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STATUTORY INSTRUMENTS

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**1977 No. 1303**

**ANIMALS**

**DISEASES OF ANIMALS**

**The Brucellosis Incentive Payments Scheme 1977**

<i>Made</i>	- - - -	<i>28th July 1977</i>
<i>Laid before Parliament</i>		<i>5th August 1977</i>
<i>Coming into Operation</i>		<i>26th August 1977</i>

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland and the Secretary of State for Wales, acting jointly, in exercise of the powers conferred upon them by section 106(1), (9) and (10) of the Agriculture Act 1970 and of all other powers enabling them in that behalf, with the consent of the Treasury, hereby make the following scheme:—

**Citation, commencement and extent**

1. This scheme, which may be cited as the Brucellosis Incentive Payments Scheme 1977, shall come into operation on 26th August 1977 and shall apply to Great Britain.

**Interpretation**

2.—(1) In this scheme, unless the context otherwise requires:—

“accredited herd” means a herd of cattle in Great Britain which to the satisfaction of the appropriate Minister either—

- (a) has been found to be free from brucellosis by means of a series of diagnostic tests carried out by him or on his behalf, and has been, since the date of the commencement of such tests, the subject of adequate precautions against the introduction or reintroduction and consequent spreading of brucellosis, or
- (b) has been wholly constituted by the transfer of animals from other accredited herds in Great Britain or from such similar herds outside Great Britain as the Minister of Agriculture, Fisheries and Food, in relation to herds in England and Wales, or the Secretary of State, in relation to herds in Scotland, may either generally or in any special case allow, and has been, since being so constituted, the subject of such precautions as aforesaid;

“accreditation date” means the date on which samples were first taken for use in the final test as a result of which a herd becomes an accredited herd, or, in the case of an accredited herd

wholly constituted by the transfer of animals from other accredited herds, the date on which the herd is constituted;

“the appropriate Minister” means the Minister of Agriculture, Fisheries and Food or, in relation to herds kept in Scotland, the Secretary of State for Scotland;

“brucellosis” means the disease caused by brucella abortus;

“brucellosis incentives agreement” means a voluntary arrangement between the appropriate Minister and the owner of a herd providing for the eradication of brucellosis from the herd upon terms which include, for the duration of the incentive period relating to the herd, the slaughter by the owner of any reactors found in the herd without compensation, the making of incentive payments to the owner, and the taking by him of precautions against the introduction or reintroduction and consequent spreading of brucellosis;

“cow” means a female bovine animal which in the opinion of the appropriate Minister is suitable for breeding;

“eligible cow” means a cow which has borne a calf or is a replacement cow;

“eligible herd” means an accredited herd which is the subject of, and the owner of which is party to, a Brucellosis incentives agreement;

“incentive period”, in relation to a herd, means the period of five years beginning with the accreditation date of the herd;

“incentive payment” means a payment made under this scheme to the owner of a herd in pursuance of a brucellosis incentives agreement;

“Milk Marketing Board” means a board constituted by a scheme relating to the marketing of milk made, or having effect as if made, under the Agricultural Marketing Act 1958;

“operative date” means the date on which this scheme comes into operation;

“period of qualification” means—

- (a) in relation to a herd accredited on or after the operative date, the incentive period relating to the herd, and
- (b) in relation to a herd accredited before the operative date, the period beginning with that date and ending with the last day of the incentive period relating to the herd;

“replacement cow” means a cow which has in the opinion of the appropriate Minister been brought into a herd to replace a cow which, having borne a calf, has died or been disposed of.

(2) The Interpretation Act 1889 shall apply for the interpretation of this scheme as it applies for the interpretation of an Act of Parliament.

### **Qualifying days**

**3.—**(1) As regards England and Wales the qualifying days for the purposes of this scheme shall be—

- (a) in the case of any eligible herd—
  - (i) the last day (hereinafter referred to as the relevant day) of the period of six months beginning with the day after the herd's accreditation date;
  - (ii) any anniversary of the relevant day; and
- (b) in the case of an eligible herd in relation to which the relevant day, or an anniversary thereof, falls within the period beginning with 1st July 1977 and ending with the operative date, the operative date.

(2) As regards Scotland the qualifying days for the purposes of this scheme shall be the 1st January in the year 1978 and in any following year.

### **Incentive payments in respect of eligible cows**

4.—(1) Incentive payments may be made by the appropriate Minister in accordance with the provisions of this scheme in connection with the eradication of brucellosis from herds of cattle.

(2) Subject to the provisions of sub-paragraph (4) below the appropriate Minister may make to the owner of an eligible herd one incentive payment in respect of each eligible cow which is in the herd on a qualifying day falling within the period of qualification relating to that herd, and which has been comprised in that herd throughout the six months immediately preceding that qualifying day, or, in the case of a replacement cow, throughout such shorter period as the appropriate Minister, having regard to the time in the herd of the cow replaced, may allow.

(3) The amount of each incentive payment shall be £5.

(4) No payment shall be made under this scheme—

- (a) in respect of a herd which for the time being qualifies under the Brucellosis (Beef Incentives) Payments Scheme 1972(1), as amended(2), for incentive payments, as defined in that scheme; or
- (b) in respect of a herd which for the time being qualifies under the Brucellosis (Payments for Cows in Accredited Herds) (Scotland) Scheme 1970(3), as amended(4), for incentive payments, as defined in that scheme;
- (c) as regards any one herd, in respect of more than five qualifying days.

### **Assessment of numbers after slaughter in brucellosis eradication**

5. In assessing for the purposes of paragraph 4(2) above the number of eligible cows in an eligible herd on a qualifying day, the appropriate Minister may disregard any temporary reduction in numbers on that day when he is satisfied that such reduction has been caused by the slaughter of cows in the course of brucellosis eradication, and that those cows have been or will be replaced as soon as is reasonably practicable by the owner of the herd with cows which the appropriate Minister is satisfied are eligible cows, and may make incentive payments in respect of such number of eligible cows as would, in his opinion, have been comprised in that herd on that qualifying day had its numbers not been reduced by reason of such slaughter.

### **Reduction for milk production**

6. If during the 12 months immediately preceding a qualifying day an eligible herd has produced a quantity of milk in respect of which a Milk Marketing Board has made payments under paragraph 4 of the Milk (Eradication of Brucellosis) Scheme 1970(5) as amended(6), the number of cows in that herd for which incentive payments may be made in respect of that qualifying day shall be reduced by such number as may be determined by the Minister.

### **Application for payments**

7. Applications for incentive payments shall be made in such manner and at such time as the appropriate Minister may direct, and no payments may be made to a herd owner until he has applied to the appropriate Minister in the manner and at the time directed.

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(1) (1972 II, p. 4010).

(2) S.I. 1975/2211 (1975 III, p. 8320).

(3) (1970 III, p. 4789).

(4) S.I. 1971/1072, 1973/644 (1971 II, p. 3204; 1973 I, p. 2007).

(5) (1970 II, p. 4162).

(6) S.I. 1971/532, 1972/1645, 1976/387 (1971 I, p. 1532; 1972 III, p. 4845; 1976 I, p. 1043).

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## Recovery

8. Where, in the opinion of the appropriate Minister, any incentive payments made to any person in respect of cows comprised in a herd on a qualifying day were wrongly made because the provisions of this scheme or of a brucellosis incentives scheme have not been complied with, because payments were made in respect of more cows than in fact qualified for payment, or because some of the cows in respect of which payment was made are found to have been ineligible, the appropriate Minister shall be entitled to recover on demand from that person as a civil debt the incentive payments so wrongly made.

In Witness where of the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed this 22nd day of July 1977.

L.S.

*John Silkin*  
Minister of Agriculture, Fisheries and Food

26th July 1977

*Bruce Millan*  
Secretary of State for Scotland

27th July 1977

*John Morris*  
Secretary of State for Wales

We approve,

28th July 1977

*Donald R. Coleman*  
*T. E. Graham*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

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## EXPLANATORY NOTE

This Scheme, made under section 106(1) of the Agriculture Act 1970, empowers the Minister of Agriculture, Fisheries and Food, and the Secretary of State for Scotland in relation to herds kept in Scotland, to make incentive payments in connection with the eradication of brucellosis to the owners of eligible herds (that is, of herds accredited as free from brucellosis which are the subject of a voluntary brucellosis incentives agreement).

The Scheme enables incentive payments to continue to be made in respect of herds which until 2nd January 1977, when beef cow subsidy ceased to be payable, could qualify for brucellosis incentive payments made under the Brucellosis (Beef Incentives) Payment Scheme 1972, as amended, as a supplement to that subsidy.

It also enables incentive payments to be made in respect of certain eligible herds which hitherto have not qualified for such payments, but does not provide for any retrospective payment.

The Scheme does not apply to herds which are eligible for such incentive payments under the Brucellosis (Beef Incentives) Payments Scheme 1972 as are payable as a supplement to compensatory allowances under the Hill Live-stock (Compensatory Allowances) Regulations 1975 (S.I. 1975/2210), or for incentive payments under the Brucellosis (Payments for Cows in Accredited Herds) (Scotland) Scheme 1970, as amended.

Under the Scheme, a payment of £5 may be made for each eligible cow which is in an eligible herd on a qualifying day and which has been comprised in that herd throughout the six months immediately before that qualifying day. In England and Wales a herd's qualifying days are the day six months after its date of accreditation as a brucellosis-free herd and the anniversaries of that day (in a few cases the qualifying day in 1977 is the operative date of the scheme). In Scotland, the qualifying days are the first day of January in the year 1978 and succeeding years. No incentive payments can, however, be made in respect of any qualifying day which falls outside a herd's incentive period (that is, the period of five years commencing with its date of accreditation) or which occurs before the operative date. Further, as regards any one herd, payments may be made in respect of no more than five qualifying days.

The Scheme also provides for—

(a) the reduction of the number of eligible cows in a herd in respect of milk produced by that herd for which milk incentive payments have been made under the Milk (Eradication of Brucellosis) Scheme 1970, and

(b) the disregarding of a temporary reduction, caused by slaughter in the course of brucellosis eradication, in the number of eligible cows in a herd on a qualifying day, and

contains provisions relating to applications for incentive payments and the recovery of payments wrongly made.