



# 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]

## 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](#) Act (except s. 32(4)); Functions of a Minister of the Crown transferred to the National Assembly for Wales (W.) (1.7.1999) by [S.I. 1999/672, art. 2, Sch. 1](#)

## Commencement Information

- I1 Act wholly in force at Royal Assent.

## *Rehabilitation of Hill Farming Land*

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

- (1) ..... <sup>F1</sup>
- (2) ..... <sup>F1</sup>

(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

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extent, of dairy farming, the production, to any material extent, of fat sheep or fat cattle or the production of crops in quantity materially greater than that necessary to feed the number of sheep or cattle capable of being maintained on the land;]

[<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**

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4 ..... F6

**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>F11</sup>9 Operation of the Agricultural Holdings (Scotland) Act, 1949, in relation to improvement schemes.**

- (1) Subject to the provisions of this section, the [<sup>F12</sup>Agricultural Holdings (Scotland) Act 1991], referred to in subsections (2) and (4) below as "the 1991 Act", 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 [<sup>F13</sup>the 1991 Act] has carried out thereon an improvement specified in [<sup>F14</sup>Part I or Part II of Schedule 5] 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

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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 [<sup>F15</sup>section 37 of the 1991 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 [<sup>F16</sup>section 38 of the 1991 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 [<sup>F17</sup>section 39 of the 1991 Act] objecting to the carrying out of the improvement or to the manner in which the tenant proposes to carry out the work;

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 [<sup>F18</sup>section 37 or 38 of the 1991 Act] 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 [<sup>F19</sup>section 15 of the 1991 Act] 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 [<sup>F13</sup>the 1991 Act] 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

- F11** S. 9 substituted (S.) with saving by [Agricultural Holdings \(Scotland\) Act 1949 \(c. 75\)](#), s. 8(3), **Sch. 7**
- F12** Words in s. 9(1) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(1), 89(2), **Sch. 11 para. 1(a)**(with s. 45(3), Sch. 12 para. 3).
- F13** Words in s. 9(2)(4) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(1), 89(2), **Sch. 11 para. 1(b)**(with s. 45(3), Sch. 12 para. 3).
- F14** Words in s. 9(2) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(1), 89(2), **Sch. 11 para. 1 (c)(i)**(with s. 45(3), Sch. 12 para. 3).
- F15** Words in s. 9(2)(a) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(1), 89(2), **Sch. 11 para. 1 (c)(ii)**(with s. 45(3), Sch. 12 para. 3).
- F16** Words in s. 9(2)(b) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(1), 89(2), **Sch. 11 para. 1(c)(iii)**(with s. 45(3), Sch. 12 para. 3).
- F17** Words in s. 9(2)(b) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(1), 89(2), **Sch. 11 para. 1(c)(iv)**(with s. 45(3), Sch. 12 para. 3).
- F18** Words in s. 9(2) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(1), 89(2), **Sch. 11 para. 1(c)(v)**(with s. 45(3), Sch. 12 para. 3).

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- F19** Words in s. 9(3) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(1), 89(2), [Sch. 11 para. 1\(d\)](#)(with s. 45(3), Sch. 12 para. 3)

**<sup>F20</sup>10 Attachment of conditions as to letting, etc., of new and improved cottages.**

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**Textual Amendments**

- F20** S. 10 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 2](#) Group 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>M1</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).

- [<sup>F21</sup>(2) The preceding subsection shall apply for the purposes of the said provisions of the Settled Land Act, 1925, as extended to trusts for sale by section twenty-eight of the Law of Property Act, 1925.]

**Textual Amendments**

- F21** [S. 11\(2\)](#) repealed (E.W.) (1.1.1997) by [1996 c. 47, s. 25\(2\)](#), [Sch. 4](#) (with [ss. 24\(2\), 25\(4\)](#)).

**Marginal Citations**

- M1** [1925 c. 18](#).

**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

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- 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 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

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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.
- (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) ..... F22

#### Textual Amendments

F22 S. 12(13) repealed by Statute Law (Repeals) Act 1986 (c. 12), s. 1(1), Sch. 1 Pt. II

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

C7 Power to extend s. 12 given by Agriculture Act 1967 (c. 22), s. 42(1)

C8 Power to apply with modifications s. 12(1)–(12) given by Agriculture Act 1970 (c. 40), s. 30(3)

13—17 ..... F23

#### Textual Amendments

F23 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—



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- (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;
- (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)**

**C9** 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>F24</sup>five pounds][<sup>F24</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—



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- (a) .....<sup>F25</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
- (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>F26</sup>twenty pounds][<sup>F26</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>F26</sup>twenty pounds][<sup>F26</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>F26</sup>twenty pounds][<sup>F26</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

- F24** 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](#)
- F25** Words repealed by [Forgery and Counterfeiting Act 1981 \(c. 45, SIF 39:7\)](#), [s. 30](#), [Sch. Pt. I](#)
- F26** 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](#)

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

- C10** 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.)

### *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>F27</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>F27</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>F28</sup>five pounds or to imprisonment for a term not exceeding one month or to both such fine and such imprisonment.][<sup>F28</sup>level 3 on the standard scale]

#### Textual Amendments

- F27** Words substituted by [Hill Farming Act 1985 \(c. 32, SIF 2:8\)](#), [s. 1](#)
- F28** 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>F29</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 [<sup>F30</sup>appropriate 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.]
- [<sup>F31</sup>(1A) Where the land lies partly in Wales and partly in England, for the purposes of anything required or authorised to be done under this section by or before an appropriate tribunal in relation to that land, the land shall be deemed to be situated entirely in the place where the greater part of the land lies.
- (1B) For the purposes of this section, “appropriate tribunal” means—
- (a) in England, the First-tier Tribunal; and
  - (b) in Wales, the Agricultural Land Tribunal.]

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- (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>M2</sup>Landlord and Tenant Act, 1927.

#### Textual Amendments

- F29** S. 21(1) substituted by [Agriculture Act 1958 \(c. 71\), Sch. 1 Pt. I para. 1](#)
- F30** Words in s. 21(1) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, [Sch. 1 para. 188\(a\)](#) (with [Sch. 3](#))
- F31** S. 21(1A)(1B) inserted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, [Sch. 1 para. 188\(b\)](#) (with [Sch. 3](#))

#### Marginal Citations

- M2** 1927 c. 36.

### Muirburn (Scotland)

22 ..... <sup>F32</sup>

#### Textual Amendments

- F32** S. 22 repealed by [Statute Law Revision Act 1950 \(14 Geo. 6 c. 6\)](#)

### [<sup>F33</sup>23 Muirburn season

- (1) A person may make muirburn on land only during the muirburn season.
- (2) The muirburn season consists of—
- (a) the standard muirburn season; and
  - (b) the extended muirburn season.
- (3) The standard muirburn season is the period of time from 1 October in any year to 15 April in the following year.
- (4) The extended muirburn season is the period of time from 16 April to 30 April in any year.
- (5) A person may make muirburn in the extended muirburn season only if the person is—
- (a) the proprietor of the land; or
  - (b) authorised in writing by, or on behalf of, the proprietor of the land.]

#### Textual Amendments

- F33** S. 23 substituted (S.) (1.8.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 34\(2\)](#), [43\(1\)](#) (with [s. 41\(1\)](#)); [S.S.I. 2011/279](#), art. 2(2)

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### **[<sup>F34</sup>23A Power to vary permitted times for making muirburn**

- (1) The Scottish Ministers may, by order, modify section 23 so as to substitute for any of the dates for the time being mentioned in [<sup>F35</sup>subsection (3) or (4) of that section such other dates as they consider appropriate so as to extend or reduce the standard muirburn season or extended muirburn season.]

[ An order under subsection (1) may make different provision for different purposes  
<sup>F36</sup>(1A) and, in particular, for—

- (a) different land (for example, for land at different altitudes);
- (b) standard muirburn seasons or extended muirburn seasons in different years.]

- (2) The Scottish Ministers may make an order under subsection (1) only if they consider it necessary or expedient to do so in relation to climate change.

[ in relation to climate change]  
<sup>F37</sup>(a)

[ for the purposes of conserving, restoring, enhancing or managing the natural  
<sup>F38</sup>(b) environment; or

(c) for the purposes of public safety.]

- (3) An order under subsection (1) may not modify any of the dates for the time being mentioned in section 23 if the modification would result in a period during which it is lawful to make muirburn in any year being shorter than the corresponding period which applied [<sup>F39</sup>on the coming into force of section 34 of the Wildlife and Natural Environment (Scotland) Act 2011 (asp 6).]

- (4) The power conferred by subsection (1) is exercisable by statutory instrument.

- (5) No statutory instrument containing an order under subsection (1) may be made unless a draft of the instrument has been laid before, and approved by resolution of, the Scottish Parliament.]

#### **Textual Amendments**

**F34** S. 23A inserted (S.) (31.10.2009) by [Climate Change \(Scotland\) Act 2009 \(asp 12\)](#), **ss. 58(1)**, 100(2) (with s. 95); [S.S.I. 2009/341](#), art. 2(2)(a)

**F35** Words in s. 23A(1) substituted (S.) (1.8.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 34(3)(a)**, 43(1) (with s. 41(1)); [S.S.I. 2011/279](#), art. 2(2)

**F36** S. 23A(1A) inserted (S.) (1.8.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 34(3)(b)**, 43(1) (with s. 41(1)); [S.S.I. 2011/279](#), art. 2(2)

**F37** Words in s. 23A(2)(a) renumbered as s. 23A(2)(a) (S.) (1.8.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 34(3)(c)(i)**, 43(1) (with s. 41(1)); [S.S.I. 2011/279](#), art. 2(2)

**F38** S. 23A(2)(b)(c) inserted (S.) (1.8.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 34(3)(c)(ii)**, 43(1) (with s. 41(1)); [S.S.I. 2011/279](#), art. 2(2)

**F39** Words in s. 23A(3) substituted (S.) (1.8.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 34(3)(d)**, 43(1) (with s. 41(1)); [S.S.I. 2011/279](#), art. 2(2)

### **[<sup>F40</sup>23B Extension of muirburn season under section 23A(1): further regulation**

- (1) Where the standard muirburn season or the extended muirburn season is extended for any land by an order under section 23A(1), the Scottish Ministers may by order make provision regulating the making of muirburn during the additional period.

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- (2) Any provision so made applies in addition to the regulation by the provisions of this Act of the making of muirburn during the standard muirburn season or the extended muirburn season.
- (3) An order under subsection (1) may make provision—
  - (a) as to the giving of notice;
  - (b) as to the making, to the Scottish Ministers or a specified person, of representations or objections;
  - (c) as to the consideration by the Ministers or a specified person of any such representations or objections;
  - (d) requiring the approval of the Ministers or a specified person for the making of muirburn;
  - (e) as to such approval being able to be subject to conditions;
  - (f) as to the making of muirburn being subject to conditions specified in the order;
  - (g) creating offences;
  - (h) providing that any offence created is triable only summarily;
  - (i) providing for any offence created to be punishable by a fine not exceeding level 3 on the standard scale;
  - (j) as to such other regulation of the making of muirburn as the Scottish Ministers consider appropriate.
- (4) Conditions specified in pursuance of subsection (3)(f) may refer to matters specified elsewhere.
- (5) In—
  - (a) subsection (1), “the additional period means the period for which the standard muirburn season or, as the case may be, the extended muirburn season is extended for the time being for any land by an order under section 23A(1);
  - (b) subsection (3), “specified person ” means a person specified in the order.
- (6) The power conferred by subsection (1) is exercisable by statutory instrument.
- (7) A statutory instrument containing an order under subsection (1) is subject to annulment in pursuance of a resolution of the Scottish Parliament.]

#### Textual Amendments

**F40** Ss. 23B, 23C inserted (S.) (1.8.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 34\(4\), 43\(1\)](#) (with [s. 41\(1\)](#)); [S.S.I. 2011/279](#), [art. 2\(2\)](#)

### [<sup>F40</sup>23C Muirburn licences

- (1) The Scottish Ministers may grant a licence to a person to make muirburn (a “muirburn licence”) during any period, other than the muirburn season, specified in the licence.
- (2) A muirburn licence may, in particular, make provision for—
  - (a) the land on which the muirburn may be made; and
  - (b) the persons or types of persons who may make the muirburn.
- (3) A muirburn licence may—
  - (a) relate to only part of the land to which the application relates;

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- (b) be subject to any specified conditions (including conditions about the giving of notice).
- (4) A muirburn licence may be granted only for the purposes of—
  - (a) conserving, restoring, enhancing or managing the natural environment;
  - (b) research; or
  - (c) public safety.
- (5) The Scottish Ministers may modify or revoke a muirburn licence.
- (6) The Scottish Ministers may delegate their power to grant, modify and revoke muirburn licences to Scottish Natural Heritage.
- (7) A delegation—
  - (a) must be made by written direction; and
  - (b) may be, to any degree, general or specific and may in particular relate to—
    - (i) a particular licence or type of licence;
    - (ii) a particular area.
- (8) Unless it specifies otherwise, a delegation relating to a particular type of licence includes the power to modify or revoke licences of that type which were granted before the delegation.
- (9) The Scottish Ministers may modify or revoke a direction under subsection (7).
- (10) Where a direction is revoked, any existing licence granted under the direction continues to have effect (unless the revoking direction provides otherwise).
- (11) The Scottish Ministers may, by regulations, make further provision for, or in connection with, muirburn licences.
- (12) The power conferred by subsection (11) must be exercised by statutory instrument.
- (13) A statutory instrument containing regulations under subsection (11) is subject to annulment in pursuance of a resolution of the Scottish Parliament.]

#### Textual Amendments

**F40** Ss. 23B, 23C inserted (S.) (1.8.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 34\(4\), 43\(1\)](#) (with [s. 41\(1\)](#)); [S.S.I. 2011/279](#), [art. 2\(2\)](#)

## 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.
- (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

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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.

[<sup>F41</sup>(2A) Notice by a tenant to a proprietor of land under subsection (2)—

- (a) must be in writing; and
- (b) may be given to any person purporting to be authorised by the proprietor to receive the notice.]

(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.

#### Textual Amendments

**F41** S. 24(2A) inserted (S.) (1.8.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), ss. [34\(5\)](#), [43\(1\)](#) (with s. [41\(1\)](#)); S.S.I. 2011/279, art. 2(2)

## 25 Regulation of muirburn.

Any person who—

[<sup>F42</sup>(za) makes muirburn or causes or procures the making of muirburn on any land otherwise than—

- (i) during the muirburn season in accordance with section 23; or
- (ii) in accordance with a licence granted under section 23C;]

- (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

<sup>F43</sup>(c) .....

- (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.



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### Textual Amendments

- F42** S. 25(za) inserted (S.) (1.8.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 34\(6\)\(a\)](#), [43\(1\)](#) (with [s. 41\(1\)](#)); [S.S.I. 2011/279](#), art. 2(2)
- F43** S. 25(c) repealed (S.) (1.8.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 34\(6\)\(b\)](#), [43\(1\)](#) (with [s. 41\(1\)](#)); [S.S.I. 2011/279](#), art. 2(2)

## 26 <sup>[F44]</sup>Notice as to muirburn: general requirement]

- <sup>[F45]</sup>(1) A person who intends to make muirburn during the muirburn season must give notice in writing under this section to—
- (a) the proprietor of the proposed muirburn site (if different from the person making the muirburn); and
  - (b) any occupier of land situated within 1 kilometre of the proposed muirburn site.
- (An order under section 23B(1) may make provision as to other notice to be given in relation to certain periods; and section 24(2) makes provision as to other notice to be given by a tenant.)
- (2) Notice need not be given to a person (“A”) under this section if A has given notice in writing to the person intending to make muirburn that A wishes not to be notified of any intention to make muirburn.
- (3) Where there are 10 or more occupiers of land situated within 1 kilometre of the proposed muirburn site, the person making muirburn may, instead of giving notice under this section to each occupier separately in accordance with section 26A, notify those persons collectively by placing a notice in at least one newspaper circulating in the area which includes the proposed muirburn site.
- (4) Notice under this section must—
- (a) be given—
    - (i) after the expiry of the previous muirburn season; and
    - (ii) not less than 7 days before the muirburn is made;
  - (b) specify the land on which the muirburn is intended to be made;
  - (c) specify that the person being notified may, before the muirburn is made, require further information in relation to—
    - (i) the dates on or between which the muirburn is intended to be made;
    - (ii) the places at which the muirburn is intended to be made; and
    - (iii) the approximate extent of the proposed muirburn.
- (5) Where either the proprietor of the land or an occupier of land situated within 1 kilometre of the proposed muirburn site requests any of the further information mentioned in subsection (4)(c), the person intending to make the muirburn must make reasonable efforts to comply with the request not later than the end of the day before the muirburn is made.
- (6) Any notice required to be given to proprietors of land under this section may be given to any person purporting to be authorised by the proprietor to receive the notice.
- (7) Any person who fails to comply with the requirements of this section is guilty of an offence.]

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#### Textual Amendments

- F44** S. 26 title substituted (S.) (1.8.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 34\(7\)\(a\)](#), 43(1) (with [s. 41\(1\)](#)); [S.S.I. 2011/279](#), art. 2(2)
- F45** S. 26(1)-(7) substituted for s. 26(1)(2) (S.) (1.8.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 34\(7\)\(b\)](#), 43(1) (with [s. 41\(1\)](#)); [S.S.I. 2011/279](#), art. 2(2)

### [<sup>F46</sup>26A Giving of muirburn notices under section 24(2) or 26

- (1) Subject to the provisions of this section, any written notice required to be given to a person under section 24(2) or 26 may be given—
- (a) by delivering it to the person personally;
  - (b) by leaving it at, or posting it to, the usual or last known address of the person in the United Kingdom, or in a case where an address has been given by the person, at or to that address;
  - (c) where the person is—
    - (i) a body corporate, by leaving it at or posting it to the address of the registered or principal office of the body in the United Kingdom;
    - (ii) a partnership, by leaving it at or posting it to the principal office of the partnership in the United Kingdom;
  - (d) to the person by electronic communication of any particular form if—
    - (i) the person has agreed to be notified in that form;
    - (ii) the person has supplied the person who is to send the notice with the person's electronic address or number; and
    - (iii) the electronic communication is capable of being accessed and understood by the person.
- (2) Where, after reasonable inquiry, the identity of an occupier cannot be ascertained for the purposes of giving notice under section 26, notice may be given by—
- (a) addressing the notice to “Any occupiers of the land” (describing it); and
  - (b) affixing it to some conspicuous object on the land.
- (3) Unless the contrary is shown, a notice given in accordance with subsection (1)(d) is taken to have been received 48 hours after it is given.]

#### Textual Amendments

- F46** S. 26A inserted (S.) (1.8.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 34\(8\)](#), 43(1) (with [s. 41\(1\)](#)); [S.S.I. 2011/279](#), art. 2(2)

### 27 [<sup>F47</sup>Penalties etc. for offences] as to muirburn.

Any person guilty of an offence against section [<sup>F48</sup>25 or 26(7)] of this Act shall be liable on summary conviction to a fine not exceeding [<sup>F49</sup>level 3 on the standard scale].

#### Textual Amendments

- F47** Words in s. 27 title substituted (S.) (1.8.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 34\(9\)\(a\)](#), 43(1) (with [s. 41\(1\)](#)); [S.S.I. 2011/279](#), art. 2(2)

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- F48** Words in s. 27 substituted (S.) (1.8.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011](#) (asp 6), **ss. 34(9)(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(2)
- F49** 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**

## **[<sup>F50</sup>27A Crown application: sections 23 to 27**

- (1) Sections 23 to 27 (including orders made under section 23B) of this Act bind the Crown.
- (2) No contravention by the Crown of any provision made by or under sections 23 to 27 of this Act makes the Crown criminally liable but the Court of Session may, on the application of any public body or office-holder having responsibility for enforcing those provisions, declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (3) Despite subsection (2), sections 23 to 27 (including orders made under section 23B) apply to persons in the public service of the Crown as they apply to other persons.]

### **Textual Amendments**

- F50** S. 27A inserted (S.) (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011](#) (asp 6), **ss. 41(2)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(i)

## *Valuation of Sheep Stocks (Scotland)*

## **<sup>F51</sup>28 .....**

### **Textual Amendments**

- F51** S. 28 repealed (S.) (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991](#) (c. 55, SIF 2:3), **ss. 88(2)**, 89(2), **Sch. 13 Pt. I** (with s. 45(3), Sch. 12 paras. 1, 3)

## **<sup>F52</sup>29 .....**

### **Textual Amendments**

- F52** S. 29 repealed (S.) (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991](#) (c. 55, SIF 2:3), **ss. 88(2)**, 89(2), **Sch. 13 Pt. I** (with s. 45(3), Sch. 12 paras. 1, 3)

## **<sup>F53</sup>30 .....**

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#### Textual Amendments

**F53** S. 30 repealed (S.) (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(2), 89(2), **Sch. 13 Pt. I** (with s. 45(3), Sch. 12 paras. 1, 3)

<sup>F54</sup>**31** .....

#### Textual Amendments

**F54** S. 31 repealed (S.) (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(2), 89(2), **Sch. 13 Pt. I** (with s. 45(3), Sch. 12 paras. 1, 3)

### General

<sup>F55</sup>**32** **Advisory committees.**

.....

#### Textual Amendments

**F55** S. 32 repealed (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), s. 107, Sch. 11 para. 2, **12**; S.I. 2006/2541, art. 2 (with Sch.)

**33** ..... <sup>F56</sup>

#### Textual Amendments

**F56** 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>F57</sup> . . . shall, on producing, if so required written evidence of his authority, have power at all reasonable times to enter on and inspect—

- (a) any land which he has reason to believe to be used, or to be capable of being used, for hill farming purposes; and
- (b) 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>F57</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

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[<sup>F58</sup>level 2 on the standard scale] in the case of a first offence or [<sup>F58</sup>level 2 on the standard scale] in the case of a second or any subsequent offence.

[<sup>F59</sup>(3) This section applies in relation to land in England as if, for the purposes of an agreement under Chapter 1 of Part 8 of the Natural Environment and Rural Communities Act 2006 (agreements with designated bodies), references to an officer of the appropriate Minister authorised by general or special directions given by him were references to a person authorised by the appropriate Minister by general or special directions given by him.]

#### Textual Amendments

**F57** Words repealed by [Agriculture \(Miscellaneous Provisions\) Act 1972 \(c. 62, SIF 2:1\)](#), s. 26(3)(4), [Sch. 6](#)

**F58** 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](#)

**F59** S. 34(3) inserted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), s. 107, [Sch. 11 para. 3](#); [S.I. 2006/2541](#), art. 2 (with [Sch.](#))

#### [<sup>F60</sup>34A Offences by bodies corporate etc.

(1) Where an offence under this Act has been committed by a body corporate and it is proved to have been committed with the consent or connivance of, or attributable to any neglect on the part of—

- (a) a director, manager, secretary or other similar officer of the body; or
- (b) a person who purported to act in any such capacity,

he (as well as the body corporate) is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where an offence under this Act has been committed by a Scottish partnership or other unincorporated association and it is proved to have been committed with the consent or connivance of, or attributable to any neglect on the part of—

- (a) in relation to a Scottish partnership, any partner or any person who was purporting to act in such capacity;
- (b) in relation to an unincorporated association other than a Scottish partnership, any person who was concerned in the management or control of the association or any person who was purporting to act in any such capacity,

he (as well as the partnership or, as the case may be, other unincorporated association) is guilty of the offence and is liable to be proceeded against and punished accordingly.]

#### Textual Amendments

**F60** [S. 34A](#) inserted (S.) (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), ss. [35](#), [43\(1\)](#) (with s. [41\(1\)](#)); [S.I. 2011/433](#), art. 2(1)(g)

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### 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<sup>F61</sup>... shall be paid into the Exchequer.

#### Textual Amendments

**F61** Words in s. 36(2) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 2](#) Group 1

### 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;
  - <sup>F62</sup>(b) .....<sup>F63</sup>
  - (c) .....<sup>F63</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>F64</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>F65</sup>
- (2) .....<sup>F66</sup>

#### Textual Amendments

**F62** S. 37(1)(b) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 2](#) Group 1  
**F63** S. 37(1)(c)(d)(e) repealed by [Statute Law \(Repeals\) Act 1986 \(c. 12\)](#), [s. 1\(1\)](#), Pt. II  
**F64** Words substituted by [Hill Farming Act 1985 \(c. 32, SIF 2:8\)](#), [s. 1](#)  
**F65** Para. repealed by [Statute Law Revision Act 1953 \(c. 5\)](#)  
**F66** S. 37(2) repealed by [Statute Law Revision Act 1953 \(c. 5\)](#)

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### 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>F67</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

**F67** Words substituted by [S.I. 1978/272, art. 1, Sch. 5 para. 1](#)

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

**C11** 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) ..... **F68**
- (c) ..... **F69**
- (d) ..... **F70**
- (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.

#### Textual Amendments

**F68** S. 39(1)(a)(b) repealed by [Agriculture Act 1970 \(c. 40\), ss. 35\(1\), 113\(3\), Sch. 5 Pt. II](#)



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- F69** S. 39(1)(c) repealed with savings by [Agricultural Holdings \(Scotland\) Act 1949 \(c. 75\)](#), ss. 97-99, [Sch. 8](#)
- F70** 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) ..... **F71**
- F72**(4) .....
- (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) ..... **F73**

#### Textual Amendments

- F71** S. 40(3) repealed by [Agriculture Act 1970 \(c. 40\)](#), ss. 35(1), 113(3), [Sch. 5 Pt. II](#)
- F72** S. 40(4) repealed (5.11.1993) by [1993 c. 50](#), s. 1(1), [Sch. 1 Pt. II](#)
- F73** 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>F74</sup>Erection,] Alteration, enlargement or reconditioning of farm houses.

#### Textual Amendments

**F74** 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>F75</sup>farm]

#### Textual Amendments

**F75** Word substituted by [Livestock Rearing Act 1951 \(c. 18\), s. 5\(a\)](#)

- 4 Making or improvement of roads or bridges [<sup>F76</sup>and of piers, jetties or slips]

#### Textual Amendments

**F76** 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>F77</sup>or improvement] of accommodation for the dipping or treatment of sheep or cattle.

#### Textual Amendments

**F77** Words inserted by [Livestock Rearing Act 1951 \(c. 18\), s. 5\(b\)\(d\)](#)

- 8 Provision [<sup>F78</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

**F78** Words inserted by [Livestock Rearing Act 1951 \(c. 18\), s. 5\(b\)\(d\)](#)

- [<sup>F79</sup> Construction or improvement of silos]

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#### Textual Amendments

**F79** [Para. 9](#) substituted by [Livestock Rearing Act 1951 \(c. 18\), s. 5\(c\)](#)

- 10 Making or removal of permanent fences.
- 11 Restoration [<sup>F80</sup>or improvement] of permanent fences.

#### Textual Amendments

**F80** Words inserted by [Livestock Rearing Act 1951 \(c. 18\), s. 5\(b\)\(d\)](#)

- 12 Provision [<sup>F81</sup>or improvement] of grids designed or adapted to prevent the passage of sheep or cattle.

#### Textual Amendments

**F81** 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>F82</sup>boulders or other like obstructions to cultivation]

#### Textual Amendments

**F82** 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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## <sup>F83</sup>SECOND SCHEDULE

. . .

### Textual Amendments

**F83** [Schedule 2](#) repealed (S.) (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991](#) (c. 55, SIF 2:3), ss. 88(2), 89(2), **Sch. 13 Pt. I** (with s. 45(3), Sch. 12 paras. 1, 3)

## <sup>F84</sup>PART I

. . .

### Textual Amendments

**F84** [Schedule 2](#) repealed (S.) (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991](#) (c. 553 SIF 2:8), ss. 88(2), 89(2), Sch. 13 Pt.I (with s. 45(3), Sch. 12 paras. 1, 3)

<sup>F85</sup><sub>1</sub> . . . . .

### Textual Amendments

**F85** [Schedule 2](#) repealed (S.) (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991](#) (c. 55, SIF 2:3), ss. 88(2), 89(2), **Sch. 13 Pt. I** (with s. 45(3), Sch. 12 paras. 1, 3)

<sup>F86</sup><sub>2</sub> . . . . .

### Textual Amendments

**F86** [Schedule 2](#) repealed (S.) (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991](#) (c. 55, SIF 2:3), ss. 88(2), 89(2), **Sch. 13 Pt. I** (with s. 45(3), Sch. 12 paras. 1, 3)

<sup>F87</sup><sub>3</sub> . . . . .

### Textual Amendments

**F87** [Schedule 2](#) repealed (S.) (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991](#) (c. 55, SIF 2:3), ss. 88(2), 89(2), **Sch. 13 Pt. I** (with s. 45(3), Sch. 12 paras. 1, 3)

<sup>F88</sup><sub>4</sub> . . . . .

### Textual Amendments

**F88** [Schedule 2](#) repealed (S.) (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991](#) (c. 55, SIF 2:3), s. 88(2), 89(2), **Sch. 13 Pt. I** (with s. 45(3), Sch. 12 paras. 1, 3)

<sup>F89</sup><sub>5</sub> . . . . .

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**Textual Amendments**

**F89** [Schedule 2](#) repealed (S.) (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991](#) (c. 55, SIF 2:3), s. 88(2), 89(2), **Sch. 13 Pt. I** (with s. 45(3), Sch. 12 paras. 1, 3)

**F90** 6 . . . . .

**Textual Amendments**

**F90** [Schedule 2](#) repealed (S.) (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991](#) (c. 55, SIF 2:3), ss. 88(2), 89(2), **Sch. 13 Pt. I** (with s. 45(3), Sch. 12 paras. 1, 3)

**F91** **PART II**

. . .

**Textual Amendments**

**F91** [Schedule 2](#) repealed (S.) (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991](#) (c. 55, SIF 2:3), ss. 88(2), 89(2), **Sch. 13 Pt. I** (with s. 45(3), Sch. 12 paras. 1, 3)

**F92** 1 . . . . .

**Textual Amendments**

**F92** [Schedule 2](#) repealed (S.) (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991](#) (c. 55, SIF 2:3), ss. 88(2), 89(2), **Sch. 13 Pt. I** (with s. 45(3), Sch. 12 paras. 1, 3)

**F93** 2 . . . . .

**Textual Amendments**

**F93** [Schedule 2](#) repealed (S.) (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991](#) (c. 55, SIF 2:3), s. 88(2), 89(2), **Sch. 13 Pt. I** (with s. 45(3), Sch. 12 paras. 1, 3)

**F94** 3 . . . . .

**Textual Amendments**

**F94** [Schedule 2](#) repealed (S.) (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991](#) (c. 55, SIF 2:3), ss. 88(2), 89(2), **Sch. 13 Pt. I** (with s. 45(3), Sch. 12 paras. 1, 3)

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F95PART III . . .

.....

**Textual Amendments**

**F95** Schedule 2 repealed (S.) (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(2), 89(2), **Sch. 13 Pt. I** (with s. 45(3), Sch. 12 paras. 1, 3)

F96 . . .

.....

**Textual Amendments**

**F96** Schedule 2 repealed (S.) (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(2), 89(2), **Sch. 13 Pt. I** (with s. 45(3), Sch. 12 paras. 1, 3)

F971 . . . . .

.....

**Textual Amendments**

**F97** Schedule 2 repealed (S.) (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(2), 89(2), **Sch. 13 Pt. I** (with s. 45(3), Sch. 12 paras. 1, 3)

F982 . . . . .

.....

**Textual Amendments**

**F98** Schedule 2 repealed (S.) (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(2), 89(2), **Sch. 13 Pt. I** (with s. 45(3), Sch. 12 paras. 1, 3)

F993 . . . . .

.....

**Textual Amendments**

**F99** Schedule 2 repealed (S.) (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(2), 89(2), **Sch. 13 Pt. I** (with s. 45(3), Sch. 12 paras. 1, 3)

F1004 . . . . .

.....

**Textual Amendments**

**F100** Schedule 2 repealed (S.) (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(2), 89(2), **Sch. 13 Pt. I** (with s. 45(3), Sch. 12 paras. 1, 3)

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## **F101**PART IV

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### **Textual Amendments**

**F101** Schedule 2 repealed (S.) (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(2), 89(2), **Sch. 13 Pt. I** (with s. 45(3), Sch. 12 paras. 1, 3)

.....



**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- s. 19(2) words repealed by [2003 c. 44 Sch. 37 Pt. 9](#)
- s. 19(3) words repealed by [2003 c. 44 Sch. 37 Pt. 9](#)