

## STATUTORY INSTRUMENTS

1986 No. 1613 (S. 122)

## AGRICULTURE

**The Milk (Community Outgoers' Scheme) (Scotland)  
Regulations 1986***Made* - - - - 17th September 1986*Laid before Parliament* 18th September 1986*Coming into Operation* 19th September 1986

## ARRANGEMENT OF REGULATIONS

*Regulation*

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*Schedule*

The Secretary of State, being a Minister designated **(a)** for the purposes of section 2(2) of the European Communities Act 1972 **(b)** in relation to the common agricultural policy of the European Economic Community, in exercise of the powers conferred on him by that section and of all other powers enabling him in that behalf, after consultation with the Council on Tribunals in accordance

**(a)** S.I. 1972/1811.

**(b)** 1972 c.68; section 2 is subject to Schedule 2 to that Act and is to be read with sections 289F and 289G of the Criminal Procedure (Scotland) Act 1975 (c.21) (as inserted by section 54 of the Criminal Justice Act 1982 (c.48)) and S.I. 1984/526.

with section 10 of the Tribunals and Inquiries Act 1971(a), hereby makes the following regulations:-

*Title, extent and commencement*

1. These regulations may be cited as the Milk (Community Outgoers' Scheme) (Scotland) Regulations 1986, shall extend to Scotland only and shall come into operation on 19th September 1986.

*Interpretation*

2.—(1) In these regulations, unless the context otherwise requires -

“allocated quota” means registered quota other than transferred quota;

“applicant” means a person who applies for compensation under these regulations 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 which was allocated under the Dairy Produce Quotas Regulations 1984(b) 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(c);

“Commission Regulation” means Commission Regulation (EEC) No. 2321/86(d) laying down detailed rules for the application of the Council Regulation;

“Community legislation” means the Council Regulation and the Commission Regulation;

“Council Regulation” means Council Regulation (EEC) No. 1336/86(e) fixing compensation for the definitive discontinuation of milk production;

“eligible quota” means base quota and transferred quota;

“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

(a) 1971 c.62.

(b) S.I. 1984/1047, amended by S.I. 1984/1538, 1787 and 1985/509.

(c) O.J. No. L90, 1.4.84, p.13.

(d) O.J. No. L202, 25.7.86, p.13.

(e) O.J. No. L119, 8.5.86, p.21.

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 regulation 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 same meaning as in the 1986 Regulations;

“registered”, in relation to quota, means -

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

(b) in the case of wholesale quota (within the meaning of those regulations), 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 the relevant 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);

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(a) 1911 c.49.

(b) 1949 c.75.

(c) 1955 c.21.

“the 1986 Regulations” means the Dairy Produce Quotas Regulations 1986(a);

“transferred quota” means quota transferred to the tenant by virtue of the transfer of the whole or part of a holding;

(2) In these regulations, unless the context otherwise requires -

- (a) any reference to a numbered regulation shall be construed as a reference to the regulation so numbered in these regulations;
- (b) any reference in a regulation to a numbered paragraph shall be construed as a reference to the paragraph so numbered in that regulation; and
- (c) 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.

*Appointment of competent authority*

3. For the purposes of the Commission Regulation the competent authority shall be the Secretary of State.

*Amount of compensation*

4.—(1) For the purposes of Article 1 of the Commission Regulation (which obliges Member States to fix the maximum amount of compensation payable to producers who undertake to discontinue milk production definitively) the amount shall be 2.618p per year per litre of milk for the first year of application.

(2) A person may claim compensation under the Community legislation in respect of either -

- (a) loss of profits in the seven years immediately following the date on which he ceases to produce milk for sale or for processing into cream, butter or cheese for sale by reference to the amount of eligible quota he surrenders; or
- (b) the value of the amount of eligible quota he surrenders.

(3) Compensation paid by the Secretary of State under the Community legislation shall be calculated -

- (a) in a case falling within paragraph (2)(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 seven years immediately following the date on which the applicant ceases to produce milk for sale or for processing into cream, butter or cheese for sale in relation to the amount of quota surrendered; and
- (b) in a case falling within paragraph (2)(b), at the rate of 18.326 pence per litre on that quantity, payable in seven equal instalments.

*Rules for acceptance of applications*

5. For the purposes of Articles 1 and 3(2) of the Commission Regulation (Member States to make rules for the acceptance of applications), where the sum of valid applications throughout the United Kingdom together relate to

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(a) S.I. 1986/470.

a quantity of eligible quota which exceeds 305,429,820 litres, applications representing the excess quantity shall be refused according to the following rules:-

- (a) firstly, where in the opinion of the Minister of Agriculture, Fisheries and Food, the Secretaries of State for Scotland and Wales and the Department of Agriculture for Northern Ireland ("the Ministers"), circumstances exist in which the acceptance of certain applications could hamper the restructuring of milk production, applications which, in the opinion of the Ministers, would cause those difficulties shall be refused in preference to these applications which in their opinion, would not; and
- (b) secondly, applications shall be refused where possible in order of the quantity of quota registered in the names of the applicant from the greatest to the least.

*Application for compensation*

6.—(1) The Secretary of State shall by advertisement published in the Gazette and in the farming press announce the opening and closing dates of the period for, and the procedural requirements in respect of, applications.

(2) An applicant may withdraw his application within fourteen days beginning on the date of service by the Secretary of State of a notice of acceptance of the application but in any event not later than 31st January 1987.

(3) An application under these regulations by a person part of whose holding is in a part of the United Kingdom other than Scotland shall not be valid unless he makes an application in respect of the part of the holding in that other part of the United Kingdom in accordance with the legislation (if any) corresponding to this legislation which applies to that part.

*Requirement for landlord's consent*

7.—(1) Subject to paragraph (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 paragraph (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) An application shall cease to be valid on 31st January 1987 unless, on or before that date -

- (a) 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 -
  - (i) the consent in writing of the landlord has been obtained by the tenant; or

- (ii) that landlord has unreasonably refused his consent to the application; and
  - (b) (where neither the landlord nor the tenant is the Secretary of State), the tenant has served a notice in writing on the Secretary of State informing him accordingly.
- (4) Where within 21 days of the receipt of a copy of an application served in accordance with paragraph (1) or of a notice served in accordance with regulation 11, a landlord objects to the application by notice served on the tenant and (where neither the landlord or the tenant is the Secretary of State) the Secretary of State on one or more of the grounds specified in regulation 9, the tenant shall be deemed to have withdrawn his application 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 neither the landlord nor the tenant is the Secretary of State) by notice served on the Secretary of State, informs him of that demand.

*Unreasonable refusal of consent*

**8.** For the purposes of regulation 7, a landlord shall have unreasonably refused his consent to an application 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 regulation 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 neither the landlord nor the tenant is the Secretary of State), the Secretary of State;
 or
- (b) he has so objected, but on arbitration under regulation 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 in respect thereof no appeal or other proceeding.

*Landlord's objections to an application*

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

- (a) that the payment which he would receive in accordance with these regulations 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 cessation of its use as a dairy unit;
- (b) that the tenant or any landlord is bound by an agreement with any 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 on the ground specified in paragraph (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 regulation 7(4) the arbiter shall determine whether or not the objection should be upheld.

*Service of notice on superior landlord*

**11.** Where a landlord is informed, by the service of a copy of an application under regulation 7 or a notice under regulation 8 or under this regulation, 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 he 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 paragraph (4) where a successful applicant occupies his holding or any part of that holding as a tenant, each of his landlords shall be entitled to obtain from the tenant a payment in respect of the relevant quota.

(2) The payment to which a landlord is entitled under paragraph (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 regulation 14.

(3) The landlord's amount, or, where paragraph (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 on which 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, not later than the 30th day of June in that year.

(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 that tenant's obligations for the purposes of Article 4(3) of the Commission Regulation,

any landlord of the deceased tenant shall be entitled to recover from the successor such instalments of the payment described in paragraph (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 no longer 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 may determine as equal to the full rate of compensation for so much of the relevant quota as consists of -

- (a) standard quota or, where it is less, allocated quota multiplied firstly by the landlord's fraction and secondly by a fraction of which -
  - (i) the numerator is the base quota, and
  - (ii) the denominator is the allocated 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; and
  - (ii) where the landlord bore only a part of that cost, the corresponding part of the transferred quota.

(2) In this regulation -

- (a) "landlord's fraction" means the fraction of which -
  - (i) the numerator is an amount equal to the reduction in the annual rental value of the tenancy if farmed as a non-dairy unit;
  - (ii) the denominator of which is an amount equal to the annual rental value of the tenancy farmed as a dairy unit;
- (b) in assessing the rental values referred to in sub-paragraphs (a)(i) and (ii) the notional rent determinations shall be based respectively on the use of the tenancy for such enterprises other than dairying as a reasonably competent tenant would pursue and the current use of the tenancy as a dairy unit.

(3) Subject to the provisions of paragraph (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 paragraph and paragraph (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 these regulations, 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, paragraph (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 paragraph -

- (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 these regulations 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 these regulations -

- (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 regulation 12(2), such proportion of the landlord's amount as the remaining landlords shall agree or in default of agreement as an arbiter may determine) shall be apportioned between the landlords who have not made an agreement with the tenant under regulation 12(2) by agreement or, in default of agreement, by arbitration; and on a reference under this paragraph an arbiter shall take all relevant factors into account in making his award.

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(a) S.I. 1984/2024.

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

#### *Arbitrations*

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

- (a) in the case of an agricultural holding within the meaning of the 1949 Act(a), 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 paragraph (3) where paragraph (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 paragraph (1) was required by that Act to be determined by arbitration.

(3) Where paragraph (1)(a) applies, Schedule 6 to the 1949 Act(b) (particulars of claim) shall apply to arbitrations under these regulations subject to the following modifications:-

- (a) in paragraph 5 (particulars of claim) 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 regulation to be determined by the Scottish Land Court paragraphs 5 and 8 of Schedule 6 to the 1949 Act, subject to modifications set out in paragraph (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 these regulations, quota which has been temporarily reallocated from one holding to another under regulation 11(2) of the 1986 Regulations(c) (reallocation of wholesale quota) shall be treated as if it had not been temporarily reallocated.

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(a) 1949 c.75.

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

(c) S.I. 1986/470.

*Service of notices or copies of applications*

**17.**—(1) Any notice required by these regulations 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 any recorded delivery service.

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

(3) Any such notice required 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 these regulations 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 ("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 these regulations to have been properly served.

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

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

*Cancelled quota*

**18.** Where, by virtue of an application for compensation, whether or not made in compliance with these regulations and the Community legislation, any quota is cancelled under the Community legislation, that quota shall not be recoverable by any person.

*Loss arising from failure to comply with these regulations*

**19.**—(1) Where in consequence of the failure of any person to comply with the requirements of regulation 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 these regulations as to compensation, expenses or otherwise may, if any sum payable thereunder is not paid within

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(a) 1978 c.30.

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.

*Powers of inspection*

**20.** Subject to regulation 23, where any person has made an application, an authorised officer may, at all reasonable times and on production of his authority on demand, enter on any land occupied, or otherwise used, by that person and may -

- (a) inspect and count any cows kept on that land, and
- (b) require that person to furnish for inspection any bill, account, voucher or record in his possession or under his control relating to any cows kept or formerly kept by him, or to the sale of any milk, cream, butter or cheese.

*Recovery of compensation*

**21.—(1)** Where any person with a view to obtaining any payment by virtue of these regulations or the Community legislation to himself or any other person -

- (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 pursuant to Article 1 of the Council Regulation to discontinue milk production, 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 regulation 20, or

- (b) fails without reasonable excuse to comply with a requirement of these regulations or the Community legislation,

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

*Offences*

- 22.** Any person who -

- (a) in connection with these regulations makes a statement or uses a document which he knows to be false in a material respect or recklessly makes a statement or uses a document which is false in a material respect, or

- (b) intentionally obstructs an authorised officer in the exercise of the powers conferred by regulation 20,

shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding £2,000.

*Application to Crown*

23.—(1) These regulations shall apply to any holding or part of a holding which belongs to Her Majesty or a government department or which is held in trust for Her Majesty for the purposes of a government department.

(2) For the purposes of these regulations -

(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 the 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.

(3) No authorised officer shall exercise any powers under regulation 20 (Powers of inspection) -

(a) in relation to land in which there is no interest other than a Crown interest;  
or

(b) in relation to land which is exclusively in Crown occupation.

(4) In this regulation -

“Crown interest” means any interest belonging to Her Majesty or belonging to a government department or held in trust for Her Majesty for the purposes of a government department; and

“Crown occupation” means occupation by Her Majesty or occupation by a government department.

*Glenarthur,*  
Minister of State,  
Scottish Office.

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

## Regulation 13

## SCHEDULE

Breed	Column 1		Column 2		Column 3		Column 4	
	Severely disadvantaged land		Disadvantaged land		Other land			
	(a) Standard Yield/Hectare	(b) Average Yield/Hectare	(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	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 Regulations.)*

These regulations implement in Scotland Council Regulation (EEC) No. 1336/86 (O.J. No. L119, 8.5.86, p.21) which fixes compensation for the definitive discontinuation of milk production and Commission Regulation (EEC) No. 2321/86 (O.J. No. L202, 25.7.86 p.13) which lays down general rules for the application of the above Council Regulation. Under the Council and Commission Regulations compensation is to be paid to any producer who gives up the whole of the milk quota registered in his name and who undertakes to discontinue milk production definitively.

The present regulations make provision for those matters which the Community Regulations leave to Member States and which are necessary for the proper implementation of the scheme for compensation in Scotland. They appoint the "competent authority" responsible for administering the scheme in Scotland (regulation 3) fix the maximum amount of compensation payable to producers (regulation 4) and lay down the rules for acceptance of applications in the event of too many applications being submitted in the United Kingdom (regulation 5). Regulation 6 states that the time and procedural requirements for applications for compensation shall be published in the Gazette and farming press.

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"). An application will only be valid if that consent is given or determined as being unreasonably withheld by 31st January 1987 (regulation 7 and Article 3 of the Council Regulation).

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

Regulation 12 provides that landlords shall be entitled to obtain from the tenant a payment in respect of the relevant quota and regulation 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 (regulation 14).

Arbitrations under these regulations 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 purposes of these regulations in order to speed up proceedings (regulation 15). Several more provisions of that Schedule have been disapplied to arbitrations under these regulations in particular the stated case procedure (regulation 15). In any case other than an agricultural holding reference is to be made to the Scottish Land Court for determination (regulation 15). The provisions of Schedule 6 to the 1949 Act as amended by these regulations are applied to the procedures of the Scottish Land Court (regulation 15).

Regulation 16 provides that temporarily reallocated quota shall be treated as if it had not been reallocated. The procedure for the service of notices and other documents is set out in regulation 17.

Where any quota has been cancelled by virtue of an application for compensation regulation 18 provides that it shall not be recoverable.

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 regulation 7 and for recovery of sums agreed or awarded under the regulations (regulation 19).

Authorised officers are given powers to inspect and count cows on land occupied or otherwise used by the producer and to examine relevant documents (regulation 20) and the Secretary of State may recover compensation paid under specified circumstances (regulation 21). By regulation 22 it is made an offence punishable on summary conviction by a fine not exceeding £2,000 to fail without reasonable excuse to make a materially false statement or use a materially false document or obstruct intentionally an authorised officer.

These regulations apply to Crown Land (regulation 23).

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