

SCHEDULE 1

APPORTIONMENTS AND PROSPECTIVE APPORTIONMENTS BY ARBITRATION OR THE SCOTTISH LAND COURT

PART I

GENERAL

1.—(1) Subject to sub-paragraphs (2) and (3), all apportionments and prospective apportionments in respect of holdings in Scotland shall be carried out by arbitration and the provisions of Part II of this Schedule shall apply.

(2) The Scottish Land Court shall carry out the apportionment or prospective apportionment where the holding or any part of the holding constitutes or, immediately prior to the transfer giving rise to the apportionment, constituted—

- (a) a croft within the meaning of section 3 of the Crofters (Scotland) Act 1993;
- (b) a holding within the meaning of section 2 of the Small Landholders (Scotland) Act 1911; or
- (c) the holding of a statutory small tenant under section 32 of the Small Landholders (Scotland) Act 1911.

(3) Where sub-paragraph (2) does not apply and the holding or any part of the holding constitutes or, immediately prior to the transfer giving rise to the apportionment, constituted an agricultural holding within the meaning of section 1 of the Agricultural Holdings (Scotland) Act 1991, the Scottish Land Court shall carry out the apportionment or prospective apportionment if requested to do so by a joint application of all parties interested in the apportionment, not later than 28 days after the change of occupation of the holding or part of the holding.

(4) Where the Scottish Land Court carries out any apportionment or prospective apportionment, Part III of this Schedule shall apply.

Commencement Information

II Sch. 1 para. 1 in force at 31.3.2005, see reg. 1(2)

2.—(1) An arbiter or the Scottish Land Court, as the case may be, shall decide the apportionment on the basis of findings made by that arbiter or the Scottish Land Court, as to areas used for milk production in the last five-year period during which production took place before the change of occupation or, in the case of a prospective apportionment, in the last five-year period during which production took place before the appointment of the arbiter or the application to the Scottish Land Court.

(2) Notwithstanding sub-paragraph (1), an arbiter appointed in accordance with paragraph 3(4) shall conduct the arbitration in accordance with this Schedule and shall base the award on findings made by that arbiter as to the areas used for milk production in the last five-year period during which production took place.

(3) Where production has taken place for less than five years before the change of occupation or of appointment of the arbiter or of the application to the Scottish Land Court, the period of production before the change of occupation or the appointment of the arbiter or the application to the Scottish Land Court as the case may be shall be substituted for the five-year period referred to in sub-paragraphs (1) and (2).

Changes to legislation: There are outstanding changes not yet made by the [legislation.gov.uk](https://www.legislation.gov.uk) editorial team to The Dairy Produce Quotas (Scotland) Regulations 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

Commencement Information

I2 [Sch. 1 para. 2](#) in force at 31.3.2005, see [reg. 1\(2\)](#)

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Dairy Produce Quotas (Scotland) Regulations 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to :

- Regulations revoked by [S.S.I. 2018/391 sch. Pt. 2](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 2(1)(1A) substituted for reg. 2(1) by [S.S.I. 2011/83 Sch. para. 1](#)