
STATUTORY INSTRUMENTS

1996 No. 48

AGRICULTURE

**The Sheep Annual Premium and Suckler Cow Premium
Quotas (Re-assessment of Eligibility) Regulations 1996**

<i>Made</i>	- - - -	<i>10th January 1996</i>
<i>Laid before Parliament</i>		<i>15th January 1996</i>
<i>Coming into force</i>	- -	<i>5th February 1996</i>

The Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated⁽¹⁾ for the purposes of subsection (2) of section 2 of the European Communities Act 1972⁽²⁾ in relation to the common agricultural policy of the European Community, acting jointly in exercise of the powers conferred on them by that subsection, and of all other powers enabling them in that behalf, hereby make the following Regulations:

Title and commencement

1. These Regulations may be cited as the Sheep Annual Premium and Suckler Cow Premium Quotas (Re-assessment of Eligibility) Regulations 1996 and shall come into force on 5th February 1996.

Interpretation

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

“Council Regulation 805/68” means Council Regulation (EEC) No. 805/68 on the common organisation of the market in beef and veal⁽³⁾;

“Council Regulation 3013/89” means Council Regulation (EEC) No. 3013/89 on the common organisation of the market in sheepmeat and goatmeat⁽⁴⁾;

“Council Regulation 3493/90” means Council Regulation (EEC) No. 3493/90 laying down general rules for the grant of premium to sheepmeat and goatmeat producers⁽⁵⁾;

“holding” has the same meaning as in—

- (a) Article 1(3) of Council Regulation 3493/90 to the extent that these Regulations relate to sheep annual premium quota;

(1) S.I. 1972/18.11.

(2) 1972 c. 68.

(3) OJ No. L148, 28.6.68, p.24 (OJ/SE 1968(I) p.187).

(4) OJ No. L289, 7.10.89, p.1.

(5) OJ No. L337, 4.12.90, p.7.

(b) Article 4a of Council Regulation 805/68 to the extent that these Regulations relate to suckler cow premium quota;

“lease” means—

(a) a temporary lease under Article 5a(4)(d) of Council Regulation 3013/89 insofar as these Regulations relate to sheep annual premium quota;

(b) a temporary transfer under Article 4e(3) of Council Regulation 805/68 insofar as these Regulations relate to suckler cow premium quota,

and related expressions shall be construed accordingly;

“marketing year” shall be construed in accordance with Article 3(3) of Council Regulation 3013/89;

“the Minister” means—

(a) in relation to England, the Minister of Agriculture, Fisheries and Food;

(b) in relation to the rest of Great Britain, the Secretary of State; and

(c) in relation to Northern Ireland, the Department of Agriculture for Northern Ireland;

“the national reserve for 1993” has the same meaning as in regulation 2(1) of the Sheep Annual Premium and Suckler Cow Premium Quotas Regulations 1993⁽⁶⁾ (referred to subsequently in these Regulations as “the 1993 Regulations”);

“the national reserve for 1994” shall be construed in accordance with the definition of the phrase “the national reserve for any given year later than 1993” in the said regulation 2(1);

“producer” has the same meaning as in—

(a) Article 1(1) of Council Regulation 3493/90 insofar as these Regulations relate to sheep annual premium quota; and

(b) Article 4a of Council Regulation 805/68 insofar as these Regulations relate to suckler cow premium quota;

“quota” means sheep annual premium quota or as the case may be suckler cow premium quota;

“sensitive zone” means any sensitive zone specified in Schedule 1 to the 1993 Regulations, and a reference in these Regulations to a numbered sensitive zone is a reference to the sensitive zone so numbered in that Schedule;

“sheep” means eligible ewes as defined, prior to the 1993 marketing year, by Article 1(2) of Council Regulation (EEC) No. 872/84 laying down general rules for the granting of premiums to sheepmeat producers and repealing Regulation (EEC) No. 2643/80⁽⁷⁾ and, with effect from the 1993 marketing year, by Article 1(4) of Council Regulation 3493/90;

“sheep annual premium quota” means the right to sheep annual premium (as defined by regulation 2(1) of the 1993 Regulations) subject to the individual limit referred to in Article 5a of Council Regulation 3013/89;

“suckler cow” has the same meaning as in Article 4a of Council Regulation 805/68;

“suckler cow premium quota” means the right to suckler cow premium (as defined by regulation 2(1) of the 1993 Regulations) subject to the individual ceiling referred to in Article 4d of Council Regulation 805/68;

“transfer” means—

(a) a transfer of quota under Article 5a(4)(b) of Council Regulation 3013/89 insofar as these Regulations relate to sheep annual premium quota; and

⁽⁶⁾ S.I. 1993/1626, amended by S.I. 1993/3036 and S.I. 1994/2894.

⁽⁷⁾ OJ No. L90, 1.4.84, p.40.

(b) a transfer of quota under Article 4e(1) of Council Regulation 805/68 insofar as these Regulations relate to suckler cow premium quota,

(but does not include a lease); and related expressions shall be construed accordingly.

(2) Any reference in these Regulations to a division of the national reserve for 1993 or 1994 is a reference to one of the divisions into which that reserve is divided in accordance with regulation 12 of the 1993 Regulations.

(3) Any reference in these Regulations to a numbered category is a reference to the category so numbered in Part I or as the case may be Part II of Schedule 2 to the 1993 Regulations.

(4) The requirement to use whole numbers set out in Article 14 of Commission Regulation (EEC) No. 3567/92 laying down detailed rules for the application of individual limits, national reserves and transfer of rights provided for in Articles 5a to 5c of Council Regulation 3013/89⁽⁸⁾ shall apply in respect of the calculation of actual awards of sheep annual premium quota made under regulation 5(4) and any re-distribution of such quota effected under regulation 6 in the same manner as that requirement applies to the calculations referred to in that Article.

(5) The requirements as to the determination of partial rights set out in Article 40 of Commission Regulation (EEC) No. 3886/92 laying down detailed rules for the application of the premium schemes provided for in Council Regulation 805/68⁽⁹⁾ shall apply in respect of the calculation of actual awards of suckler cow premium quota made under regulation 5(4) and any re-distribution of such quota effected under regulation 6 in the same manner as those requirements apply to the calculations referred to in that Article.

(6) Any reference in these Regulations to a Community instrument is a reference to that instrument as amended on the date these Regulations come into force.

(7) In these Regulations, any reference to—

(a) a numbered regulation (with no corresponding reference to a specific instrument) is a reference to the regulation in these Regulations so numbered; and

(b) a numbered paragraph (with no corresponding reference to a specific provision) is a reference to the paragraph so numbered in the regulation in which the reference appears.

The special quota reserve

3.—(1) All quota remaining in a division of the national reserve for 1993 or 1994 on the date of coming into force of these Regulations (other than sheep annual premium quota remaining in division 5 of the national reserve for 1994) shall on that date be withdrawn from the division concerned by the Minister with responsibility for the part of the United Kingdom in which the sensitive zone corresponding with that division is situated.

(2) If in relation to the performance of any of his functions under these Regulations the Minister forms the view on reasonable grounds that the successful application—

(a) for an allocation of quota from the national reserve for 1993 of a person considered to fall within any of categories 3 to 7; or

(b) for an allocation of suckler cow premium quota from the national reserve for 1994 of a person considered to fall within any of categories I to VI,

was fundamentally flawed the allocation of quota made to him in that capacity shall be withdrawn from its then holder by the Minister with responsibility for the part of the United Kingdom in which the sensitive zone corresponding with the division of that national reserve from which the allocation was made is situated.

⁽⁸⁾ OJ No. L362, 11.12.92, p.41.

⁽⁹⁾ OJ No. L391, 31.12.92, p.20.

(3) On quota being withdrawn by a Minister in accordance with this regulation the Minister concerned shall assign it to a special reserve of quota established by virtue of this provision (“the special quota reserve”) with a view to its being awarded to producers in accordance with regulation 5.

(4) The special quota reserve shall be divided into 7 divisions, consisting of a division for each sensitive zone, and the Minister assigning quota in accordance with paragraph (3) shall distribute it to the division of the special quota reserve corresponding with the division of the national reserve for 1993 or as the case may be 1994 from which it was withdrawn.

(5) Where, following completion of the awards of quota falling to be made from a division of the special quota reserve under regulation 5, it transpires that quota remains in that division the Minister with responsibility for the part of the United Kingdom in which the sensitive zone corresponding with that division is situated may assign such proportion of that excess quota as he sees fit to such other divisions of the special quota reserve in which there is not enough quota to complete the awards of quota falling to be made from it under regulation 5 as he may determine.

(6) Quota shall not be withdrawn by a Minister in accordance with paragraph (2) unless the Minister concerned has given notice to the person from whom it falls to be withdrawn—

- (a) specifying the date on which the withdrawal is to take effect and the reasons for the withdrawal; and
- (b) giving the person concerned the opportunity to make representations to the Minister regarding the proposed withdrawal;

but, subject to that, the withdrawal shall take effect as specified in the notice.

Eligibility and applications for awards of quota from the special quota reserve

4.—(1) Insofar as he satisfies the conditions specified in the Schedule to these Regulations, a producer shall be eligible for an award of quota from the special quota reserve if he is—

- (a) a producer—
 - (i) who was successful in his application for an allocation of quota from the national reserve for 1993 as a person falling within category 3, group (c),
 - (ii) who has not subsequently transferred any of that quota,
 - (iii) whose said quota allocation was based (as required by paragraph 8 of Schedule 3 to the 1993 Regulations) on a given number of sheep or as the case may be suckler cows accepted by the Minister to whom his application was made as committed for acquisition by 31st December 1995 at the latest, and
 - (iv) whose application did not include or was not accepted by the Minister to whom that application was made as including a number of sheep or as the case may be suckler cows which were truly committed for acquisition by that date;
- (b) a producer who was unsuccessful in his application for an allocation of sheep annual premium quota from the national reserve for 1993 as a person falling within category 3, group (c), and whose holding is not situated in sensitive zone 5;
- (c) a producer who did not apply for an allocation of sheep annual premium quota from the national reserve for 1993 as a person falling within category 3, group (c), and whose holding is not situated in sensitive zone 5;
- (d) a producer who was unsuccessful in his application for an allocation of suckler cow premium quota from the national reserve for 1993 as a person falling within category 3, group (c); or
- (e) a producer who did not apply for an allocation of suckler cow premium quota from the national reserve for 1993 as a person falling within category 3, group (c),

but no person shall be eligible for an award of quota from the special quota reserve if he transferred or leased out quota of the corresponding kind on or before the closing date for making applications for allocations of that kind of quota from the national reserve for 1993 applicable to persons considering that they fell within category 3, group (c), which was determined by the Minister with responsibility for the part of the United Kingdom in which his holding is situated under regulation 13A(3) of the 1993 Regulations.

(2) Where a person who considers that he meets the criteria specified in paragraph (1) wishes to be awarded quota from the special quota reserve he may apply for such an award to be made to him to the Minister with responsibility for the sensitive zone in which his holding is situated in such form and by such date as that Minister may determine.

(3) The Minister to whom an application for an award of quota is made in accordance with paragraph (2) may by notice to the applicant require him to provide by such date as is specified in the notice such further information as that Minister may consider relevant for the purpose of determining the application.

(4) Quota awarded from the special quota reserve shall become effective with effect from the 1996 marketing year (in the case of sheep annual premium quota) and the 1996 calendar year (in the case of suckler cow premium quota).

(5) It shall be for a producer to demonstrate to the satisfaction of the Minister with responsibility for the part of the United Kingdom in which his holding is situated that—

- (a) he satisfies the conditions specified in the Schedule to these Regulations; and
- (b) he falls within any of the categories specified in paragraph (1);

and the Minister concerned shall in determining whether or not he is satisfied as aforesaid have regard to all the circumstances of the case.

(6) For the purposes of paragraph (1)(a)(ii), where a producer holds quota and some of that quota is quota which was allocated to him as a successful applicant under category 3, group (c), of the national reserve for 1993 any transfer by him of an amount of quota shall be regarded as constituting a transfer of the quota allocated to him as aforesaid only where the amount transferred exceeds the amount of quota held by him and deriving from other sources.

Awards of quota from the special quota reserve

5.—(1) Where a person has made a successful application under regulation 4(2) for an award of quota from the special quota reserve the Minister to whom the application was made shall make to the person concerned (without notifying him of it) a notional award of quota, from the division of the special quota reserve corresponding with the sensitive zone in which his holding is situated, equivalent to the number of sheep or as the case may be suckler cows a commitment to acquire which has been made in the investment programme required by paragraph 2 of the Schedule to these Regulations, provided that—

- (a) where the programme extends beyond 1995 the notional amount of quota awarded in accordance with this paragraph shall correspond with the number of sheep or as the case may be suckler cows specified in the programme as committed for acquisition by 31st December 1995; and
- (b) no notional award of quota shall be made in accordance with this paragraph in respect of such number of sheep or as the case may be suckler cows for which the applicant has already had an equivalent allocation of quota of the corresponding kind.

(2) The notional award of quota to which a person is entitled under paragraph (1) shall be reduced by the amount of quota of the corresponding kind which he has acquired by transfer, notification of which, as referred to in regulation 5 of the 1993 Regulations, was effected—

- (a) on or before 6th August 1993, in the case of sheep annual premium quota; and

(b) on or before 12th November 1993, in the case of suckler cow premium quota, unless (pursuant to regulation 13A(9) of the 1993 Regulations) a deduction of that quota has been previously taken into account in making an allocation of quota to the person concerned.

(3) The Minister with responsibility for the part of the United Kingdom in which the sensitive zone corresponding with any given division of the special quota reserve is situated shall—

- (a) calculate the number of successful applications for awards of quota from that division which have been made under regulation 4(2);
- (b) calculate the amount of quota which will in consequence of those successful applications fall to be awarded on a notational basis from that division under paragraph (1);
- (c) identify, by all practicable means and by the date referred to in regulation 4(2), all those persons who would be eligible for awards of quota from that division under regulation 4(1) were they still producers;
- (d) calculate the amount of quota which would be awarded on a notional basis from that division to those persons under paragraph (1) were they still producers and had they made successful applications under regulation 4(2);
- (e) calculate the amount of quota which successful applicants falling within category 3, group (a), category 3, group (b) or category 3, group (c) were entitled to have allocated to them from the corresponding division of the national reserve for 1993 under Schedule 3 to the 1993 Regulations;
- (f) add together the amounts of quota calculated as aforesaid (whether notional or actual);
- (g) ascertain the amount of quota which remained available in the corresponding division of the national reserve for 1993 for distribution following the making of allocations from it to successful applicants under categories 1 and 2 of that reserve; and
- (h) establish the requisite percentage, being the lower of
 - (i) the percentage of the total referred to in sub-paragraph (f) of this paragraph represented by the amount of quota ascertained in accordance with sub-paragraph (g) of this paragraph, and
 - (ii) 100%.

(4) The actual award of quota to which a producer is entitled under this regulation shall be the percentage of the notional award to which he is entitled under paragraph (1) (represented as an amount of quota) corresponding with the requisite percentage established in accordance with paragraph (3)(h), and reduced by the amount of quota of the corresponding kind still held by him which he has acquired by transfer, notification of which, as referred to in regulation 5 of the 1993 Regulations, has been effected—

- (a) after 6th August 1993 but—
 - (i) where the quota was acquired in Great Britain, before 5th February 1996, and
 - (ii) where the quota has been acquired in Northern Ireland, before 15th February 1996, in the case of sheep annual premium quota; and
- (b) after 12th November 1993 but—
 - (i) where the quota was acquired in Great Britain, before 1st February 1996, and
 - (ii) where the quota has been acquired in Northern Ireland, before 15th February 1996, in the case of suckler cow premium quota.

(5) The actual award of quota to which a producer is entitled under this regulation shall be made by notification being given to him by the Minister to whom his application was made under regulation 4(2).

Satisfaction of awards of quota from the special quota reserve

6.—(1) Where there is not enough quota within a division of the special quota reserve to satisfy the awards of quota falling to be made from it under regulation 5 the following paragraphs of this regulation shall apply.

(2) The Minister with responsibility for the part of the United Kingdom in which the sensitive zone corresponding with the division concerned is situated shall in accordance with paragraphs (3) to (10)—

- (a) where the deficit referred to in paragraph (1) is in respect of sheep annual premium quota, withdraw from its then holder any such quota allocated from the corresponding division of the national reserve for 1993 and assign it to the aforementioned division of the special quota reserve to be offset against that deficit; and
- (b) where the deficit referred to in paragraph (1) is in respect of suckler cow premium quota, withdraw from its then holder any such quota allocated from the corresponding division of the national reserve for 1994 (other than suckler cow premium quota added to it in accordance with regulation 13(5) of the 1993 Regulations) and assign it to the aforementioned division of the special quota reserve to be offset against that deficit.

(3) Within the relevant division of the national reserve for 1993 any withdrawal of sheep annual premium quota from it made in accordance with paragraph (2)(a) shall be effected category by category in ascending order, withdrawing first the sheep annual premium quota which was allocated to the numerically highest category of person specified in Part I of Schedule 2 to the 1993 Regulations to whom allocations of such quota were made from that division, and proceeding (by the completion of the awards falling to be made under regulation 5) until the deficit in sheep annual premium quota referred to in paragraph (1) has been satisfied.

(4) Where sheep annual premium quota has been withdrawn from a division of the national reserve for 1993 in accordance with paragraph (2)(a) and the deficit referred to in paragraph (1) has been satisfied before all the sheep annual premium quota allocated from that division to successful applicants under categories 3 to 7 of that national reserve has been exhausted, any sheep annual premium quota still held by persons falling within the last group of persons from whom such quota was withdrawable in accordance with paragraph (2)(a) shall be re-distributed among all the persons falling within that group proportionally in accordance with the original allocations of sheep annual premium quota made from the national reserve for 1993 to the category of person specified in Part I of Schedule 2 to the 1993 Regulations from which that group is derived.

(5) Within the relevant division of the national reserve for 1994, any withdrawal of suckler cow premium quota made from it in accordance with paragraph (2)(b) shall be effected category by category in ascending order, withdrawing first the suckler cow premium quota which was allocated to the numerically highest category of person specified in Part II of Schedule 2 to the 1993 Regulations to whom allocations of such quota were made from that division, and proceeding until the deficit in suckler cow premium quota referred to in paragraph (1) has been satisfied or (if earlier) until all the suckler cow premium quota falling to be withdrawn under paragraph (2)(b) has been exhausted.

(6) Where suckler cow premium quota has been withdrawn from a division of the national reserve for 1994 in accordance with paragraph (2)(b) and the deficit referred to in paragraph (1) has been satisfied before all the suckler cow premium quota falling to be withdrawn from that division under paragraph (2)(b) has been exhausted, any suckler cow premium quota still held by persons falling within the last group of persons from whom such quota was withdrawable in accordance with that paragraph shall be re-distributed among all the persons falling within that group proportionally in accordance with the original allocations of suckler cow premium quota made from the national reserve for 1994 to the category of person specified in Part II of Schedule 2 to the 1993 Regulations from which that group is derived.

(7) Where, notwithstanding any assignment of suckler cow premium quota to it made in accordance with paragraph (2)(b), there remains insufficient suckler cow premium quota within a

division of the special quota reserve to enable persons to receive the awards of such quota from it to which they are entitled under regulation 5 the Minister with responsibility for the part of the United Kingdom in which the sensitive zone corresponding with that division is situated shall withdraw from its then holder any such quota allocated from the corresponding division of the national reserve for 1993 and assign it to the aforementioned division of the special quota reserve for the purpose of funding those allocations.

(8) Within the relevant division of the national reserve for 1993, any withdrawal of suckler cow premium quota from it made in accordance with paragraph (7) shall be effected category by category in ascending order, withdrawing first the suckler cow premium quota which was allocated to the numerically highest category of person specified in Part I of Schedule 2 to the 1993 Regulations to whom allocations of such quota were made from that division, and proceeding (by the completion of the awards falling to be made under regulation 5) until the deficit in suckler cow premium quota specified in that paragraph has been satisfied.

(9) Where suckler cow premium quota has been withdrawn from a division of the national reserve for 1993 in accordance with paragraph (7) and the deficit specified in that paragraph has been satisfied before all the suckler cow premium quota allocated from the relevant division of the national reserve for 1993 to successful applicants under categories 3 to 7 of that national reserve has been exhausted, any suckler cow premium quota still held by persons falling within the last group of persons from whom such quota was withdrawable in accordance with that paragraph shall be re-distributed among all the persons falling within that group proportionally in accordance with the original allocations of suckler cow premium quota made from the national reserve for 1993 to the category of person specified in Part I of Schedule 2 to the 1993 Regulations from which that group is derived.

(10) Quota shall not be withdrawn from a person in accordance with paragraph (2) or (7) or re-distributed between persons in accordance with paragraph (4), (6) or (9) unless the Minister performing that function has given notice to each person affected by the proposed withdrawal or as the case may be re-distribution—

- (a) specifying when the withdrawal or re-distribution concerned is to take effect; and
- (b) giving reasons for that withdrawal or re-redistribution;

but, subject to that, the withdrawal or as the case may be re-distribution shall take effect as specified in the notice.

(11) For the purposes of this regulation, where a given producer's sheep annual or suckler cow premium quota has been transferred and, by virtue of the operation of paragraphs (2) to (10), the quota holding of either the transferor or the transferee (or, if there is more than one transferee, either or any of them) might fall to be reduced, the derivation of retained and transferred quota shall be assumed to operate in such a way that the reduction shall so far as is consistent with the operation of those paragraphs—

- (a) affect the quota holding of the given producer in priority to that of any such transferee; and
- (b) where there is more than one such transferee, affect their quota holdings in proportion to the amounts of quota of the corresponding kind transferred to them by the given producer,

unless the Minister is satisfied that each person potentially so affected has agreed otherwise and that giving effect to the reduction in accordance with the agreement is consistent with the operation of those paragraphs, in which case the reduction shall affect the quota holding of any such person in accordance with the agreement.

(12) For the purposes of paragraph (11), "reduction", in relation to the quota holding of any person, means a reduction calculated without taking into account the award of any quota to him under regulation 5, and "reduced" shall be construed accordingly.

Quota surpluses

7. Where quota (none of which shall have been assigned to the division concerned in accordance with regulation 3(5) or paragraph (2) or (7) of regulation 6) remains in a division of the special quota reserve after—

- (a) each person successfully applying for quota from it in accordance with regulation 4(2) has received the award to which he is entitled under regulation 5; and
- (b) (where appropriate) any surplus quota has been assigned from it in accordance with regulation 3(5),

the Minister with responsibility for the part of the United Kingdom in which the sensitive zone corresponding with that division is situated shall assign that remaining quota to the corresponding division of the national reserve for 1994.

Location of holdings

8. Regulation 3 of the 1993 Regulations (which determines the location of a producer's holding which is not situated within a single sensitive zone) shall apply for the purposes of these Regulations as it applies for the purposes of those Regulations.

Verification of applications for awards of quota from the special quota reserve

9.—(1) For the purposes of verifying an application for an award of quota from the special quota reserve any duly authorised officer of the Ministry of Agriculture, Fisheries and Food (in the case of an application made to the Minister of Agriculture, Fisheries and Food), of the Secretary of State for Wales (in the case of an application made to that Minister), of the Secretary of State for Scotland (in the case of an application made to that Minister) or of the Department of Agriculture for Northern Ireland (in the case of an application made in Northern Ireland) shall on producing if so required some duly authenticated document showing his authority have the following powers—

- (a) at any reasonable time to enter any land other than land used only as a dwelling; and
- (b) (to such extent as is reasonable) to require the production of, to inspect, to take copies of and to detain any record (in whatever form) relevant to the application.

(2) Any duly authorised person who enters land by virtue of paragraph (1)(a) may take with him such other persons as he considers necessary.

Offences and penalties

10. —

(1) Any person who in connection with these Regulations makes a statement or uses a document which he knows to be false in a material particular or recklessly makes a statement or uses a document which is false in a material particular shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Any person who intentionally obstructs any officer such as is specified in paragraph (1) of regulation 9 in the exercise of his powers under that regulation shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Revocations

11. Regulation 13A(15) of and Part V of Schedule 2 to the 1993 Regulations are hereby revoked.

Status: This is the original version (as it was originally made). UK
Statutory Instruments are not carried in their revised form on this site.

10th January 1996

Tony Baldry
Minister of State, Ministry of Agriculture,
Fisheries and Food

10th January 1996

Lindsay
Parliamentary Under Secretary of State, Scottish
Office

THE SCHEDULE

Regulation 4(1)

CONDITIONS REQUIRED TO BE SATISFIED IF A PRODUCER IS TO BE ELIGIBLE FOR AN AWARD OF QUOTA FROM THE SPECIAL QUOTA RESERVE

1. The producer shall be—
 - (a) a sheep producer who submitted an application for sheep annual premium prior to the 1992 marketing year; or
 - (b) a suckler cow producer who submitted an application for suckler cow premium prior to 1st January 1993.
2. The introduction of the quota system for sheep or as the case may be suckler cows effected respectively by Article 5a of Council Regulation 3013/89 and Article 4d of Council Regulation 805/68 shall have jeopardised the viability of the producer's holding, taking into consideration the implementation by him of an investment programme drawn up before 1st January 1993.

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations, which apply throughout the United Kingdom, make the legislative provisions considered necessary to give effect to the judgment of the High Court of Justice in the case called *R v. Ministry of Agriculture, Fisheries and Food and the Secretary of State for Wales ex parte the National Union of Farmers and Others* (action numbers CO/706/95 and CO/834/95). Judgment was delivered on 22nd June 1995. Following that judgment, the High Court granted a declaration that the conditions set out in Part V of Schedule 2 to the Sheep Annual Premium and Suckler Cow Premium Quotas Regulations 1993 (S.I. 1993/1626, as amended by S.I. 1993/3036 and S.I. 1994/2894) were unlawful.

2. Regulation 13A(2) of S.I. 1993/1626 stated that a person falling within category 3, group (c), of the national quota reserve for 1993, as set out in Part I of Schedule 2 to that instrument (generally described as a “developer”), was eligible to be awarded quota from that national quota reserve (as defined by regulation 2(1) of S.I. 1993/1626). Regulation 13A(15) of S.I. 1993/1626 provided that a person fell within category 3, group (c), only if the conditions specified in Part V of Schedule 2 to that instrument were satisfied in his case. Those conditions stipulated that the producer had to provide some sort of written document showing an investment plan committing the producer to acquiring additional sheep or as the case may be suckler cows. The document had to have been drawn up before 1st January 1993 and authenticated at the time it was prepared by a professional adviser.

3. S.I. 1993/1626 (applying throughout the United Kingdom) made provision for the implementation in part of Articles 5a and 5b of Council Regulation (EEC) No. 3013/89(10), Articles 4d to 4h of Council Regulation (EEC) No. 805/68(11), Commission Regulation (EEC) No. 3567/92(12) and Articles 22 to 45 of Commission Regulation (EEC) No. 3886/92(13).

(10) OJ No. L289, 7.10.89, p.1; Articles 5a and 5b were inserted by Council Regulation (EEC) No. 2069/92 (OJ No. L215, 30.7.92, p.59).

(11) OJ No. L148, 28.6.68, p.24 (OJ/SE 1968(I) p.187); Articles 4d to 4h were inserted by Council Regulation (EEC) No. 2066/92 (OJ No. L215, 30.7.92, p.49).

(12) OJ No. L362, 11.12.92, p.41, as last amended by Commission Regulation (EC) No. 1847/95 (OJ No. L177, 28.7.95, p.32).

Articles 5a and 5b of Council Regulation (EEC) No. 3013/89 and Commission Regulation (EEC) No. 3567/92 establish a system of quotas for sheep annual premium. Articles 4d to 4h of Council Regulation (EEC) No. 805/68 and Articles 22 to 45 of Commission Regulation (EEC) No. 3886/92 establish a system of quotas for suckler cow premium.

4. These Regulations—

- (a) establish and describe a special quota reserve, and specify how it is to be funded (*regulation 3*);
- (b) establish who is eligible for an award of quota from the special quota reserve, lay down conditions for making an application for such an award and specify when such an award is to become effective (*regulation 4*);
- (c) specify the amounts of quota that will be awarded to successful applicants from the special quota reserve and state how those awards will be calculated (*regulation 5*);
- (d) specify a procedure to be followed where there is insufficient quota within a division of the special quota reserve to fund the awards referred to in sub-paragraph (c) of this paragraph (*regulation 6*);
- (e) lay down the rules governing quota surpluses in the special quota reserve (*regulation 7*);
- (f) indicate the rules determining the location of an applicant's holding for the purposes of these Regulations (*regulation 8*);
- (g) give officials certain powers in connection with the verification of applications for awards of quota from the special quota reserve (*regulation 9*);
- (h) create offences (together with associated penalties) in relation to, first, the making of applications for awards of quota from the special quota reserve and, second, the obstruction of officials in the exercise of the powers referred to in sub-paragraph (g) of this paragraph (*regulation 10*); and
- (i) revoke regulation 13A(15) of and Part V of Schedule 2 to S.I. 1993/1626 (*regulation 11*).

5. No compliance cost assessment has been prepared in respect of these Regulations.