

Changes to legislation: There are currently no known outstanding effects for the Agriculture Act 1986, Part II. (See end of Document for details)

SCHEDULES

SCHEDULE 1

TENANTS' COMPENSATION FOR MILK QUOTA

Modifications etc. (not altering text)

C1 Sch. 1 excluded (1.9.1995) by 1995 c. 8, ss. 16(3), 41(2) (with s. 37).

PART II

AMOUNT OF COMPENSATION PAYABLE

Calculation of payment

- 5 (1) The amount of the payment to which the tenant of any land is entitled under paragraph 1 above on the termination of his tenancy shall be determined in accordance with the following provisions of this paragraph.
- (2) The amount of the payment to which the tenant is entitled under paragraph 1 above in respect of allocated quota shall be an amount equal—
- (a) in a case where the allocated quota exceeds the standard quota for the land, to the value of the sum of—
 - (i) the tenant's fraction of the standard quota, and
 - (ii) the amount of the excess;
 - (b) in a case where the allocated quota is equal to the standard quota, to the value of the tenant's fraction of the allocated quota; and
 - (c) in a case where the allocated quota is less than the standard quota, to the value of such proportion of the tenant's fraction of the allocated quota as the allocated quota bears to the standard quota.
- (3) The amount of the payment the tenant is entitled to under paragraph 1 above in respect of transferred quota shall be an amount equal—
- (a) in a case where the tenant bore the whole of the cost of the transaction by virtue of which the transferred quota was transferred to him, to the value of the transferred quota; and
 - (b) in a case where the tenant bore only part of that cost, to the value of the corresponding part of the transferred quota.

"Standard quota"

- 6 (1) Subject to the following provisions of this paragraph the standard quota for any land for the purposes of this Schedule shall be calculated by multiplying the relevant

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number of hectares by the prescribed quota per hectare; and for the purposes of this paragraph—

- (a) “the relevant number of hectares” means the average number of hectares of the land in question used during the relevant period for the feeding of dairy cows kept on the land or, if different, the average number of hectares of the land 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 land during that period); and
- (b) “the prescribed quota per hectare” means such number of litres as the Minister may from time to time by order prescribe for the purposes of this sub-paragraph.

- (2) Where by virtue of the quality of the land in question or climatic conditions in the area the amount of milk which could reasonably be expected to have been produced from one hectare of the land during the relevant period (“the reasonable amount”) is greater or less than the prescribed average yield per hectare, then sub-paragraph (1) above shall not apply and the standard quota shall be calculated by multiplying the relevant number of hectares by such proportion of the prescribed quota per hectare as the reasonable amount bears to the prescribed average yield per hectare; and the Minister shall by order prescribe the amount of milk to be taken as the average yield per hectare for the purposes of this sub-paragraph.
- (3) Where the relevant quota of the land includes milk quota allocated in pursuance of an award of quota made by the Dairy Produce Quota Tribunal for England and Wales ^[F1], or by the Secretary of State or the National Assembly for Wales following the appeals procedure,] which has not been allocated in full, the standard quota for the land shall be reduced by the amount by which the milk quota allocated in pursuance of the award falls short of the amount awarded (or, in a case where only part of the milk quota allocated in pursuance of the award is included in the relevant quota, by the corresponding proportion of that shortfall).

^[F2](3A) In sub-paragraph (3) above “the appeals procedure” means—

- (a) in England, the appeals procedure established under the Common Agricultural Policy Non-IACS Support Schemes (Appeals) (England) Regulations 2004 ([S.I. 2004/590](#)); and
- (b) in Wales, the appeals procedure established under the Common Agricultural Policy Non-IACS Support Schemes (Appeals) (Wales) Regulations 2004 ([S.I. 2004/685 \(W.73\)](#)).]

- (4) In sub-paragraph (3) above the references to milk quota allocated in pursuance of an award of quota include references to quota allocated by virtue of the amount awarded not originally having been allocated in full.
- (5) In this paragraph—
 - (a) references to land used for the feeding of dairy cows kept on the land do not include land used for growing cereal crops for feeding to dairy cows in the form of loose grain; and
 - (b) references to dairy cows are to cows kept for milk production (other than uncalved heifers).
- (6) An order under this paragraph may make different provision for different cases.

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- (7) The power to make an order under this paragraph shall be exercisable by statutory instrument and any instrument containing such an order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

- F1** Words in Sch. 1 para. 6(3) inserted (6.4.2007) by [Dairy Produce \(Miscellaneous Provisions\) Regulations 2007 \(S.I. 2007/477\)](#), regs. 1, **4(2)(a)**
- F2** Sch. 1 para. 6(3A) inserted (6.4.2007) by [Dairy Produce \(Miscellaneous Provisions\) Regulations 2007 \(S.I. 2007/477\)](#), regs. 1, **4(2)(b)**

“Tenant’s fraction”

- 7 (1) For the purposes of this Schedule “the tenant’s fraction” means the fraction of which—
- (a) the numerator is the annual rental value at the end of the relevant period of the tenant’s dairy improvements and fixed equipment; and
 - (b) the denominator is the sum of that value and such part of the rent payable by the tenant in respect of the relevant period as is attributable to the land used in that period for the feeding, accommodation or milking of dairy cows kept on the land.
- (2) For the purposes of sub-paragraph (1)(a) above the rental value of the tenant’s dairy improvements and fixed equipment shall be taken to be the amount which would fall to be disregarded under paragraph 2(1) of Schedule 2 to the ^{M1}Agricultural Holdings Act 1986 on a reference made in respect of the land in question under section 12 of that Act (arbitration of rent), so far as that amount is attributable to tenant’s improvements to, or tenant’s fixed equipment on, land used for the feeding, accommodation or milking of dairy cows kept on the land in question.
- (3) Where—
- (a) the relevant period is less than or greater than 12 months; or
 - (b) rent was only payable by the tenant in respect of part of the relevant period, the average rent payable in respect of one month in the relevant period or, as the case may be, in that part shall be determined and the rent referred to in sub-paragraph (1) (b) above shall be taken to be the corresponding annual amount.
- (4) For the purposes of sub-paragraph (2) above “tenant’s improvements” and “tenant’s fixed equipment” have the same meanings as in paragraph 2 of Schedule 2 to the 1986 Act, except that—
- (a) any allowance made or benefit given by the landlord after the end of the relevant period in consideration of the execution of improvements wholly or partly at the expense of the tenant shall be disregarded for the purposes of sub-paragraph (2)(a) of that paragraph;
 - (b) any compensation received by the tenant after the end of the relevant period in respect of any improvement or fixed equipment shall be disregarded for the purposes of sub-paragraph (3) of that paragraph; and
 - (c) where paragraph 2 above applies in respect of any land, improvements or equipment which would be regarded as tenant’s improvements or equipment on the termination of the former tenant’s tenancy (if he were entitled to a

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payment under this Schedule in respect of that land) shall be regarded as the new tenant’s improvements or equipment.

Marginal Citations

M1 1986 c. 5.

“Relevant period”

- 8 In this Schedule “the relevant period” means—
- (a) the period in relation to which the allocated quota was determined; or
 - (b) where it 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.

Valuation of milk quota

- 9 The value of milk quota to be taken into account for the purposes of paragraph 5 above is the value of the milk quota at the time of the termination of the tenancy in question and in determining that value at that time there shall be taken into account such evidence as is available, including evidence as to the sums being paid for interests in land—
- (a) in cases where milk quota is registered in relation to the land; and
 - (b) in cases where no milk quota is so registered.

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