



Hill Farming Act 1946

1946 CHAPTER 73 9 and 10 Geo 6

Rehabilitation of Hill Farming Land

1 Grants under schemes for improvement of hill farming land.

- (1) F1
- (2) F1

(3) In this Act—

[^{F2}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 necessary to feed the number of sheep or cattle capable of being maintained on the land;]

[^{F2}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:

... ^{F3}

- (5) F1

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Hill Farming Act 1946, Cross Heading: Rehabilitation of Hill Farming Land. (See end of Document for details)

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- F1 S. 1(1)(2)(5) repealed by [Agriculture Act 1970 \(c. 40\)](#), ss. 35(1), 113(3), **Sch. 5 Pt.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- F3 Proviso repealed by [Agriculture Act 1970 \(c. 40\)](#), ss. 35(1), 113(3), **Sch. 5 Pt.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)

- C1 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)**
- C2 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.**
- C3 S. 1(4) amended by [Livestock Rearing Act 1951 \(c. 18\)](#), **s. 8**

2 F4

Textual Amendments

- F4 S. 2 repealed by [Agriculture Act 1970 \(c. 40\)](#), ss. 35(1), 113(3), **Sch. 5 Pt.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

3 F5

Textual Amendments

- F5 S. 3 repealed by [Agriculture Act 1970 \(c. 40\)](#), ss. 35(1), 113(3), **Sch. 5 Pt.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

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

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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](#)

[^{F119} Operation of the Agricultural Holdings Act, 1948, &c., in relation to improvement schemes.

- (1) Subject to the provisions of this section, the ^{M1}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):

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

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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.

[^{F129} **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 ^{M2}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;

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

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

Modifications etc. (not altering text)

C4 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 ^{M3}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

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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 ^{M4}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 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

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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.
- (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)

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Textual Amendments

F13 S. 12(13) repealed by Statute Law (Repeals) Act 1986 (c. 12), s. 1(1), **Sch. 1 Pt. II**

Modifications etc. (not altering text)

C5 Power to extend s. 12 given by Agriculture Act 1967 (c. 22), s. 42(1)

C6 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**

Status:

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