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STATUTORY INSTRUMENTS

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**1987 No. 908**

**AGRICULTURE**

**The Milk (Cessation of Production)  
(England and Wales) Scheme 1987**

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|-------------------------------|---------|-----------------------|
| <i>Made</i>                   | - - - - | <i>14th May 1987</i>  |
| <i>Laid before Parliament</i> |         | <i>15th May 1987</i>  |
| <i>Coming into force</i>      | - -     | <i>10th June 1987</i> |

The Minister of Agriculture, Fisheries and Food and the Secretary of State in exercise of the powers conferred by section 1 of the Milk (Cessation of Production) Act 1985<sup>(1)</sup> and of all other powers enabling them in that behalf, after consultation with the Council on Tribunals under section 10 of the Tribunals and Inquiries Act 1971<sup>(2)</sup>, hereby make the following Scheme:—

**Application, title and commencement**

1. This Scheme, which applies to England and Wales, may be cited as the Milk (Cessation of Production) (England and Wales) Scheme 1987, and shall come into force on 10th June 1987.

**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;

“appropriate Minister” means, in relation to England, the Minister of Agriculture, Fisheries and Food, and, in relation to Wales, the Secretary of State for Wales;

“authorised officer” means a duly authorised officer of the appropriate Minister;

“base quota” means quota, other than transferred quota, which was allocated under the Dairy Produce Quotas Regulations 1984<sup>(3)</sup> otherwise than in accordance with Article 3(1)

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(1) 1985 c. 4.

(2) 1971 c. 62.

(3) S.I. 1984/1047, amended by S.I. 1984/1048, 1538 and 1787 and 1985/509.

(development awards) or Article 4(1)(c) (awards to producers undertaking farming as their main occupation) of Council Regulation (EEC) No. 857/84<sup>(4)</sup>;

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

“farming press” means any newspaper, journal or similar publication considered by the appropriate Minister to be likely to be read by interested parties;

“Gazette” means the London Gazette;

“holding” has the same meaning as in the 1986 Regulations;

“landlord” means, in relation to the tenant of a holding or part of a holding, any person who either solely or jointly owns, or has a superior tenancy of, that holding, or of that part of that holding, and “landlord’s interest” shall be construed accordingly;

“landlord’s 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
- (b) in the case of wholesale quota, registered in a wholesale register maintained under those Regulations;

“relevant quota” means—

- (a) in a case where a tenant’s holding consists only of the land subject to 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 to land comprised in the relevant tenancy under Regulation 8 of the 1986 Regulations on a change of occupation of that land;

“tenant” means a person who occupies a holding or part of a holding by virtue of a tenancy or licence to occupy, and “tenancy” shall be construed accordingly;

“the 1986 Regulations” means the Dairy Produce Quotas Regulations 1986<sup>(5)</sup>;

“the Tribunal” means the Dairy Produce Quota Tribunal for England and Wales;

“transferred quota” means quota transferred to a holding 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—

- (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 sub-paragraph shall be construed as a reference to the sub-paragraph so numbered or lettered in that paragraph.

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(4) O.J. No. L90, 1.4.1984, p.13.

(5) S.I. 1986/470.

### **Applications under this Scheme**

3.—(1) The appropriate Minister 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 appropriate Minister may make payments under this Scheme to any person who is or has been a registered milk producer and who—

- (a) undertakes to cease producing milk for sale or for the manufacture of any milk product for sale and to surrender all his milk quota to the reserve; or
- (b) (i) is entitled to a total milk quota of at least 242,790 litres, and  
(ii) undertakes to reduce his production of milk for sale or for the manufacture of any milk product for sale and to surrender not less than 50% of his milk quota to the reserve.

(2) The appropriate Minister shall not make any payment under sub-paragraph (1) in respect of milk quota against which milk has been or will at the date of surrender have been produced in the 1987/1988 quota year.

(3) The appropriate Minister shall not make a payment under sub-paragraph (1) to a person who has, at any time, received as applicant a payment under—

- (a) Council Regulation (EEC) No. 1353/73<sup>(6)</sup> and Commission Regulation (EEC) No. 1821/73<sup>(7)</sup> (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<sup>(8)</sup>;
- (c) Council Regulation (EEC) No. 1078/77<sup>(9)</sup> and Commission Regulation (EEC) No. 1307/77<sup>(10)</sup> (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) (England and Wales) Regulations 1986<sup>(11)</sup>, 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—

- (a) loss or 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 milk quota he surrenders; or
- (b) the value of the amount of the milk quota he surrenders.

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<sup>(6)</sup> O.J. No. L141, 28.5.73, p.18.

<sup>(7)</sup> O.J. No. L184, 6.7.73, p.24.

<sup>(8)</sup> S.I. 1976/2126.

<sup>(9)</sup> O.J. L131, 26.5.77, p.1.

<sup>(10)</sup> O.J. L150, 18.6.77, p.24.

<sup>(11)</sup> S.I. 1986/1611, as amended by S.I. 1987/410.

- (2) Payments made by the appropriate Minister under this Scheme shall be calculated—
- (a) in a case falling within sub-paragraph (1)(a), at the rate of 3.927 pence per litre on a quantity equal to the amount of milk 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 sub-paragraph (1)(b), at the rate of 27.489 pence per litre on that quantity, payable in 7 equal annual instalments.

### **Over-subscription**

6.—(1) The total amount of quota by reference to which the appropriate Ministers may make payments under this Scheme shall not exceed 34.43 million litres.

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

(3) The appropriate Minister 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 sub-paragraph (3).

### **Requirement for landlord's consent**

7.—(1) Where an application is made by an applicant who occupies his holding, or any part thereof, as a tenant, he shall, unless the condition specified in sub-paragraph (2) has been fulfilled, serve a copy of the application on his immediate landlord on the day on which he submits it.

(2) The condition referred to in sub-paragraph (1) is that, in respect of each person having a landlord's interest in the holding in relation to which the application is made, or in any part thereof, either—

- (a) the consent in writing of that person to the application has been obtained by the tenant; or
- (b) that person 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 sub-paragraph (1), or of a notice served in accordance with paragraph 11, a landlord objects to the application by notice served on the tenant and the appropriate Minister on one or more of the grounds specified in paragraph 9, the tenant shall be deemed to have withdrawn his application unless, within 14 days of receipt of that notice of objection, he—

- (a) by notice served on that landlord, demands that the question of whether or not that objection should be upheld shall be determined by arbitration; and
- (b) by notice served on the appropriate Minister, informs him of that demand.

### **Unreasonable refusal of consent**

8.—(1) For the purposes of paragraph 7, a landlord shall have unreasonably refused his consent to an application if—

- (a) having been served with a notice informing him of the tenant's application or intention to make an application, he has not, within 21 days of service on him 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 lessee or licensee, where that person is not the tenant, and

- (iii) where the application has already been made, the appropriate Minister; or
  - (b) he has so objected, but on arbitration under paragraph 10 an arbitrator has made a determination not to uphold the objection, and the arbitrator's determination has not been reversed, and there is not pending in respect thereof an appeal lodged under paragraph 17.
- (2) If a landlord objects to the determination of an arbitrator, he may, within 14 days of the delivery of that determination, lodge an appeal under paragraph 17, and, in that event, he shall serve a notice on—
- (a) the tenant,
  - (b) his immediate lessee or licensee, where that person is not the tenant; and
  - (c) the appropriate Minister,

informing them of that appeal; and during that period of 14 days, there shall, for the purposes of sub-paragraph (1), be deemed to be pending an appeal lodged under paragraph 16.

### **Landlord's objections to an application**

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

- (a) that it appears to him that the compensation which he would receive on arbitration in accordance with this Scheme if that application was successful or the amount which the tenant is prepared to pay (if that amount is greater) would be less than the capital value of the loss of rent which an arbitrator would determine that he would suffer as a result of the surrender of the relevant quota;
- (b) that the tenant, or any landlord, is bound by a covenant (however expressed) entered into with any person holding a superior interest in the relevant land, or with the predecessor of that person, to the effect either that—
  - (i) the holding, or any part thereof, will be farmed as a dairy farm, or
  - (ii) any quota on that holding or part of that holding will be maintained;
- (c) that the landlord is a smallholdings authority for the purposes of section 38 of the Agriculture Act 1970 (smallholdings authorities)(**12**) which holds the holding, or any part thereof, for the purposes of smallholdings in accordance with Part III of that Act, and which intends, at the end of the current tenancy, to re-let, for the purposes of smallholdings, the holding, or any part thereof, or part of any part of that holding, to be farmed as a dairy farm.

(2) A landlord may not object to a tenant's application on the ground specified in sub-paragraph (1)(b)(ii) if the covenant concerned relates solely to commodities other than milk.

### **Arbitration of landlord's objection to an application**

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

- (a) (2) (a) An objection on the ground specified in paragraph 9(1)(a) shall not be upheld unless the arbitrator is satisfied that the landlord's compensation under this Scheme or the amount which the tenant is prepared to pay (if that amount is greater) would be less than the capital value of the loss of rent which the landlord could reasonably be expected to suffer as a result of the surrender of the relevant quota;

- (b) where the capital value referred to in sub-paragraph (2)(a) has previously been assessed by an arbitrator for the purposes of paragraph 13(2)(a), the capital value so assessed shall be deemed to be the capital value for the purposes of sub-paragraph (2)(a) but where that capital value has not previously been so assessed, the arbitrator on a reference under paragraph 7(3) shall assess that capital value in accordance with paragraph 13(3)(b).
- (3) An objection on the ground specified in paragraph 9(1)(c) shall not be upheld by the arbitrator unless the authority concerned enters into a covenant with the tenant to the effect that—
- (a) if any land subject to the tenancy is re-let for any purpose other than dairy farming within 5 years from the date of the covenant, or if any of that land is sold within that period; and
- (b) if, but for the authority's refusal of consent, the tenant could have made a valid application, the authority will pay to the tenant an amount equal to that which he will have lost as a result of the authority's objection.
- (4) Any amount due to the tenant by virtue of sub-paragraph (3) may be determined by agreement between the parties, and, in default of agreement, the tenant may, by notice served on the authority, demand that the amount be determined by arbitration; and on a reference under this paragraph, the arbitrator shall determine the amount.
- (5) In assessing the amount which the tenant will have lost for the purposes of sub-paragraph (3), the arbitrator shall take into account any payment made to the tenant by any person in respect of the relevant quota.

### **Service of notices on superior landlords**

**11.** Where a landlord is informed, by the service of a copy of an application under paragraph 7 or a notice under paragraph 8 or 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 respect of which he has an interest (but in respect of which he is not the owner), within 7 days of the 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 to the appropriate Minister.

### **Landlord's right to payment**

- 12.—(1)** Subject to sub-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 sub-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 in accordance with paragraph 14.
- (3) The landlord's amount or, where sub-paragraph (2)(b) applies, the proportion of the landlord's amount to which a landlord is entitled, shall be payable in 7 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, at the end of the period of 3 months after the date on which that instalment would have otherwise 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 that tenant's obligation 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 sub-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 an amount 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 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 holding, 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 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 sub-paragraph (1) "the landlord's fraction" means the fraction of which—

- (a) the numerator is an amount equal to the capital value of the rent which the immediate landlord can reasonably be expected to lose as a consequence of the surrender of the quota; and
- (b) the denominator is the sum of that amount and an amount equal to the capital value of the loss of earnings which can reasonably be expected to be suffered by the tenant as a consequence of the surrender of the quota.

(3) For the purposes of sub-paragraph (2)—

- (a) "rent" includes any other periodic payment;
- (b) the capital value of the rent shall be assessed in accordance with Schedule 2 to the Agricultural Holdings Act 1986(13) (arbitration of rent) on the assumption that the rent will not change until the next rent review; and the said Schedule 2 shall be construed accordingly;
- (c) in assessing loss of earnings, the loss of the annual value of tenant's dairy improvements and fixed equipment shall be included; and the capital value thus calculated shall be reduced by the sale value of any dairy items made redundant but which the tenant can sell.

(4) For the purposes of sub-paragraph (1) and subject to the provisions of sub-paragraph (6), the standard quota for any land shall be calculated by multiplying the relevant number of hectares by the prescribed quota per hectare, and in this sub-paragraph and sub-paragraph (4)—

- (a) “the relevant number of hectares” means the average number of hectares of the land in question used by the applicant 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 that land during that period); and
- (b) “the prescribed quota per hectare” means such number of litres as the Minister has prescribed for the purposes of sub-paragraph 6(1)(b) of Schedule 1 to the Agriculture Act 1986<sup>(14)</sup> (calculation of standard quota) by the Milk Quota (Calculation of Standard Quota) Order 1986<sup>(15)</sup>.

(5) 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, sub-paragraph (4) 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 for the purposes of this sub-paragraph—

- (a) the amount of milk to be taken as the average yield per hectare shall be that taken for the purposes of sub-paragraph 6(2) of Schedule 1 to the Agriculture Act 1986 (calculation of standard quota in exceptional cases) in accordance with the Milk Quota (Calculation of Standard Quota) Order 1986;
- (b) “reasonable amount” means the amount of milk which could reasonably be expected to have been produced from one hectare of the land during the relevant period.

(6) In the application of this paragraph—

- (a) “dairy cows” means cows kept for milk production (other than uncalved heifers);
- (b) “disadvantaged land” and “severely disadvantaged land” means land which has been determined to be disadvantaged land 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<sup>(16)</sup>;
- (c) “land used for the feeding of dairy cows kept on the land” does not include land used for the growing of cereal crops for feeding to dairy cows in the form of loose grain; and
- (d) “the relevant period” means—
  - (i) the period by reference to which the base quota was determined; or
  - (ii) where the base quota was determined by reference to more than one period, the period by reference to which the majority was determined or, if equal amounts were determined by reference 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 arbitrator shall 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 arbitrator shall take all relevant factors into account in making his award.

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<sup>(14)</sup> 1986 c. 49.

<sup>(15)</sup> S.I. 1986/1530; amended by S.I. 1987/626.

<sup>(16)</sup> S.I. 1984/2024.



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

### **Settlement of claims**

15. Any claim arising under paragraph 12(2)(a) or (b) shall be determined by arbitration.

### **Arbitrations**

16.—(1) Subject to sub-paragraphs (2) to (5), where any matter is, under the provisions of this scheme, to be determined by arbitration, section 84 of the Agricultural Holdings Act 1986 (arbitrations) shall apply as if that matter were required by that Act to be determined by arbitration under that Act.

(2) Paragraph 7 of Schedule 11 to the Agricultural Holdings Act 1986 (time for statement and particulars of case and for amendments thereto) shall apply to arbitrations under this scheme as if, for the words “thirty-five days” in both cases where they occur, there was substituted the words “twenty-one days”.

(3) Paragraph 14 of that Schedule (time for making and signing awards) shall apply to arbitrations under this scheme as if, for the words “fifty-six days”, there was substituted the words “thirty-five days”.

(4) Paragraph 18 of that Schedule (arbitration award to fix a day for payment of money awarded not later than one month after award) shall not apply for the purposes of this Scheme except in relation to any award of costs.

(5) Paragraphs 26 to 28 of that Schedule (special case procedure, setting aside award and remission by the County Court) shall not apply in relation to arbitrations under this Scheme.

### **Appeals**

17.—(1) An appeal shall lie on any question of law arising in the course of an arbitration under this Scheme, or on any question as to the jurisdiction of an arbitrator under this Scheme, to the Tribunal; and for the purpose of determining an appeal under this sub-paragraph, the Tribunal shall consist of a single legally qualified member, approved for the purpose by the Chairman of the Tribunal, assisted, if the Chairman so directs, by such other non-voting member of the Tribunal as the Chairman may appoint.

(2) For the purpose of an appeal under this paragraph, paragraph 2 (quorum for any determination of the Tribunal) and paragraph 3 (determinations by the Tribunal to be by majority) of Schedule 18 to the 1986 Regulations shall not apply.

(3) An appeal under sub-paragraph (1) in relation to an arbitration shall be lodged within 14 days of the delivery of the arbitrator’s determination in that arbitration.

### **Temporarily reallocated quota**

18. For the purposes of this Scheme quota which has been temporarily reallocated from one holding to another under regulation 11(2) of the 1986 Regulations (reallocation of wholesale quota) shall be treated as if it had not been temporarily reallocated.

### **Service of notices or of copies of applications**

19.—(1) Any notice under this Scheme shall be duly served on the person on whom it is to be served 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) Any such notice shall be duly served on an incorporated company or body if it is served on the secretary or clerk of the company or body.

(3) For the purposes of this Scheme and of section 7 of the Interpretation Act 1978(17) (service by post), the proper address of any person on whom any such notice is to be served shall be—

- (a) in the case of the secretary or clerk of an incorporated company or body, the address of the registered or principal office of the company or body; and
- (b) in any other case, the last known address of the person in question.

(4) Unless or until the tenant or a landlord has received—

- (a) notice that the original landlord has ceased to be his immediate landlord, 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; and for the purposes of this sub-paragraph and sub-paragraph (5), “original landlord” means any person who was the tenant’s or the landlord’s immediate landlord before the person who has become the tenant’s or the landlord’s immediate landlord.

(5) Where an original landlord receives a notice in the circumstances referred to in sub-paragraph (4), he shall forthwith transmit that notice to the person on whom it should have been served.

(6) 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**

**20.**—(1) Where, in consequence of the failure of any person to comply with the requirements of paragraph 7 or paragraph 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 as a civil debt from that person.

(2) Where a sum agreed or awarded under the provisions of this Scheme, or an instalment thereof, has not been paid by the person liable to pay that sum within 14 days from the date on which that payment became due, that sum shall, if the County Court so orders, be recoverable from the person in default.

### **Recovery of compensation**

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

- (a) makes any statement which is untrue or misleading in a material respect, or
- (b) furnishes to any of the appropriate Ministers any inaccurate information,

that Minister shall be entitled to recover on demand as a civil debt the whole or any part of any compensation paid to that person or to such other person.

(2) Where any person, having undertaken to cease producing milk for sale or having undertaken to reduce milk production in accordance with the provisions of paragraph 4(1), fails in any way to comply with that undertaking, the appropriate Minister shall be entitled to recover from him on demand as a civil debt the whole or any part of any compensation paid to him, or to any other person, in respect of quota registered in his 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,

- (b) fails without reasonable excuse to comply with a requirement of this Scheme, the appropriate Minister shall be entitled to recover on demand as a civil debt the whole or any part of any compensation paid to that person.

### **Crown land**

**22.**—(1) This scheme shall apply to any holding or part of a holding which belongs to Her Majesty or to the Duchy of Lancaster, the Duchy of Cornwall 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 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;
- (c) as respects land belonging to Her Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy shall represent Her Majesty, and shall be deemed to be the landlord or tenant, as the case may be;
- (d) as respects land belonging to the Duchy of Cornwall, such person as the Duke of Cornwall or the possessor for the time being of the Duchy appoints shall represent the Duchy, and shall be deemed to be the landlord or the tenant, as the case may be.

(3) Any sum payable under this Scheme to or by the Duke of Cornwall (or any other possessor for the time being of the Duchy of Cornwall) may be treated, or raised and paid, as if it were a payment made for, or an expense incurred in, as the case may be, permanently improving the possessions of the Duchy as mentioned in section 8 of the Duchy of Cornwall Management Act 1863<sup>(18)</sup>.

(4) Any sum payable under this Scheme to or by the Chancellor of the Duchy of Lancaster may—

- (a) be treated, or raised and paid, as if it were a payment made for, or an expense incurred in, as the case may be, the improvement of land belonging to Her Majesty in right of the Duchy within section 25 of the Duchy of Lancaster Act 1817<sup>(19)</sup>; or
- (b) be paid in to or out of annual revenues of the Duchy.

### **Revocation**

**23.** The Milk (Partial Cessation of Production) (England and Wales) Scheme 1986<sup>(20)</sup> is hereby revoked.

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<sup>(18)</sup> 1863 c. 49.

<sup>(19)</sup> 1817 c. 97.

<sup>(20)</sup> S.I. 1986/1612.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 14th May 1987.

L.S.

14th May 1987

*Michael Jopling*  
*Nicholas Edwards*  
Minister of Agriculture, Fisheries and  
Food Secretary of State for Wales

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## EXPLANATORY NOTE

*(This note is not part of the Scheme)*

Article 1(2)(a) of Council Regulation (EEC) No. 1343/86<sup>(21)</sup> amends Article 4(1)(a) of Council Regulation (EEC) No. 857/84<sup>(22)</sup> by enabling Member States to grant compensation to producers, with a milk quota in excess of a specified level who undertake to surrender at least 50% of that milk quota. The level of milk quota referred to above is fixed by Article 1(1) of Commission Regulation (EEC) No. 2133/86<sup>(23)</sup> at 250,000 kilogrammes (242,790 litres).

In exercise of the above powers, the Scheme provides for the payment of compensation by the Minister of Agriculture, Fisheries and Food, in relation to England, and the Secretary of State for Wales, in relation to Wales, to certain holders of milk quota. Recipients must either undertake to surrender their total quota, or have a quota in excess of a specified level and undertake to reduce their milk production and to surrender not less than 50% of their milk quota (paragraph 4).

The Scheme is administered in identical terms to the 1986 Scheme (S.I.1986/1612).

The time limits and procedural requirements for applications for compensation are to be published in the London Gazette and the farming press (paragraph 3) and it is provided that in the event of over-subscription preference shall be given to applications in order to their receipt by him (paragraph 6).

An applicant for compensation who does not own all of the land which he occupies must attempt to obtain the consent of any person who owns or has a superior tenancy or licence of that holding or any part of it (the “landlords”) (paragraph 7). Paragraphs 8 and 9 spell out the criteria for deciding whether or not a landlord’s consent has been unreasonably refused and paragraph 10 deals with arbitration on this matter in case 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 the landlords as a whole are entitled in the absence of agreement. That amount is to be apportioned among the landlords by agreement or arbitration (paragraph 14).

Arbitrations under the regulations are to be by a single arbitrator in accordance with the provisions of Schedule 11 to the Agricultural Holdings Act 1986. By paragraph 16 two of the provisions of that Schedule are applied for the purposes of this Scheme, with modifications in order to speed up proceedings and other provisions have been disapplied to arbitrators or their awards under this Scheme, in particular, the case stated procedure set out in paragraph 26 of that Schedule (paragraph 16(5)). An appeal to the Dairy Produce Quota Tribunal on any question of law or as to the jurisdiction of an arbitrator has been created by paragraph 17.

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 or paragraph 11, and for recovery through the County Court of sums agreed or awarded under the paragraphs (paragraph 20).

Duly authorised officers of the Minister or 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 (section 2 of the Milk (Cessation of Production) Act 1985 (c. 4)).

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(21) O.J. No. L119, 8.5.86, p. 34.

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

(23) O.J. No. L187, 9.7.86, p.21.

**Status:** *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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

This Scheme applies to Crown land (paragraph 24).