STATUTORY INSTRUMENTS

1975 No. 1578 (S. 223)

AGRICULTURE
HILL LANDS

The Livestock Rearing Land Improvement Schemes (Terminal Date) (Exceptions to Grant Recovery) (Scotland) Order 1975

Made - - - -	*26th September* 1975
Laid before Parliament	*7th October* 1975
Coming into Operation	*6th November* 1975

In exercise of the powers conferred on me by section 35(3)(*b*)(ii) and (iii) and (5) of the Agriculture Act 1970**(a)** and of all other powers enabling me in that behalf, I 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) (Scotland) Order 1975, shall come into operation on 6th November 1975 and shall extend to Scotland only.

Interpretation

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

"the Act of 1946" means the Hill Farming Act 1946**(b)**;

"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 the Secretary of State;

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

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

"the terminal date" means 5 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) (Scotland) Order 1971**(c)**.

(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.

(a) 1970 c. 40.
(b) 1946 c. 73.
(c) S.I. 1971/853 (1971 II, p. 2460).

(3) The Interpretation Act 1889(a) 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 of the grantee or the sequestration of his estate by a court in Scotland or his being adjudged bankrupt elsewhere than in Scotland all occurring 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 separately 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.

(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

(a) 1889 c. 63.

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 of the grantee or the sequestration of his estate by a court in Scotland or his being adjudged bankrupt elsewhere than in Scotland all occurring 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.

William Ross,
One of Her Majesty's Principal Secretaries of State.

New St. Andrew's House,
Edinburgh.
26th 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 5 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 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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