STATUTORY INSTRUMENTS

# 1975 No. 1546

## AGRICULTURE

### HILL LANDS

# The Livestock Rearing Land Improvement Schemes (Terminal Date) (Exceptions to Grant Recovery) (England, Wales and Northern Ireland) Order 1975

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| *Made* - - - - | 19*th September* 1975 |
| *Laid before Parliament* | 1*st October* 1975 |
| *Coming into Operation* | 6*th November* 1975 |

The Minister of Agriculture, Fisheries and Food and the Secretary of State, acting jointly, in pursuance of section 35(3)(*b*)(ii) and (iii) and (5) of the Agriculture Act 1970**(a)** as read with section 38 of the Hill Farming Act 1946**(b)** and with the Transfer of Functions (Wales) Order 1969**(c)**, and of all other powers enabling them in that behalf, hereby make the following order:—

*Citation, commencement and extent*

**1.** This order, which may be cited as the Livestock Rearing Land Improvement Schemes (Terminal Date) (Exceptions to Grant Recovery) (England, Wales and Northern Ireland) Order 1975, shall come into operation on 6th November 1975 and shall extend to England, Wales and Northern Ireland.

*Interpretation*

**2.**—(1) In this order, unless the context otherwise requires—

"the Act of 1946" means the Hill Farming Act 1946;

"the Act of 1970" means the Agriculture Act 1970;

"grant" means a payment by way of grant under section 1(1) of the Act of 1946 in respect of the cost of work done in accordance with a scheme;

"grantee" means a person to whom a grant has been made;

"improvement" means an improvement for which a scheme provides;

"the Minister" means, in relation to England or Northern Ireland, the Minister of Agriculture, Fisheries and Food and, in relation to Wales, the Secretary of State;

"scheme" means a livestock rearing land improvement scheme approved under section 1(1) of the Act of 1946;

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**(a)** 1970 c. 40. **(b)** 1946 c. 73.

**(c)** S.I. 1969/388 (1969 I, p. 1070).

"livestock rearing land" has the meaning assigned to that expression by section 1(3) of the Act of 1946; and

"the terminal date" means 5th November 1975, being the date specified for the purposes of section 35 of the Act of 1970 by the Livestock Rearing Land Improvement Schemes (Terminal Date) Order 1971**(a)**.

(2) References in this order to any enactment shall, unless the context requires otherwise, be construed as references to that enactment as amended or extended by or under any other enactment.

(3) The Interpretation Act 1889**(b)** shall apply for the interpretation of this order as it applies for the interpretation of an Act of Parliament.

*Exceptions to grant recovery*

**3.**—(1) The power conferred on the Minister by section 35(3)(*b*)(ii) of the Act of 1970 (which provides that where a scheme is not completed on or before the terminal date the Minister may on demand recover an amount equal to any grant made if, otherwise than in such circumstances as may be prescribed, the total cost of all work done under the scheme on or before the terminal date is excessive in relation to the agricultural benefit which is likely to be derived from that work) shall not be exercisable in any of the following circumstances:—

(*a*) where the failure to complete a scheme, in respect of which a grant was made, on or before the terminal date was due to—

(i) the death or bankruptcy of the grantee before that date,

(ii) a change before that date in the ownership or occupancy of the land for the benefit of which the grant was made, and the subsequent inability or unwillingness of the new owner or occupier to complete the scheme,

(iii) any cause which was, in the opinion of the Minister, outside the control of the grantee, and not reasonably foreseeable by him at the time the grant was made,

(iv) the land for the benefit of which the grant was made having before that date ceased, in the opinion of the Minister, to be economically usable as livestock rearing land, or

(v) a change in the use of the land for the benefit of which the grant was made from use as livestock rearing land to use for some other agricultural purpose or for afforestation, such use appearing to the Minister to be a reasonable use of the land;

(*b*) where the failure to complete a scheme, in respect of which a grant was made, on or before the terminal date was due to the land for the benefit of which the grant was made having before that date been divided into seperately occupied parts or substantially affected in its use by its amalgamation with other land or by the adjustment of its boundaries, so that the completion of the scheme would not, in the opinion of the Minister, have been justified;

(*c*) where the failure to complete a scheme, in respect of which a grant was made, on or before the terminal date was due to a substantial increase in the cost of the work to be done in accordance with the scheme, so that the completion of the scheme would not, in the opinion of the Minister, have been justified.

**(a)** S.I. 1971/382 (1971 II, p. 2383). **(b)** 1889 c. 63.

(2) The power conferred on the Minister by section 35(3)(*b*)(iii) of the Act of 1970 (which provides that where a scheme is not completed on or before the terminal date the Minister may on demand recover an amount equal to any grant made, except in such circumstances as may be prescribed, if or so far as the grant was in respect of work required for making an improvement under the scheme and that improvement is not completed on or before the terminal date) shall not be exercisable in any of the following circumstances:—

(*a*) where the failure to complete an improvement, in respect of which a grant was made, on or before the terminal date was due to—

(i) the death or bankruptcy of the grantee before that date, or

(ii) any cause which was, in the opinion of the Minister, outside the control of the grantee and not reasonably foreseeable by him at the time the grant was made;

(*b*) where the agricultural benefit to the land of an improvement in respect of which a grant was made but which was not completed on or before the terminal date is reasonably commensurate, in the opinion of the Minister, with the amount of the grant made.

In Witness whereof the official seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 12th September 1975.

(L.S.)

*Frederick Peart*,
Minister of Agriculture, Fisheries and Food.

*John Morris*,
Secretary of State for Wales.

19th September 1975.

## EXPLANATORY NOTE

*(This Note is not part of the order.)*

The terminal date for claims for grant under schemes for the rehabilitation of livestock rearing land approved under section 1(1) of the Hill Farming Act 1946 (as amended) has been fixed by order at 5th November 1975.

Section 35(3) of the Agriculture Act 1970 provides that any such scheme which has not been completed by the terminal date shall be revoked. It also gives the Minister and the Secretary of State power to recover grant paid, except in such circumstances as may be prescribed, if—

(*a*) the total cost of the work done under a scheme is excessive in relation to the resultant agricultural benefit, or

(*b*) the grant was paid for making a particular improvement under a scheme, and that improvement was not completed by the terminal date.

This order prescribes the circumstances in which those powers of recovery may not be exercised.

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