, have effect as if for the words from “show the basis” to the end of the subsection there were substituted the words “state separately the particulars set forth in Part III of the Second Schedule to the Hill Farming Act, 1946”.

### Textual Amendments

**F24** [S. 28\(1A\)\(1B\)](#) inserted (S.) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 39:1\)](#), [s. 32](#)

### Marginal Citations

**M6** [1937 c. 34.](#)

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## **29 Valuation by Land Court of sheep stocks.**

- (1) Section three of the Sheep Stocks Valuation (Scotland) Act, 1937 (which relates to the determination by the Land Courts of questions as to the value of sheep stocks) shall, in relation to any question or difference as to the value of sheep stock required in terms of a lease entered into after the commencement of this Act to be taken over at the termination of the tenancy by the landlord or the incoming tenant, have effect as if for the words “may, if both parties agree” and the words “on the joint application of the parties” there were substituted respectively the words “shall, if either party so desires” and the words “on the application of that party”.
- (2) The Land Court shall determine any question or difference which they are required to determine under the said section three as amended by the last foregoing subsection in accordance with the appropriate provisions of the Second Schedule to this Act.

## **30 Production of documents for purposes of valuation of sheep stocks.**

Where any question as to the value of any sheep stock has been submitted for determination to the Land Court or to an arbiter, the outgoing tenant shall, not less than twenty-eight days before the determination of the question, submit to the Court or to the arbiter, as the case may be, a statement of the sales of sheep from such stock during the preceding three years in the case of a valuation made in respect of a tenancy terminating at Whitsunday, or during the current year and in each of the two preceding years in the case of a valuation made in respect of a tenancy terminating at Martinmas. The outgoing tenant shall also submit such sale-notes and other evidence as may be required by the Court or the arbiter to vouch the accuracy of such statement. Any document submitted by the outgoing tenant in pursuance of this section shall be open to inspection by the other party to the valuation proceedings.

## **31 Construction and citation of ss. 28 to 30.**

The three last preceding sections and the Second Schedule to this Act shall be construed as one with the Sheep Stocks Valuation (Scotland) Act, 1937, and may be cited with that Act as the Sheep Stocks Valuation (Scotland) Acts, 1937 and 1946.

### **Modifications etc. (not altering text)**

**C12** [S. 31](#) extended by [Agriculture \(Miscellaneous Provisions\) Act 1963 \(c. 11\)](#), [s. 21\(3\)](#)

### *General*

## **32 Advisory committees.**

- (1) There shall be constituted, with the function of advising the appropriate Minister as to the exercise of his powers under this Act, an advisory committee for England, Wales and Northern Ireland, a sub-committee of that committee for Wales and Monmouthshire, and an advisory committee for Scotland.
- (2) The members of each of the said committees and of the said sub-committee shall be appointed by the appropriate Minister, and he shall have power to determine the constitution thereof:

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Provided that not less than one half of the members of the said sub-committee shall be persons who are members of the advisory committee for England, Wales and Northern Ireland.

- (3) ..... <sup>F25</sup>
- (4) The appropriate Minister may defray expenses incurred by the committee or sub-committee to be appointed by him under this section.

#### Textual Amendments

**F25** S. 32(3) repealed by [Statute Law \(Repeals\) Act 1986 \(c. 12\)](#), s. 1(1), [Sch. 1 Pt. II](#)

#### Modifications etc. (not altering text)

- C13** Functions of Minister of Agriculture, Fisheries and Food under s. 32 now exercisable by that Minister and Secretary of State jointly (W): [S.I. 1969/388](#)
- C14** S. 32: Functions of the Secretary of State, the Secretary of State for Scotland or the Secretary of State for Wales transferred to the Minister of Agriculture, Fisheries and Food (27.12.1999) by [S.I. 1999/3141](#), arts. 2(1)(5), 3, [Sch.](#)

**33** ..... <sup>F26</sup>

#### Textual Amendments

**F26** S. 33 repealed by [Agriculture \(Miscellaneous Provisions\) Act 1972 \(c. 62, SIF 2:1\)](#), s. 26(3)(4), [Sch. 6](#)

#### **34 Power to enter on and inspect land.**

- (1) For the purposes of this Act, an officer of the appropriate Minister authorised in that behalf by general or special directions given by him, <sup>F27</sup> . . . shall, on producing, if so required written evidence of his authority, have power at all reasonable times to enter on and inspect—
- any land which he has reason to believe to be used, or to be capable of being used, for hill farming purposes; and
  - any land which he has reason to believe to be used in connection with the use for hill farming purposes of other land:

Provided that admission to any land shall not be demanded as of right unless twenty-four hours' notice of the intended entry has been given to the occupier.

- (2) If any person obstructs or impedes an officer of the appropriate Minister authorised as aforesaid <sup>F27</sup> . . . in the exercise of his powers under the preceding subsection, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [<sup>F28</sup>level 2 on the standard scale] in the case of a first offence or [<sup>F28</sup>level 2 on the standard scale] in the case of a second or any subsequent offence.

#### Textual Amendments

**F27** Words repealed by [Agriculture \(Miscellaneous Provisions\) Act 1972 \(c. 62, SIF 2:1\)](#), s. 26(3)(4), [Sch. 6](#)

**6**



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**F28** Words in s. 34(2) substituted by virtue of: (E.W.) Criminal Law Act 1977 (c. 45), s. 31 and Criminal Justice Act 1982 (c. 48), ss. 35, 37, 38, 46; (S.) Criminal Procedure (Scotland) Act 1975 (c. 21), ss. 289C, 289E, 289G; and (N.I.) The Fines and Penalties (Northern Ireland) Order 1984 (S.I. 1984/703 (N.I. 3)), arts. 5, 6, 9

**35 Recovery of sums by Ministers.**

Any sum recoverable under this Act by the Ministers or either of them may be recovered as a debt due to the Crown or summarily as a civil debt, and a complaint made for the purposes of recovering any such sum summarily as a civil debt may be made at any time within twelve months from the time when the matter of the complaint arose.

**36 Expenses of, and disposal of sums accruing to Ministers.**

- (1) Any expenses which are incurred for the purposes of this Act by the Ministers or either of them, and which are not hereinbefore directed to be defrayed out of moneys provided by Parliament, shall be defrayed out of moneys so provided.
- (2) All sums recovered under any provision of this Act from any person by the Ministers or either of them, or retained by them out of the proceeds of any sale of sheep or cattle forfeited under an order made under the provisions of this Act relating to sheep or cattle imported or brought into the United Kingdom, shall be paid into the Exchequer.

**37 Provisions as to laying before Parliament of instruments made under this Act.**

- (1) Any such instrument as the following made under this Act shall be laid before Parliament forthwith after it is made, that is to say—
  - (a) an order modifying the kinds of operations that are to be treated as improvements for the purposes of this Act;
  - (b) any regulations made under the provisions of this Act relating to the imposition of conditions with respect to the occupation and maintenance of cottages.
  - (c) .....<sup>F29</sup>
  - (f) any regulations made under the provisions of this Act relating to the keeping of rams and uncastrated ram lambs on land in England or Wales; and
  - (g) any regulations made under the provisions of this Act relating to the burning of heather [<sup>F30</sup>grass, bracken, gorse and vaccinium] in England or Wales,and if either House of Parliament within the period of forty days after any such instrument is laid before it resolves that it be annulled, it shall thereupon become void, but without prejudice to the validity of anything done thereunder in the meantime or to the making of a new order or scheme or new regulations.

.....<sup>F31</sup>

(2) .....<sup>F32</sup>

**Textual Amendments**

**F29** S. 37(1)(c)(d)(e) repealed by Statute Law (Repeals) Act 1986 (c. 12), s. 1(1), Pt. II

**F30** Words substituted by Hill Farming Act 1985 (c. 32, SIF 2:8), s. 1

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- F31** Para. repealed by [Statute Law Revision Act 1953 \(c. 5\)](#)  
**F32** S. 37(2) repealed by [Statute Law Revision Act 1953 \(c. 5\)](#)

### 38 Interpretation.

In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say,—

“the appropriate Minister” means, in relation to England, Wales or Northern Ireland or functions exercisable with respect to England, Wales or Northern Ireland, the Minister of Agriculture and Fisheries, and, in relation to Scotland, the Secretary of State; and “the Ministers” means the Minister of Agriculture and Fisheries and [<sup>F33</sup>the Secretary of State for Scotland and the Secretary of State for Wales]

“hill farming land” and “hill farming purposes” have respectively the meanings assigned to them by section one of this Act.

#### Textual Amendments

- F33** Words substituted by [S.I. 1978/272, art. 1, Sch. 5 para. 1](#)

#### Modifications etc. (not altering text)

- C15** Style and title of Minister of Agriculture and Fisheries now changed to Minister of Agriculture, Fisheries and Food by [S.I. 1955/554 \(1955 I, p. 1200\)](#)

### 39 Provisions as to Scotland.

- (1) This Act shall, in its application to Scotland, have effect subject to the following modifications:—

- (a) ..... **F34**  
 (c) ..... **F35**  
 (d) ..... **F36**  
 (e) in section thirty-five the word “summarily” and the words from “and a complaint” to the end of the section shall be omitted;  
 (f) unless the context otherwise requires, the following expressions shall have the meanings hereby assigned to them respectively, that is to say—  
     “lease” in relation to a common pasture of grazing includes regulations made or approved by the Land Court under the Small Landholders (Scotland) Acts, 1886 to 1931;  
     “making muirburn” includes setting fire to or burning any heath or muir;  
     and  
     “tenant” means a tenant for agricultural or pastoral purposes, and, in the case of a common pasture or grazing, includes the committee appointed under the Small Landholders (Scotland) Acts, 1886 to 1931.

- (2) The provisions of the Small Landholders (Scotland) Acts, 1886 to 1931, with regard to the Land Court shall, with any necessary modifications, apply for the purpose of the determination of any matter which they are required by or under this Act to determine, in like manner as those provisions apply for the purpose of the determination by the Land Court of matters referred to them under those Acts.

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**Textual Amendments**

- F34** S. 39(1)(a)(b) repealed by [Agriculture Act 1970 \(c. 40\)](#), ss. 35(1), 113(3), **Sch. 5 Pt. II**
- F35** S. 39(1)(c) repealed with savings by [Agricultural Holdings \(Scotland\) Act 1949 \(c. 75\)](#), ss. 97-99, **Sch. 8**
- F36** S. 39(1)(d) repealed by [Statute Law \(Repeals\) Act 1986 \(c. 12\)](#), s. 1(1), **Sch. 1 Pt. II**

**40 Application to Northern Ireland.**

- (1) This Act shall, in its application to Northern Ireland, have effect subject to the modifications specified in the succeeding provisions of this section.
- (2) The burning of heather or grass shall not be treated as an improvement for the purposes of this Act.
- (3) ..... <sup>F37</sup>
- (4) The reference in subsection (3) of section five to the Acquisition of Land (Assessment of Compensation) Act, 1919, shall be construed as a reference to that Act as amended by any Act of Parliament of Northern Ireland.
- (5) For section eleven there shall be substituted the following section:—

The Settled Land Act, 1882, as amended by any subsequent enactment, shall have effect as if the improvements enumerated in section twenty-five thereof (being improvements on which capital trust money may be expended) included any operation which is to be treated as an improvement for the purposes of this Act, and which is of a kind prescribed by regulations made by the Minister of Agriculture and Fisheries as being of a permanent character.”

- (6) Section thirty-four shall have effect as if references therein to an officer of the appropriate Minister authorised as therein mentioned by general or special directions given by him included references to an officer of the Ministry of Agriculture for Northern Ireland authorised to act under that section by general or special directions given by that Ministry on behalf of the appropriate Minister.
- (7) ..... <sup>F38</sup>

**Textual Amendments**

- F37** S. 40(3) repealed by [Agriculture Act 1970 \(c. 40\)](#), ss. 35(1), 113(3), **Sch. 5 Pt. II**
- F38** S. 40(7) repealed by [Northern Ireland Act 1962 \(c. 30\)](#), **Sch. 4 Pt. IV**

**41 Short title.**

This Act may be cited as the Hill Farming Act, 1946.

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## FIRST SCHEDULE

Section 1.

### IMPROVEMENTS WHICH MAY BE INCLUDED IN SCHEMES FOR REHABILITATION OF HILL FARMING LAND

- 1 Erection, alteration, enlargement or reconditioning of farm buildings.
- 2 [<sup>F39</sup>Erection,] Alteration, enlargement or reconditioning of farm houses.

#### Textual Amendments

**F39** Word inserted by [S.I. 1949/548](#) (1949 I, p. 104)

- 3 Erection, improvement or reconditioning of cottages attached, or to be attached, to a [<sup>F40</sup>farm]

#### Textual Amendments

**F40** Word substituted by [Livestock Rearing Act 1951 \(c. 18\), s. 5\(a\)](#)

- 4 Making or improvement of roads or bridges [<sup>F41</sup>and of piers, jetties or slips]

#### Textual Amendments

**F41** Words added by [S.I. 1949/2169](#) (1949 I, p. 105)

- 5 Making or improvement of watercourses, ponds or wells or of works for the application of water power or for the supply of water for agricultural or domestic purposes.
- 6 Execution of works for or in connection with the supply of electricity for agricultural or domestic purposes.
- 7 Provision [<sup>F42</sup>or improvement] of accommodation for the dipping or treatment of sheep or cattle.

#### Textual Amendments

**F42** Words inserted by [Livestock Rearing Act 1951 \(c. 18\), s. 5\(b\)\(d\)](#)

- 8 Provision [<sup>F43</sup>or improvement] of pens and other equipment for use for or in connection with the sheltering, gathering, marking, dipping or treatment of sheep or cattle.

#### Textual Amendments

**F43** Words inserted by [Livestock Rearing Act 1951 \(c. 18\), s. 5\(b\)\(d\)](#)

- [<sup>F449</sup> Construction or improvement of silos]

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#### Textual Amendments

**F44** Para. 9 substituted by [Livestock Rearing Act 1951 \(c. 18\), s. 5\(c\)](#)

- 10 Making or removal of permanent fences.  
11 Restoration [<sup>F45</sup>or improvement] of permanent fences.

#### Textual Amendments

**F45** Words inserted by [Livestock Rearing Act 1951 \(c. 18\), s. 5\(b\)\(d\)](#)

- 12 Provision [<sup>F46</sup>or improvement] of grids designed or adapted to prevent the passage of sheep or cattle.

#### Textual Amendments

**F46** Words inserted by [Livestock Rearing Act 1951 \(c. 18\), s. 5\(b\)\(d\)](#)

- 13 Drainage.  
14 Reclaiming of waste land.  
15 Establishment of shelter belts.  
16 Liming of land.  
17 Application to land of purchased artificial or other purchased manure.  
18 Laying down of permanent pasture.  
19 Reseeding and regeneration of grazings and other cultural operations.  
20 Removal of bracken, whins, gorse, bushes, scrub, stumps, roots [<sup>F47</sup>boulders or other like obstructions to cultivation]

#### Textual Amendments

**F47** Words substituted by [Livestock Rearing Act 1951 \(c. 18\), s. 5\(e\)](#)

- 21 Burning heather or grass or making muirburn.  
22 Provision of machinery and implements.  
23 Pest destruction.

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## SECOND SCHEDULE

Section 28.

### PROVISIONS AS TO VALUATION OF SHEEP STOCKS IN SCOTLAND.

#### PART I

##### PROVISIONS AS TO A VALUATION MADE IN RESPECT OF A TENANCY TERMINATING AT WHITSUNDAY

- 1 The Land Court or the arbiter (in Part I and Part II of this Schedule referred to as “the valuer”) shall ascertain the number of, and the prices realised for, the [<sup>F48</sup>regular cast]ewes and the lambs sold off the hill from the stock under valuation at the autumn sales in each of the three preceding years, and shall determine by inspection the number of, shotts present in the stock at the time of the valuation.

#### Textual Amendments

**F48** Words inserted(S.) by S.I. 1986/1823, arts. 3, 4, **Sch. para. 1(1)**

- 2 The valuer shall calculate an average price per ewe, and an average price per lamb, for the [<sup>F49</sup>regular cast]ewes and lambs sold as aforesaid for each of the three preceding years. In calculating the average price for any year the valuer shall disregard such number of [<sup>F49</sup>regular cast]or lambs so sold in that year, being the ewes or lambs sold at the lowest prices, as bears the same proportion to the total number of [<sup>F49</sup>regular cast]ewes or lambs so sold in that year as the number of shotts as determined bears to the total number of ewes or lambs in the stock under valuation.

#### Textual Amendments

**F49** Words inserted(S.) by S.I. 1986/1823, arts. 3, 4, **Sch. para. 1(2)**

- 3 The valuer shall then ascertain the mean of the average prices so calculated for the three preceding years for [<sup>F50</sup>regular cast]ewes and for lambs, respectively. The figures so ascertained or ascertained, in a case to which the next succeeding paragraph applies, in accordance with that paragraph, are in this Part of this Schedule referred to as the “three year average prices for [<sup>F50</sup>regular cast]ewes” and the “three year average price for lambs”.

#### Textual Amendments

**F50** Words inserted(S.) by S.I. 1986/1823, arts. 3, 4, **Sch. para. 1(3)**

- 4 In the case of any sheep stock in which the number of [<sup>F51</sup>regular cast]ewes or the number of lambs sold off the hill at the autumn sales during the preceding three years

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has been less than half the total number of <sup>F51</sup>regular cast]ewes or of lambs sold, the three-year average price for <sup>F51</sup>regular cast]ewes or the three-year average price for lambs, as the case may be shall, in lieu of being ascertained by the valuer as aforesaid, be determined by the Land Court on the application of the parties; and the Land Court shall determine such prices by reference to the prices realised at such sales for <sup>F51</sup>regular cast]ewes and for lambs respectively from similar stocks kept in the same district and under similar conditions.

#### Textual Amendments

**F51** Words inserted(S.) by S.I. 1986/1823, arts. 3, 4, **Sch. para. 1(4)**

- 5 The three year average price for <sup>F52</sup>regular cast]ewes shall be subject to adjustment by the valuer within the limits of <sup>F53</sup><sup>F54</sup>twenty per cent]]<sup>F53</sup>thirty per cent]upwards or downwards as he may think proper having regard to the general condition of the stock under valuation and to the profit which the purchaser may reasonably expect it to earn. The resultant figure shall be the basis of the valuation of the ewes, and is in this Part of this Schedule referred to as the “basic ewe value”. <sup>F55</sup>The valuer shall similarly adjust the three year average price for lambs, and the resultant]]<sup>F55</sup>The valuer shall adjust the three year average price for lambs within the limits of twenty per cent upwards or downwards as he may think proper having regard to their quality and condition.The resultant]figure shall be the basis for the valuation of the lambs and is in this Part of this Schedule referred to as the “basic lamb value”.

#### Textual Amendments

**F52** Words inserted(S.) by S.I. 1986/1823, arts. 3, 4, **Sch. para. 1(5)(a)**

**F53** Words substituted(S.) by S.I. 1986/1823, arts. 3, 4, **Sch. para. 1(5)(a)**

**F54** Words substituted by Agriculture (Miscellaneous Provisions) Act 1963 (c. 11), s. 21

**F55** Words substituted(S.) by S.I. 1986/1823, arts. 3, 4, **Sch. para. 1(5)(b)**

- 6 In making his award the valuer shall value the respective classes of stock in accordance with the following rules, that is to say—
- (a) ewes of all ages (including gimmers) shall be valued at the basic ewe value with the addition of <sup>F56</sup>thirty per cent of such value] per head;
  - (b) lambs shall be valued at the basic lamb value; <sup>F57</sup>so however that]]<sup>F57</sup>but]twin lambs <sup>F58</sup>however]shall be valued at such price as the valuer thinks proper;
  - (c) ewe hoggs shall be valued at <sup>F59</sup>two-thirds]]<sup>F59</sup>three quarters]of the combined basic values of a ewe and a lamb subject to adjustment by the valuer within the limits of <sup>F56</sup><sup>F59</sup>ten]per cent]]<sup>F59</sup>twenty five]per head upwards or downwards as he may think proper, having regard to their quality and condition;
  - (d) tups shall be valued at such price as in the opinion of the valuer represents their value on the farm having regard to acclimatisation or any other factor for which he thinks it proper to make allowance;

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- (e) eild sheep shall be valued at the value put upon the ewes subject to such adjustment as the valuer may think proper having regard to their quality and condition; and
- (f) shotts shall be valued at such value not exceeding two-thirds of the value put upon good sheep of the like age and class on the farm as the valuer may think proper.

#### Textual Amendments

- F56** Words substituted by Agriculture (Miscellaneous Provisions) Act 1963 (c. 11), s. 21
- F57** Word substituted(S.) by S.I. 1986/1823, arts. 3, 4, Sch. para. 1(6)
- F58** Word inserted(S.) by S.I. 1986/1823, arts. 3, 4, Sch. para. 1(6)
- F59** Words substituted(S.) by S.I. 1986/1823, arts. 3, 4, Sch. para. 1(7)

## PART II

### PROVISIONS AS TO A VALUATION MADE IN RESPECT OF A TENANCY TERMINATING AT MARTINMAS

- 1 The valuer shall ascertain the number of, and the prices realised for, the [<sup>F60</sup>regular cast]ewes sold off the hill from the stock under valuation at the autumn sales in the current year and in each of the two preceding years, and shall calculate an average price per ewe so sold for each of the said years. In calculating the average price for any year the valuer shall disregard [<sup>F61</sup>one-tenth][<sup>F61</sup>one-fifth]of the total number of [<sup>F60</sup>regular cast]ewes so sold in that year being the [<sup>F60</sup>regular cast]ewes sold at the lowest prices.

#### Textual Amendments

- F60** Words inserted(S.) by S.I. 1986/1823, arts. 3, 4, Sch. para. 2(1)(a)(b)
- F61** Words substituted(S.) by S.I. 1986/1823, arts. 3, 4, Sch. para. 2(1)(a)(b)

- 2 The mean of the average prices so calculated shall be subject to adjustment by the valuer within the limits of [<sup>F62</sup>[<sup>F63</sup>ten per cent]][<sup>F62</sup>thirty per cent]upwards or downwards as he may think proper having regard to the general condition of the stock under valuation and to the profit which the purchaser may reasonably expect it to earn. The resultant figure shall be the basis of the valuation of the ewes and is in this Part of this Schedule referred to as the “basic ewe value”.

#### Textual Amendments

- F62** Words substituted(S.) by S.I. 1986/1823, arts. 3, 4, Sch. para. 2(2)
- F63** Words substituted by Agriculture (Miscellaneous Provisions) Act 1963 (c. 11), s. 21



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- 3 In making his award the valuer shall assess the respective classes of stock in accordance with the following rules, that is to say—
- (a) ewes of all ages (including gimmers) shall be valued at the basic ewe value with the addition of [<sup>F64</sup>thirty per cent of such value] per head;
  - (b) ewe lambs shall be valued at the basic ewe value subject to adjustment by the valuer within the limits of [<sup>F65</sup>[<sup>F64</sup>ten per cent]][<sup>F65</sup>twenty per cent] per head upwards or downwards as he may think proper having regard to their quality and condition; and
  - (c) tups shall be valued at such price as in the opinion of the valuer represents their value on the farm having regard to acclimatisation or any other factor for which he thinks it proper to make allowance.

**Textual Amendments**

**F64** Words substituted by [Agriculture \(Miscellaneous Provisions\) Act 1963 \(c. 11\), s. 21](#)

**F65** Words substituted(S.) by [S.I. 1986/1823, arts. 3, 4, Sch. para. 2\(3\)](#)

**PART III**

**PARTICULARS REQUIRED TO BE SHOWN IN AN ARBITER'S AWARD**

- 1 The three year average price for [<sup>F66</sup>regular cast]ewes and the three year average price for lambs ascertained under Part I, or the mean of the average prices calculated under Part II, of this Schedule, as the case may be.

**Textual Amendments**

**F66** Words inserted(S.) by [S.I. 1986/1823, arts. 3, 4, Sch. para. 3](#)

- 2 Any amount added or taken away by way of adjustment for the purpose of fixing the basic ewe value or the basic lamb value, and the grounds on which such adjustment was made.
- 3 The number of each class of stock valued (ewes and gimmers of all ages with lambs being taken as one class, and eild ewes and eild gimmers being taken as separate classes at a Whitsunday valuation, and ewes and gimmers of all ages being taken as one class at a Martinmas valuation) and the value placed on each class.
- 4 Any amount added or taken away by way of adjustment in fixing the value of ewe hogs at a Whitsunday valuation, or the value of ewe lambs at a Martinmas valuation, and the grounds on which such adjustment was made.

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## PART IV

### INTERPRETATION

In this Schedule the expressions [<sup>F67</sup>“regular cast ewes”]“ewe”, “gimmer”, “eild ewe”, “eild gimmer”, “lamb”, “ewe hogg”, “shott”, “eild sheep” and “tup” shall be construed as meaning respectively sheep of the classes customarily known by those designations in the locality in which the flock under valuation is maintained.

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#### Textual Amendments

**F67** Words inserted(S.) by S.I. 1986/1823, arts. 3, 4, [Sch. para. 4](#)

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