

1970 No. 1459 (S.116)

ANIMALS

**The Brucellosis (Payments for Cows in Accredited Herds)
(Scotland) Scheme 1970**

<i>Made</i>	- - -	<i>29th September 1970</i>
<i>Laid before Parliament</i>		<i>12th October 1970</i>
<i>Coming into Operation</i>		<i>19th October 1970</i>

In exercise of the powers conferred upon me by section 106(1), (9) and (10) of the Agriculture Act 1970^(a) and of all other powers enabling me in that behalf, and with the consent of the Treasury, I hereby make the following scheme :—

Citation, extent and commencement

1. This scheme may be cited as the Brucellosis (Payments for Cows in Accredited Herds) (Scotland) Scheme 1970, shall apply to Scotland only and shall come into operation on 19th October 1970.

Interpretation

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

“accredited herd” means a herd of cattle which, to the satisfaction of the Secretary of State—

(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

(b) has been, since the date of commencement of such tests, the subject of adequate precautions against the introduction or re-introduction and consequent spreading of brucellosis,

or which, to the satisfaction of the Secretary of State, has been wholly constituted by the transfer of animals from such a herd or herds and has since the date of such transfer been the subject of adequate precautions against the introduction or reintroduction and consequent spreading of brucellosis ;

“board” means a board constituted by a scheme relating to the marketing of milk and made or having effect as if made under the Agricultural Marketing Act 1958^(b) ;

“brucellosis” means the disease caused by *brucella abortus* ;

“cow” means a cow kept wholly or mainly for the purpose of producing milk for human consumption or for use in the manufacture of a product for human consumption, but does not include a heifer which has never calved ;

^(a) 1970 c. 40.

^(b) 1958 c. 47.

“eligible herd” means an accredited herd which is for the time being treated as an eligible herd for the purposes of this scheme in accordance with paragraph 5 hereof ;

“June Return” means the return of information required by the Secretary of State in exercise of the powers conferred on him by the Agricultural Statistics (Scotland) Regulations 1948(a) as amended by the Agricultural Statistics (Scotland) Amendment Regulations 1957(b) to be made by occupiers of land used for agriculture annually as at a date in June ; and “date of the June Return” means that date ;

“payment” means a payment under this scheme ;

“qualifying day” in relation to the year 1970 or any subsequent year, means the day which coincides with the date of the June Return in that year ;

“reactor” means an animal which, when tested for brucellosis by or on behalf of the Secretary of State, gives rise to a reaction consistent with its being affected with that disease.

(2) Any reference in this scheme to an owner of a herd shall be construed as including a reference to any person who is concerned with the management of that herd.

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

Payments in respect of cows in eligible herds

3. Subject to the provisions of this scheme, the Secretary of State may, in respect of the year 1970 or any subsequent year, make a payment of £4 in respect of any cow which on the qualifying day in that year is comprised in a herd which is on that day an eligible herd or which subsequently becomes an eligible herd, when that day occurs during the period determined in relation to that herd in accordance with paragraph 4 hereof :

Provided that no payment shall be made in respect of any year in respect of any cow which on the qualifying day in that year is a cow which produces milk which is—

- (a) sold under the provisions of any scheme constituting a board by a producer registered under that scheme, or
- (b) deemed for the purposes of any payments under such a scheme to have been produced from that cow.

Period of payment for herds

4.—(1) The period referred to in paragraph 3 of this scheme shall be determined in accordance with the provisions of this paragraph.

(2) In relation to a herd which on 1st April 1970 was an accredited herd and the owner of which has intimated that he wishes that herd to be treated as an eligible herd—

- (a) if such intimation is made on or before 31st August 1970, the period shall be the period of 5 years from 1st April 1970 ;
- (b) if such intimation is made after 31st August 1970, the period shall, subject to the provisions of subparagraph (5) of this paragraph, be the period from the date of making of such intimation until 31st March 1975.

(a) S.I. 1948/2239 (Rev. I, p. 589: 1948 I, p. 93). (b) S.I. 1957/876 (1957 I, p. 83).
(c) 1889 c. 63.

(3) In relation to a herd which on 1st April 1970 was not an accredited herd but was on that date the subject of an application for it to become an accredited herd, which application has been granted and the owner of the herd has subsequently intimated that he wishes it to be treated as an eligible herd—

- (a) if such intimation is made within one month after the date on which the owner of the herd is notified that his herd has become an accredited herd or by 31st August 1970, whichever is the later, the period shall be the period of 5 years from the date on which there was begun the final diagnostic test as a result of which the herd became an accredited herd ;
- (b) if such intimation is made after 31st August 1970 and not within one month after the date on which the owner of the herd is notified that his herd has become an accredited herd, the period shall, subject to the provisions of subparagraphs (5) and (6) of this paragraph, be the period from the date of making of such intimation until the expiry of 5 years from the date on which there was begun the final diagnostic test as a result of which the herd became an accredited herd.

(4) In the case of cows comprised in a herd which has, after 1st April 1970, become the subject of an application for it to become an accredited herd, which application has been granted, and the herd has then become an eligible herd, the period shall, subject to the provisions of subparagraph (6) of this paragraph, be the period of 5 years from the date on which there was begun the final diagnostic test as a result of which the herd became an accredited herd.

(5) Where a herd is, at the date of intimation that the owner thereof wishes the herd to be treated as an eligible herd, an accredited herd which has nevertheless been found, to the satisfaction of the Secretary of State, to be infected with brucellosis at that date and to have become so infected after 31st August 1970, subparagraph (2)(b) or, as the case may be, 3(b) above shall have effect in relation to that herd with the substitution for the reference to the date of making of such intimation of a reference to the date on which the herd has been found to be free from that infection to the satisfaction of the Secretary of State.

(6) Where, in any case described in subparagraph (3) or (4) above, a herd has become an accredited herd otherwise than as a result of diagnostic tests, the relevant provision in subparagraph (3) or, as the case may be, (4) shall in such a case apply as if the words “there was begun the final diagnostic test as a result of which” were omitted.

Eligibility of herds

5.—(1) The owner of any accredited herd may intimate to the Secretary of State that he wishes that herd to be treated as an eligible herd for the purposes of this scheme and the Secretary of State may thereupon treat that herd as so eligible :

Provided that the Secretary of State shall not treat any accredited herd as an eligible herd for so long as there is in force in relation to that herd any arrangement between the Secretary of State and the owner of the herd by which if an animal in the herd is slaughtered as a reactor while the herd is an accredited herd, the owner is to be paid out of public funds, otherwise than under section 17 of the Diseases of Animals Act 1950(a), compensation equivalent to the value of the animal before slaughter (subject to any overriding limit which may be part of the arrangement).

(2) The Secretary of State may at any time determine that an eligible herd shall cease to be treated as such if he is satisfied that it has not been the subject of adequate precautions against the introduction or re-introduction and consequent spreading of brucellosis.

Persons eligible for payment

6. A payment in respect of a cow shall be made only to a person who is owner as at the beginning of the qualifying day of the herd in which the cow is comprised.

Application for payment

7. A payment in respect of a cow shall not be made by the Secretary of State unless an application therefor has been made in such manner and within such time as the Secretary of State may require by a person who is owner, as at the beginning of the qualifying day, of the herd in which the cow is comprised.

Number of cows qualifying for payments

8. Subject to the provisions of this paragraph, the number of cows in respect of which payments may be made as being comprised in a herd on the qualifying day in any year shall be equal to the number of cows (not being cows in respect of which by virtue of the proviso to paragraph 3 of this scheme payments shall not be made) comprised in the herd on that day and included in the June Return required to be made as at that day in respect of the land specified in the application for payments in respect of the cows in that herd :

Provided that where the Secretary of State is satisfied that :—

- (a) no such June Return has been made, or
- (b) any such Return which has been made is inaccurate in respect of the number of cows included therein or is inappropriate for the computation of the number of cows in respect of which payments fall to be made, or
- (c) the number of cows included in any such Return is less than would otherwise have been the case because of the slaughter of a cow or its removal from the herd, and that there had been no unreasonable delay in bringing a replacement into the herd ;

the number of cows in respect of which payments may be made shall be equal to such number as the Secretary of State, having regard to all the circumstances, deems to be the number of cows in respect of which payments should be made.

Gordon Campbell,
One of Her Majesty's Principal
Secretaries of State.

St. Andrew's House,
Edinburgh.
25th September 1970.

We consent.

David Howell,
Bernard Weatherill,
Two of the Lords Commissioners
of Her Majesty's Treasury.

29th September 1970.

EXPLANATORY NOTE

(This Note is not part of the Scheme.)

The Agriculture Act 1970 empowers the Secretary of State, with the consent of the Treasury, to make schemes for payment to the owners of herds of cattle of such sums as he thinks fit to expend in connection with the eradication of brucellosis.

This Scheme makes provision for payment of such sums in respect of cows kept for dairy purposes comprised in accredited herds (that is, herds which have been found to be free from brucellosis to the satisfaction of the Secretary of State), the milk from which is not sold under the provisions of a milk marketing scheme by a registered producer or deemed for the purpose of any payments under such a scheme to have been produced from such cows. Payment may be made in respect of cows comprised in such a herd on a specified day in any year of a period determined in accordance with the provisions of the Scheme. The amount of the payment is £4 per cow. Where, however, there is an arrangement between the owner of a herd and the Secretary of State whereby the owner remains eligible for compensation for reactors slaughtered in connection with the eradication of brucellosis, no payments will be made in respect of cows in that herd for so long as the arrangement remains in force.

The Scheme also makes provision for various other matters including the making of applications for payments and the computation of the number of cows in respect of which payments may be made.

SI 1970/1459
ISBN 0-11-001459-6



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