

SCHEDULES

SCHEDULE 2

PROVISIONS RELATING TO CARRYING OUT OF APPROVED SCHEME OF REORGANISATION

PART I

TAXATION PROVISIONS

Apportionment of losses and capital allowances

- 11 (1) This paragraph applies where a trade carried on by a milk marketing board is transferred under section 11 above to more than one qualifying body (“the successor bodies”).
- (2) There shall be apportioned between the successor bodies—
- (a) the unallowed tax losses of the board, and
 - (b) any expenditure incurred by the board before the date of the transfer and by reference to which capital allowances may be made.
- (3) The apportionment under sub-paragraph (2) above shall be made in such manner as is just and reasonable having regard—
- (a) to the extent to which the losses and expenditure mentioned in that sub-paragraph are attributable to the different parts of the trade transferred, and
 - (b) as respects the apportionment of such expenditure, to the division of the board’s assets between the successor bodies.
- (4) In this paragraph, “unallowed tax losses” means—
- (a) any losses which, as at the end of the last complete accounting period of the board ending before the date of the transfer under section 11 above, are losses which under section 393(1) of the Income and Corporation Taxes Act 1988 are or, if a claim had been made under that subsection, would be available for relief against the board’s trading income for the next accounting period, and
 - (b) any allowances which, as at the end of the last complete accounting period of the board ending before that date, are allowances which, under section 145(2) of the Capital Allowances Act 1990, are available for carry forward to the next accounting period.
- 12 (1) This paragraph applies where a trade carried on by a subsidiary of a milk marketing board is transferred under section 11 above to more than one qualifying body (“the successor bodies”).
- (2) There shall be apportioned between the successor bodies—
- (a) the unallowed tax losses of the subsidiary, and
 - (b) any expenditure incurred by the subsidiary before the date of the transfer and by reference to which capital allowances may be made.

Status: This is the original version (as it was originally enacted).

- (3) The apportionment under sub-paragraph (2) above shall be made in such manner as is just and reasonable having regard—
- (a) to the extent to which the losses and expenditure mentioned in that sub-paragraph are attributable to the different parts of the trade transferred, and
 - (b) as respects the apportionment of such expenditure, to the division of the subsidiary's assets between the successor bodies.
- (4) In this paragraph, “unallowed tax losses” means—
- (a) any losses which, as at the end of the last complete accounting period of the subsidiary ending before the date of the transfer under section 11 above, are losses which under section 393(1) of the Income and Corporation Taxes Act 1988 are or, if a claim had been made under that subsection, would be available for relief against the subsidiary's trading income for the next accounting period, and
 - (b) any allowances which, as at the end of the last accounting period of the subsidiary ending before that date, are allowances which, under section 145(2) of the Capital Allowances Act 1990, are available for carry forward to the next accounting period.
- 13 (1) This paragraph applies where part of a trade carried on by a subsidiary of a milk marketing board is transferred under section 11 above to one qualifying body (“the successor body”) and the remainder is retained by the subsidiary.
- (2) There shall be apportioned between the subsidiary and the successor body—
- (a) the unallowed tax losses of the subsidiary, and
 - (b) any expenditure incurred by the subsidiary before the date of the transfer and by reference to which capital allowances may be made.
- (3) The apportionment under sub-paragraph (2) above shall be made in such manner as is just and reasonable having regard—
- (a) to the extent to which the losses and expenditure mentioned in that sub-paragraph are attributable to the different parts of the trade, and
 - (b) as respects the apportionment of such expenditure, to the division of the subsidiary's assets between itself and the successor body.
- (4) In this paragraph, “unallowed tax losses” has the same meaning as in paragraph 12 above.
- 14 (1) This paragraph applies where part of a trade carried on by a subsidiary of a milk marketing board is transferred under section 11 above to more than one qualifying body (“the successor bodies”) and the remainder is retained by the subsidiary.
- (2) There shall be apportioned amongst the subsidiary and the successor bodies—
- (a) the unallowed tax losses of the subsidiary, and
 - (b) any expenditure incurred by the subsidiary before the date of the transfer and by reference to which capital allowances may be made.
- (3) The apportionment under sub-paragraph (2) above shall be made in such manner as is just and reasonable having regard—
- (a) to the extent to which the losses and expenditure mentioned in that sub-paragraph are attributable to the different parts of the trade, and
 - (b) as respects the apportionment of such expenditure, to the division of the subsidiary's assets amongst itself and the successor bodies.

- (4) In this paragraph, “unallowed tax losses” has the same meaning as in paragraph 12 above.
- 15 (1) Any question which arises as to the manner in which the apportionment under any of paragraphs 11 to 14 above is to be made shall be determined, for the purposes of the tax of the parties concerned—
- (a) in a case where one body of General Commissioners have jurisdiction with respect to all the parties concerned, by those Commissioners, unless the parties concerned agree that it shall be determined by the Special Commissioners;
 - (b) in a case where more than one body of General Commissioners have jurisdiction with respect to the parties concerned, by such of those bodies of General Commissioners as the Commissioners of Inland Revenue may direct, unless the parties concerned agree that it shall be determined by the Special Commissioners; and
 - (c) in any other case, by the Special Commissioners.
- (2) The Commissioners by whom the question falls to be determined shall make the determination in like manner as if it were an appeal except that the parties concerned shall be entitled to appear and be heard by the Commissioners or to make representations to them in writing.
- (3) In this paragraph, references to the parties concerned are to the persons between or amongst whom the apportionment in question falls to be made.