STATUTORY INSTRUMENTS

1986 No. 1614 (S. 123)

AGRICULTURE

The Milk (Partial Cessation of Production) (Scotland) Scheme 1986

Made - - - -	*17th September* 1986
Laid before Parliament	*18th September* 1986
Coming into Operation	*19th September* 1986

The Secretary of State, in exercise of the powers conferred on him by section 1 of the Milk (Cessation of Production) Act 1985(**a**), and of all other powers enabling him in that behalf, after consultation with the Council on Tribunals under section 10 of the Tribunals and Inquiries Act 1971(**b**), hereby makes the following scheme:-

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Title, extent and commencement

1. This scheme may be cited as the Milk (Partial Cessation of Production) (Scotland) Scheme 1986, shall extend to Scotland only and shall come into operation on 19th September 1986.

(**a**) 1985 c.4.
(**b**) 1971 c.62.

Interpretation

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

"the Act" means the Milk (Cessation of Production) Act 1985;

"allocated quota" means registered quota other than transferred quota;

"applicant" means a person who applies for compensation under this scheme and "application" shall be construed accordingly;

"arbiter" includes the Scottish Land Court;

"authorised officer" means an officer of the Department of Agriculture and Fisheries for Scotland so authorised by the Secretary of State;

"base quota" means quota other than transferred quota, which was allocated under the Dairy Produce Quotas Regulations 1984(**a**) otherwise than in accordance with Article 3(1) (development awards) or Article 4(1)*(c)* (awards to producers undertaking farming as their main occupation) of Council Regulation 857/84(**b**);

"direct sales quota" has the same meaning as in the 1986 Regulations;

"farming press" means any newspaper, journal or similar publication considered by the Secretary of State to be likely to be read by interested parties;

"Gazette" means the Edinburgh Gazette;

"holding" has the same meaning as in the 1986 Regulations;

"landlord" includes a head tenant and means -

(a) in the case of an agricultural holding to which the 1949 Act applies, the landlord within the meaning of section 93(1) of that Act;

(b) in the case of a croft within the meaning of the 1955 Act, the landlord within the meaning of section 37(1) of that Act;

(c) in the case of a holding within the meaning of the 1911 Act to which the 1949 Act does not apply, the same as it means in the 1911 Act and;

(d) where the tenancy has become vested in more than one person in several parts and the rent payable by the tenant has not been apportioned with his consent or under any statute, all the persons who together constitute the landlord of the tenancy; and "landlords interest" shall be construed accordingly;

"landlords amount" means an amount calculated in accordance with paragraph 13;

"milk" means cows' milk;

"notice" means notice in writing;

"quota" in relation to a holding, has the meaning ascribed to it in the 1986 Regulations;

"quota year" has the meaning ascribed to it in regulation 2(1) of the 1986 Regulations;

"registered" in relation to quota, means -

(a) in the case of direct sales quota, registered in the direct sales register maintained under the 1986 Regulations; and

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(**a**) S.I. 1984/1047, amended by S.I. 1984/1048, 1538, 1787 and 1985/509.
(**b**) O.J. No. L90, 1.4.84, p.13.

(b) in the case of a wholesale quota, registered in a wholesale register maintained under those regulations;

"relevant quota" means -

(a) in a case where the tenant's holding consists only of the relevant tenancy, the quota registered in relation to that holding under the 1986 Regulations; and

(b) in any other case, such part of that quota as would fall to be apportioned under regulation 8 of the 1986 Regulations to that tenancy on a change of occupation of that tenancy;

"tenancy" means, as the case may be -

(a) the agricultural holding, within the meaning of section 1 of the 1949 Act;

(b) the croft within the meaning of section 3(1) of the 1955 Act;

(c) the holding within the meaning of section 2 of the 1911 Act;

(d) the holding of a statutory small tenant under section 32 of the 1911 Act;

(e) any part of a tenancy which is treated as a separate entity for purposes of succession, assignation or sub-letting;

"tenant" means -

(a) in the case of an agricultural holding to which the 1949 Act applies, a tenant within the meaning of section 93(1) of that Act;

(b) in the case of a croft within the meaning of the 1955 Act, a crofter within the meaning of section 3(2) of that Act;

(c) in the case of a holding within the meaning of the 1911 Act to which the 1949 Act does not apply, a landholder within the meaning of section 2(2) of the 1911 Act;

"the 1911 Act" means the Small Landholders (Scotland) Act 1911(**a**);

"the 1949 Act" means the Agricultural Holdings (Scotland) Act 1949(**b**);

"the 1955 Act" means the Crofters (Scotland) Act 1955(**c**);

"the 1986 Regulations" means the Dairy Produce Quotas Regulations 1986(**d**);

"transferred quota" means quota transferred to by virtue of the transfer to that holding of the whole or part of another holding;

"wholesale quota" has the same meaning as in the 1986 Regulations.

(2) In this scheme, unless the context otherwise requires -

(a) any reference to a numbered paragraph shall be construed as a reference to the paragraph so numbered in this scheme, and

(b) any reference in a paragraph to a numbered or lettered subparagraph shall be construed as a reference to the subparagraph so numbered or lettered in that paragraph.

(**a**) 1911 c.49.
(**b**) 1949 c.75.
(**c**) 1955 c.21.
(**d**) S.I. 1986/470.

Applications under this scheme

3.—(1) The Secretary of State shall, by advertisement published in the Gazette and the farming press, announce the opening and closing dates of the period during which applications may be submitted, and the procedural requirements in respect of applications.

(2) For the purposes of an application under this paragraph, an applicant's quota shall be taken to be the amount of quota to which he is entitled at the date of the application.

Persons eligible for payments under this scheme

4.—(1) The Secretary of State may make payments under this scheme to any person the total of whose registered direct sales quota and registered wholesale quota at the time of his application, is at least 242,790 litres, and who undertakes -

(a) to surrender so much of that quota (being an amount which is equal to at least 50%, but not exceeding 95%, thereof and against which no milk has been or will at the date of surrender have been produced in the 1986/87 quota year) as may be specified in his application and accepted by the Secretary of State;

(b) only to produce milk for sale or for processing into cream, butter or cheese (whether directly, or indirectly, by being involved as a principal in a business which produces milk) up to the limit of his registered quota for the period of seven years immediately following the date on which he ceases to produce milk in relation to the amount of quota surrendered.

(2) No payment under subparagraph (1) shall be made to a person who has at any time received as applicant a payment under -

(a) Council Regulation (EEC) No. 1353/73(**a**) and Commission regulation (EEC) No. 1821/73(**b**) (which together lay down a scheme to encourage the reduction of the production of milk and milk products);

(b) the Farm Structures (Payments to Outgoers) Scheme 1976(**c**);

(c) Council Regulation (EEC) No. 1078/77(**d**) and Commission Regulation (EEC) No. 1307/77(**e**) (which together lay down schemes to encourage the reduction of the production of milk and milk products);

(d) a non-statutory scheme under which a person receiving payments undertook to give up milk production for the period specified in, and in accordance with the terms of, that scheme; or

(e) the Milk (Community Outgoers' Scheme) (Scotland) Regulations 1986(**f**) or any other scheme corresponding with this scheme which applies in any other part of the United Kingdom.

Basis of claims and rates of compensation under this scheme

5.—(1) A person may claim compensation under this scheme in respect of either -

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(**a**) O.J. No. L141, 28.5.73, p.18.
(**b**) O.J. No. L184, 6.7.73, p.24.
(**c**) S.I. 1976/2126.
(**d**) O.J. L131, 26.5.77, p.1.
(**e**) O.J. L150, 18.6.77, p.24.
(**f**) S.I. 1986/1613.

(a) loss of profits in the 7 years immediately following the date on which he ceases to produce milk for sale or for processing into milk products for sale by reference to the amount of eligible quota he surrenders; or

(b) the value of the amount of the eligible quota he surrenders.

(2) Payments made by the Secretary of State under this scheme shall be calculated -

(a) in a case falling within subparagraph (1)*(a)*, at the rate of 2.618 pence per litre of milk on a quantity equal to the amount of eligible quota surrendered for each of the 7 years immediately following the date on which the applicant ceases to produce milk for sale or for processing into milk products for sale, in relation to the amount of quota surrendered; and

(b) in a case falling within subparagraph (1)*(b)*, at the rate of 18.326 pence per litre on that quantity, payable in 7 equal annual instalments.

(3) Where in relation to direct sales quota or wholesale quota, an applicant's registered quota includes quota other than eligible quota, compensation shall only be paid in respect of that proportion of the quota surrendered which his eligible quota bears to his registered quota.

(4) In this paragraph "eligible quota" means base quota and transferred quota.

Over-subscription

6.—(1) The total amount of quota by reference to which the Secretary of State may make payments under this scheme shall not exceed 1.8 million litres.

(2) In determining whether to accept or reject an application, the Secretary of State shall give preference to applications in order of their receipt by him.

(3) The Secretary of State shall give notice of his acceptance or rejection of an application to the applicant.

(4) An applicant may withdraw an application before the end of the period of 14 days beginning with the date of service on the applicant of a notice of acceptance served on him under subparagraph (3).

Requirement for landlord's consent

7.—(1) Subject to subparagraph (2), where an application is made by a person who occupies his holding or any part thereof as a tenant, that person shall serve a copy of the application on his immediate landlord on the day on which he submits the application.

(2) A person who occupies his holding as a tenant need not comply with the provisions of subparagraph (1), if in respect of each of the landlords of the holding in relation to which the application is made, or of each part thereof occupied by the applicant as a tenant either -

(a) he has obtained the consent in writing of that landlord to the application; or

(b) that landlord has unreasonably refused his consent to the application.

(3) Where within 21 days of the receipt of a copy of an application served in accordance with subparagraph (1) or of a notice served in accordance with paragraph 11, a landlord objects to the application by notice served on the tenant and (where the Secretary of State is neither the landlord nor the tenant) the Secretary of State, on one or more of the grounds specified in paragraph 9, the tenant shall be deemed to have withdrawn his application for compensation unless, within 14 days of receipt of that notice of objection the tenant -

(a) by notice served on that landlord demands that the question whether that objection should be upheld or not shall be referred to arbitration; and

(b) (where the Secretary of State is neither the landlord nor the tenant) by notice served on the Secretary of State, informs him of that demand.

Unreasonable refusal of consent

8. For the purposes of paragraph 7, a landlord shall have unreasonably refused his consent to an application for compensation if -

(a) having been served with a notice of the tenant's application or intention to make an application, he has not, within 21 days of receipt of that notice, served a notice objecting to that application on one or more of the grounds specified in paragraph 9, on -

(i) the tenant,

(ii) his immediate tenant where that tenant is not the tenant in occupation of the tenancy, and

(iii) where the application has already been made, (and the Secretary of State is neither the landlord nor the tenant) the Secretary of State; or

(b) he has so objected, but on arbitration under paragraph 10 an arbiter has made a determination not to uphold the objection, and the arbiter's determination has not been reversed and there is pending no appeal or other proceedings.

Landlord's objections to an application

9.—(1) Subject to subparagraph (2), the grounds upon which a landlord may object to a tenant's application for compensation for the purposes of paragraphs 7 or 8 are -

(a) that the payment which he would receive in accordance with this scheme if that application was successful would not adequately recompense him for any reduction in the annual rental value of the tenancy as a result of the surrender of the relevant quota;

(b) the tenant or any landlord is bound by an agreement with a superior landlord of the tenancy or with a predecessor of that landlord to the effect either that -

(i) the tenancy or any part thereof will be farmed as a dairy farm, or

(ii) any quota on the tenancy or any part thereof will be maintained.

(2) A landlord may not object to a tenant's application for compensation on the ground specified in subparagraph (1)*(b)*(ii) if the agreement concerned relates solely to commodities other than milk.

Arbitration of landlord's objection to an application

10. On a reference under paragraph 7(3) the arbiter shall determine whether or not the objection should be upheld.

Services of notices on superior landlords

11. Where a landlord is informed by the service of a copy of an application under paragraph 7 or by a notice under paragraph 8 or under this paragraph, of a tenant's application or intention to make an application in respect of a holding, he shall, in respect of any part of that holding in which he has an interest (but in respect of which he is not the owner), within 7 days of receipt of such copy or notice, serve a notice on his immediate landlord informing him of the tenant's application or intention to make an application, and shall send a copy of such notice to the tenant and (where none of the parties is the Secretary of State) to the Secretary of State.

Landlord's right to payment

12.—(1) Subject to subparagraph (4), where a successful applicant occupies his holding or any part thereof as a tenant, each of his landlords shall be entitled to obtain from him a payment in respect of the relevant quota.

(2) The payment to which a landlord is entitled under subparagraph (1) shall be an amount agreed between the tenant and the landlord or, in default of agreement -

(a) where the tenant has only one landlord, the landlord's amount; and

(b) where the tenant has two or more landlords, such proportion of the landlord's amount as shall be agreed or determined by arbitration in accordance with paragraph 14.

(3) The landlord's amount, or, where subparagraph (2)*(b)* applies, the proportion of the landlord's amount to which a landlord is entitled, shall be payable in seven equal yearly instalments, each instalment being due -

(a) on the day after the day the tenant receives his instalment of compensation; or

(b) where, in respect of any quota year the tenant (by reason of his death or any default of his) does not receive an instalment of compensation, at the end of the period of 3 months after the date on which that instalment would otherwise have become due.

(4) Where -

(a) a successful applicant who is a tenant dies before he has received all his instalments of compensation, and

(b) a successor of the deceased tenant enters into the tenant's obligations for the purposes of paragraph 4,

any landlord of the deceased tenant shall be entitled to recover from the successor such instalments of the payment referred to in subparagraph (2) as become due to that landlord on or after the date on which that successor entered into those obligations and from that date, the landlord shall cease to be entitled to recover those instalments from the estate of the deceased tenant.

The landlord's amount

13.—(1) The landlord's amount shall be such an amount as an arbiter shall determine as equal to the full rate of compensation for so much of the relevant quota as is surrendered under this scheme and consists of -

(a) standard quota or, where it is less, allocated quota multiplied -

(i) firstly, by the landlord's fraction;

(ii) secondly, by a fraction of which the numerator is the base quota, and the denominator is the allocated quota; and

(iii) thirdly, by a fraction of which the numerator is the quota surrendered and the denominator is the registered quota; and

(b) transferred quota as follows:-

(i) where the landlord bore the whole of the cost of the transaction by virtue of which the transferred quota was transferred to the tenancy, the whole of the transferred quota multiplied by a fraction of which the numerator is the quota surrendered and the denominator is the registered quota; and

(ii) where the landlord bore only a part of that cost, the corresponding part of the transferred quota, multiplied by a fraction of which the numerator is the quota surrendered and the denominator is the registered quota.

(2) In this paragraph -

(a) "landlords fraction" means the fraction of which -

(i) the numerator is an amount equal to the reduction in the annual rental value of the tenancy as a consequence of the surrender of the quota;

(ii) the denominator of which is an amount equal to the annual rental value of the tenancy assuming no quota is surrendered;

(b) in assessing the rental values referred to in subparagraphs *(a)*(i) and (ii) the notional rent determinations shall be based respectively on the use of the tenancy for such enterprises as a reasonably competent tenant would pursue and the current use of the tenancy assuming no surrender of quota.

(3) Subject to the provisions of subparagraph (4) the standard quota for any tenancy shall be calculated by multiplying the relevant number of hectares by the prescribed standard yield per hectare and for the purposes of this subparagraph and subparagraph (4) -

(a) "relevant number of hectares" means the average number of hectares of the tenancy used during the relevant period for the feeding of dairy cows kept on the tenancy or, if different, the average number of hectares of the tenancy which could reasonably be expected to have been so used (having regard to the number of grazing animals other than dairy cows kept on the tenancy during that period); and

(b) "prescribed standard yield per hectare" means, in respect of each of the breeds shown in column 1 of the Schedule to this scheme, the number of litres shown opposite that breed in -

(i) column 2*(a)*, in relation to severely disadvantaged land,

(ii) column 3*(a)*, in relation to disadvantaged land, and

(iii) column 4*(a)*, in relation to any other land.

(4) Where, by virtue of the quality of the land in question or the climatic conditions in the area, the reasonable amount is greater or less than the prescribed average yield per hectare, subparagraph (3) shall not apply, and the standard quota shall be calculated by multiplying the relevant number of hectares by such proportion of the prescribed standard yield per hectare as the reasonable amount bears to the prescribed average yield per hectare, and for the purposes of this subparagraph -

(a) the amount of milk to be taken as the prescribed average yield per hectare in respect of each of the breeds shown in column 1 of the Schedule to this scheme shall be the number of litres shown opposite that breed in -

(i) column 2*(b)*, in relation to severely disadvantaged land,

(ii) column 3*(b)*, in relation to disadvantaged land, and

(iii) column 4*(b)*, in relation to any other land; and

(b) "reasonable amount" means the amount of milk which could reasonably be expected to have been produced from one hectare of the tenancy during the relevant period.

(5) In the application of this paragraph -

(a) "dairy cows" means milking cows and calved heifers;

(b) "disadvantaged land" and "severely disadvantaged land" means land which has been determined to be disadvantaged or severely disadvantaged land, as the case may be, in accordance with the definitions of those expressions as they are set out in regulation 2 of the Hill Livestock (Compensatory Allowances) Regulations 1984(**a**);

(c) references to the "area of a tenancy used for the feeding of dairy cows kept on the tenancy" do not include references to land used for the growing of cereal crops for feeding to dairy cows in the form of loose grain; and

(d) "relevant period" means -

(i) the period in relation to which the base quota was determined, or

(ii) where the base quota was determined in relation to more than one period, the period in relation to which the majority was determined or, if equal amounts were determined in relation to different periods, the later of those periods.

Apportionment of landlord's amount

14.—(1) The landlord's amount (or, where one or more landlords have agreed with the tenant the payment to which they are entitled under paragraph 12(2), such proportion of the landlord's amount as the remaining landlords shall agree or in default of agreement as an arbiter shall determine) shall be apportioned between the landlords who have not made an agreement with the tenant under paragraph 12(2) by agreement or, in default of agreement, by arbitration, and

(**a**) S.I. 1984/2024.

on a reference under this paragraph an arbiter shall take all relevant factors into account in making his award.

(2) Where a reference to arbitration is made under this paragraph in conjunction with a reference under another paragraph any additional expenses of the award caused by the apportionment under this paragraph shall be paid by the landlords in such proportions as the arbiter may determine.

Arbitrations

15.—(1) Where any matter is under this scheme to be determined by arbitration, it shall be referred -

(a) in the case of an agricultural holding within the meaning of the 1949 Act, to arbitration under that Act or, under section 78 of that Act, to the Scottish Land Court for determination by that court;

(b) in any other case, to the Scottish Land Court, for determination by that court.

(2) Subject to subparagraph (3), where subparagraph (1)*(a)* applies, section 75 (or where the circumstances require, sections 77 and 87) of the 1949 Act shall apply as if the matter referred to in subparagraph (1) was required by that Act to be determined by arbitration.

(3) Where subparagraph (1)*(a)* applies, Schedule 6 to the 1949 Act shall apply to arbitrations under this scheme subject to the following modifications:-

(a) in paragraph 5(**a**) (particulars of claims) as if for the words "twenty eight days" in both places where they occur, there were substituted the words "twenty one days";

(b) in paragraph 8 (time for making and signing awards) as if for the words "two months" there were substituted the words "thirty five days";

(c) paragraph 13 (arbitration award to fix a day for payment of money awarded) shall apply only in relation to expenses;

(d) paragraphs 19 to 22 (stated case procedure, and setting aside award) shall not apply.

(4) Where a matter is under this paragraph to be determined by the Scottish Land Court paragraphs 5 and 8 of Schedule 6 to the 1949 Act subject to the modifications set out in subparagraph (3) above shall apply to a reference to the Scottish Land Court as they apply to arbitrations under that Act and references in those paragraphs to the "arbiter" and the "arbitration" shall be construed accordingly.

Temporarily reallocated quota

16. For the purposes of this scheme, quota which has been temporarily reallocated from one holding to another under the 1986 Regulations (reallocation of wholesale quota) shall be treated as if it had not been temporarily reallocated.

(**a**) Paragraph 5 was amended by the Agriculture (Miscellaneous Provisions) Act 1963 (c.11), section 20.

Service of notices or copies of applications

17.—(1) Any notice required by this scheme to be served on any person shall be given in writing and shall be duly served on that person if it is delivered to him, or left at his proper address or sent to him by post in a registered letter or by the recorded delivery service.

(2) In the case of an incorporated company or body, any such notice or other document shall be duly served if it is served on the secretary or clerk of that company or body.

(3) Any such notice or other document to be served by or on a landlord or tenant shall be duly served if served by or on any agent of the landlord or tenant.

(4) For the purposes of this scheme and of section 7 of the Interpretation Act 1978(**a**) (service by post), the proper address of a person is -

(a) in the case of a secretary or clerk to a company or body, that of the registered or principal office of the company or body;

(b) in any other case, the person's last known address.

(5) Unless or until the tenant or landlord of any tenancy has received -

(a) notice that the person who before that time was his immediate landlord (the "original landlord") has ceased to be such; and

(b) notice of the name and address of the person who has become his immediate landlord,

any notice served on the original landlord by the tenant or landlord shall be deemed for the purposes of this scheme to have been properly served.

(6) Where an original landlord receives a notice in the circumstances described in subparagraph (5) he shall forthwith serve that notice on the person to whom that notice should be have been served.

(7) In this paragraph, "notice" includes a copy of an application served under paragraph 7.

Loss arising from failure to comply with provisions of this scheme

18.—(1) Where in consequence of the failure of any person to comply with the requirements of paragraphs 7 or 11 in relation to a holding or a part of a holding, a landlord suffers loss, the landlord shall be entitled to recover the amount involved from that person.

(2) Any award or agreement under this scheme as to compensation, expenses or otherwise may, if any sum payable thereunder is not paid within fourteen days after the date on which it becomes payable, be recorded for execution in the Books of Council and Session or in the sheriff court books, and shall be enforceable in like manner as a recorded decree arbitral.

Recovery of compensation

19.—(1) Where any person with a view to obtaining the payment of compensation to himself or any other person -

(**a**) 1978 c.30.

(a) makes any statement which is untrue or misleading in a material respect, or

(b) furnishes to the Secretary of State any inaccurate information,

the Secretary of State shall be entitled to recover on demand the whole or any part of any compensation paid to him or to such other person.

(2) Where any person, having undertaken to reduce milk production in accordance with the provisions of paragraph 4(1)*(b)*, fails in any way to comply with that undertaking, the Secretary of State shall be entitled, to recover from him on demand the whole or any part of any compensation paid to him or to any other person in respect of quota registered in that person's name.

(3) Where any person -

(a) intentionally obstructs an authorised officer in the exercise of the powers conferred on him by section 2(1) of the Act, or

(b) fails without reasonable excuse to comply with a requirement of this scheme,

the Secretary of State shall be entitled to recover on demand the whole or any part of any compensation paid to that person.

Application to Crown

20.—(1) This scheme shall apply to any holding or part of a holding which belongs to Her Majesty or to a government department, or which is held in trust for Her Majesty for the purposes of a government department.

(2) For the purposes of this scheme -

(a) as respects land belonging to Her Majesty in right of the Crown, the Crown Estate Commissioners or the proper officer or body having charge of the land for the time being or, if there is no such officer or body, such person as Her Majesty may appoint in writing under the Royal Sign Manual, shall represent Her Majesty, and shall be deemed to be the landlord or tenant, as the case may be;

(b) as respects land belonging to Her Majesty privately, such person as Her Majesty may appoint in writing under the Royal Sign Manual shall represent Her Majesty and shall be deemed to be the landlord.

Glenarthur,
Minister of State,
Scottish Office.

New St. Andrew's House,
Edinburgh.
17th September 1986.

SCHEDULE **Paragraph 13**

Column 1	Column 2		Column 3		Column 4	
	Severely disadvantaged land		Disadvantaged land		Other land	
Breed	*(a)* Standard Yield/Hectare	*(b)* Average Yield/Hectare	*(a)* Standard Yield/Hectare	*(b)* Average Yield/Hectare	*(a)* Standard Yield/Hectare	*(b)* Average Yield/Hectare
	litres	*litres*	*litres*	*litres*	*litres*	*litres*
Channel Is. South Devon, and breeds with similar characteristics	4,674	5,270	5,950	6,694	6,800	7,650
Ayrshire and Dairy Shorthorn, and breeds with similar characteristics	5,346	6,028	6,805	7,656	7,778	8,750
Others	5,500	6,200	7,000	7,875	8,000	9,000

EXPLANATORY NOTE

(This Note is not part of the Scheme.)

Article 1(2)*(a)* of Council Regulation (EEC) No. 1343/86 (O.J. No. L119, 8.5.86, p.34) amended Article 4(1)*(a)* of Council Regulations (EEC) No. 857/54 (O.J. No. L90, 1.4.84, p.13) by enabling Member States to grant compensation to producers with a milk quota in excess of a level which was to be determined who undertake to surrender at least 50% of that milk quota. Until this amendment was made, producers could only obtain compensation for the surrender of the whole of their milk quota. The level of milk quota referred to above was fixed by Article 1(1) of Commission Regulation (EEC) No. 2133/86 (O.J. No. L187, 9.7.86, p.13) at 250,000 kilogrammes (242,790 litres).

This scheme provides for the repayment of compensation to certain holders of milk quota in Scotland. Under the scheme, compensation is to be paid to any producer who undertakes to surrender an amount of quota being at least 50% but not more than 95% of their total registered quota, and to produce milk for sale or for processing into milk products for sale only up to the limit of their registered quota (paragraph 4).

Paragraph 3 provides that the time and procedural requirements for applications for compensation shall be published in the Gazette and the farming press. The methods by which payments may be made to persons under the scheme are explained in paragraph 5. Paragraph 6 lays down the rules for the acceptance of applications in the event of over-subscription.

An applicant for compensation who does not own all the land which he occupies must attempt to obtain the consent of any person who owns or is a superior landlord of the tenancy ("the landlord") consent is given or determined as being unreasonable (paragraph 7).

Paragraphs 8 and 9 spell out the criteria for deciding whether or not a landlord's consent has been unreasonably refused and paragraphs 10 and 11 deal with arbitration on this matter in cases of dispute.

Paragraph 12 provides that landlords shall be entitled to obtain from the tenant a payment in respect of the relevant quota and paragraph 13 sets out the amount (the "landlord's amount") to which landlords as a whole are entitled in the absence of agreement. The amount is to be apportioned among the landlords by agreement or arbitration (paragraph 14).

Arbitrations under the scheme are, in the case of an agricultural holding within the meaning of the Agricultural Holdings (Scotland) Act 1949 to be referred to a single arbiter (or to the Scottish Land Court) in accordance with the provisions of Schedule 6 to the 1949 Act three of the provisions of which have been amended for the puproses of these regulations in order to speed up proceedings (paragraph 15). Several more provisions of that Schedule have been disapplied to arbitrations under these regulations in particular the stated case procedure (paragraph 15). In any case other than an agricultural holding reference is to be made to the Scottish Land Court for determination (paragraph 15). The provisions of Schedule 6 to the 1949 Act as amended by this scheme are applied to the procedures of the Scottish Land Court (paragraph 15).

Provision is made for recovery from a tenant of any loss suffered by a landlord as a result of an application for compensation by the tenant which fails to comply

with paragraph 7 and for recovery of sums agreed or awarded under the scheme (paragraph 18).

Paragraph 19 makes provision for the recovery by the Secretary of State of compensation paid in certain specified circumstances.

Duly authorised officers of the Secretary of State have power to enter on any land occupied by any person to whom a payment of compensation has been made and to require any person who is engaged in the production of milk to furnish accounts and records in his possession or under his control by virtue of section 2 of the Milk (Cessation of Production) Act 1985.

By section 3 of the above Act it is made an offence punishable on summary conviction by a fine not exceeding £2,000 to make a false statement knowingly or recklessly which is false in a material particular for the purpose of obtaining compensation, or to intentionally obstruct an authorised officer.

This scheme applies to Crown land (paragraph 20).

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