

SCHEDULE 5

APPORTIONMENTS AND PROSPECTIVE APPORTIONMENTS BY ARBITRATION OR SCOTTISH LAND COURT—SCOTLAND

PART I

GENERAL

1.—(1) Subject to subparagraphs (2) and (3) below, 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(1) of the Crofters (Scotland) Act 1955(1);
- (b) a holding within the meaning of section 2 of the Small Landholders (Scotland) Act 1911(2); or
- (c) the holding of a statutory small tenant under section 32 of the Small Landholders (Scotland) Act 1911.

(3) Where subparagraph (2) above 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 1949(3), 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, made within the period of two months referred to in regulation 8(1)(a).

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

2. An arbiter or the Scottish Land Court, as the case may be, shall decide the apportionment on the basis of findings made as to areas used for milk production in the five years preceding the change of occupation or, in the case of a prospective apportionment, in the five years preceding the appointment of the arbiter or the application to the Scottish Land Court.

(1) 1955 c. 21; section 3(1) was amended by The Crofters (Scotland) Act 1961 (c. 58), Schedule 1, Part II, paragraph 9.

(2) 1911 c. 49.

(3) 1949 c. 75.