
 STATUTORY INSTRUMENTS

1984 No. 1047

FOOD

The Dairy Produce Quotas Regulations 1984*Laid before Parliament in draft*

<i>Made</i>	- - -	23rd July 1984
<i>Coming into Operation</i>		24th July 1984

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The Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers 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, acting jointly in exercise of the powers conferred on them by that section and of all other powers enabling them in that behalf, hereby make the following regulations a draft of which was laid before Parliament and approved by resolution of each House:—

Title and commencement

1. These regulations may be cited as the Dairy Produce Quotas Regulations 1984 and shall come into operation on the day after the day on which they are made.

Interpretation

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

“alternative base year” means a calendar year reference to which may be obtained under Article 3(3) of Council Regulation 857/84 or Article 3 of the Commission Regulation (each of which deals with exceptional events);

“applicant” means an applicant for direct sales quota or wholesale quota;

“arbitrator” means, in Scotland, an arbiter;

“base period” means a period with reference to which estimates of primary direct sales quota or estimates of primary wholesale quota are calculated;

“base year revision claim” means a special case claim based on Article 3(3) of Council Regulation 857/84 or Article 3 of the Commission Regulation;

“consent or sole interest notice” means a notice, in relation to a holding or part of a holding, signed by the person required under these regulations to provide the notice, that either—

(a) he is the occupier of that holding or part of a holding and no other person has an interest in that holding or part of the holding, or

(b) all persons having an interest in that holding or part of the holding the value of which interest might be reduced by the transaction to which the notice relates agree to that transaction;

“Council Regulation 804/68” means Council Regulation (EEC) No. 804/68 **(c)** on the common organisation of the market in milk and milk products;

“Council Regulation 857/84” means Council Regulation (EEC) No. 857/84 **(d)** adopting general rules for the application of the levy in the milk and milk products sector;

(a) S.I. 1972/1811.

(b) 1972 c.68; section 2 is subject to Schedule 2 to that Act and is to be read, as regards England and Wales, with section 32(7) and (9) of the Magistrates' Courts Act 1980 (c.43), and S.I. 1984/447, as regards Scotland, with section 289B(4) and (6) of the Criminal Procedure (Scotland) Act 1975 (c.21), as inserted by paragraph 5 of Schedule 11 to the Criminal Law Act 1977 (c.45) and amended by section 55(2) of the Criminal Justice Act 1982 (c.48) and S.I. 1984/526 and, as regards Northern Ireland, with section 32(7) and (9) of the Magistrates' Courts Act 1980.

(c) O.J. No. L148, 28.6.68, p.13 (OJ/SE 1968 (I) p.176); the relevant amending instruments are Council Regulation (EEC) No.856/84 (O.J. No. L90, 1.4.84, p.10) and Council Regulation (EEC) No. 1557/84 (O.J. No. L150, 6.6.84, p.6).

(d) O.J. No. L90, 1.4.84, p.13, amended by Council Regulation (EEC) No. 1557/84.

“cumulative quarterly purchaser quota” means the quantity of dairy produce which (subject to Article 15(1)(c) of the Commission Regulation (which deals with the collection of levy)) may be delivered by wholesale delivery to a purchaser, from holdings in a region, in a quota year before the end of a quarter without that purchaser being liable to pay levy;

“cumulative quarterly wholesale quota” means—

- (a) the quantity of dairy produce which (subject to Article 15(1)(c) of the Commission Regulation) may be delivered by wholesale delivery from a holding in a region in which Formula A is implemented, in a quota year before the end of a quarter without the producer in occupation of that holding being liable to pay levy, or
- (b) the quantity of dairy produce which (subject to Article 15(1)(c) of the Commission Regulation) may be delivered by wholesale delivery to a purchaser (to the extent specified in relation to that purchaser under these regulations) from a holding in a region in which Formula B is implemented, in a quota year before the end of a quarter, without the producer in occupation of that holding being liable to pay Formula B contribution;

“dairy enterprise” means an area stated by the occupier of that area to be run as a self-contained dairy produce business;

“dairy produce” means the produce, expressed in kilograms of milk, in respect of which levy and Formula B contribution are payable under the Community legislation;

“Dairy Produce Quota Tribunal” has the meaning assigned to it by regulation 6;

“dairy unit” means a set of buildings used for the production of dairy produce, the location of which is registered under these regulations or, if not so registered, for any purpose by a milk marketing board or under any enactment relating to conditions to be observed in the production of dairy produce;

“delivery” has the meaning assigned to it by Article 12 of Council Regulation 857/84 (which sets out definitions) and “deliver” shall be construed accordingly;

“development claim” means a special case claim based on Article 3(1) of Council Regulation 857/84 (which deals with milk production development plans and investments) submitted by a producer in respect of investments of a capital nature on his holding calculated to achieve an average monthly quantity of milk production on his holding at least 7.5 per cent greater than his average monthly quantity of milk production taken from each month of any base period applicable to him;

“development quantity” means the quantity of milk calculated, by reference to the increase from a producer’s annualised quantity (that is to say his average monthly quantity of milk production, in any base period applicable to him, multiplied by 12) to the quantity of milk reasonably expected to be produced on his holding in the first quota year, by taking, in respect of any expected increased quantity—

- (a) in the band below 7.5 per cent of his annualised quantity, nil,
- (b) in the band from 7.5 to 12.5 per cent of his annualised quantity, half of the expected increased quantity in that band, and
- (c) in the band above 12.5 per cent of his annualised quantity, the whole of the expected increased quantity in that band;

“direct sale” means a sale referred to in Article 12(h) of Council Regulation 857/84;

“direct sales quota” means the quantity of dairy produce which may be sold by direct sale from a holding in a quota year without the direct seller in occupation of that holding being liable to pay levy;

“direct seller” means a producer selling dairy produce by direct sale;

“division” means a part of a holding in a region where the remainder of the holding is in another region;

“farming press” means any newspaper, journal or similar publication considered by the Minister to be likely to be read by producers and purchasers;

“formula” means Formula A or Formula B;

“Formula A” and “Formula B” have the meanings assigned to them by Article 5c(1) of Council Regulation 804/68 (which deals with implementation of the levy);

“Formula B contribution” means the sums to be recovered under Article 10 of Council Regulation 857/84 (which deals with contributions by producers to levy payable by purchasers) by a purchaser from a producer in a region where Formula B is implemented;

“further examination body” means—

(a) outside Scotland, the local panel for the locality of the holding the subject of a special case claim;

(b) in Scotland—

(i) in respect of a development claim or a special case claim which is both a development claim and a base year revision claim, the Dairy Produce Quota Tribunal, and

(ii) in respect of a special case claim which is a base year revision claim, the Minister or (where the Dairy Produce Quota Tribunal has acted as rejection review body in respect of that claim) the Dairy Produce Quota Tribunal;

“gross direct sales quota” has the meaning assigned to it by Schedule 1, paragraph 13;

“holding” has the meaning assigned to it by Article 12 of Council Regulation 857/84, but—

(a) in relation to any region, it means the division of the holding in that region, and

(b) in relation to any register entry identifying a holding and used under these regulations, it means (for the purpose of making calculations in respect of changes of occupation) the land identified in that register entry;

“identification” means a description of a holding specifying—

(a) its address,

(b) where possible, the location of the dairy unit on that holding, and

(c) such other particulars (if any) as the Minister may require for defining land to which direct sales quota or wholesale quota may relate—

and “identify” shall be construed accordingly;

“initial regional wholesale reserve” has the meaning assigned to it, in relation to a region, by regulation 7(2)(a);

“interest” in Scotland, does not include the estate of a superior;

“Intervention Board” means the Intervention Board for Agricultural Produce established under section 6(1) of the European Communities Act 1972;

“levy” means the levy, payable under the Community legislation to the competent authority referred to therein, described in Article 1 of the Council Regulation 857/84 (which deals with the fixing of the levy);

“locality” has the meaning assigned to it by regulation 6;

“local panel” has the meaning assigned to it by regulation 6;

“major change of occupation” means—

- (a) a change of occupation which is not a minor change of occupation, or
- (b) the continuation in occupation, by an occupier occupying under a minor interest, at a date one month after the termination of a minor interest;

“milk marketing board” means a milk marketing board constituted under the Agricultural Marketing Act 1958 (a) or the Agricultural Marketing Act (Northern Ireland) 1964 (b);

“minor change of occupation” means a change of occupation of part of a holding in circumstances where—

- (a) the area occupation of which changes is less than—
 - (i) in respect of a holding in Northern Ireland, three quarters of the area of the holding as previously constituted (and also no larger than 40 hectares), and
 - (ii) in respect of a holding elsewhere, one quarter of the area of the remainder of the holding (and also no larger than 5 hectares), and
- (b) the interest of the occupier who comes into that part of that holding is a tenancy or less than a tenancy and has a duration of less than one year—

and includes a change of occupation of land occupied under a minor interest;

“minor interest” means an interest of an occupier occupying by virtue of a minor change of occupation;

“national direct sales quota” means the quantity of dairy produce inserted by Article 2 of Council Regulation 1557/84 amending Council Regulations 804/68 and 857/84 into the Annex to Council Regulation 857/84 as applicable to the United Kingdom;

“national direct sales reserve” has the meaning assigned to it by regulation 7(1);

“national wholesale quota” means a quantity of dairy produce applied for the time being to the United Kingdom or any part thereof by or under Article 5c(3) and (4) of Council Regulation 804/68;

“net secondary wholesale quota” means that part of a producer’s wholesale quota which results from a special case claim;

“new region” means a region the establishment of which is announced under regulation 5(2)(b);

“old region” means a region the discontinuance of which is announced under regulation 5(2)(b);

“operative date” means the date on which these regulations come into operation;

(a) 1958 c.47, to which there are amendments not relevant to these regulations.
(b) 1964 c.13 (N.I.), to which there are amendments not relevant to these regulations.

“pre-operative period” means the period starting on 2nd April 1984 and finishing immediately before the operative date;

“primary direct sales quota” means the gross direct sales quota of a direct seller which is not secondary direct sales quota;

“primary wholesale quota” means the wholesale quota of a producer which is not net secondary wholesale quota;

“producer” has the meaning assigned to it by Article 12 of Council Regulation 857/84;

“provisional regional wholesale quota” has the meaning assigned to it by regulation 5(4);

“purchaser” has the meaning assigned to it by Article 12 of Council Regulation 857/84;

“purchaser quota” means the quantity of dairy produce which may be delivered by wholesale delivery to a purchaser, from holdings in a region, during a quota year without that purchaser being liable to pay levy;

“quarter” means quarter A, quarter B or quarter C;

“quarter A” means the days, in any year except 1984, from 1st April to 30th June, and, in 1984, from 2nd April to 30th June;

“quarter B” means the days in any year from 1st July to 30th September;

“quarter C” means the days in any year from 1st October to 31st December;

“quota year” means a consecutive period described in the first subparagraph of Article 5c(1) of Council Regulation 804/68 (which deals with periods in respect of which levy is payable);

“region” has the meaning assigned to it by regulation 5(2);

“regional wholesale quota” has the meaning assigned to it by regulation 5(3);

“rejection review body” means, outside Scotland, the local panel and, in Scotland, the Dairy Produce Quota Tribunal;

“remote area” means Scottish area B and any area outside the area of a milk marketing board;

“running regional wholesale reserve” has the meaning assigned to it by regulation 7(2)(b);

“Scottish area A” means Scotland except for—

(a) the Shetland Islands, and

(b) Scottish area B;

“Scottish area B” means Kintyre, south of Tarbert, and the islands of Arran, Bute, Coll, Gigha, Great Cumbrae, Islay, Little Cumbrae and Orkney;

“secondary direct sales quota” means gross direct sales quota applicable to a direct seller as a result of a special case claim;

“secondary wholesale quota” has the meaning assigned to it by Schedule 2, paragraphs 9 and 10;

“special case claim” means a claim, based on Article 3(1) or (3) of Council Regulation 857/84 or Article 3 of the Commission Regulation, for allocation of direct sales quota or wholesale quota;

“the Commission Regulation” means Commission Regulation (EEC) 1371/84(a) laying down detailed rules for the application of the levy;

(a) O.J. No. L132, 18.5.84, p.11, amended by Commission Regulation (EEC) No. 1955/84 (O.J. No. L182, 10.7.84, p.10).

“the Community legislation” means Article 5c of Council Regulation 804/68, Council Regulation 857/84 and the Commission Regulation;

“the Gazette” means, as respects anything in these regulations relating to—

- (a) England and Wales alone, the London Gazette,
- (b) Scotland alone, the Edinburgh Gazette,
- (c) Northern Ireland alone, the Belfast Gazette, and
- (d) the United Kingdom, the London, Edinburgh and Belfast Gazettes;

“the Minister” as respects anything in these regulations relating to—

- (a) England and Wales alone, means the Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales acting jointly,
- (b) Scotland alone, means the Secretary of State for Scotland,
- (c) Northern Ireland alone, shall be construed in accordance with paragraph (3), and
- (d) the United Kingdom, means the Ministers;

“the Ministers” means all those to whom the definition of “the Minister” relates, acting jointly;

“transferee” means a producer who replaces another producer as occupier of a holding or part of a holding;

“transferor” means a producer who is replaced by another producer as occupier of a holding or part of a holding;

“wholesale delivery” means delivery from a producer to a purchaser; and

“wholesale quota” means—

- (a) the quantity of dairy produce which may be delivered by wholesale delivery, from a holding in a region in which Formula A is implemented, in a quota year without the producer in occupation of that holding being liable to pay levy, or
- (b) the quantity of dairy produce which may be delivered by wholesale delivery to a purchaser (to the extent specified in relation to that purchaser under these regulations), from a holding in a region in which Formula B is implemented, in a quota year without the producer in occupation of that holding being liable to pay Formula B contribution.

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

- (a) any reference to a numbered regulation or Schedule shall be construed as a reference to the regulation or Schedule so numbered in these regulations,
- (b) any reference in a regulation or Schedule to a numbered paragraph shall be construed as a reference to the paragraph so numbered in that regulation or Schedule, 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.

(3) In their application to Northern Ireland these regulations shall have effect with the substitution, for references to the Minister, of references to the Department of Agriculture for Northern Ireland.

Milk equivalence of cheese

3.—(1) For the purposes of Article 8 of the Commission Regulation (which deals with milk equivalence of cream, butter and cheese) the milk equivalence of cheese shall be calculated on the basis that each kilogram of cheese shall equal such quantity of milk referred to in paragraph (2) as is required to make that kilogram of cheese.

(2) The milk to which paragraph (1) relates is milk the fat content of which has not been altered since milking.

Direct Sales

4. Direct sales quota shall be established for any producer in accordance with these regulations and the Community legislation, and Schedule 1 shall apply in respect of the allocation, transfer and surrender of direct sales quota and matters consequential or incidental thereto.

Wholesale deliveries

5.—(1) Wholesale quota for any producer, and purchaser quota for any purchaser, shall be established in accordance with these regulations and the Community legislation.

(2) The Minister shall, by advertisement published in the Gazette and farming press, announce—

(a) the regions into which the United Kingdom is divided for the purposes of Article 1(2) of Council Regulation 857/84 (which deals with regions), and

(b) any change, in respect of any quota year, of the regions into which the United Kingdom is divided.

(3) The Minister shall, in respect of each quota year, announce by advertisement published in the Gazette and farming press—

(a) the implementation of a formula, and

(b) the allocation from the national wholesale quota of a regional wholesale quota—

for each region (other than any region in which he is satisfied that there have been no wholesale deliveries of dairy produce in 1983) in accordance with the Community legislation, and for the purposes of this paragraph the year to which the first sentence of Article 2(2) of Council Regulation 857/84 (which permits calculation of wholesale quota and purchaser quota on the basis of wholesale deliveries in a year other than 1981) shall apply is the 1983 calendar year.

(4) The Minister shall, in respect of the first quota year, announce by advertisement published in the Gazette and farming press the allocation from the national wholesale quota of a provisional regional wholesale quota for each region in Scotland (other than any region in which he is satisfied that there have been no wholesale deliveries of dairy produce in the year 1983).

(5) In relation to any region in Scotland (if Scotland comprises more than one region), the aggregate of wholesale quotas established, as at the operative date, for holdings in that region and the quantity allocated in respect of that region under Schedule 2, paragraph 16(1)(a) shall be the regional wholesale quota (in place of the provisional regional wholesale quota) for that region in respect of the first quota year.

(6) Schedule 2 shall apply in respect of the allocation, transfer and surrender of wholesale quota in any region in respect of which either Formula A or Formula B is implemented, as indicated in paragraph (3), and in respect of matters consequential or incidental thereto.

(7) Schedule 3 shall apply in respect of the allocation, transfer and reduction of purchaser quota in a region for which Formula B is implemented as indicated in paragraph (3), and in respect of matters consequential or incidental thereto.

(8) Schedule 4 shall apply in any region (or, to the extent that paragraph (11) applies, part of a region) in respect of—

- (a) the retention of wholesale quota where Formula A is implemented as indicated in paragraph (3) in place of Formula B, and
- (b) the retention of wholesale quota and allocation of purchaser quota in a region for which Formula B is implemented as indicated in paragraph (3) in place of Formula A.

(9) Where, in respect of any quota year, the regional wholesale quota allocated for a region as indicated in paragraph (3) is increased in relation to the preceding quota year, the quantity of dairy produce so added shall create, or be added to, the running regional wholesale reserve for that region.

(10) Where, in respect of any quota year, the regional wholesale quota allocated for a region as indicated in paragraph (3) is reduced in relation to the preceding quota year—

- (a) the quantity of dairy produce so subtracted shall be satisfied—
 - (i) where Formula A applies, from all producers with wholesale quota in proportion to the wholesale quota of each at the start of the quota year, and
 - (ii) where Formula B applies, from all producers with wholesale quota in proportion to the wholesale quota of each at the start of the quota year (the reduction of purchaser quotas to be calculated in accordance with those reductions of wholesale quota),
- (b) cumulative quarterly wholesale quotas and cumulative quarterly purchaser quotas shall be reduced proportionally in accordance with the wholesale quotas and purchaser quotas so reduced,
- (c) the Minister shall amend the registers which he is required by Schedules 2 and 3 to maintain, so as to record the reductions, and
- (d) in any region where Schedule 4 is applicable, the obligations of the Minister under Schedule 4 shall be deemed to include a requirement to take that reduction into account.

(11) Where, in respect of any quota year, there is a change of regions as described in paragraph (2)(b), the following shall be deemed to have taken place, for the purposes of these regulations, immediately before the end of the prior quota year—

- (a) the adjustment of wholesale quota applicable to any holding affected by the change in accordance with the following calculations—
 - (i) where any holding in more than one old region is in one new region, by aggregating the total wholesale quota relating to that holding;
 - (ii) where any holding in one old region is in more than one new region, by allocating wholesale quota in accordance with paragraph (12) in relation to divisions in new regions;

(iii) where any holding in more than one old region is in more than one new region but in different divisions, by aggregating the total wholesale quota relating to that holding and allocating wholesale quota in accordance with paragraph (12) in relation to divisions in new regions;

(b) the calculation of the running regional wholesale reserve of each new region by aggregating the running regional wholesale reserves of each of the old regions and dividing the aggregate among the new regions proportionally in accordance with the total wholesale quota then allocated in each new region;

(c) the calculation of the regional wholesale quota of each new region by adding to its aggregate of wholesale quotas (taking account of subparagraph (a)) its running regional wholesale reserve calculated under subparagraph (b).

(12) An allocation is made in accordance with this paragraph by allocating to the division of a holding which contains the dairy unit (where that holding contains a single dairy unit) the total wholesale quota relating to that holding or (in respect of any other holding) allocating to each division of that holding a part of the total wholesale quota relating to that holding calculated proportionally in accordance with the area of that division.

Dairy Produce Quota Tribunals

6.—(1) There shall be constituted—

(a) a Dairy Produce Quota Tribunal for England and Wales,

(b) a Dairy Produce Quota Tribunal for Scotland,

(c) a Dairy Produce Quota Tribunal for Northern Ireland—

and, in respect of direct sales from a holding situated in more than one area of a Dairy Produce Quota Tribunal, the Dairy Produce Quota Tribunal the functions of which shall relate to those direct sales shall be the Dairy Produce Quota Tribunal chosen for the purpose by the Ministers.

(2) Each Dairy Produce Quota Tribunal (except the Dairy Produce Quota Tribunal for Scotland) shall divide its area into localities or constitute its entire area as one locality in accordance with directions in writing from the Minister and there shall be constituted at least one local panel for each such locality.

(3) Any reference in Schedules 1 and 2 to “the Tribunal” (or to a body the functions of which are carried out thereunder by a Dairy Produce Quota Tribunal) shall be treated as a reference to the appropriate Dairy Produce Quota Tribunal under paragraph (1), and any reference in Schedules 1 and 2 to a body the functions of which are carried out thereunder by a local panel shall be treated as a reference to an appropriate local panel, which shall be—

(a) in the case of a holding in a single locality, a local panel for that locality, and

(b) in the case of a holding in more than one locality, a local panel for the locality which includes—

(i) in the case of a holding containing a single dairy unit, that part of the holding on which the dairy unit is located, and

(ii) in the case of any other holding, that part of the holding which is larger in area than any part of the holding in any other single locality.

(4) Schedule 5 shall apply in respect of the constitution, appointment of members, remuneration of members, staffing and procedure of Dairy Produce Quota Tribunals and local panels.

Reserves

7.—(1) For the purposes of Article 4(7) of the Commission Regulation (which deals with direct sales quota made available) there may be constituted a national direct sales reserve as described in Schedule 1, paragraph 16.

(2) For the purposes of Article 5 of Council Regulation 857/84 (which deals with reserves taken from the national wholesale quota)—

- (a) there shall be constituted for each region for which a formula is implemented an initial regional wholesale reserve as described in Schedule 2, paragraph 12 (subject to the provisions in that paragraph relating to Scotland), and
- (b) there may be constituted for each region for which a formula is implemented a running regional wholesale reserve as described in regulation 5(9) and (11) and Schedule 2, paragraph 16.

Quota exchange

8.—(1) For the purposes of Article 4(5) and (6) of the Commission Regulation (which deals with changes from direct sales to wholesale delivery and vice versa) any producer with a holding in a region in which a formula is implemented may exchange direct sales quota for wholesale quota with any other producer with a holding in the same region on such terms as those producers and the Minister may agree having regard to the provisions of the Community legislation.

(2) The Minister shall amend the registers which he is required by Schedules 1, 2 and 3 to maintain so as to record the exchange referred to in paragraph (1) and shall inform any purchaser affected by the exchange of the effect of the exchange on his purchaser quota and his obligations under these regulations and the Community legislation.

Reallocation

9.—(1) For the purposes of Article 8 of Council Regulation 857/84 (which deals with management of wholesale quotas by purchasers where Formula B is implemented) a purchaser and a producer may agree a change (within one region) in the identification of that producer's holding.

(2) If the Minister receives—

- (a) a notification that an agreement under paragraph (1) has been made, such notification being signed by or on behalf of both parties to the agreement,
- (b) a consent or sole interest notice, signed by or on behalf of the producer above referred to, in respect of the change above referred to, and
- (c) such other particulars as the Minister may reasonably require—

that change shall have effect in relation to that producer's wholesale quota, and the Minister shall amend the registers which he is required by Schedule 2 to maintain so as to record that change.

Functions of the Intervention Board for Agricultural Produce

10.—(1) The Intervention Board shall be—

- (a) the agency appointed for the purposes of Article 9(3) of Council Regulation 857/84 (which deals with payment of levy by direct sellers), and
- (b) the competent authority for the purposes of—
 - (i) Article 8 (which deals with equivalences),
 - (ii) Article 9(2) (which deals with increases in fat content),
 - (iii) Article 11(1) (which deals with records of wholesale deliveries),
 - (iv) Article 12 (which deals with payment of levy in respect of wholesale deliveries), and
 - (v) Article 13 (which deals with records of direct sales and payment of levy in respect thereof)—of the Commission Regulation.

(2) The Intervention Board and any milk marketing board may enter into an agreement providing for the discharge by the milk marketing board, on behalf of the Intervention Board, of any functions of the Intervention Board under these regulations or the Community legislation specified in the agreement, on such terms as may be specified in the agreement.

(3) In respect of any area which is not within the area of a milk marketing board, paragraph (2) shall have effect as if “person or milk marketing board” were substituted for “milk marketing board” wherever those words appear.

Payment of levy by direct sellers

11. The time allowed for making the payment required to be made by Article 13(2) of the Commission Regulation shall be four months from the end of the quota year in respect of which the payment is made.

Repayments

12. The second subparagraph of Article 12(2) of the Commission Regulation (which deals with refunds of overpayments) shall apply in respect of—

- (a) payments of levy to the competent authority referred to in Article 12 of the Commission Regulation, and
- (b) payments of Formula B contribution by producers to purchasers—

so that refunds of all overpayments referred to therein shall be made not later than 45 days after the end of the quarter to which the overpayment relates.

Functions under these regulations

13.—(1) The Minister and the Intervention Board shall provide each other with such information and assistance as shall be required for the proper performance of their respective functions under these regulations and the Community legislation.

(2) The Minister and any milk marketing board may enter into an agreement providing for the discharge by that milk marketing board, on behalf of the Minister, of any functions of the Minister under these regulations or the Community legislation specified in the agreement, on such terms as may be specified in the agreement.

(3) In respect of any area which is not within the area of a milk marketing board, paragraph (2) shall have effect as if “person or milk marketing board” were substituted for “milk marketing board” wherever those words appear.

Disapplication of enactments

14. Nothing in section 47(2) of the Agricultural Marketing Act 1958 (a) or section 23 of the Agricultural Marketing Act (Northern Ireland) 1964 (b) (which restrict the disclosure of certain information obtained under those Acts) shall restrict or apply to the disclosure of any information if, and in so far as, the disclosure is required or authorised by these regulations, the Community legislation or an agreement under regulation 10(2) or 13(2).

Entries in registers

15. Any entry in any register required by these regulations to be maintained by the Minister shall in any proceedings be evidence of matters stated therein.

Service of documents

16. Any document required by these regulations to be served on any person may be served by post.

Pre-operative dairy produce

17.—(1) In calculating quantities of dairy produce sold by direct sale during the first quota year for the purposes of these regulations and the Community legislation, pre-operative dairy produce relating to a holding shall be added to the dairy produce sold by direct sale from that holding on and after the operative date.

(2) In this regulation “pre-operative dairy produce” means—

- (a) where the identification of the holding, as at the operative date, is the same as the identification of that holding as at 2nd April 1984, the dairy produce sold by direct sale from the holding during the pre-operative period, and
- (b) where subparagraph (a) does not apply, an apportionment of the dairy produce sold by direct sale during the pre-operative period from any holdings including any land comprised in the identification of that holding as at the operative date, such apportionment to be calculated on the same basis as the calculations used to establish the direct sales quota, as at the operative date, relating to that holding.

(3) This regulation applies to wholesale deliveries of dairy produce as if—

- (a) there were substituted for the words “sold by direct sale”, wherever they appear, the words “delivered by wholesale delivery”, and
- (b) there were substituted for the words “direct sales quota” the words “wholesale quota”—

and so applies in respect of purchasers as well as producers.

Penalties

18.—(1) Subject to paragraph (2), any person who—

(a) fails without reasonable excuse to comply with a requirement

(a) 1958 c.47, to which there are amendments not relevant to these regulations.

(b) 1964 c.13 (N.I.), to which there are amendments not relevant to these regulations.

imposed on him by or under these regulations or the Community legislation, or

- (b) in connection with these regulations or the Community legislation, 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 £2,000 (except in Northern Ireland) or £1,000 (in Northern Ireland) and, on conviction on indictment, to a fine.

(2) Paragraph (1)(a) shall not apply to any failure by any person to comply with a requirement in an agreement referred to in regulation 10 or 13.

(3) The Minister may, following any conviction under paragraph (1)(b) against which there is no successful appeal, by notice served (within the period of 12 months following the date specified in paragraph (4)) on the person to whose direct sales quota or wholesale quota that conviction relates reduce his direct sales quota or wholesale quota to such extent as may reasonably be regarded by the Minister as being attributable to the falsehood on which the conviction was founded and shall in the event of such a reduction amend the registers which he is required by these regulations to maintain in order to record that reduction, and any direct sales quota or wholesale quota released by virtue of that reduction shall come into the national direct sales reserve or a running regional wholesale reserve (as the case may be).

(4) The date specified in this paragraph is—

- (a) in the case of a conviction against which there is no appeal, the date on which the right to appeal against that conviction expires, and
- (b) in the case of a conviction against which there is an unsuccessful appeal—
- (i) if there is no right of appeal against the result of that unsuccessful appeal, the date of that result, and
- (ii) if there is a right of appeal against that result but no appeal is made, the date on which that right of appeal expires.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 23rd July 1984.



Michael Jopling,
Minister of Agriculture, Fisheries
and Food.

George Younger,
One of Her Majesty's Principal
Secretaries of State.

21st July 1984.

SCHEDULE 1

Regulation 4

DIRECT SALES QUOTA

PART I — ALLOCATION OF DIRECT SALES QUOTA

1. For the purposes of Article 4(1) of the Commission Regulation (which deals with time limits for applications for direct sales quota registration)—

- (a) the competent authority shall be the Minister, and
- (b) the date fixed as the final date for applications under paragraph 2 shall be the date five weeks after the operative date.

2.—(1) Each applicant shall submit his application for registration as a direct seller on a form (as specified in subparagraph (2)) duly completed by him or under his authority.

(2) The form referred to in subparagraph (1) shall be provided on request by the Minister and shall require an applicant to provide—

- (a) such information as he is obliged to provide for the purposes of Article 4 of the Commission Regulation,
- (b) such other information as may reasonably be required to be provided in order to enable the Minister to allocate direct sales quota, and
- (c) a statement that on 2nd April 1984 the business of direct sale or wholesale delivery of dairy produce was being carried on from land within the identification of the holding occupied by him on the date of his application.

3. For the purpose of calculating primary direct sales quota under this Schedule the dairy produce sold by direct sale from a holding in a base period shall be deemed to be the dairy produce sold by direct sale during that base period (whether from that holding or elsewhere) by the producer occupying that holding on 2nd April 1984 but not dairy produce sold by direct sale by any other producer.

4.—(1) For the purpose of identifying any holding to which any direct sales quota may relate, the Minister shall subject to subparagraph (2) apply the provisions of Article 7(1) of Council Regulation 857/84 and Article 5 of the Commission Regulation (both of which relate to transfers) to any changes of occupation of any holding or any part of any holding which took place during the pre-operative period with effect that—

- (a) where, at any date during the pre-operative period, a holding included an area occupied under a minor interest, the dairy produce sold by direct sale from that holding as at that date shall be presumed to have been sold from the remainder of the holding;
- (b) where, at any date during the pre-operative period, there was a major change of occupation of part of a holding, and immediately prior to that change of occupation the holding contained a single dairy unit, dairy produce sold by direct sale from the holding during the part of the pre-operative period prior to that change of occupation shall be presumed to have been sold by direct sale from that part of the holding on which the dairy unit was located immediately prior to the change of occupation;
- (c) subject to paragraphs (a) and (b) of this subparagraph, dairy produce sold by direct sale from a holding during any period shall be presumed to have been sold proportionally—

- (i) from each part of the holding, and
- (ii) during each part of the period.

(2) If all persons in occupation of, or having an interest in, land which on 2nd April 1984 comprised a single holding and the Minister agree that a different presumption should be used instead of any presumption used in subparagraph (1)(b) and (c) in order to take account of areas and periods actually used for milk production, that different presumption shall be used for the purposes of subparagraph (1).

5. The Minister shall calculate, in respect of each applicant who complies with paragraph 2 and with Article 4 of the Commission Regulation, an estimate of primary direct sales quota in relation to a holding identified by the Minister (using paragraphs 3 and 4 so far as may be necessary) as occupied by the applicant at the operative date and the estimate of primary direct sales quota shall be the quantity of dairy produce calculated by the Minister to be—

- (a) in the case of an applicant to whom the second subparagraph of Article 4(2) of the Commission Regulation (which deals with producers in operation for less than 12 months) applies, a quantity calculated by multiplying his base quantity (that is to say the quantity of dairy produce sold by direct sale from that holding in the period starting on the first day of the first calendar month (or, where the quantity so sold before the first calendar month (not being April 1984) is less than one third of the quantity so sold in the first calendar month, the second calendar month) beginning after commencement of direct sale of dairy produce from that holding and finishing on 30th April 1984 (where that first day is 1st March or 1st April 1984) and otherwise on 31st March 1984) by a fraction the numerator of which is 12 and the denominator of which is the number of months in that period and (except in respect of a holding in a remote area) reducing the result by 6 per cent;
- (b) in the case of an applicant to whom—
 - (i) subparagraph (a) does not apply, and
 - (ii) the first subparagraph of Article 4(2) of the Commission Regulation (which deals with direct sellers who have begun or greatly altered their operations after 1st January 1981 but before 1st April 1984) applies—

a quantity calculated by establishing his base quantity (that is to say the quantity of dairy produce sold by direct sale from that holding during the period of 12 months prior to 1st April 1984) and (except in respect of a holding in a remote area or an applicant's holding the quantity of dairy produce sold by direct sale from which in 1981 was greater than his base quantity) reducing his base quantity by 6 per cent or (where 101 per cent of the dairy produce sold by direct sale from that holding in 1981 is a greater quantity than his base quantity so reduced by 6 per cent) by such a percentage as meets that 101 per cent; and

- (c) in the case of an applicant to whom neither of the preceding subparagraphs of this paragraph apply, a quantity equal to 101 per cent of the quantity of dairy produce sold by direct sale from his holding in 1981.

6.—(1) The Minister shall serve a statement on each applicant who has complied with paragraphs 1 and 2, and that statement shall consist of—

- (a) one or other of the following, namely—
 - (i) an estimate of his primary direct sales quota, or

(ii) a determination that he is not entitled to primary direct sales quota, and

(b) an identification of the holding to which paragraph (a) of this subparagraph relates—

and shall be accompanied by a note of the calculations used in respect of that statement.

(2) Except in respect of any holding to which a written objection, submitted under paragraph 7, relates, the statement referred to in subparagraph (1) shall determine the primary direct sales quota (if any) of any applicant and the holding to which that primary direct sales quota relates.

7.—(1) Within 21 days of service of a statement in accordance with paragraph 6(1) any applicant may submit to the Minister a written objection to that statement, specifying—

(a) the primary direct sales quota to which he claims he was entitled, and

(b) the reasons for that claimed entitlement.

(2) If the Minister is of the opinion that any written objection referred to in subparagraph (1) could only be met by transferring primary direct sales quota of another person to the objector, he shall send—

(a) to the objector, a copy of the statement and accompanying note referred to in paragraph 6(1) which relates to that other person, and

(b) to that other person, a copy of the statement and accompanying note referred to in paragraph 6(1) which relates to the objector—

together with a statement that the aggregate of the estimates of their primary direct sales quotas must be divided between them by agreement (evidence of such agreement to include such consent or sole interest notice (if any) as subparagraph (3) might require) or, in default of such agreement, by arbitration.

(3) In any case to which subparagraph (2) applies—

(a) an arbitrator shall be appointed by agreement between the objector and the other person referred to in subparagraph (2)(a) or, in default of agreement, by the Chairman of the Tribunal,

(b) any person having an interest in either holding to which the arbitration relates, as well as the objector and the other person referred to in subparagraph (2)(a), shall be entitled to make representations to the arbitrator,

(c) subject to paragraph (b) of this subparagraph, the Arbitration Act 1950 (a) shall apply to any arbitration in England and Wales and the Arbitration Act (Northern Ireland) 1937 (b) shall apply to any arbitration in Northern Ireland,

(d) the primary direct sales quota of each of the persons referred to in subparagraph (2)(a) and the holding to which such primary direct sales quota relates shall be such quantity (which, added to the quantity of the other such person, shall amount to the aggregate of the estimates of their primary direct sales quotas) and such holding (which, joined to the holding of the other such person, shall comprise the entirety of the holdings identified in the statements of the estimates of their primary direct sales quotas) as shall be notified to the Minister—

(a) 1950 c.27, to which there are amendments not relevant to these regulations.

(b) 1937 c.8 (N.I.), to which there are amendments not relevant to these regulations.

- (i) by a statement signed by or on behalf of each of those persons on a form provided on request by the Minister including a consent or sole interest notice in relation to any reduction of an estimate of primary direct sales quota, or
 - (ii) in default of such a statement, by a copy of the arbitrator's award signed by the arbitrator, and
- (e) an arbitrator's award shall be determined in accordance with the preceding paragraphs of this Schedule except that, if he is of the opinion that the presumptions in paragraph 4(1)(b) and (c) do not accurately reflect findings made by him (if he is able to make such findings) as to areas used for milk production in the five years preceding the arbitration, he shall use such findings in place of those presumptions.
- (4) In any case to which subparagraph (2) does not apply, the Minister shall forward the objection together with—
- (a) the statement and note referred to in paragraph 6(1), and
 - (b) one or other of the following, namely—
 - (i) a statement that he accepts the objection, or
 - (ii) a statement of his reasons for not accepting the objection—
- to the Tribunal, and the Tribunal shall determine the objector's primary direct sales quota (which may be any quantity from nil to the quantity claimed in the objection).
- (5) A written objection submitted in accordance with this paragraph shall not prejudice, or be prejudiced by, a special case claim submitted by or on behalf of an applicant submitting that written objection.
- 8.** At the same time as he applies for registration as a direct seller, any applicant may submit a special case claim to the Minister in such form and with such information as the Minister may reasonably require.
- 9.—(1)** Each special case claim shall be examined by the Minister who shall accept or reject it in accordance with the following provisions of this paragraph.
- (2) A special case claim shall be accepted by the Minister only if—
 - (a) it is a base year revision claim, a development claim or both,
 - (b) it complies with paragraph 8, and
 - (c) he is satisfied that the applicant may be entitled to secondary direct sales quota in accordance with these regulations.
 - (3) A base year revision claim shall be accepted by the Minister only if it contains the following particulars from the applicant—
 - (a) the alternative base year chosen by him being, where he is also an applicant for wholesale quota—
 - (i) 1983, or
 - (ii) if he has chosen an alternative base year under Schedule 2, that alternative base year;
 - (b) the indent of Article 3(3) of Council Regulation 857/84 or Article 3 of the Commission Regulation on which he relies;

- (c) his alternative base year direct sales quantity, that is to say the quantity of dairy produce sold by him by direct sale from his holding in his alternative base year; and
 - (d) his secondary direct sales quota claim, being—
 - (i) a specified quantity of dairy produce no greater than 94 per cent of his alternative base year direct sales quantity (or, where his alternative base year is 1981, no greater than 101 per cent thereof), and
 - (ii) a statement that the quantity so specified should be reduced by the amount of his primary direct sales quota.
- (4) A development claim shall be accepted by the Minister only if it contains the following particulars from the applicant—
- (a) the subparagraph of Article 3(1) of Council Regulation 857/84 on which he relies;
 - (b) evidence that his reliance is based on an investment of a capital nature (which was made or in respect of which an obligation was entered into before 1st March 1984) essential to the increase of dairy produce intended by him to be sold by direct sale from his holding;
 - (c) the total quantity of dairy produce which he expects to sell by direct sale or deliver by wholesale delivery from his holding in the first quota year; and
 - (d) his secondary direct sales quota claim, being a specified quantity of dairy produce equal to that percentage of the quantity of dairy produce claimed by him as his development quantity in relation to his holding which he claims as secondary direct sales quota.
- (5) Any rejection of a special case claim by the Minister shall be served by him on the applicant together with a statement of reasons why it was rejected.
- (6) Within 21 days of service of a rejection as specified in subparagraph (5) an applicant may, by submitting to the rejection review body—
- (a) his special case claim,
 - (b) the statement of reasons referred to in subparagraph (5),
 - (c) his representations in respect of those reasons, and
 - (d) a request that the rejection be reviewed—
- on a form to be provided on request by the rejection review body, cause the rejection review body to review that rejection.
- (7) The rejection review body reviewing a rejection pursuant to subparagraph (6) shall—
- (a) if they are of the opinion that it was correct, in accordance with the preceding provisions of this paragraph, to reject the special case claim, confirm the rejection and state their reasons for such confirmation in writing to the applicant, and
 - (b) if they are not of the opinion indicated in paragraph (a) of this subparagraph—
 - (i) reserve the special case claim for further examination in accordance with paragraph 10, and
 - (ii) notify the applicant in writing that it has been so reserved.
- (8) The Minister shall reserve each special case claim which he does not reject for further examination in accordance with paragraph 10 and shall notify the applicant in writing that it has been so reserved.

10.—(1) The following provisions of this paragraph shall relate to special case claims reserved for further examination.

(2) The further examination body shall consider each special case claim and shall, in respect of each special case claim, determine an estimate of secondary direct sales quota of each applicant.

(3) The estimate of secondary direct sales quota of each applicant shall be—

- (a) such quantity of dairy produce (if any) as is considered by the further examination body to be justified by his special case claim, or
- (b) his secondary direct sales quota claim—

whichever is the less, and notification of that estimate shall be served on him by the further examination body.

(4) The estimate of secondary direct sales quota of each applicant notified to him under subparagraph (3) shall include a statement, where the estimate is nil or less than his secondary direct sales quota claim, of the reasons why the further examination body consider that nil or lesser quantity to be justified.

(5) For the purposes of subparagraphs (3) and (4) quantities of dairy produce included in an estimate of secondary direct sales quota by virtue of both a base year revision claim and a development claim shall not be aggregated, but the absence of aggregation shall not make the notification under subparagraph (3) a notification to which subparagraph (4) applies.

(6) Any applicant on whom there is served a notification to which subparagraph (4) applies from a further examination body which is not the Tribunal may within 21 days of service of that notification, by submitting to the Tribunal—

- (a) the notification,
- (b) his representations in respect of the notification, and
- (c) a request that the notification be reviewed—

on a form to be provided on request by the Tribunal, cause the Tribunal to review that notification.

(7) Except as provided by subparagraph (6) the secondary direct sales quota determined for each applicant shall be the estimate of his secondary direct sales quota.

11.—(1) The Tribunal shall determine the secondary direct sales quota of each applicant who has, by virtue of paragraph 10(6), caused them to review the notification referred to therein and the secondary direct sales quota of each such applicant shall be—

- (a) such quantity of dairy produce (if any) as is considered by the Tribunal to be justified by his special case claim and his representations referred to in paragraph 10(6)(b), or
- (b) his secondary direct sales quota claim—

whichever is the less.

(2) The Tribunal shall, on any review of a determination of a further examination body, be empowered to lower as well as raise the quantity of dairy produce determined by that body as an estimate of secondary direct sales quota.

12.—(1) The Tribunal shall send to the Minister in respect of each applicant in respect of whom they (or a local panel) have acted (and shall copy to each such applicant) a notification of—

- (a) his primary direct sales quota determined in accordance with paragraph 7(4), and
- (b) his secondary direct sales quota determined under paragraph 10 or 11(1)—

and shall send to each applicant whose secondary direct sales quota has been determined under paragraph 11 to be nil or less than his secondary direct sales quota claim a written statement of their reasons for that determination.

(2) A local panel shall provide the Tribunal with such information and documents as the Tribunal may require for the purposes of subparagraph (1).

13.—(1) The gross direct sales quota of each applicant shall be the aggregate of his primary direct sales quota and his secondary direct sales quota.

(2) The Minister shall make an aggregate of all gross direct sales quotas calculated under the preceding paragraphs of this Schedule.

(3) If the aggregate made under subparagraph (2) exceeds the national direct sales quota, the direct sales quota of each direct seller, in respect of his holding, shall as at the operative date be his gross direct sales quota multiplied by a fraction the numerator of which is the national direct sales quota and the denominator of which is that aggregate.

(4) If the aggregate made under subparagraph (2) does not exceed the national direct sales quota, the direct sales quota of each direct seller, in respect of his holding, shall as at the operative date be—

- (a) in the case of any direct seller who has no secondary direct sales quota and whose estimate of primary direct sales quota was calculated under paragraph 5(a) or (b) as equal to his base quantity as therein described, his gross direct sales quota, and
- (b) in the case of any direct seller to whom paragraph (a) of this subparagraph does not apply, such quantity of dairy produce as is established by—
 - (i) subtracting the aggregate of direct sales quotas established by paragraph (a) of this subparagraph from the national direct sales quota so as to calculate a remainder, and
 - (ii) multiplying his gross direct sales quota by a fraction the numerator of which shall be that remainder and the denominator of which shall be the aggregate of gross direct sales quotas to which paragraph (a) of this subparagraph does not apply or by a fraction of $\frac{100}{94}$ (whichever fraction is the lesser).

PART II — REGISTERS, NATIONAL DIRECT SALES RESERVE AND EXCEPTIONAL HARDSHIP CLAIMS

14.—(1) The Minister shall prepare in respect of each direct seller a direct sales register entry, dated as at the operative date and setting out—

- (a) his name,
- (b) his direct sales quota, and
- (c) an identification of his holding—

and shall send him a copy of that entry.

(2) Where a holding comprises more than one dairy enterprise, a direct seller may, on presenting to the Minister a consent or sole interest notice in respect of that holding, agree with the Minister the partition of the holding among separate direct sales register entries as specified in the agreement.

15.—(1) The Minister shall maintain—

(a) a direct sales register (being a register of entries referred to in paragraph 14), and

(b) a register of particulars of direct sales by each direct seller.

(2) The Minister shall permit, during reasonable working hours, inspection of any entry relating to a specific holding in the register referred to in subparagraph (1)(a) by any person who is the direct seller in relation to, or gives the Minister a statement in writing that he has an interest in, that holding, and shall, on payment of a reasonable copying charge, forward a copy of that entry to any such person who requests it.

16.—(1) A national direct sales reserve may be created and added to—

(a) by any quantity of dairy produce not allocated under this Schedule, and

(b) by such quantities of direct sales quota as may be surrendered to it by any direct seller on such terms (including a requirement that a consent or sole interest notice shall be provided by the direct seller in relation to the holding to which the surrender relates) as may be agreed by the direct seller and the Minister.

(2) The Minister shall amend his direct sales register so as to record any surrender under subparagraph (1).

17.—(1) The Minister may make available from the national direct sales reserve an exceptional hardship provision to be used in satisfaction of exceptional hardship claims in accordance with the following provisions of this paragraph.

(2) For the purposes of this paragraph “exceptional hardship claim” shall be construed in accordance with subparagraph (3), and “claimant” shall be construed accordingly.

(3) An exceptional hardship claim shall be a claim by a person to whom Article 4(1)(c) of Council Regulation 857/84 (which deals with producers undertaking farming as their main occupation) applies that—

(a) before 2nd April 1984 he has entered into, or become obliged to enter into, a transaction or made an arrangement—

(i) as a result of which his direct sales quota is substantially less than it would have been had he not entered into or become obliged to enter into that transaction or made that arrangement, or

(ii) the reasonably expected outcome of which is a level of direct sale of dairy produce in respect of which, or a substantial part of which, direct sales quota is not otherwise capable under these regulations of being allocated to him,

(b) at the time of entering into or becoming obliged to enter into that transaction or making that arrangement he intended to go into or remain in business as a producer,

(c) he has not received, and will not receive or become entitled to receive, as a result of that transaction or arrangement, benefit reasonably commensurate with the want of direct sales quota to which his exceptional hardship claim relates,

- (d) as a result of the matters specified in the preceding paragraphs of this subparagraph, he has suffered or will suffer exceptional hardship in comparison with producers in general, and
- (e) it is fair and reasonable that he should be allocated direct sales quota as a result of his exceptional hardship claim.
- (4) Where an exceptional hardship provision is made, the Minister shall by advertisement published in the Gazette announce—
- (a) the quantity of dairy produce in the exceptional hardship provision, and
- (b) the time limit and procedural requirements for exceptional hardship claims—
- and no exceptional hardship claim shall be considered by the Tribunal unless it is made within that time limit and complies with those requirements.
- (5) The Tribunal shall determine for any claimant who satisfies them of the matters referred to in subparagraph (3) his gross additional direct sales quota, being the quantity of dairy produce which the Tribunal determines is justified by his exceptional hardship claim.
- (6) Each determination of the Tribunal, under subparagraph (5), of an exceptional hardship claim shall be forwarded to the Minister and copied to the claimant.
- (7) The Minister shall aggregate the gross additional direct sales quotas determined under paragraph (5) and—
- (a) if that aggregate exceeds the exceptional hardship provision, the additional direct sales quota of each claimant shall be his gross additional direct sales quota multiplied by a fraction the numerator of which shall be the exceptional hardship provision and the denominator of which shall be that aggregate, and
- (b) if paragraph (a) of this subparagraph does not apply, the additional direct sales quota of each claimant shall be his gross additional direct sales quota and any unallocated part of the exceptional hardship provision shall remain in the national direct sales reserve.
- (8) The direct sales quota of each claimant shall be adjusted in accordance with the preceding subparagraphs of this paragraph, and such adjustments shall have effect in relation to the entirety of the quota year in which they are made.
- (9) The Minister shall amend the registers which he is required by this Schedule to maintain, so as to record the adjustments referred to in subparagraph (8), and shall inform each claimant to whom such an adjustment relates of that adjustment.

PART III — TRANSFER OF DIRECT SALES QUOTA

- 18.**—(1) The following provisions of this paragraph shall apply in respect of any change of occupation of the entirety of a direct seller's holding on or after the operative date.
- (2) The transferee shall submit to the Minister no later than 1st January 1985 or a date 21 days after the change of occupation (whichever is the later) such evidence relating to the change of occupation as may reasonably be required by the Minister.

(3) The Minister shall amend his direct sales register to record the change of occupation, and shall send a copy of the amended entry therein to the transferee together with a statement of information as to dairy produce sold by direct sale from the holding during the quota year of the change of occupation.

19.—(1) The following provisions shall apply in respect of any major change of occupation of any part of a direct seller's holding on or after the operative date.

(2) The transferee shall submit to the Minister no later than 1st January 1985 or a date 21 days after the change of occupation (whichever is the later) such evidence relating to the change of occupation as may reasonably be required by the Minister, and such evidence shall include a statement, signed by the transferee, that, as from a date specified in the statement, the transferee has been in occupation of a part of the holding identified in the statement, and that either—

(a) the transferor and the transferee have agreed that the direct sales quota shall be apportioned according to areas used for milk production as specified in the notice, or

(b) the transferor and the transferee have not so agreed.

(3) The apportionment of direct sales quota, if stated to be agreed in accordance with subparagraph (2)(a), shall be implemented as if subparagraph (2)(b) applied unless the statement referred to in subparagraph (2)(a) is signed by the transferor as well as the transferee and the transferee submits to the Minister a consent or sole interest notice in respect of the entirety of the holding occupation of part of which has changed.

(4) Where subparagraph (2)(b) applies, the apportionment of direct sales quota shall be carried out—

(a) in relation to—

(i) any holding the identification of which in the direct sales register shows the location of a single dairy unit immediately before the change of occupation, so as to apportion to the part containing that single dairy unit the entirety of the direct sales quota apportioned, and

(ii) any other holding, proportionally in relation to the area of the holding, or

(b) where within the period referred to in subparagraph (2) either the transferor or the transferee notifies the Minister that he is not satisfied by the methods of apportionment described in paragraph (a) of this subparagraph, by the award of an arbitrator who shall be appointed by agreement between the transferor and transferee or, in default of agreement, by the Chairman of the Tribunal and whose conduct of the arbitration and criteria for determining the award shall accord with paragraph 7(3)(b), 7(3)(c), and 7(3)(e) with the substitution in paragraph 7(3)(e), for references to the presumptions in paragraph 4(1)(b) and (c), of references to the methods of apportionment above referred to.

(5) Following a major change of occupation of any part of a holding, dairy produce previously sold by direct sale from that holding in the quota year of the change of occupation shall be deemed, for the purpose of the levy, to have been sold from each part of the holding proportionally in accordance with the apportionment of direct sales quota implemented by virtue of this paragraph.

- (6) The Minister shall—
- (a) amend his registers referred to in paragraph 15 so as to record the change of occupation, and
 - (b) send to each of the transferor and the transferee a copy of the amended entry in the direct sales register relating to him together with a statement of information as to dairy produce deemed to have been sold by direct sale from his apportioned part of the holding during the quota year of the change of occupation.
- 20.—(1) For the purposes of paragraphs 18 and 19—
- (a) any major change of occupation of a holding or part of a holding shall be treated as a case to which the first sentence of Article 5(3) of the Commission Regulation (which relates to cases analagous to transfer) applies, and
 - (b) any minor change of occupation shall be disregarded by virtue of the last sentence of Article 5(2) of the Commission Regulation (which allows Member States to disregard transfers of areas determined by them).
- (2) The Minister may provide such forms as he reasonably considers to be necessary for the purposes of paragraphs 18 and 19.

SCHEDULE 2

Regulation 5(6)

WHOLESALE QUOTA

PART I— ALLOCATION OF WHOLESALE QUOTA

- 1.—(1) Subject to subparagraph (3) each applicant shall no later than the date five weeks after the operative date (or, in a region for which Formula A is implemented, four weeks after the operative date) submit his application for primary wholesale quota to the Minister on a form (as specified in subparagraph (2)) duly completed by him or under his authority.
- (2) The form referred to in subparagraph (1) shall be provided on request by the Minister and shall require an applicant to provide—
- (a) such information as may reasonably be required to be provided in order to enable the Minister—
 - (i) to allocate primary wholesale quota,
 - (ii) to calculate cumulative quarterly wholesale quota where appropriate, and
 - (iii) to copy to any purchaser the records referred to in Article 11(1) of the Commission Regulation (which deals with records required to be held by purchasers),
 - (b) a statement that on 2nd April 1984 the business of the direct sale or wholesale delivery of dairy produce was being carried on from land within the identification of the holding occupied by him on the date of his application, and
 - (c) in relation to any holding in a region in which Formula B is implemented, purchaser details (that is to say the name and address of any purchaser to whom, in that part of the pre-operative period during

which he has been in occupation of his holding, he delivered dairy produce from his holding by wholesale delivery and the quantities of dairy produce so delivered to each or, if no such wholesale deliveries have taken place in that part of the pre-operative period, the name and address of each purchaser to whom, as at the operative date, he was intending to deliver dairy produce by wholesale delivery and the proportions of dairy produce which he was intending to deliver to each (adding together to the entirety) during the first quota year).

(3) The Minister may (in circumstances where and to the extent that he is satisfied that knowledge is available to him of matters particulars of which are required to be provided by this paragraph) waive all or any of the requirements of this paragraph in respect of all, any or any description of applicants and, to the extent of such waiver, each applicant shall be deemed for the purposes of this Schedule to have complied with this paragraph.

2. For the purpose of calculating primary wholesale quota (and cumulative quarterly wholesale quota calculated from primary wholesale quota) under this Schedule the dairy produce delivered by wholesale delivery from a holding in a base period shall be deemed to be—

(a) in the case of a holding—

- (i) registered in the records of a milk marketing board by reference to a registration number in effect on 2nd April 1984, and
- (ii) from which there were no wholesale deliveries of dairy produce in a base period capable of being used for the purpose of calculating primary wholesale quota other than deliveries to that milk marketing board—

the quantity of dairy produce delivered in that last mentioned base period referred to by reference to that registration number, and

(b) in the case of any other holding, the dairy produce delivered by wholesale delivery during that base period (whether from that holding or another holding in the same region) by the producer occupying that holding on 2nd April 1984—

but not dairy produce delivered by wholesale delivery otherwise than as described above.

3.—(1) For the purpose of identifying any holding to which any wholesale quota may relate, the Minister shall, subject to subparagraph (2), apply the provisions of Article 7(1) of Council Regulation 857/84 and Article 5 of the Commission Regulation to any changes of occupation of any holding or any part of any holding which took place during the pre-operative period with effect that—

- (a) where, at any date during the pre-operative period, a holding included an area occupied under a minor interest, the dairy produce delivered by wholesale delivery from that holding as at that date shall be presumed to have been delivered from the remainder of the holding;
- (b) where, at any date during the pre-operative period, there was a major change of occupation of part of a holding, and immediately prior to that change of occupation the holding contained a single dairy unit, dairy produce delivered by wholesale delivery from the holding during the part of the pre-operative period prior to that change of occupation shall be presumed to have been delivered from that part of the holding on which the dairy unit was located immediately prior to the change of occupation;

- (c) subject to paragraphs (a) and (b) of this subparagraph, dairy produce delivered by wholesale delivery from a holding during any period shall be presumed to have been delivered proportionally—
- (i) from each part of the holding, and
 - (ii) during each part of the period.

(2) If all persons in occupation of, or having an interest in, land which on 2nd April 1984 comprised a single holding and the Minister agree that a different presumption should be used instead of any presumption used in subparagraph (1)(b) and (c) in order to take account of areas and periods actually used for milk production that different presumption shall be used for the purposes of subparagraph (1).

4. The Minister shall calculate, in respect of each applicant who has complied with paragraph 1, an estimate of primary wholesale quota in relation to a holding identified by the Minister (using paragraphs 2 and 3 so far as may be necessary) as occupied by the applicant at the operative date and the estimate of primary wholesale quota shall be the quantity of dairy produce calculated by the Minister to be—

- (a) in the case of an applicant—
- (i) to whom Article 6(2) of the Commission Regulation (which deals with commencement of operations after the start of 1983) applies, and
 - (ii) from whose holding there were no wholesale deliveries or direct sales of dairy produce before 2nd April 1983—

a quantity calculated by multiplying his base quantity (that is to say the quantity of dairy produce delivered by wholesale delivery from that holding in the period starting on the first day of the first calendar month (or, where the quantity so delivered before the first calendar month (not being April 1984) is less than one third of the quantity so delivered in the first calendar month, the second calendar month) beginning after commencement of wholesale delivery of dairy produce from that holding and finishing on 30th April 1984 (where that first day is 1st March or 1st April 1984) and otherwise on 31st March 1984) by a fraction the numerator of which is 12 and the denominator of which is the number of months in that period and (in respect of holdings or parts of holdings in England and Wales (other than a remote area), Northern Ireland or Scottish Area A) reducing the result by 9 per cent or (in respect of holdings or parts of holdings in Scottish Area B) reducing the result by 5.8135 per cent;

- (b) in the case of an applicant to whom—
- (i) Article 6(2) of the Commission Regulation applies, and
 - (ii) subparagraph (a) does not apply—
- a quantity calculated by establishing his base quantity (that is to say the quantity of dairy produce delivered by wholesale delivery from that holding during the period of 12 months prior to 1st April 1984) and (in respect of holdings or parts of holdings in England and Wales (other than a remote area), Northern Ireland or Scottish area A) reducing the result by 9 per cent or (in respect of holdings or parts of holdings in Scottish Area B) reducing the result by 5.8135 per cent; and
- (c) in the case of an applicant to whom neither of the preceding subparagraphs of this paragraph apply, a quantity calculated by establishing his base quantity (that is to say the quantity of dairy produce delivered by wholesale delivery from his holding in 1983) and

(in respect of holdings or parts of holdings in England and Wales (other than a remote area), Northern Ireland or Scottish Area A) reducing the result by 9 per cent or (in respect of holdings or parts of holdings in Scottish area B) reducing the result by 5.8135 per cent.

5.—(1) The Minister shall aggregate the estimates of primary wholesale quota calculated by him in accordance with paragraph 4.

(2) If the aggregate of those estimates does not exceed the limit—

- (a) in relation, to any region not in Scotland, of the regional wholesale quota first allocated for that region, and
- (b) in relation to any region in Scotland, of the provisional regional wholesale quota—

those estimates shall remain.

(3) If the aggregate of those estimates of primary wholesale quota exceeds the limit above referred to the estimate of primary wholesale quota of each applicant shall be revised by multiplying his estimate of primary wholesale quota by the reduction fraction (that is to say a fraction the numerator of which shall be that limit and the denominator of which shall be the aggregate of estimates of primary wholesale quota calculated in accordance with paragraph 4).

(4) The Minister shall serve a statement on each applicant who has complied with paragraph 1, and that statement shall consist of—

- (a) one or other of the following, namely—
 - (i) an estimate of his primary wholesale quota, or
 - (ii) a determination that he is not entitled to primary wholesale quota,
- (b) an identification of the holding to which paragraph (a) of this subparagraph relates, and
- (c) where paragraph (a)(i) of this subparagraph applies (and paragraph 4(a) does not apply), an estimate of his cumulative quarterly wholesale quotas, calculated in accordance with paragraph 13(2)(a) or (b) as appropriate—

and shall be accompanied by a note of the calculations used in respect of that statement.

(5) Except in respect of any holding to which a written objection, submitted under paragraph 6, relates, the statement referred to in subparagraph (4) shall determine the primary wholesale quota (if any) of any applicant, the holding to which that primary wholesale quota relates and (in respect of any producer whose wholesale quota is entirely primary wholesale quota and to whom subparagraph (4)(c) relates) his cumulative quarterly wholesale quotas.

6.—(1) Within 21 days of service of a statement in accordance with paragraph 5(4) any applicant may submit to the Minister a written objection to that statement, specifying—

- (a) the primary wholesale quota (which, for the purpose of the succeeding subparagraphs of this paragraph, may include cumulative quarterly wholesale quotas) to which he claims he was entitled, and
- (b) the reasons for that claimed entitlement.

(2) If the Minister is of the opinion that any written objection referred to in subparagraph (1) could only be met by transferring primary wholesale quota of another person to the objector, he shall send—

- (a) to the objector, a copy of the statement and accompanying note referred to in paragraph 5(4) which relates to that other person, and
- (b) to that other person, a copy of the statement and accompanying note referred to in paragraph 5(4) which relates to the objector—

together with a statement that the aggregate of the estimates of their primary wholesale quotas must be divided between them by agreement (evidence of such agreement to include such consent or sole interest notice (if any) as subparagraph(3) might require) or, in default of such agreement, by arbitration.

(3) In any case to which subparagraph (2) applies—

- (a) an arbitrator shall be appointed by agreement between the objector and the other person referred to in subparagraph (2)(a) or, in default of agreement, by the Chairman of the Tribunal,
- (b) any person having an interest in either holding to which the arbitration relates, as well as the objector and the other person referred to in subparagraph (2)(a), shall be entitled to make representations to the arbitrator,
- (c) subject to paragraph (b) of this subparagraph, the Arbitration Act 1950 (a) shall apply to any arbitration in England and Wales and the Arbitration Act (Northern Ireland) 1937 (b) shall apply to any arbitration in Northern Ireland,
- (d) the primary wholesale quota of each of the persons referred to in subparagraph (2)(a) and the holding to which such primary wholesale quota relates shall be such quantity (which, added to the quantity of the other such person, shall amount to the aggregate of the estimates of their primary wholesale quotas) and such holding (which, joined to the holding of the other such person, shall comprise the entirety of the holdings identified in the statements of the estimates of their primary wholesale quotas) as shall be notified to the Minister—
 - (i) by a statement signed by or on behalf of each of those persons on a form provided on request by the Minister including a consent or sole interest notice in relation to any reduction of an estimate of primary wholesale quota, or
 - (ii) in default of such a statement, by a copy of the arbitrator's award signed by the arbitrator, and
- (e) an arbitrator's award shall be determined in accordance with the preceding paragraphs of this Schedule except that, if he is of the opinion that the presumptions in paragraph 3(1)(b) and (c) do not accurately reflect findings made by him (if he is able to make such findings) as to areas used for milk production in the five years preceding the arbitration, he shall use such findings in place of those presumptions.

(4) In any case to which subparagraph (2) does not apply, the Minister shall forward the objection together with—

- (a) the statement and note referred to in paragraph 5(4), and
- (b) one or other of the following, namely—
 - (i) a statement that he accepts the objection, or
 - (ii) a statement of his reasons for not accepting the objection—

to the Tribunal, and the Tribunal shall determine the objector's primary

(a) 1950 c.27, to which there are amendments not relevant to these regulations.

(b) 1937 c.8 (N.I.), to which there are amendments not relevant to these regulations.

wholesale quota (which may be any quantity from nil to the quantity claimed in the objection).

(5) A written objection submitted in accordance with this paragraph shall not prejudice, or be prejudiced by, a special case claim submitted by or on behalf of an applicant submitting that written objection.

7. Within the time specified in paragraph 1(1) for applying for primary wholesale quota, any applicant for primary wholesale quota may submit a special case claim to the Minister in such form and with such information as the Minister may reasonably require (including a statement equivalent to that required to be provided by paragraph 1(2)(b) in any case where the requirement in paragraph 1(2)(b) has been waived under paragraph 1(3)).

8.—(1) Each special case claim shall be examined by the Minister who shall accept or reject it in accordance with the following provisions of this paragraph.

(2) Each special case claim shall be accepted by the Minister only if—

- (a) it is a base year revision claim, a development claim or both,
- (b) it complies with paragraph 7, and
- (c) he is satisfied that the applicant may be entitled to secondary wholesale quota in accordance with these regulations.

(3) A base year revision claim shall be accepted by the Minister only if it contains the following particulars from the applicant—

- (a) the alternative base year chosen by him;
- (b) the indent of Article 3(3) of Council Regulation 857/84 or Article 3 of the Commission Regulation on which he relies;
- (c) his alternative base year wholesale quantity, that is to say the quantity of dairy produce delivered by him by wholesale delivery from his holding in his alternative base year;
- (d) the quantity of dairy produce delivered by him by wholesale delivery from his holding in each of quarter A, quarter B and quarter C of his alternative base year;
- (e) his secondary wholesale quota claim, being a specified quantity of dairy produce no greater than his alternative base year wholesale quantity (reduced by 9 per cent (in respect of holdings or parts of holdings in England and Wales (other than a remote area), Northern Ireland or Scottish Area A) and by 5.8135 per cent (in respect of holdings or parts of holdings in Scottish Area B)) and a statement that—
 - (i) the quantity so specified should be reduced by the amount of his primary wholesale quota so as to form a remainder, and
 - (ii) that remainder should be multiplied, if paragraph 5(3) applies, by the reduction fraction referred to therein.

(4) A development claim shall be accepted by the Minister only if it contains the following particulars from the applicant—

- (a) the subparagraph of Article 3(1) of Council Regulation 857/84 on which he relies;
- (b) evidence that his reliance is based on an investment of a capital nature (which was made or in respect of which an obligation was entered into before 1st March 1984) essential to the increase of dairy produce intended by him to be delivered by wholesale delivery from his holding;

- (c) the total quantity of dairy produce which he expects to sell by direct sale or deliver by wholesale delivery from his holding in the first quota year; and
 - (d) his secondary wholesale quota claim, being a specified quantity of dairy produce equal to that percentage of the quantity of dairy produce claimed by him as his development quantity in relation to his holding which he does not claim as secondary direct sales quota.
- (5) Any rejection of a special case claim by the Minister shall be served by him on the applicant together with a statement of reasons why it was rejected.
- (6) Within 21 days of service of a rejection as specified in subparagraph (5) an applicant may, by submitting to the rejection review body—
- (a) his special case claim,
 - (b) the statement of reasons referred to in subparagraph (5),
 - (c) his representations in respect of those reasons, and
 - (d) a request that the rejection be reviewed—
- on a form to be provided on request by the rejection review body, cause the rejection review body to review that rejection.
- (7) The rejection review body reviewing a rejection pursuant to subparagraph (6) shall—
- (a) if they are of the opinion that it was correct, in accordance with the preceding provisions of this paragraph, to reject the special case claim, confirm the rejection and state their reasons for such confirmation in writing to the applicant, and
 - (b) if they are not of the opinion indicated in paragraph (a) of this subparagraph—
 - (i) reserve the special case claim for further examination in accordance with paragraph 9, and
 - (ii) notify the applicant in writing that it has been so reserved.
- (8) The Minister shall reserve each special case claim which he accepts for further examination in accordance with paragraph 9 and shall notify the applicant that it has been so reserved.
- 9.—**(1) The following provisions of this paragraph shall relate to special case claims reserved for further examination.
- (2) The further examination body shall consider each special case claim and shall, in respect of each special case claim, determine an estimate of secondary wholesale quota of each applicant.
- (3) The estimate of secondary wholesale quota of each applicant shall be—
- (a) such quantity of dairy produce (if any) as is considered by the further examination body to be justified by his special case claim, or
 - (b) his secondary wholesale quota claim—
- whichever is the less.
- (4) Notification of the estimate of secondary wholesale quota of each applicant shall be served on him by the further examination body and such notification shall include—
- (a) a statement, where the estimate is nil or less than his secondary wholesale quota claim, of the reasons why the further examination body consider that nil or lesser quantity to be justified, and

- (b) a statement, to the extent that the estimate results from a base year revision claim—
- (i) of acceptance of the particulars provided under paragraph 8(3)(d),
or
 - (ii) of variation (with details of and reasons for such variation) of that information—
- together with a statement that such estimate comprises revised base year entitlement.

(5) For the purposes of subparagraphs (3) and (4) any quantities of dairy produce included in an estimate of secondary wholesale quota by virtue of both a base year revision claim and a development claim shall be treated as revised base year entitlement and not aggregated, but the absence of aggregation shall not make the notification received under subparagraph (4) a notification to which subparagraph (4)(a) applies.

(6) Any applicant on whom there is served a notification to which subparagraph (4)(a) or 4(b)(ii) applies from a further examination body which is not the Tribunal may within 21 days of service of that notification, by submitting to the Tribunal—

- (a) the notification,
- (b) his representations in respect of the notification, and
- (c) a request that the notification be reviewed—

on a form to be provided on request by the Tribunal, cause the Tribunal to review that notification.

(7) Except as provided by subparagraph (6), the secondary wholesale quota determined for each applicant shall be the estimate of his secondary wholesale quota and any variation under subparagraph (4)(b)(ii) shall apply (for the purpose of paragraph 13(2)(c)) in respect of the particulars provided under paragraph 8(3)(d).

10.—(1) The Tribunal shall determine the secondary wholesale quota of each applicant who has, by virtue of paragraph 9(6), caused them to review a notification referred to therein and the secondary wholesale quota of each such applicant shall be—

- (a) such quantity of dairy produce (if any) as is considered by the Tribunal to be justified by his special case claim and his representations referred to in paragraph 9(6)(b), or
- (b) his secondary wholesale quota claim—

whichever is the less.

(2) The Tribunal shall determine, in respect of each applicant who has caused the Tribunal to review a notification to which paragraph 9(4)(b)(ii) applies, whether the particulars provided under paragraph 8(3)(d) should be accepted or varied, and any variation so determined shall apply (for the purpose of paragraph 13(2)(c)) in respect of those particulars.

(3) The Tribunal shall, on any review of a determination of a further examination body, be empowered to lower as well as raise the quantity of dairy produce determined by that body as an estimate of secondary wholesale quota.

11.—(1) The Tribunal shall send to the Minister in respect of each applicant in respect of whom they (or a local panel) have acted (and shall copy to each such applicant) a notification of—

- (a) his primary wholesale quota determined in accordance with paragraph 6(4), and
- (b) his secondary wholesale quota determined under paragraph 9 or 10(1) together with statements, in respect of secondary wholesale quota determined under paragraph 10(1), equivalent to the statements required to be included, in relation to estimates of secondary wholesale quota, by paragraph 9(4)(b) and (5)—

and shall send to each applicant whose secondary wholesale quota has been determined under paragraph 10(1) to be nil or less than his secondary wholesale quota claim a written statement of their reasons for that determination.

(2) A local panel shall provide the Tribunal with such information and documents as the Tribunal may require for the purposes of subparagraph (1).

12.—(1) For the purposes of calculating the initial regional wholesale reserve and making allocations therefrom—

- (a) Scotland, even if it is divided into more than one region, shall be deemed to be a single region, and
- (b) any reference to the limit in paragraph 5(2) shall, in relation to Scotland, be deemed to refer to the aggregate of those limits relating to regions in Scotland.

(2) The Minister shall calculate the initial regional wholesale reserve, which shall be—

- (a) where paragraph 5(2) applies, the quantity of dairy produce remaining (if any) after subtracting the aggregate of estimates of primary wholesale quota referred to in that paragraph from the limit referred to therein, and
- (b) the aggregate of the differences between the primary wholesale quota and the estimate of primary wholesale quota of each applicant whose primary wholesale quota has been determined in accordance with paragraph 6(4) to be less than his estimate of primary wholesale quota.

(3) The Minister shall allocate the initial regional wholesale reserve among—

- (a) applicants whose primary wholesale quotas have been determined in accordance with paragraph 6(4) to be greater than their estimates of primary wholesale quota, and
- (b) applicants in respect of whom a secondary wholesale quota has been determined in accordance with paragraphs 9 and 10—

in accordance with the following subparagraphs of this paragraph.

(4) The initial regional wholesale reserve shall be allocated first among applicants to whom subparagraph (3)(a) applies in order to provide the increase from the estimate of primary wholesale quota of each applicant to his primary wholesale quota and, to the extent that the initial regional wholesale reserve is insufficient for this purpose, it shall be allocated to each such applicant in proportion to his increase and, for the purpose of paragraph 13(1), his primary wholesale quota shall be deemed to be reduced accordingly.

(5) Subject to subparagraph (4), the initial regional wholesale reserve shall be allocated, so far as it is available, as net secondary wholesale quota—

- (a) first, among those whose secondary wholesale quota is revised base

year entitlement, in proportion to and to the extent of the revised base year entitlement of each; and

- (b) secondly, among those in respect of whom other secondary wholesale quota has been determined, in proportion to and to the extent of the other secondary wholesale quota of each.

13.—(1) The wholesale quota of each producer, in respect of his holding, shall as at the operative date be the aggregate of his primary wholesale quota and his net secondary wholesale quota.

(2) The cumulative quarterly wholesale quota as at the operative date, of each producer—

- (a) whose wholesale quota as at the operative date is entirely primary wholesale quota, whose estimate of primary wholesale quota has been calculated in accordance with paragraph 4(c) and in respect of whom no secondary wholesale quota has been determined as the result of a base year revision claim shall be—

- (i) for quarter A, the quantity of dairy produce delivered by wholesale delivery from his holding in quarter A of 1983,
(ii) for quarter B, the quantity of dairy produce delivered by wholesale delivery from his holding in quarters A and B of 1983, and
(iii) for quarter C, the quantity of dairy produce delivered by wholesale delivery from his holding in quarters A, B and C of 1983—

multiplied by a fraction the numerator of which shall be his wholesale quota and the denominator of which shall be the quantity of dairy produce delivered by wholesale delivery from his holding in 1983,

- (b) whose wholesale quota at the operative date is entirely primary wholesale quota, whose estimate of primary wholesale quota has been calculated in accordance with paragraph 4(b) and in respect of whom no secondary wholesale quota has been determined as the result of a base year revision claim, shall be—

- (i) for quarter A, the quantity of dairy produce delivered by wholesale delivery from his holding in quarter A of the period referred to in paragraph 4(b),
(ii) for quarter B, the quantity of dairy produce delivered by wholesale delivery from his holding in quarters A and B of that period, and
(iii) for quarter C, the quantity of dairy produce delivered by wholesale delivery from his holding in quarters A, B and C of that period—

multiplied by a fraction the numerator of which shall be his wholesale quota and the denominator of which shall be the quantity of dairy produce delivered by wholesale delivery from his holding in that period,

- (c) in respect of whom secondary wholesale quota has been determined so as to consist entirely of revised base year entitlement, shall be—

- (i) for quarter A, the quantity of dairy produce delivered by wholesale delivery from his holding in quarter A of his alternative base year,
(ii) for quarter B, the quantity of dairy produce delivered by wholesale delivery from his holding in quarters A and B of his alternative base year, and
(iii) for quarter C, the quantity of dairy produce delivered by wholesale delivery from his holding in quarters A, B and C of his alternative base year—

multiplied by a fraction the numerator of which shall be his wholesale quota and the denominator of which shall be the quantity of dairy produce delivered by wholesale delivery from his holding in his alternative base year, and

- (d) who is not a prior delivery producer (that is to say a producer whose cumulative quarterly wholesale quotas have been established by virtue of any of the preceding paragraphs of this subparagraph), shall be—
- (i) for quarter A, his wholesale quota multiplied by a fraction the numerator of which shall be the aggregate of cumulative quarterly wholesale quotas for quarter A of prior delivery producers and the denominator of which shall be the aggregate of their wholesale quotas,
 - (ii) for quarter B, his wholesale quota multiplied by a fraction the numerator of which shall be the aggregate of cumulative quarterly wholesale quotas for quarter B of prior delivery producers and the denominator of which shall be the aggregate of their wholesale quotas, and
 - (iii) for quarter C, his wholesale quota multiplied by a fraction the numerator of which shall be the aggregate of cumulative quarterly wholesale quotas for quarter C of prior delivery producers and the denominator of which shall be the aggregate of their wholesale quotas—
- or as may be otherwise agreed by him and the Minister.

PART II—REGISTERS, RUNNING REGIONAL WHOLESALE RESERVE AND EXCEPTIONAL HARDSHIP CLAIMS

14.—(1) The Minister shall prepare in respect of each producer a wholesale register entry, dated as at the operative date and setting out—

- (a) his name,
- (b) his wholesale quota,
- (c) his cumulative quarterly wholesale quota for each of quarter A, quarter B and quarter C,
- (d) an identification of his holding, and
- (e) in respect of a holding in a region in which Formula B is implemented a list—
 - (i) of the names and addresses of each purchaser whose purchaser quota will be calculated to take into account that producer's wholesale quota, and
 - (ii) of the quantities of dairy produce to be taken into account in those calculations for each such purchaser, both in respect of his purchaser quota and (calculated proportionally in relation to that producer's cumulative quarterly wholesale quotas) in respect of his cumulative quarterly purchaser quota for each of quarter A, quarter B and quarter C—

set out in accordance with proportional divisions of wholesale quota based on purchaser details provided by that producer under paragraph 1(2)(c) (or, if the requirement to provide those purchaser details has been waived under paragraph 1(3), in accordance with the details taken into account by the Minister in place of those purchaser details)—

and shall send a copy of that wholesale register entry to each purchaser named on a list referred to in paragraph (e) of this subparagraph.

(2) Where a holding comprises more than one dairy enterprise a producer may, on presenting to the Minister a consent or sole interest notice in respect of that holding, agree with the Minister the partition of that holding among separate wholesale register entries as specified in the agreement.

15.—(1) The Minister shall maintain—

- (a) a wholesale register (being a register of entries referred to in paragraph 14), and
- (b) a register of particulars of wholesale deliveries by each producer.

(2) The Minister shall permit, during reasonable working hours, inspection of any entry relating to a specific holding in the register referred to in subparagraph (1)(a) by any person who is the producer in relation to, or gives the Minister a statement in writing that he has an interest in, that holding, and shall, on payment of a reasonable copying charge, forward a copy of that entry to any such person who requests it.

(3) In any region where Formula B is implemented, each purchaser shall maintain, in respect of all producers whose register entries include that purchaser's name on the list referred to in paragraph 14(1)(e)—

- (a) a register as indicated in subparagraph (1)(a) in respect of each of those producers, and
- (b) a register of particulars of wholesale deliveries from each of those producers to that purchaser.

(4) Each purchaser shall provide such information to the Minister as he may reasonably require for the maintenance of his register of particulars of wholesale deliveries under this Schedule and under Schedule 3.

(5) The Minister shall copy such records to each purchaser as that purchaser may reasonably require for the purposes of his registration obligations under these regulations and Article 11(1) of the Commission Regulation.

(6) Each purchaser shall amend his registers referred to in subparagraph (3) on each occasion when, under these regulations, the Minister's equivalent register is required to be amended in relation to producers registered in that purchaser's register.

16.—(1) A running regional wholesale reserve may be created and added to—

- (a) by any quantity of dairy produce not allocated under this Schedule (broken down, if Scotland contains more than one region, in relation to regions in Scotland in accordance with a decision of the Minister), and
- (b) by such quantities of wholesale quota as may be surrendered to it by any producer on such terms (including a requirement that a consent or sole interest notice shall be provided by the producer in relation to the holding to which the surrender relates) as may be agreed by the producer and the Minister.

(2) The Minister shall amend the registers which he is required to maintain under this Schedule and the following Schedule so as to record any surrender under subparagraph (1).

17.—(1) The Minister may make available from the running regional wholesale reserve an exceptional hardship provision to be used in satisfaction of exceptional hardship claims in accordance with the following provisions of this paragraph.

(2) For the purpose of this paragraph “exceptional hardship claim” shall be construed in accordance with subparagraph (3), and “claimant” shall be construed accordingly.

(3) An exceptional hardship claim shall be a claim by a person to whom Article 4(1)(c) of Council Regulation 857/84 (which deals with producers undertaking farming as their main occupation) applies that—

- (a) before 2nd April 1984 he has entered into, or become obliged to enter into, a transaction or made an arrangement—
 - (i) as a result of which his wholesale quota is substantially less than it would have been had he not entered into or become obliged to enter into that transaction or made that arrangement, or
 - (ii) the reasonably expected outcome of which is a level of wholesale delivery of dairy produce in respect of which, or a substantial part of which, wholesale quota is not otherwise capable under these regulations of being allocated to him,
- (b) at the time of entering into or becoming obliged to enter into that transaction or making that arrangement, he intended to go into or remain in business as a producer,
- (c) he has not received, and will not receive or become entitled to receive, as a result of that transaction or arrangement, benefit reasonably commensurate with the want of wholesale quota to which his exceptional hardship claim relates,
- (d) as a result of the matters specified in the preceding paragraphs of this subparagraph, he has suffered or will suffer exceptional hardship in comparison with producers in general, and
- (e) it is fair and reasonable that he should be allocated wholesale quota as a result of his exceptional hardship claim.

(4) Where an exceptional hardship provision is made, the Minister shall by advertisement published in the Gazette announce—

- (a) the quantity of dairy produce in the exceptional hardship provision, and
- (b) the time limit and procedural requirements for exceptional hardship claims—

and no exceptional hardship claim shall be considered by the Tribunal unless it is made within that time limit and complies with those requirements.

(5) The Tribunal shall determine for any claimant who satisfies them of the matters referred to in subparagraph (3) his gross additional wholesale quota (including cumulative quarterly wholesale quotas), being the quantity of dairy produce which the Tribunal determines is justified by his exceptional hardship claim.

(6) Each determination of the Tribunal, under subparagraph (5), of an exceptional hardship claim shall be forwarded to the Minister and copied to the claimant.

(7) The Minister shall aggregate the gross additional wholesale quotas determined under paragraph (5) and—

- (a) if that aggregate exceeds the exceptional hardship provision, the additional wholesale quota of each claimant shall be his gross additional wholesale quota multiplied by a fraction the numerator of which shall be the exceptional hardship provision and the denominator of which shall be that aggregate, and
- (b) if paragraph (a) of this subparagraph does not apply, the additional wholesale quota of each claimant shall be his gross additional wholesale quota and any unallocated part of the exceptional hardship provision shall remain in the running regional wholesale reserve.

(8) The wholesale quota and cumulative quarterly wholesale quotas of each claimant shall be adjusted in accordance with the preceding subparagraphs of this paragraph and, in any region for which Formula B is implemented, purchaser quotas and cumulative quarterly purchaser quotas shall be adjusted accordingly in the light of particulars of purchasers provided on exceptional hardship claims, and such adjustments shall have effect in relation to the entirety of the quota year in which they are made.

(9) The Minister shall amend the registers which he is required by this Schedule and Schedule 3 to maintain, so as to record the adjustments referred to in subparagraph (8), and shall inform each claimant to whom such an adjustment relates of that adjustment.

PART III — TRANSFER OF WHOLESALE QUOTA

18.—(1) The following provisions of this paragraph shall apply in respect of any change of occupation of the entirety of a producer's holding on or after the operative date.

(2) The transferee shall submit to the Minister no later than 1st January 1985 or a date 21 days after the change of occupation (whichever is the later) such evidence relating to the change of occupation as may reasonably be required by the Minister.

(3) On any transfer of the entirety of a holding it shall be conclusively presumed that the transferee intends to deliver dairy produce from the holding by wholesale delivery to purchasers named, in the proportions listed, in the transferor's entry in the Minister's wholesale register in a region for which Formula B is implemented.

(4) The Minister shall amend his wholesale register to record the change of occupation, and shall send a copy of the amended entry therein with a statement of information as to dairy produce delivered by wholesale delivery from the holding during the quota year of the change of occupation—

- (a) to the transferee, and
- (b) where the holding is in a region where Formula B is implemented, to each purchaser named in the entry (the statement above referred to being broken down according to purchasers).

19.—(1) The following provisions shall apply in respect of any major change of occupation of any part of a producer's holding on or after the operative date.

(2) The transferee shall submit to the Minister no later than 1st January 1985 or a date 21 days after the change of occupation (whichever is the later)

such evidence relating to the change of occupation as may reasonably be required by the Minister, and such evidence shall include a statement, signed by the transferee, that, as from a date specified in the statement, the transferee has been in occupation of a part of the holding identified in the statement, and that either—

- (a) the transferor and the transferee have agreed that the wholesale quota shall be apportioned according to areas used for milk production as specified in the notice, or
- (b) the transferor and the transferee have not so agreed.

(3) The apportionment of wholesale quota, if stated to be agreed in accordance with subparagraph (2)(a), shall be implemented as if subparagraph (2)(b) applied unless the statement referred to in subparagraph (2)(a) is signed by the transferor as well as the transferee and the transferee submits to the Minister a consent or sole interest notice in respect of the entirety of the holding occupation of part of which has changed.

(4) Where subparagraph (2)(b) applies, the apportionment of wholesale quota shall be carried out—

- (a) in relation to—
 - (i) any holding the identification of which in the wholesale register shows the location of a single dairy unit immediately before the change of occupation, so as to apportion to the part containing that single dairy unit the entirety of the wholesale quota apportioned, and
 - (ii) any other holding, proportionally in relation to the area of the holding, or
- (b) where within the period referred to in subparagraph (2) either the transferor or the transferee notifies the Minister that he is not satisfied by the methods of apportionment described in paragraph (a) of this subparagraph, by the award of an arbitrator who shall be appointed by agreement between the transferor and transferee or, in default of agreement, by the Chairman of the Tribunal and whose conduct of the arbitration and criteria for determining the award shall accord with paragraph 6(3)(b), 6(3)(c), and 6(3)(e) with the substitution in paragraph 6(3)(e), for references to the presumptions in paragraph 3(1)(b) and (c), of references to the methods of apportionment above referred to.

(5) Following a major change of occupation of any part of a holding—

- (a) cumulative quarterly wholesale quota, and quantities of dairy produce to be taken into account in calculating purchaser quota and cumulative quarterly purchaser quota, shall be apportioned in the same way as wholesale quota, and
- (b) dairy produce previously delivered by wholesale delivery from that holding in the quota year of the change of occupation (and any levy or Formula B contribution paid or payable in respect of that dairy produce) shall be deemed, for the purpose of calculation of levy and Formula B contribution, to have been delivered from (or paid or payable in respect of) each part of the holding proportionally in accordance with the apportionment of wholesale quota implemented by virtue of this paragraph.

- (6) The Minister shall—
- (a) amend his registers referred to in paragraph 15 so as to record the change of occupation,
 - (b) send to each of the transferor and the transferee a copy of the amended entry in the register relating to him together with a statement of information as to dairy produce deemed to have been delivered by wholesale delivery from his apportioned part of the holding during the quota year of the change of occupation, and
 - (c) where the holding occupation of part of which has changed is in a region where Formula B is implemented, send a copy of the particulars referred to in paragraph (b) of this subparagraph to each purchaser named in any register entry affected by the change of occupation (the statement referred to in that paragraph being broken down according to purchasers).
- 20.—(1) For the purposes of paragraphs 18 and 19—
- (a) any major change of occupation of a holding or part of a holding shall be treated as a case to which the first sentence of Article 5(3) of the Commission Regulation applies, and
 - (b) any minor change of occupation shall be disregarded by virtue of the last sentence of Article 5(2) of the Commission Regulation.
- (2) The Minister may provide such forms as he reasonably considers to be necessary for the purposes of paragraphs 18 and 19.

Regulation 5(7)

SCHEDULE 3

PURCHASER QUOTA

- 1.—(1) As at the operative date, the purchaser quota of each purchaser, in respect of wholesale deliveries of dairy produce from holdings in a region to him, shall be determined by the Minister so as to be the aggregate of quantities of dairy produce listed as applicable to him in wholesale register entries dated as at the operative date and prepared in relation to producers under Schedule 2, paragraph 14, and his cumulative quarterly purchaser quotas shall be determined accordingly.
- (2) The Minister shall issue to each purchaser a purchaser notice, dated as at the operative date and setting out—
- (a) his name,
 - (b) a description of his undertaking,
 - (c) his purchaser quota, and
 - (d) his cumulative quarterly purchaser quota for each of quarter A, quarter B and quarter C.
- 2.—(1) The Minister shall maintain—
- (a) a register of purchaser notices, and
 - (b) a register of particulars of wholesale deliveries to each purchaser.

(2) The Minister shall permit, during reasonable working hours, inspection of any entry relating to a specific purchaser in either register referred to in subparagraph (1) by the purchaser, and shall, on payment of a reasonable copying charge, forward a copy of that entry to him on request.

3.—(1) On any release or surrender of wholesale quota to the running regional wholesale reserve under these regulations, the purchaser quota of any purchaser shall be reduced by the quantities of dairy produce applicable to him and released or surrendered thereunder, and his cumulative quarterly purchaser quotas shall be reduced accordingly.

(2) The Minister shall, so often as he shall reasonably consider necessary, amend his register of purchaser notices in order to record, in relation to purchaser quota, releases and surrenders referred to in subparagraph (1).

4.—(1) On any transaction to which Article 7(2) of Council Regulation 857/84 or Article 6(1)(d) of the Commission Regulation (which between them deal with replacements of purchasers and changes by producers from one purchaser to another) applies, any purchaser whose purchaser quota has been increased by virtue of that transaction shall, no later than 1st January 1985 or a date 21 days after the date of the transaction (whichever is the later), submit to the Minister—

- (a) a statement of the transaction, that is to say a statement setting out (in accordance with Article 7(2) of Council Regulation 857/84 where applicable) the following particulars—
 - (i) the nature of the transaction;
 - (ii) the parties to the transaction;
 - (iii) the changes of purchaser quota of any purchaser to whom the transaction relates;
 - (iv) the changes of cumulative quarterly purchaser quotas of any purchaser to whom the transaction relates;
 - (v) the changes in respect of matters referred to in the list, mentioned in Schedule 2, paragraph 14(1)(e), forming part of the wholesale register entry of each producer to whom the transaction relates; and
- (b) a statement that all purchasers and all producers to whom the transaction relates either agree to, or (so far as the purchaser submitting the statement is aware) have no right to bring proceedings in respect of, the changes the particulars of which are set out in the statement of the transaction.

(2) Following a transaction referred to in subparagraph (1) dairy produce previously delivered by wholesale delivery in the quota year of the transaction by any producer involved in that transaction to any purchaser involved in that transaction (and any levy or Formula B contribution paid or payable in respect of that dairy produce) shall be deemed, for the purpose of calculation of levy or Formula B contribution, to have been delivered (or paid or payable) proportionally in accordance with changes effected by that transaction.

(3) The Minister shall, in respect of any transaction referred to in paragraph (1), amend such registers as he is obliged to maintain under this Schedule and Schedule 2 in order to record the transaction and inform those whom he reasonably considers should be informed of such amendments.

5. The Minister may provide such forms as he reasonably considers to be necessary for the purposes of paragraph 4.

Regulation 5(8)

SCHEDULE 4

REPLACEMENT OF ONE FORMULA BY ANOTHER

1. In any region where Formula A is implemented in place of Formula B—

- (a) the wholesale quota of each producer, and
- (b) the cumulative quarterly wholesale quota of each producer for any quarter—

shall remain as previously, save that they shall no longer be divided in respect of purchasers, and the registers required to be maintained under Schedule 2 shall be amended accordingly and registers shall cease to be required to be maintained under Schedule 3.

2.—(1) In any region where Formula B is implemented in place of Formula A the following provisions of this paragraph shall apply.

(2) The Minister shall calculate, in respect of the preceding quota year on the basis of his registers maintained under Schedule 2, paragraph 15, and such information as he may reasonably require to be provided by any producer or purchaser, the quantities of dairy produce delivered by wholesale delivery from each holding in the region to each purchaser.

(3) The wholesale quota and cumulative quarterly wholesale quota of each producer shall remain as previously.

(4) The particulars required to be listed in respect of each producer by Schedule 2, paragraph 14(1)(e) shall be calculated so that the quantities of dairy produce to be taken into account in the calculation of the purchaser quota and the cumulative quarterly purchaser quotas of any purchaser shall be apportioned in accordance with the deliveries from the holding of that producer to that purchaser and to other purchasers during the prior quota year.

(5) The Minister shall amend all registers required to be maintained by him under Schedule 2 by inserting entries (dated as at the first day of the quota year) required to be entered to record the calculations referred to in subparagraph (4).

(6) The purchaser quota of each purchaser, as at the first day of the quota year, shall be determined by the Minister to be the aggregate of the quantities of dairy produce listed as applicable to him in wholesale register entries amended as from that date under subparagraph (5), and his cumulative quarterly purchaser quotas shall be determined accordingly.

(7) The Minister shall—

- (a) issue to each purchaser a purchaser notice dated as at the first day of the quota year and otherwise complying with Schedule 3, paragraph 1(2), and
- (b) maintain the registers required to be maintained by Schedule 3.

(8) Each purchaser shall maintain the registers required by Schedule 2 to be maintained by him.

SCHEDULE 5

Regulation 6(4)

DAIRY PRODUCE QUOTA TRIBUNALS AND LOCAL PANELS

PART I — DAIRY PRODUCE QUOTA TRIBUNALS (OTHER THAN FOR SCOTLAND)

1. Each Dairy Produce Quota Tribunal shall consist of up to twelve members appointed by the Minister, including a Chairman appointed by him.
2. The quorum for any determination (or for the issuing of guidance under paragraph 8) by a Dairy Produce Quota Tribunal shall be three.
3. Any determination to be made by a Dairy Produce Quota Tribunal shall be made by a majority.
4. Each Dairy Produce Quota Tribunal may be serviced by a Secretary and such other staff as the Minister may appoint.
5. Any document purporting to be signed by the Chairman of or the Secretary to a Dairy Produce Quota Tribunal and purporting to state a determination (or guidance of) the Dairy Produce Quota Tribunal shall in any proceedings be evidence of such a determination (or such guidance).
6. The terms of appointment and the remuneration of the members, Secretary and other staff of a Dairy Produce Quota Tribunal shall be determined by the Minister.
7. Except as otherwise provided in these regulations, the procedure of a Dairy Produce Quota Tribunal shall be such as their Chairman shall in his discretion determine.
- 8.—(1) Subject to paragraph 27, a Dairy Produce Quota Tribunal may issue a written statement of general guidance to local panels in its area in respect of the criteria to be used by those panels in reaching any determination capable, under these regulations, of being made by them.
(2) If any guidance issued under subparagraph (1) is published by the Dairy Produce Quota Tribunal in the Gazette the Dairy Produce Quota Tribunal shall, in reviewing any determination of a local panel made in accordance with that guidance, confirm that determination.

PART II—LOCAL PANELS

9. Each local panel shall consist of up to seven members appointed by the Minister, including a Chairman appointed by him.
10. The quorum for any determination of a local panel shall be three.
11. Any determination to be made by a local panel shall be made by a majority.
12. Each local panel may be serviced by a Secretary and such other staff as the Minister may appoint.
13. Any document purporting to be signed by the Chairman of or the Secretary to a local panel and purporting to state a determination of the local panel shall in any proceedings be evidence of such a determination.
14. The terms of appointment and the remuneration of the members, Secretary and other staff of a local panel shall be determined by the Minister.
15. A local panel, in making any determination capable, under these regulations, of being reviewed by a Dairy Produce Quota Tribunal, may

consult with any person whom the local panel consider to be capable of assisting them in making their determination and, in the event of such consultation, the applicant whose special case claim is being examined by the local panel shall be afforded the opportunity to comment, before the local panel make their determination, on any advice given by that person.

16. Except as otherwise provided in these regulations, the procedure of a local panel shall be such as is determined—

- (a) by a direction from the Chairman of the Dairy Produce Quota Tribunal in the area of which the locality of the local panel is situated, or
- (b) in the absence of such a direction, by the Chairman of the local panel.

PART III — THE DAIRY PRODUCE QUOTA TRIBUNAL FOR SCOTLAND

17. The Dairy Produce Quota Tribunal shall consist of twenty members appointed by the Minister.

18. The Dairy Produce Quota Tribunal shall sit in separate panels, and a determination of any such panel shall be treated as the determination of the Tribunal for the purpose of these regulations.

19. Each panel constituted under paragraph 18 shall choose their own Chairman.

20. The quorum for any determination by the Dairy Produce Quota Tribunal shall be three.

21. Any determination to be made by the Dairy Produce Quota Tribunal shall be made by a majority.

22. Each panel constituted under paragraph 18 shall be serviced by a Secretary and such other staff as the Minister may appoint.

23. Any document purporting to be signed by the Chairman of or the Secretary to a panel constituted under paragraph 18 and purporting to state a determination of the Dairy Produce Quota Tribunal shall in any proceedings be evidence of such a determination.

24. The terms of appointment and the remuneration of—

- (a) the members of the Dairy Produce Quota Tribunal, and
- (b) the Secretary and other staff of a panel constituted under paragraph 18—

shall be determined by the Minister.

25. Except as otherwise provided in these regulations, the procedure of a panel constituted under paragraph 18 shall be such as their Chairman shall in his discretion determine.

26. A panel constituted under paragraph 18 may consult with any person whom the panel consider to be capable of assisting them in reaching their determination and, in the event of such consultation, the applicant whose special case claim is being examined by the panel shall be afforded the opportunity to comment, before the panel reach their determination, on any advice given by that person.

PART IV — GENERAL

27. The Dairy Produce Quota Tribunals for England and Wales, Scotland and Northern Ireland shall, if so required by the Ministers, issue a joint

written statement of general guidance in respect of the criteria to be used in reaching any determination in relation to direct sales quota, and each Dairy Produce Quota Tribunal shall make its determinations in accordance with those criteria.

28. Any function of appointing an arbitrator vested by these regulations in the Chairman of a Dairy Produce Quota Tribunal may be exercised—

- (a) outside Scotland, by any member thereof with permission of the Chairman, and
- (b) in Scotland, by any member thereof.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations implement Council Regulation (EEC) No. 856/84 (O.J. No. L90, 1.4.84, p. 10), which (with Council Regulation 1557/84 (O.J. No. L150, 6.6.84, p.6)), amends Council Regulation (EEC) No. 804/68 (O.J. No. L148, 28.6.68, p.13 (OJ/SE 1968 (I) p.176)) on the common organisation of the market in milk and milk products, Council Regulation (EEC) No. 857/84 (O.J. No. L90, 1.4.84, p.13) as amended by Council Regulation (EEC) No. 1557/84 which adopts general rules for the application of the levy referred to in Article 5c of Regulation (EEC) No. 804/68 and Commission Regulation (EEC) No. 1371/84 (OJ No. L132, 18.3.84, p.11) as amended by Commission Regulation (EEC) No. 1955/84 (O.J. No. L182, 10.7.84, p.10) which lays down detailed rules for the application of the levy. Those provisions are defined in regulation 2 of these regulations as the Community legislation. Under the Community legislation a levy is charged on dairy produce sold by direct sale by a producer or delivered by him to a dairy business unless the sales or deliveries are within a reference quantity as therein described. The term "quota" is used in these regulations to correspond to reference quantities, and these regulations lay down the criteria and procedure for allocation of quota.

Regulation 4 and Schedule 1 deal with direct sales quota, that is to say the quota of producers whose business is sale of dairy produce otherwise than to a dairy business. Under these provisions quota can be allocated in two ways. There is an automatic entitlement on the basis of direct sales in a base year (either 1981 or the last twelve months before 1st April 1984, with provisions to cover those who started direct sales after 1st April 1983) — see Schedule 1, paragraphs 1 to 7; the quota allocated as automatic entitlement is called primary quota. There is also entitlement to secondary quota on the basis of a special case claim accepted by the bodies set up to decide such claims — see Schedule 1, paragraphs 8 to 12. Under paragraph 13 the primary and secondary quota of each direct seller is aggregated, and a reconciliation is carried out to fit those aggregates into the United Kingdom direct sales quota. Paragraphs 14 and 15 of Schedule 1 require register entries to be maintained, paragraph 16 deals with surrender of allocated quota, paragraph 17 deals with exceptional hardship claims and paragraphs 18 to 20 provide for the transfer of quota on the change of occupation of a holding to which direct sales quota relates.

Regulation 5 and Schedules 2, 3 and 4 deal with wholesale quota (that is to say the quota of wholesale producers) and purchaser quota (that is to say the quota of dairy businesses). Unlike direct sales quota, wholesale quota may be administered regionally (see regulation 5(2)) and provision for applying Formula A (primary liability on wholesale producers) or Formula B (primary liability on dairy businesses with obligatory reimbursement from wholesale producers) is made by regulation 5(3). A change in respect of the regional wholesale quota is governed by regulation 5(9) and (10), while regulation 5(11) provides for the effect on quota of a change in the regions used for administering wholesale quota.

Schedule 2 deals with wholesale quota, which can be allocated in two ways. There is an automatic entitlement on the basis of wholesale deliveries in 1983 (see regulation 5(3)) with provisions to cover those who started wholesale deliveries after 1st January 1983 — see Schedule 2, paragraphs 1 to 6; the quota allocated as automatic entitlement is called primary quota. There is also entitlement to secondary quota on the basis of a special case claim accepted by the bodies set up to decide such claims — see Schedule 2, paragraphs 7 to 11. Secondary quota is allocated from a residual reserve (Schedule 2, paragraph 12) following allocation of primary quota (Schedule 2, paragraph 5), in order to establish a producer's wholesale quota. Levy may be payable by wholesale producers quarterly under the Community legislation, and quarterly quotas are established on the basis of wholesale deliveries in a base year or the regional average (subject to agreement to the contrary) — see Schedule 2, paragraph 13. Paragraphs 14 to 20 of Schedule 2 correspond to the paragraphs similarly numbered in Schedule 1.

Schedule 3 provides for purchaser quota, which corresponds to the total of producer wholesale deliveries destined for a purchaser in wholesale register entries. Schedule 4 provides for the replacement, in a region, of Formula A by Formula B or of Formula B by Formula A.

Regulation 6 and Schedule 5 provide for the setting up of Dairy Produce Quota Tribunals, which are responsible ultimately for deciding special case claims under Schedules 1 and 2, and provide (outside Scotland) for local panels from which appeal to a Dairy Produce Quota Tribunal may lie. Regulation 7 provides for the constitution of reserves, regulation 8 provides for exchange of one type of quota for the other and regulation 9 provides for reallocation of wholesale quota between holdings.

The function of administering these regulations is vested in agriculture Ministers, except in respect of collection of the levy, the function of which is vested in the Intervention Board for Agricultural Produce (regulation 10). Ministers or the Intervention Board for Agricultural Produce may enter into an agreement with a milk marketing board providing for the discharge of those functions by the milk marketing board (regulations 10 and 13). Regulation 14 disappplies, in respect of these regulations, provisions of legislation restricting disclosure of information obtained by a milk marketing board.

Regulation 11 extends the time available for payment of levy by direct sellers, and regulation 12 requires refunds of quarterly overpayments to be made.

Regulation 18 makes it an offence to fail, without reasonable excuse, to comply with a requirement imposed by or under these regulations or the Community legislation; the making of a materially false statement or use of a materially false document is also made an offence. Anyone convicted

(summarily or on indictment) of an offence is liable to a fine, limited (on summary conviction) to £2000 in England, Wales and Scotland and £1000 in Northern Ireland. Ministers are empowered to reduce quota obtained as a result of a materially false statement or use of a materially false document.

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