



# Agriculture Act 1986

## 1986 CHAPTER 49

An Act to make further provision relating to agriculture and agricultural and other food products, horticulture and the countryside; and for connected matters. [25th July 1986]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**Modifications etc. (not altering text)**

C1 Act: transfer of certain functions (1.7.1999) by S.I. 1999/672, art. 2, Sch. 1

*Provision of agricultural services and goods*

### **1 Provision of services and goods connected with agriculture and countryside.**

- (1) The Minister may make provision for the supply to any person of any services or goods relating to—
  - (a) the production and marketing of agricultural produce and other food;
  - (b) the conservation and enhancement of the natural beauty and amenity of the countryside; or
  - (c) any other agricultural activity or other enterprise of benefit to the rural economy.
- (2) The provision which may be made under this section includes, in particular, provision for—
  - (a) the giving of information, advice, instruction and training;
  - (b) the undertaking of research and development;
  - (c) the examination or testing of any substance;
  - (d) the supply of veterinary services and of goods required for veterinary purposes;

*Status: Point in time view as at 20/11/1991.*

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- (e) the performance of any service required in connection with the drainage of agricultural land.
- (3) The provision which may be made under this section includes provision for the supply of such services and goods as are mentioned in subsection (1) above through any organisation; and the Minister shall establish an organisation through which such a supply may be made.
- (4) Any services or goods provided by virtue of this section may be provided free of charge or for such reasonable charge as the Ministers may determine.
- (5) For the purposes of this section the conservation of the natural beauty of the countryside includes the conservation of flora and fauna and geological and physiographical features.
- (6) In this section—
- “agriculture” has the same meaning as in the <sup>M1</sup>Agriculture Act 1947;
- “food” has the same meaning as in the [<sup>F1</sup>Food Safety Act 1990]; and
- “the Minister” means—
- (a) in relation to services or goods provided in England, the Minister of Agriculture, Fisheries and Food; and
- (b) in relation to services or goods provided in Wales, the Secretary of State,
- and “the Ministers” means those Ministers acting jointly.

#### Textual Amendments

**F1** Words substituted by [Food Safety Act 1990 \(c. 16, SIF 53:1, 2\), ss. 54, 59\(1\), Sch. 3 para. 35](#)

#### Marginal Citations

**M1** [1947 c. 48.](#)

*Fees and charges to meet costs of statutory functions connected with agriculture*

## 2 Fees under seeds regulations.

In section 16 of the <sup>M2</sup>Plant Varieties and Seeds Act 1964 (seeds regulations) after subsection (5) there shall be inserted—

“(5A) In determining any fees to be charged under seeds regulations the Minister may have regard to the costs incurred by him in connection with the enforcement of the regulations.”.

#### Marginal Citations

**M2** [1964 c. 14.](#)

## 3 Fees and charges under Plant Health Act 1967.

After section 4 of the <sup>M3</sup>Plant Health Act 1967 there shall be inserted the following section—

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#### **“4A Charges in connection with import and export licences and certificates.**

Without prejudice to section 4(1) above, an order under this Act may impose such reasonable fees or other charges as the competent authority may, with the consent of the Treasury, prescribe—

- (a) in connection with applications for and the issue of any licence or certificate which may be issued in pursuance of such an order in connection with the import or export of any article; and
- (b) in respect of the performance by the authority of any service without the performance of which any requirement for the issue of such a licence or certificate would not be met.”.

#### **Marginal Citations**

M3 1967 c. 8.

### *Agricultural marketing*

#### **4 Constitution and functions of Home-Grown Cereals Authority.**

- (1) The <sup>M4</sup>Cereals Marketing Act 1965 shall have effect subject to the following amendments (which relate to the constitution and functions of the Home-Grown Cereals Authority).
  - (2) In subsection (1) of section 1 of that Act (establishment of the Authority for the purpose of improving the marketing of home-grown cereals) for the word “marketing” there shall be substituted the words “production and marketing”.
  - (3) For subsections (2) to (4) of that section (membership of the Authority) there shall be substituted—
    - “(2) The Authority shall consist of not less than twelve and not more than twenty-one members appointed by the Ministers.
    - (3) Of those members—
      - (a) not less than two and not more than three shall be appointed as being independent; and
      - (b) an equal number (being not less than five and not more than nine) shall be appointed as being respectively—
        - (i) persons capable of representing the interests of growers of home-grown cereals, and
        - (ii) persons capable of representing the interests of persons who are either dealers in or processors of home-grown cereals.
    - (4) Of the members appointed under paragraph (b) of subsection (3) of this section as being persons capable of representing the interests of growers of home-grown cereals—
      - (a) such number as appears to the Ministers to be adequate shall be appointed as being also capable of representing the interests of

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farmers who use home-grown cereals for feeding livestock kept by them; and

- (b) at least one shall be appointed as being capable of representing, in particular, the interests of growers of home-grown cereals in Scotland, one the interests of such growers in Wales and one the interests of such growers in Northern Ireland.

(4A) The Ministers shall appoint one of the members appointed under paragraph (a) of subsection (3) of this section to be chairman and another to be deputy chairman of the Authority.”.

(4) Sections 2 to 5 (bonus payments in respect of forward contracts and deliveries of cereals) and Part II (trading functions of Home-Grown Cereals Authority) of that Act shall cease to have effect.

(5) In section 6 of that Act (non-trading functions of Home-Grown Cereals Authority) in subsection (5)—

- (a) after the words “work in” there shall be inserted the words “connection with any matter relating to—

(aa) the breeding and cultivation of cereals,”;

- (b) for the words “the marketing of cereals” there shall be substituted the words “the production or marketing of cereals”; and

- (c) for paragraph (b) there shall be substituted—

“(b) the invention of new uses of, or processes which might be applied to, home-grown cereals or straw or the development or assessment of such uses or processes or existing uses or processes.”.

(6) In paragraph 10 of Schedule 1 to that Act (appointment by the Home-Grown Cereals Authority of advisory committees)—

- (a) at the beginning of sub-paragraph (1) there shall be inserted the words “Subject to sub-paragraph (1A) below,”; and

- (b) after that sub-paragraph there shall be inserted—

“(1A) The Authority shall appoint a committee to determine programmes for and report on research and development in connection with home-grown cereals and shall, if the Ministers so direct, appoint a committee to determine programmes for and report on the encouragement of the marketing of such cereals.

(1B) Different committees may be appointed under this paragraph in respect of different kinds of cereals.”.

#### **Marginal Citations**

M4 1965 c. 14.

## **5 Levies under Cereals Marketing Act 1965.**

(1) Section 14 (alternative methods of raising levy) and section 15 (levy recovered wholly or mainly by deduction) of the <sup>M5</sup>Cereals Marketing Act 1965 shall cease to have effect.

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(2) For subsection (1) of section 16 of that Act (preparation and submission of schemes for imposing levies) there shall be substituted—

“(1) The Authority may at any time prepare and submit to the Ministers a scheme for imposing a levy on persons specified in the scheme who are growers or processors of, or dealers in, home-grown cereals of a kind so specified or who in the course of their business act as intermediaries in the selling and buying of such cereals.

(1A) Before submitting a scheme under subsection (1) above, the Authority shall in such manner as they consider appropriate consult such persons or organisations as appear to them to represent the interests concerned.”.

(3) In subsection (2) of that section (by virtue of which such schemes may provide for the registration of such growers, dealers and processors and require them to furnish information and keep records) for the words “any persons who are growers of, or dealers in, home-grown cereals or who process home-grown cereals” there shall be substituted the words “any such persons as are mentioned in subsection (1) above”.

(4) After that subsection there shall be inserted—

“(2A) A scheme under this section—

- (a) may authorise such of the persons on whom the levy is imposed as may be specified in the scheme to recover all or part of the levy payable by them from such other persons (being persons mentioned in subsection (1) above) as may be so specified and may provide for direct collection from those other persons; and
- (b) may authorise the deduction from the levy payable by persons with such a right of recovery, or the repayment to them, of—
  - (i) such amounts as may be determined in accordance with the scheme in respect of expenses incurred by them in exercising that right, and
  - (ii) any sums which are in accordance with the scheme to be treated as irrecoverable.”.

(5) For section 20(2) of that Act (disclosure of information to Home-Grown Cereals Authority) there shall be substituted—

“(2) Any information obtained by the Intervention Board for Agricultural Produce may be disclosed to the Authority for the purpose of assisting them in collecting any levy imposed under this Act; and any such disclosure shall not be treated as a breach of contract, trust or confidence.”.

(6) In section 24 of that Act (interpretation)—

- (a) in subsection (4)(a) (under which orders under section 13 may include provision as to the circumstances in which cereals shall be treated as delivered) after the words “specified in” there shall be inserted the words “the order”;
- (b) in subsection (5) (which defines a dealer in home-grown cereals as a person trading as a wholesale buyer and seller of such cereals and a processor of home-grown cereals as a person who applies an industrial process to such cereals with a view to selling the processed cereals in the course of his business) for the words “wholesale buyer and seller” there shall be substituted

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the words “wholesale buyer or seller” and the words “with a view to selling the processed cereals” shall be omitted.

- (7) In Schedule 3 to that Act (supplementary provisions concerning levies), for paragraphs 4 to 6 there shall be substituted—

“4 For the purposes of sections 13 to 17 of this Act and of this Schedule a crop which consists of two or more kinds of home-grown cereals shall be treated as if it were a separate kind of home-grown cereals.”.

#### Marginal Citations

M5 1965 c. 14.

## 6 Extension of Cereals Marketing Act 1965 to new cereals and other crops.

- (1) The Ministers may, if they think fit, by order provide that the provisions of the <sup>M6</sup>Cereals Marketing Act 1965 shall apply in relation to any such crop falling within subsection (2) below as may be specified in the order as if it were a kind of cereals and, in the case of a crop grown in the United Kingdom, a kind of home-grown cereals within the meaning of that Act.
- (2) The crops referred to in subsection (1) above are—
- (a) herbage seed, flax and any seed grown with a view to the production of oil from it;
  - (b) peas and beans grown for harvesting in a dried state;
  - (c) any crop (except grass) normally grown only for use in feeding livestock;
  - (d) any other arable crop (except sugar, hops, potatoes or any horticultural produce within the meaning of section 8(1) of the <sup>M7</sup>Horticulture Act 1960).
- (3) Before making an order under this section in respect of any crop the Ministers shall consult the Home-Grown Cereals Authority and such persons or organisations as appear to them to represent the interests concerned.
- (4) An order under this section may make such modifications of the <sup>M8</sup>Cereals Marketing Act 1965 as the Ministers consider necessary or expedient in consequence of the provisions of the order.
- (5) The power to make an order under this section shall be exercisable by statutory instrument and no such order shall be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.
- (6) In this section “the Ministers” has the same meaning as in that Act.
- (7) In section 24 of that Act (interpretation)—
- (a) in subsection (2)—
    - (i) in the definition of “home-grown cereals” for the words “or rye” there shall be substituted the words “rye, maize or triticale”, and
    - (ii) after the definition of “related product” there shall be inserted—  
“wheat’ includes durum wheat”; and
  - (b) in subsection (3) for the words “and rye” there shall be substituted the words “rye, maize and triticale”.

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#### Modifications etc. (not altering text)

- C2** S. 6: power to transfer certain functions conferred (27.12.1999) by S.I. 1999/3141, arts. 2(1)(5), 3, Sch.

#### Marginal Citations

- M6** 1965 c. 14.  
**M7** 1960 c. 22.  
**M8** 1965 c. 14.

## 7 Constitution and levy schemes of Meat and Livestock Commission

- (1) In section 1(3) of the <sup>M9</sup>Agriculture Act 1967 (maximum number of members of the Meat and Livestock Commission) for the word “ten” there shall be substituted the word “fifteen”.
- (2) In section 13 of that Act (levy to meet the Commission’s expenses)—
- (a) at the end of subsection (1) there shall be inserted the words “; and a levy scheme may make different provision in relation to charges to be imposed to meet expenses incurred by the Commission for different purposes”;
- (b) after that subsection there shall be inserted—
- (1A) Before submitting a levy scheme under subsection (1) above the Commission may in such manner as they consider appropriate consult such persons as appear to them to represent the interests concerned”;
- (c) in subsection (4) (maximum charges)—
- (i) the word “and” at the end of paragraph (a) shall be omitted, and
- (ii) at the end of paragraph (b) there shall be inserted the words “and
- (c) may differ between the different classes or descriptions of persons chargeable”
- (d) in subsection (6) (provision in levy schemes for persons on whom levy imposed to recover all or a specified part of sums paid by them from others) the words “all or a specified part of” shall be omitted; and
- (e) after that subsection there shall be inserted—
- “(6A) Where a levy scheme makes such provision as is mentioned in subsection (6) above it shall—
- (a) authorise the Commission from time to time to determine the proportion of the sums paid under the levy scheme which shall be recoverable;
- (b) specify whether the Commission may determine that the whole of those sums shall be recoverable and, if not, the maximum proportion of them which they may determine shall be recoverable; and
- (c) specify whether the Commission may determine that none of those sums shall be recoverable and, if not, the minimum proportion of them which they may determine shall be recoverable.”.

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### Marginal Citations

M9 1967 c. 22.

## 8 Constitution and funding of Food from Britain

- (1) The <sup>M10</sup>Agricultural Marketing Act 1983 shall have effect subject to the following amendments (being amendments relating to the constitution and funding of Food from Britain).
- (2) In section 1(2) (Food from Britain to consist of no fewer than thirteen and no more than fifteen members) for the word “fifteen” there shall be substituted the words “twenty-one”.
- (3) In section 7 (grants etc. by Ministers)—
  - (a) at the end of subsection (1) there shall be inserted the words “and such grants may be made subject to such conditions as the Ministers may with the approval of the Treasury impose”; and
  - (b) at the end of subsection (2) there shall be inserted the words “and any such sums may be lent subject to such conditions as the Ministers may with the approval of the Treasury impose”.
- (4) For paragraph 5 of Schedule 1 (payment by Ministers of remuneration etc. to members of Food from Britain) there shall be substituted—

“5 Food from Britain may—

- (a) pay to its members such remuneration (whether by way of salary or fees) and such travelling or other allowances as it may determine;
  - (b) pay such pension, or make such payments towards the provision of a pension, to or in respect of any of its members as it may determine; and
  - (c) if it appears to it that there are special circumstances which make it right that a person should receive compensation on ceasing to be a member, pay him such amount by way of compensation as it may determine.”.
- (5) In paragraph 6 of that Schedule (amount of remuneration etc. of members of committees of Food from Britain to be determined by Food from Britain with the approval of the Ministers and the Treasury) the words “with the approval of the Ministers and the Treasury” shall be omitted.
  - (6) In paragraph 11(2) of that Schedule (amount of remuneration etc. of officers and servants of Food from Britain to be determined by Food from Britain with the approval of the Ministers and the Treasury) the words “with the approval of the Ministers and the consent of the Treasury”, in each place where they occur, and the words “with such approval” shall be omitted.



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#### Commencement Information

- II** s. 8 not in force at Royal Assent see s. 24(2); s. 8(2) in force at 8.9.1986 by [S.I. 1986/1596](#), [art. 2](#); s. 8(4)-(6) in force at 1.4.1998 by [S.I. 1998/879](#), [art. 2](#).

#### Marginal Citations

- M10** [1983 c. 3](#).

## 9 Abolition of Eggs Authority.

- (1) On the appointed date the property, rights and liabilities of the Eggs Authority shall vest in the Ministers.
- (2) The accounting period of the Authority in which the day preceding the appointed date falls shall end with that day (if it would not otherwise have done so) and as soon as the Ministers are satisfied that the requirements of section 20 of the <sup>M11</sup>Agriculture Act 1970 (reports and accounts) have been complied with in respect of that and previous accounting periods, they shall by order abolish the Authority; and any liabilities incurred by the Authority after the appointed date in complying with that section or otherwise shall become liabilities of the Ministers.
- (3) Until an order is made under subsection (2) above abolishing the Authority they shall exercise their functions solely in accordance with directions given to them by the Ministers with a view to bringing the activities of the Authority to an end.
- (4) If after the abolition of the Authority it appears to the Ministers that any property vested in them by virtue of this section is not required for the purpose of satisfying the liabilities vested in them by virtue of this section, the Ministers may dispose of that property for the benefit of persons engaged by way of business in the production, marketing or processing of eggs in such manner as the Ministers think appropriate.
- (5) In this section “appointed date” means such date as the Ministers may by order specify for the purposes of subsection (1) above and any expressions used in this section which are defined in section 1 of the <sup>M12</sup>Agriculture Act 1970 shall be construed in accordance with that section.
- (6) The power to make an order under this section shall be exercisable by statutory instrument.

#### Modifications etc. (not altering text)

- C3** [S. 9](#): power to transfer certain functions conferred (27.12.1999) by [S.I. 1999/3141](#), [arts. 2\(1\)\(5\)](#), [3](#), [Sch.](#)
- C4** Power conferred by [s. 9\(5\)](#) fully exercised: 1.10.86 appointed by [S.I. 1986/1419](#)

#### Marginal Citations

- M11** [1970 c. 40](#).
- M12** [1970 c. 40](#).

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## 10 Repeal of certain ministerial powers concerning eggs.

Section 25 (power to regulate retail sales of eggs) and section 26 (assistance for certain transport of eggs by sea) of the Agriculture Act 1970 shall cease to have effect.

## 11 Consolidation of agricultural marketing schemes.

After paragraph 5 of Schedule 1 to the <sup>M13</sup>Agricultural Marketing Act 1958 (amendment and revocation of agricultural marketing schemes) there shall be inserted—

- “5A (1) Where the Minister considers it appropriate to do so he may—
- (a) prepare a consolidation of any scheme as it has effect with amendments (“the amended scheme”); and
  - (b) by order revoke the amended scheme and approve the consolidated scheme.
- (2) An order made by virtue of this paragraph—
- (a) shall state that it is made only for the purposes of consolidation; and
  - (b) may contain such transitional and consequential provision as the Minister considers necessary or expedient.”.

### Marginal Citations

M13 1958 c. 47.

## 12 Validation of Apple and Pear Development Council orders.

The <sup>M14</sup>Apple and Pear Development Council Order 1980 and the <sup>M15</sup>Apple and Pear Development Council (Amendment) Order 1980 shall be deemed to have been validly made notwithstanding that they were made by the Minister of Agriculture, Fisheries and Food acting alone rather than by that Minister and the Secretary of State acting jointly.

### Marginal Citations

M14 S.I. 1980/623.

M15 S.I. 1980/2001.

### *Compensation to tenants for milk quotas*

## 13 Compensation to outgoing tenants for milk quota.

Schedule 1 to this Act shall have effect in connection with the payment to certain agricultural tenants on the termination of their tenancies of compensation in respect of milk quota (within the meaning of that Schedule).

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**Modifications etc. (not altering text)**

**C5** S. 13 excluded (1.9.1995) by 1995 c. 8, ss. 16(3), 41(2) (with s. 37).

**14 Compensation to outgoing tenants for milk quota: Scotland.**

Schedule 2 to this Act shall have effect in connection with the payment to outgoing tenants who are—

- (a) tenants of agricultural holdings within the meaning of [<sup>F2</sup>the 1991 Act];
- (b) landholders within the meaning of section 2 of the <sup>M16</sup>Small Landholders (Scotland) Act 1911;
- (c) statutory small tenants within the meaning of section 32(1) of that Act;
- (d) crofters within the meaning of section 3(2) of the <sup>M17</sup>Crofters (Scotland) Act 1955,

of compensation in respect of milk quotas.

**Textual Amendments**

**F2** Words in s. 14(a) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(1), 89(2), [Sch. 11 para. 43](#), (with s. 45(3), Sch. 12 para. 3)

**Marginal Citations**

**M16** 1911 c. 49.

**M17** 1955 c. 21.

**15 Rent arbitrations: milk quotas.**

(1) Where there is a reference under section 12 of the <sup>M18</sup>Agricultural Holdings Act 1986 (arbitration of rent) in respect of land which comprises or is part of a holding in relation to which quota is registered under the <sup>M19</sup>Dairy Produce Quotas Regulations 1986 which was transferred to the tenant by virtue of a transaction the cost of which was borne wholly or partly by him, the arbitrator shall (subject to any agreement between the landlord and tenant to the contrary) disregard—

- (a) in a case where the land comprises the holding, any increase in the rental value of the land which is due to that quota (or, as the case may be, the corresponding part of that quota); or
- (b) in a case where the land is part of the holding, any increase in that value which is due to so much of that quota (or part) as would fall to be apportioned to the land under those Regulations on a change of occupation of the land.

(2) In determining for the purposes of this section whether quota was transferred to a tenant by virtue of a transaction the cost of which was borne wholly or partly by him—

- (a) any payment made by the tenant in consideration for the grant or assignment to him of the tenancy or any previous tenancy of any land comprised in the holding, shall be disregarded;
- (b) any person who would be treated under paragraph 2, 3 or 4 of Schedule 1 to this Act as having had quota transferred to him or having paid the whole or part of the cost of any transaction for the purposes of a claim under that Schedule shall be so treated for the purposes of this section; and

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- (c) any person who would be so treated under paragraph 4 of that Schedule if a sub-tenancy to which his tenancy is subject had terminated, shall be so treated for the purposes of this section.
- (3) In this section—  
     “quota” and “holding” have the same meanings as in the <sup>M20</sup>Dairy Produce Quotas Regulations 1986;  
     “tenant” and “tenancy” have the same meanings as in the <sup>M21</sup>Agricultural Holdings Act 1986.
- (4) Section 95 of that Act (Crown land) applies to this section as it applies to the provisions of that Act.

#### Marginal Citations

**M18** 1986 c. 5.

**M19** S.I. 1986/470.

**M20** S.I. 1986/470.

**M21** 1986 c. 5.

## 16 Rent arbitrations: milk quotas, Scotland.

- (1) Paragraph 1 and the other provisions of Schedule 2 to this Act referred to therein shall have effect for the interpretation of this section, as they do in relation to that Schedule.
- (2) This section applies where an arbiter or the Scottish Land Court is dealing with a reference under—  
     (a) section 6 of the 1886 Act;  
     (b) section 32(7) of the 1911 Act;  
     (c) [<sup>F3</sup>section 13 of the 1991 Act]; or  
     (d) section 5(3) of the 1955 Act,  
 (determination of rent) and the tenant has milk quota, including transferred quota by virtue of a transaction the cost of which was borne wholly or partly by him, registered as his in relation to a holding consisting of or including the tenancy.
- (3) Where this section applies, the arbiter or, as the case may be, the Land Court shall disregard any increase in the rental value of the tenancy which is due to—  
     (a) where the tenancy comprises the holding, the proportion of the transferred quota which reflects the proportion of the cost of the transaction borne by the tenant;  
     (b) where such transferred quota affects part only of the tenancy, that proportion of so much of the transferred quota as would fall to be apportioned to the tenancy under the 1986 Regulations on a change of occupation of the tenancy.
- (4) For the purposes of determining whether transferred quota has been acquired by virtue of a transaction the cost of which was borne wholly or partly by the tenant any payment by a tenant when he was granted a lease, or when a lease was assigned to him, shall be disregarded.
- (5) Paragraph 3 of Schedule 2 to this Act (in so far as it relates to transferred quota) shall apply in relation to the operation of this section as it applies in relation to the operation of that Schedule.

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- (6) This section shall apply where paragraph 4 of Schedule 2 to this Act applies, and in any question between the original landlord and the head tenant, this section shall apply as if any transferred quota acquired by the sub-tenant by virtue of any transaction during the subsistence of the sub-lease had been acquired by the head tenant by virtue of that transaction.
- (7) [<sup>F4</sup>Section 79 of the 1991 Act] (Crown land) shall have effect in relation to this section as it does in relation to that Act.

#### Textual Amendments

- F3** Words in s. 16(2) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(1), 89(2), [Sch. 11 para. 44\(a\)](#), (with s. 45(3), Sch. 12 para. 3)
- F4** Words in s. 16(7) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(1), 89(2), [Sch. 11 para. 44\(b\)](#), (with s. 45(3), Sch. 12 para. 3)

### Conservation

#### 17 Duty to balance interests in exercise of agricultural functions.

- (1) In discharging any functions connected with agriculture in relation to any land the Minister shall, so far as is consistent with the proper and efficient discharge of those functions, have regard to and endeavour to achieve a reasonable balance between the following considerations—
- (a) the promotion and maintenance of a stable and efficient agricultural industry;
  - (b) the economic and social interests of rural areas;
  - (c) the conservation and enhancement of the natural beauty and amenity of the countryside (including its flora and fauna and geological and physiographical features) and of any features of archaeological interest there; and
  - (d) the promotion of the enjoyment of the countryside by the public.
- (2) In this section—
- “agriculture” has the same meaning as in the <sup>M22</sup>Agriculture Act 1947 or, in Scotland, the <sup>M23</sup>Agriculture (Scotland) Act 1948; and
- “the Minister” means—
- (a) in relation to land in England, the Minister of Agriculture, Fisheries and Food; and
  - (b) in relation to land in Wales or Scotland, the Secretary of State.

#### Modifications etc. (not altering text)

- C6** S. 17 explained by [Farm Land and Rural Development Act 1988 \(c. 16, SIF 2:1\)](#), s. 4(2)

#### Marginal Citations

- M22** 1947 c. 48.  
**M23** 1948 c. 45.

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*Status: Point in time view as at 20/11/1991.*

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## **18 Designation and management of environmentally sensitive areas.**

- (1) If it appears to the Minister that it is particularly desirable—
- (a) to conserve and enhance the natural beauty of an area;
  - (b) to conserve the flora or fauna or geological or physiographical features of an area; or
  - (c) to protect buildings or other objects of archaeological, architectural or historic interest in an area,
- and that the maintenance or adoption of particular agricultural methods is likely to facilitate such conservation, enhancement or protection, he may, with the consent of the Treasury and after consulting the persons mentioned in subsection (2) below as to the inclusion of the area in the order and the features for which conservation, enhancement or protection is desirable, by order designate that area as an environmentally sensitive area.
- (2) The persons referred to in subsection (1) above are—
- (a) in the case of an area in England, the Secretary of State, the Countryside Commission and the Nature Conservancy Council [<sup>F5</sup>for England];
  - (b) in the case of an area in Wales, the [<sup>F6</sup>Countryside Council for Wales]; and
  - (c) in the case of an area in Scotland, the Countryside Commission i for Scotland and the Nature Conservancy Council [<sup>F5</sup>for Scotland].
- (3) If the Minister considers that any of the purposes mentioned in paragraphs (a) to (c) of subsection (1) above is likely to be facilitated in a designated area by doing so, he may make an agreement with any person having an interest in agricultural land in, or partly in, the area by which that person agrees in consideration of payments to be made by the Minister to manage the land in accordance with the agreement.
- (4) An order under this section designating an area may specify—
- (a) the requirements as to agricultural practices, methods and operations and the installation or use of equipment which must be included in agreements under subsection (3) above as respects land in the area;
  - (b) the period or minimum period for which such agreements must impose such requirements;
  - (c) the provisions which must be included in such agreements concerning the breach of such requirements; and
  - (d) the rates or maximum rates at which payments may be made by the Minister under such agreements and the matters in respect of which such payments may be made.
- (5) Subject to the foregoing provisions of this section, an agreement under subsection (3) above may contain such provisions as the Minister thinks fit and, in particular, such provisions as he considers are likely to facilitate such conservation, enhancement or protection as is mentioned in subsection (1) above.
- (6) The Minister shall not make an agreement with any person under subsection (3) above in respect of any land unless that person has certified to the Minister—
- (a) that no person other than he is the owner of the land; or
  - (b) that he has notified any other person who is an owner of the land of his intention to make an agreement under subsection (3) above in respect of the land;

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and in this subsection references to the owner of the land are to the estate owner in respect of the fee simple in the land or, in Scotland, [<sup>F7</sup>the owner of the dominium utile].

- (7) The provisions of an agreement under subsection (3) above with any person interested in any land in England or Wales shall, unless the agreement otherwise provides, be binding on persons deriving title under or from that person and be enforceable by the Minister against those persons accordingly.
- (8) Where agreements have been made under subsection (3) above with persons having an interest in land in a designated area the Minister shall arrange for the effect on the area as a whole of the performance of the agreements to be kept under review and shall from time to time publish such information as he considers appropriate about those effects.
- (9) Schedule 2 to the <sup>M24</sup>Forestry Act 1967 (power for tenant for life and others to enter into forestry dedication covenants, or, in Scotland, forestry dedication agreements) shall apply to agreements under subsection (3) above as it applies to forestry dedication covenants or, as the case may be, forestry dedication agreements.
- (10) This section applies to land an interest in which belongs to Her Majesty in right of the Crown or to the Duchy of Lancaster, the Duchy of Cornwall or a Government department or which is held in trust for Her Majesty for the purposes of a Government department, but no agreement under subsection (3) above shall be made as respects land to which this subsection applies without the consent of the appropriate authority.
- (11) In this section—
  - “agricultural” has the same meaning as in the <sup>M25</sup>Agriculture Act 1947 or, in Scotland, the <sup>M26</sup>Agriculture (Scotland) Act 1948;
  - “the appropriate authority” has the same meaning as in section 101(11) of the National Parks and Access to the <sup>M27</sup>Countryside Act 1949;
  - “the Minister” means—
    - (a) in relation to an area in England, the Minister of Agriculture, Fisheries and Food; and
    - (b) in relation to an area in Wales or Scotland, the Secretary of State.
- (12) The power to make an order under this section shall be exercisable by statutory instrument and any statutory instrument containing such an order shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (13) An Order in Council under paragraph 1(1)(b) of Schedule 1 to the <sup>M28</sup>Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which states that it is made only for purposes corresponding to those of this section—
  - (a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament); but
  - (b) shall be subject to annulment in pursuance of a resolution of either House.

#### Textual Amendments

- F5** Words in s. 18(2) inserted (1.4.1991) as provided by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 132, [Sch. 9 para. 13](#); S.I. 1991/685, [art. 3](#)
- F6** Words in s. 18(2)(b) substituted (1.4.1991) as provided by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 132, [Sch. 9 para. 13](#); S.I. 1991/685, [art. 3](#)

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**F7** Words in s. 18(6) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(1), 89(2), [Sch. 11 para. 45](#) (with s. 45(3), [Sch. 12 para. 3](#))

#### Marginal Citations

**M24** 1967 c. 10.  
**M25** 1947 c. 48.  
**M26** 1948 c. 45.  
**M27** 1949 c. 97.  
**M28** 1974 c. 28.

## 19 Supplementary provisions regarding agreements under s.18(3) in Scotland.

- (1) Where a person having an interest of a kind described in section 18(3) above in land in Scotland, being an interest which enables him to bind the land, enters into an agreement under that subsection—
  - (a) where the land is registered in the Land Register of Scotland, the agreement may be registered in that Register;
  - (b) in any other case the agreement may be recorded in the appropriate Division of the General Register of Sasines.
- (2) An agreement registered or recorded under subsection (1) above shall be enforceable at the instance of the Secretary of State against persons deriving title to the land (including any person acquiring right to a tenancy by assignation or succession) from the person who entered into the agreement; provided that such an agreement shall not be enforceable against a third party who shall have in good faith and for value acquired right (whether completed by infetment or not) to the land prior to the agreement being registered or recorded as aforesaid, or against any person deriving title from such third party.
- (3) Notwithstanding the terms of any agreement registered or recorded under subsection (1) above, the parties to the agreement or any persons deriving title from them may at any time agree to terminate it; and such an agreement to terminate it shall be registered or recorded in the same manner as was the original agreement.
- (4) A grazings committee appointed under section 24 of [<sup>F8</sup>the 1955 Act] may, with the consent of a majority of the crofters ordinarily resident in the township, enter into an agreement under section 18(3) above in relation to any part of the common grazings and may agree to the revocation or variation of any such agreement, and such agreement, revocation or variation shall be binding upon all their successors.
- (5) In the case of an agreement of a kind referred to in subsection (4) above, the payments by the Secretary of State shall be made to the grazings committee and shall be applied by them either—
  - (a) by division among the crofters who share in the common grazings in proportion to their respective rights therein; or
  - (b) subject to subsection (6) below, in carrying out works for the improvement of the common grazings or the fixed equipment required in connection therewith.
- (6) A grazings committee to whom such a payment as is referred to in subsection (5) above has been made and who are proposing to apply the payment in carrying out works in accordance with paragraph (b) of that subsection shall give notice in writing to each crofter sharing in the common grazings of their proposals: and any such crofter may within one month of the date of such notice make representations in respect of



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the proposals to the Crofters Commission who may approve them with or without modifications or reject them.

- (7) “Crofter” and other expressions used in any of subsections (4) to (6) above and in section 3 of the Crofters (Scotland) Act 1955 have the same meaning in this section as they have in that section as read with section 15(6) of the <sup>M29</sup>Crofters (Scotland) Act 1961.

#### Textual Amendments

**F8** Words in s. 19(4) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(1), 89(2), **Sch. 11 para. 46** (with s. 45(3), Sch. 12 para. 3)

#### Marginal Citations

**M29** 1961 c. 58.

## 20 EEC farm grants relating to areas of special scientific interest or National Parks etc.

- (1) The provisions of this section shall have effect for the purpose of amending certain provisions of the <sup>M30</sup>Wildlife and Countryside Act 1981 which apply to grants under schemes made under section 29 of the <sup>M31</sup>Agriculture Act 1970 so as to apply them to certain agricultural grants under regulations made under section 2(2) of the <sup>M32</sup>European Communities Act 1972.
- (2) In subsection (1) of section 32 of the said Act of 1981 (duties of agriculture Ministers to exercise functions so as to further conservation where applications are made to them for grants under such schemes with respect to areas of special scientific interest)—
- (a) for the words “a grant under a scheme made under section 29 of the Agriculture Act 1970 (farm capital grants)” there shall be substituted the words “a farm capital grant”; and
- (b) in paragraph (a) for the words “the scheme and section 29 of the said Act of 1970” there shall be substituted the words “the grant provisions”.
- (3) For subsection (3) of that section (definition of “the appropriate Minister”) there shall be substituted—
- “(3) In this section—
- “the appropriate Minister” means the Minister responsible for determining the application;
- “farm capital grant” means—
- (a) a grant under a scheme made under section 29 of the Agriculture Act 1970; or
- (b) a grant under regulations made under section 2(2) of the European Communities Act 1972 to a person carrying on an agricultural business within the meaning of those regulations in respect of expenditure incurred or to be incurred for the purposes of or in connection with that business, being expenditure of a capital nature or incurred in connection with expenditure of a capital nature;
- “grant provisions” means—

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- (i) in the case of such a grant as is mentioned in paragraph (a) above, the scheme under which the grant is made and section 29 of the Agriculture Act 1970; and
  - (ii) in the case of such a grant as is mentioned in paragraph (b) above, the regulations under which the grant is made and the Community instrument in pursuance of which the regulations were made.”.
- (4) In subsection (3) of section 41 of the said Act of 1981 (which makes similar provision in relation to land which is in a National Park or an area specified for the purposes of that subsection)—
- (a) for the words “a grant under a scheme made under section 29 of the Agriculture Act 1970 (farm capital grants)” there shall be substituted the words “a farm capital grant”;
  - (b) in paragraph (a) for the words “the scheme and the said section 29” there shall be substituted the words “the grant provisions”.
- (5) In subsection (5) of the said section 41 (definitions) for the definitions of “agricultural business” and “the appropriate Minister” there shall be substituted—
- ““agricultural business” has the same meaning as in section 29 of the Agriculture Act 1970;
- “the appropriate Minister”, “farm capital grant” and “grant provisions” have the same meanings as in section 32;”.
- (6) For the definition of “farm capital grant” in subsection (4) of section 50 of that Act (payments under certain agreements offered by authorities where applications for grants under section 29 of the said Act of 1970 are refused) there shall be substituted—
- ““farm capital grant” has the same meaning as in section 32;”

**Marginal Citations**

**M30** 1981 c. 69.  
**M31** 1970 c. 40.  
**M32** 1972 c. 68.

21 ..... F9

**Textual Amendments**

**F9** S. 21 repealed by [Rights of Way Act 1990 \(c. 24, SIF 59\)](#), s. 6(4)

*Farm grants*

22 <sup>F10</sup> **Farm capital grants: ancillary businesses etc.**

- (1) In section 28 of the <sup>M33</sup>Agriculture Act 1970 (interpretation of provisions relating to capital and other grants) at the end of the definition of “agricultural business” there shall be inserted the words “and includes any other business, of a kind for the time

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being specified by an order made by the appropriate authority, which is carried on by a person also carrying on a business consisting in or partly in the pursuit of agriculture and is carried on on the same or adjacent land”.

- (2) The existing provisions of that section shall become subsection (1) of that section and after that subsection there shall be inserted—

“(2) An order under subsection (1) above shall be made by statutory instrument and any statutory instrument containing such an order shall be subject to annulment in pursuance of a resolution of either House of Parliament.”.

#### Textual Amendments

**F10** S. 22 repealed (N.I.) by S.I.1987/166 (N.I. 1), art.20, Sch.

#### Marginal Citations

**M33** 1970 c. 40.

### *Supplemental*

## **23 Financial provisions.**

- (1) There shall be paid out of money provided by Parliament—
- (a) any expenses incurred by a Minister by virtue of this Act; and
  - (b) any increase attributable to this Act in the sums payable out of money so provided under any other Act.
- (2) Any sums received by a Minister under this Act shall be paid into the Consolidated Fund.

**[<sup>F11</sup>23A** In this Act—

“the 1886 Act” means the Crofters Holdings (Scotland) Act 1886;  
“the 1911 Act” means the Small Landholders (Scotland) Act 1911;  
“the 1955 Act” means the Crofters (Scotland) Act 1955; and  
“the 1991 Act” means the Agricultural Holdings (Scotland) Act 1991.]

#### Textual Amendments

**F11** S. 23A inserted (25.9.1991) by Agricultural Holdings (Scotland) Act 1991 (c. 55, SIF 2:3), ss. 88(1), 89(2), Sch. 11 para. 47 (with s. 45(3), Sch. 12 para. 3)

## **24 Short title, commencement, consequential amendments, repeals and extent.**

- (1) This Act may be cited as the Agriculture Act 1986.
- (2) Sections 8, 10, 13 to 16 above and the repeals consequential on sections 8 to 10 above shall come into force on such date as the Ministers acting jointly may by order made by statutory instrument appoint and the remaining provisions of this Act (except for sections 12 and 18(13)) shall come into force at the end of the period of two months

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beginning with the day on which it is passed; and in this subsection “the Ministers” means the Ministers responsible for agriculture in the parts of the United Kingdom to which the provision in question extends.

- (3) An order under subsection (2) above may appoint different dates for the coming into force of different provisions.
- (4) The provisions mentioned in Schedule 3 to this Act shall have effect subject to the amendments there specified (being amendments consequential on the provisions of this Act).
- (5) The enactments mentioned in Schedule 4 to this Act (which include some spent provisions) are hereby repealed to the extent specified in the third column of that Schedule.
- (6) Sections 1, 13, 15, 18(7) and 21 above and Schedule 1 to this Act do not extend to Scotland.
- (7) The provisions of this Act do not extend to Northern Ireland except for sections 4 to 6, 8, 9, 10, 11, 18(13) and 22, this section and the provisions of Schedules 3 and 4 which affect enactments extending there.

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#### **Subordinate Legislation Made**

- P1** S. 24: power of appointment conferred by s. 24 partly exercised: [S.I. 1986/1484](#), 1485, 1596, 2301
- P2** S. 24(2): s. 24(2) power exercised by [S.I. 1991/2635](#)
- P3** S. 24(2) power partly exercised (19.3.1998): 1.4.1998 appointed for specified provision by [S.I. 1998/879](#).
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#### **Commencement Information**

- I2** S. 24 partly in force; s. 24(5) partly in force 21.11.1991, see [S.I. 1991/2635](#)

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## SCHEDULES

### SCHEDULE 1

Section 13.

#### TENANTS’ COMPENSATION FOR MILK QUOTA

**Modifications etc. (not altering text)**

C7 Sch. 1 excluded (1.9.1995) by 1995 c. 8, ss. 16(3), 41(2) (with s. 37).

### PART I

#### RIGHT TO COMPENSATION

##### *Tenants’ rights to compensation*

- 1 (1) Subject to the following provisions of this Schedule, where on the termination of the tenancy of any land the tenant has milk quota registered as his in relation to a holding consisting of or including the land, the tenant shall be entitled, on quitting the land, to obtain from his landlord a payment—
- (a) if the tenant had milk quota allocated to him in relation to land comprised in the holding (“allocated quota”), in respect of so much of the relevant quota as consists of allocated quota; and
  - (b) if the tenant had milk quota allocated to him as aforesaid or was in occupation of the land as a tenant on 2nd April 1984 (whether or not under the tenancy which is terminating), in respect of so much of the relevant quota as consists of transferred quota transferred to him by virtue of a transaction the cost of which was borne wholly or partly by him.
- (2) In sub-paragraph (1) above—
- “the relevant quota” means—
    - (a) in a case where the holding mentioned in sub-paragraph (1) above consists only of the land subject to the tenancy, the milk quota registered in relation to the holding; and
    - (b) otherwise, such part of that milk quota as falls to be apportioned to that land on the termination of the tenancy;
  - “transferred quota” means milk quota transferred to the tenant by virtue of the transfer to him of the whole or part of a holding.
- (3) A tenant shall not be entitled to more than one payment under this paragraph in respect of the same land.

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### *Succession on death or retirement of tenant*

- 2 (1) This paragraph applies where on the termination of the tenancy of any land after 2nd April 1984 a new tenancy of the land or part of the land has been granted to a different tenant (“the new tenant”) and that tenancy—
- (a) was obtained by virtue of a direction under section 39 or 53 of the <sup>M34</sup>Agricultural Holdings Act 1986 (direction for grant of tenancy to successor on death or retirement of previous tenant);
  - (b) was granted (following a direction under section 39 of that Act) in circumstances within section 45(6) of that Act (new tenancy granted by agreement to persons entitled to tenancy under direction); or
  - (c) is such a tenancy as is mentioned in section 37(1)(b) or (2) of that Act (tenancy granted by agreement to close relative).
- (2) Where this paragraph applies—
- (a) any milk quota allocated or transferred to the former tenant (or treated as having been allocated or transferred to him) in respect of the land which is subject to the new tenancy shall be treated as if it had instead been allocated or transferred to the new tenant; and
  - (b) in a case where milk quota is treated under paragraph (a) above as having been transferred to the new tenant, he shall be treated for the purposes of any claim in respect of that quota—
    - (i) as if he had paid so much of the cost of the transaction by virtue of which the milk quota was transferred as the former tenant bore (or is treated as having borne); and
    - (ii) in a case where the former tenant was in occupation of the land on 2nd April 1984 (or is treated as having been in occupation of the land on that date), as if he had been in occupation of it on that date.
- (3) Sub-paragraph (1) above applies in relation to the grant of a new tenancy before the date on which the <sup>M35</sup>Agricultural Holdings Act 1986 comes into force as if the references in that sub-paragraph to sections 39, 53 and 45(6) of that Act were references to section 20 of the <sup>M36</sup>Agriculture (Miscellaneous Provisions) Act 1976, paragraph 5 of Schedule 2 to the <sup>M37</sup>Agricultural Holdings Act 1984 and section 23(6) of the said Act of 1976 respectively.

#### **Marginal Citations**

**M34** 1986 c. 5.

**M35** 1986 c. 5.

**M36** 1976 c. 55.

**M37** 1984 c. 41.

### *Assignments*

- 3 Where the tenancy of any land has been assigned after 2nd April 1984 (whether by deed or by operation of law)—
- (a) any milk quota allocated or transferred to the assignor (or treated as having been allocated or transferred to him) in respect of the land shall be treated as if it had instead been allocated or transferred to the assignee; and

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- (b) in a case where milk quota is treated under paragraph (a) above as having been transferred to the assignee, he shall be treated for the purposes of any claim in respect of that quota—
  - (i) as if he had paid so much of the cost of the transaction by virtue of which the milk quota was transferred as the assignor bore (or is treated as having borne); and
  - (ii) in a case where the assignor was in occupation of the land on 2nd April 1984 (or is treated as having been in occupation of the land on that date), as if he had been in occupation of it on that date;and accordingly the assignor shall not be entitled to a payment under paragraph 1 above in respect of that land.

#### *Sub-tenancies*

- 4 Where the sub-tenancy of any land terminates after 2nd April 1984 then, for the purposes of determining the sub-landlord's entitlement under paragraph 1 above—
- (a) any milk quota allocated or transferred to the sub-tenant (or treated as having been allocated or transferred to him) in respect of the land shall be treated as if it had instead been allocated or transferred to the sub-landlord;
  - (b) in a case where milk quota is treated under paragraph (a) above as having been transferred to the sub-landlord, he shall be treated for the purposes of any claim in respect of that quota—
    - (i) as if he had paid so much of the cost of the transaction by virtue of which the milk quota was transferred as the sub-tenant bore (or is treated as having borne); and
    - (ii) in a case where the sub-tenant was in occupation of the land on 2nd April 1984 (or is treated as having been in occupation of the land on that date), as if he had been in occupation of it on that date;
  - (c) if the sub-landlord does not occupy the land after the sub-tenancy has ended and the sub-tenant has quitted the land, the sub-landlord shall be taken to have quitted the land when the sub-tenant quitted it.

## **PART II**

### AMOUNT OF COMPENSATION PAYABLE

#### *Calculation of payment*

- 5 (1) The amount of the payment to which the tenant of any land is entitled under paragraph 1 above on the termination of his tenancy shall be determined in accordance with the following provisions of this paragraph.
- (2) The amount of the payment to which the tenant is entitled under paragraph 1 above in respect of allocated quota shall be an amount equal—
- (a) in a case where the allocated quota exceeds the standard quota for the land, to the value of the sum of—
    - (i) the tenant's fraction of the standard quota, and
    - (ii) the amount of the excess;
  - (b) in a case where the allocated quota is equal to the standard quota, to the value of the tenant's fraction of the allocated quota; and

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- (c) in a case where the allocated quota is less than the standard quota, to the value of such proportion of the tenant’s fraction of the allocated quota as the allocated quota bears to the standard quota.
- (3) The amount of the payment the tenant is entitled to under paragraph 1 above in respect of transferred quota shall be an amount equal—
  - (a) in a case where the tenant bore the whole of the cost of the transaction by virtue of which the transferred quota was transferred to him, to the value of the transferred quota; and
  - (b) in a case where the tenant bore only part of that cost, to the value of the corresponding part of the transferred quota.

*“Standard quota”*

- 6 (1) Subject to the following provisions of this paragraph the standard quota for any land for the purposes of this Schedule shall be calculated by multiplying the relevant number of hectares by the prescribed quota per hectare; and for the purposes of this paragraph—
  - (a) “the relevant number of hectares” means the average number of hectares of the land in question used during the relevant period for the feeding of dairy cows kept on the land or, if different, the average number of hectares of the land which could reasonably be expected to have been so used (having regard to the number of grazing animals other than dairy cows kept on the land during that period); and
  - (b) “the prescribed quota per hectare” means such number of litres as the Minister may from time to time by order prescribe for the purposes of this sub-paragraph.
- (2) Where by virtue of the quality of the land in question or climatic conditions in the area the amount of milk which could reasonably be expected to have been produced from one hectare of the land during the relevant period (“the reasonable amount”) is greater or less than the prescribed average yield per hectare, then sub-paragraph (1) above shall not apply and the standard quota shall be calculated by multiplying the relevant number of hectares by such proportion of the prescribed quota per hectare as the reasonable amount bears to the prescribed average yield per hectare; and the Minister shall by order prescribe the amount of milk to be taken as the average yield per hectare for the purposes of this sub-paragraph.
- (3) Where the relevant quota of the land includes milk quota allocated in pursuance of an award of quota made by the Dairy Produce Quota Tribunal for England and Wales which has not been allocated in full, the standard quota for the land shall be reduced by the amount by which the milk quota allocated in pursuance of the award falls short of the amount awarded (or, in a case where only part of the milk quota allocated in pursuance of the award is included in the relevant quota, by the corresponding proportion of that shortfall).
- (4) In sub-paragraph (3) above the references to milk quota allocated in pursuance of an award of quota include references to quota allocated by virtue of the amount awarded not originally having been allocated in full.
- (5) In this paragraph—



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- (a) references to land used for the feeding of dairy cows kept on the land do not include land used for growing cereal crops for feeding to dairy cows in the form of loose grain; and
  - (b) references to dairy cows are to cows kept for milk production (other than uncalved heifers).
- (6) An order under this paragraph may make different provision for different cases.
- (7) The power to make an order under this paragraph shall be exercisable by statutory instrument and any instrument containing such an order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*“Tenant’s fraction”*

- 7 (1) For the purposes of this Schedule “the tenant’s fraction” means the fraction of which—
- (a) the numerator is the annual rental value at the end of the relevant period of the tenant’s dairy improvements and fixed equipment; and
  - (b) the denominator is the sum of that value and such part of the rent payable by the tenant in respect of the relevant period as is attributable to the land used in that period for the feeding, accommodation or milking of dairy cows kept on the land.
- (2) For the purposes of sub-paragraph (1)(a) above the rental value of the tenant’s dairy improvements and fixed equipment shall be taken to be the amount which would fall to be disregarded under paragraph 2(1) of Schedule 2 to the <sup>M38</sup>Agricultural Holdings Act 1986 on a reference made in respect of the land in question under section 12 of that Act (arbitration of rent), so far as that amount is attributable to tenant’s improvements to, or tenant’s fixed equipment on, land used for the feeding, accommodation or milking of dairy cows kept on the land in question.
- (3) Where—
- (a) the relevant period is less than or greater than 12 months; or
  - (b) rent was only payable by the tenant in respect of part of the relevant period, the average rent payable in respect of one month in the relevant period or, as the case may be, in that part shall be determined and the rent referred to in sub-paragraph (1) (b) above shall be taken to be the corresponding annual amount.
- (4) For the purposes of sub-paragraph (2) above “tenant’s improvements” and “tenant’s fixed equipment” have the same meanings as in paragraph 2 of Schedule 2 to the 1986 Act, except that—
- (a) any allowance made or benefit given by the landlord after the end of the relevant period in consideration of the execution of improvements wholly or partly at the expense of the tenant shall be disregarded for the purposes of sub-paragraph (2)(a) of that paragraph;
  - (b) any compensation received by the tenant after the end of the relevant period in respect of any improvement or fixed equipment shall be disregarded for the purposes of sub-paragraph (3) of that paragraph; and
  - (c) where paragraph 2 above applies in respect of any land, improvements or equipment which would be regarded as tenant’s improvements or equipment on the termination of the former tenant’s tenancy (if he were entitled to a payment under this Schedule in respect of that land) shall be regarded as the new tenant’s improvements or equipment.

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**Marginal Citations**

**M38** 1986 c. 5.

*“Relevant period”*

- 8 In this Schedule “the relevant period” means—
- (a) the period in relation to which the allocated quota was determined; or
  - (b) where it was determined in relation to more than one period, the period in relation to which the majority was determined or, if equal amounts were determined in relation to different periods, the later of those periods.

*Valuation of milk quota*

- 9 The value of milk quota to be taken into account for the purposes of paragraph 5 above is the value of the milk quota at the time of the termination of the tenancy in question and in determining that value at that time there shall be taken into account such evidence as is available, including evidence as to the sums being paid for interests in land—
- (a) in cases where milk quota is registered in relation to the land; and
  - (b) in cases where no milk quota is so registered.

**PART III**

SUPPLEMENTAL PROVISIONS

*Determination of standard quota and tenant’s fraction before end of tenancy*

- 10 (1) Where, on the termination of a tenancy of any land, the tenant may be entitled to a payment under paragraph 1 above, the landlord or tenant may at any time before the termination of the tenancy by notice in writing served on the other demand that the determination of the standard quota for the land or the tenant’s fraction shall be referred to arbitration.
- (2) On a reference under this paragraph the arbitrator shall determine the standard quota for the land or, as the case may be, the tenant’s fraction (so far as determinable at the date of the reference).
- (3) Section 84 of the <sup>M39</sup>Agricultural Holdings Act 1986 (arbitrations) shall apply as if the matters mentioned in this paragraph were required by that Act to be determined by arbitration under that Act.

**Marginal Citations**

**M39** 1986 c. 5.

*Settlement of tenant’s claim on termination of tenancy*

- 11 (1) Subject to the provisions of this paragraph, any claim arising under paragraph 1 above shall be determined by arbitration under the Agricultural Holdings Act 1986 and no

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such claim shall be enforceable unless before the expiry of the period of two months from the termination of the tenancy the tenant serves notice in writing on his landlord of his intention to make the claim.

- (2) The landlord and tenant may within the period of eight months from the termination of the tenancy by agreement in writing settle the claim but where the claim has not been settled during that period it shall be determined by arbitration under the Agricultural Holdings Act 1986.
- (3) In any case where on the termination of the tenancy in question a new tenancy of the land or part of the land may be granted to a different tenant by virtue of a direction under section 39 of the Agricultural Holdings Act 1986 then, as respects any claim in respect of that land or part, references in sub-paragraphs (1) and (2) above to the termination of the tenancy shall be construed as references to the following time, namely—
  - (a) in a case where no application is made under that section within the period within which such an application may be made, the expiry of that period;
  - (b) in a case where every such application made within that period is withdrawn, the expiry of that period or the time when the last outstanding application is withdrawn (whichever is the later);
  - (c) in a case where the Agricultural Land Tribunal refuse every such application for a direction under that section, the time when the last outstanding application is refused; and
  - (d) in a case where the Tribunal give such a direction, the relevant time for the purposes of section 46 of that Act;and no notice may be served under sub-paragraph (1) above before that time.
- (4) Where a tenant lawfully remains in occupation of part of the land subject to the tenancy after the termination of the tenancy or, in a case where sub-paragraph (3) above applies, after the time substituted for the termination of the tenancy by virtue of that sub-paragraph, the references in sub-paragraphs (1) and (2) above to the termination of the tenancy shall be construed as references to the termination of the occupation.
- (5) Section 84 of the <sup>M40</sup>Agricultural Holdings Act 1986 (arbitrations) shall apply as if the requirements of this paragraph were requirements of that Act, but paragraph 18 of Schedule 11 to that Act (arbitration award to fix day for payment not later than one month after award) shall have effect for the purposes of this paragraph as if for the words “one month” there were substituted the words “three months”.
- (6) Where—
  - (a) before the termination of the tenancy of any land the landlord and tenant have agreed in writing the amount of the standard quota for the land or the tenant's fraction or the value of milk quota which is to be used for the purpose of calculating the payment to which the tenant will be entitled under this Schedule on the termination of the tenancy; or
  - (b) the standard quota or the tenant's fraction has been determined by arbitration in pursuance of paragraph 10 above,

the arbitrator determining the claim under this paragraph shall, subject to sub-paragraph (7) below, award payment in accordance with that agreement or determination.

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- (7) Where it appears to the arbitrator that any circumstances relevant to the agreement or determination mentioned in sub-paragraph (6) above were materially different at the time of the termination of the tenancy from those at the time the agreement or determination was made, he shall disregard so much of the agreement or determination as appears to him to be affected by the change in circumstances.

**Marginal Citations**

**M40** 1986 c. 5.

*Enforcement*

- 12 Section 85 of the Agricultural Holdings Act 1986 (enforcement) and section 86(1), (3) and (4) of that Act (power of landlord to obtain charge on holding) shall apply to any sum which becomes due to a tenant by virtue of this Schedule as they apply to the sums mentioned in those sections.

*Termination of tenancy of part of tenanted land*

- 13 References in this Schedule to the termination of a tenancy of land include references to the resumption of possession of part of the land subject to the tenancy—
- (a) by the landlord by virtue of section 31 or 43(2) of the Agricultural Holdings Act 1986 (notice to quit part);
  - (b) by the landlord in pursuance of a provision in the contract of tenancy; or
  - (c) by a person entitled to a severed part of the reversionary estate in the land by virtue of a notice to quit that part given to the tenant by virtue of section 140 of the <sup>M41</sup>Law of Property Act 1925; and in the case mentioned in paragraph (c) above this Schedule shall apply as if the person resuming possession were the landlord of the land of which he resumes possession.

**Marginal Citations**

**M41** 1925 c. 20.

*Severing of reversionary estate*

- 14 (1) Where the reversionary estate in the land is for the time being vested in more than one person in several parts, the tenant shall be entitled, on quitting all the land, to require that any amount payable to him under this Schedule shall be determined as if the reversionary estate were not so severed.
- (2) Where sub-paragraph (1) above applies, the arbitrator shall, where necessary, apportion the amount awarded between the persons who for the purposes of this Schedule together constitute the landlord of the land, and any additional costs of the award caused by the apportionment shall be paid by those persons in such proportions as the arbitrator may determine.

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### *Powers of limited owners*

- 15 Notwithstanding that a landlord of any land is not the owner in fee simple of the land or, in a case where his interest is an interest in a leasehold, that he is not absolutely entitled to the leasehold, he may for the purposes of this Schedule do anything which he might do if he were such an owner or, as the case may be, were so entitled.

### *Notices*

- 16 (1) Any notice under this Schedule shall be duly served on the person on whom it is to be served if it is delivered to him, or left at his proper address, or sent to him by post in a registered letter or by the recorded delivery service.
- (2) Any such notice shall be duly served on an incorporated company or body if it is served on the secretary or clerk of the company or body.
- (3) Any such notice to be served on a landlord or tenant of any land shall, where an agent or servant is responsible for the control of the management or farming, as the case may be, of the land, be duly served if served on that agent or servant.
- (4) For the purposes of this paragraph and of section 7 of the <sup>M42</sup>Interpretation Act 1978 (service by post), the proper address of any person on whom any such notice is to be served shall, in the case of the secretary or clerk of an incorporated company or body, be that of the registered or principal office of the company or body, and in any other case be the last known address of the person in question.
- (5) Unless or until the tenant of any land has received—
- (a) notice that the person who before that time was entitled to receive the rents and profits of the land (“the original landlord”) has ceased to be so entitled; and
  - (b) notice of the name and address of the person who has become entitled to receive the rents and profits,
- any notice served on the original landlord by the tenant shall be deemed for the purposes of this Schedule to have been served on the landlord of the land.

#### **Marginal Citations**

**M42** 1978 c. 30.

### *Crown land*

- 17 (1) The provisions of this Schedule shall apply to land which belongs to Her Majesty in right of the Crown or to the Duchy of Lancaster, the Duchy of Cornwall or a Government department or which is held in trust for Her Majesty for the purposes of a Government department, subject in each case to such modifications as the Minister may by regulations prescribe.
- (2) For the purposes of this Schedule—
- (a) as respects land belonging to Her Majesty in right of the Crown, the Crown Estate Commissioners or the proper officer or body having charge of the land for the time being, or, if there is no such officer or body, such person as Her Majesty may appoint in writing under the Royal Sign Manual, shall represent Her Majesty and shall be deemed to be the landlord,

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- (b) as respects land belonging to Her Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy shall represent Her Majesty and shall be deemed to be the landlord;
  - (c) as respects land belonging to the Duchy of Cornwall, such person as the Duke of Cornwall or the possessor for the time being of the Duchy of Cornwall appoints shall represent the Duchy and shall be deemed to be the landlord and may do any act or thing which a landlord is authorised or required to do under this Act.
- (3) Any sum payable under this Schedule by the Duke of Cornwall (or any other possessor for the time being of the Duchy of Cornwall) may be raised and paid as if it were an expense incurred in permanently improving the possessions of the Duchy as mentioned in section 8 of the <sup>M43</sup>Duchy of Cornwall Management Act 1863.
- (4) Any sum payable under this Schedule by the Chancellor of the Duchy of Lancaster may—
- (a) be raised and paid as if it were an expense incurred in the improvement of land belonging to Her Majesty in right of the Duchy within section 25 of the <sup>M44</sup>Duchy of Lancaster Act 1817; or
  - (b) be paid out of the annual revenues of the Duchy.
- (5) The power to make regulations under this paragraph shall be exercisable by statutory instrument and any statutory instrument containing such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **Marginal Citations**

**M43** 1863 c. 49.

**M44** 1817 c. 97.

#### *Interpretation*

- 18 (1) In this Schedule—
- “allocated quota” has the meaning given in paragraph 1(1) above;
  - “holding” has the same meaning as in the 1986 Regulations;
  - “landlord” means any person for the time being entitled to receive the rents and profits of any land and “sub-landlord” shall be construed accordingly;
  - “milk quota” means—
    - (a) in the case of a tenant registered in the direct sales register maintained under the 1986 Regulations, a direct sales quota (within the meaning of the 1986 Regulations); and
    - (b) in the case of a tenant registered in the wholesale register maintained under those Regulations, a wholesale quota (within the meaning of those Regulations);
  - “the Minister” means—
    - (a) in the case of land in England, the Minister of Agriculture, Fisheries and Food; and
    - (b) in the case of land in Wales, the Secretary of State;

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“registered”, in relation to milk quota, means—

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

“relevant quota” has the meaning given in paragraph 1(2) above;

“standard quota” has the meaning given in paragraph 6 above;

“the 1986 Regulations” means the <sup>M45</sup>Dairy Produce Quotas Regulations 1986;

“tenancy” means a tenancy from year to year (including any arrangement which would have effect as if it were such a tenancy by virtue of section 2 of the <sup>M46</sup>Agricultural Holdings Act 1986 if it had not been approved by the Minister) or a tenancy to which section 3 of that Act applies (or would apply apart from section 5 of that Act); and “tenant” and “sub-tenant” shall be construed accordingly;

“tenant’s fraction” has the meaning given in paragraph 7 above;

“termination”, in relation to a tenancy, means the cesser of the letting of the land in question or the agreement for letting the land, by reason of effluxion of time or from any other cause;

“transferred quota” has the meaning given in paragraph 1(2) above.

- (2) In this Schedule references to land used for the feeding of dairy cows kept on the land and to dairy cows have the same meaning as in paragraph 6 above.
- (3) The designations of landlord and tenant shall continue to apply to the parties until the conclusion of any proceedings taken under or in pursuance of this Schedule.

#### **Marginal Citations**

**M45** S.I. 1986/470.

**M46** 1986 c. 5.

## SCHEDULE 2

Section 14.

### TENANTS’ COMPENSATION FOR MILK QUOTA: SCOTLAND

#### *Interpretation*

- 1 (1) In this Schedule, except where the context otherwise requires or provision is made to the contrary—
  - “allocated quota” has the meaning given in paragraph 2(1) below;
  - “holding” has the same meaning as in the 1986 Regulations;
  - “landlord” means—
    - (a) in the case of an agricultural holding to which [<sup>F12</sup>the 1991 Act] applies, the landlord within the meaning of [<sup>F12</sup>section 85(1)] of that Act;

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- (b) in the case of a croft within the meaning of the 1955 Act, the landlord within the meaning of section 37(1) of that Act;
- (c) in the case of a holding within the meaning of the 1911 Act to which [<sup>F13</sup>the 1991 Act]does not apply, the same as it means in the 1911 Act; “milk quota” means—
  - (a) in the case of a tenant registered in the direct sales register maintained under the 1986 Regulations, a direct sales quota within the meaning of those Regulations; and
  - (b) in the case of a tenant registered in the wholesale register maintained under those Regulations, a wholesale quota within the meaning of those Regulations;
 “registered”, in relation to milk quota, means—
  - (a) in the case of direct sales quota within the meaning of the 1986 Regulations, registered in the direct sales register maintained under those Regulations; and
  - (b) in the case of a wholesale quota within the meaning of those Regulations, registered in a wholesale register maintained under those Regulations;
 “relevant quota” has the meaning given in paragraph 2(2) below; “standard quota” means standard quota as calculated under paragraph 6 below; “tenancy” means, as the case may be—
  - (a) the agricultural holding, within the meaning of section 1 of [<sup>F14</sup>the 1991 Act];
  - (b) the croft within the meaning of section 3(1) of the 1955 Act;
  - (c) the holding within the meaning of section 2 of the 1911 Act;
  - (d) the holding of a statutory small tenant under section 32 of the 1911 Act;
  - (e) any part of a tenancy which is treated as a separate entity for purposes of succession, assignation or sub-letting;
 “tenant” means—
  - (a) in the case of an agricultural holding to which [<sup>F15</sup>the 1991 Act]applies, the tenant within the meaning of [<sup>F15</sup>section 85(1)] of that Act;
  - (b) in the case of a croft within the meaning of the 1955 Act, the crofter within the meaning of section 3(2) of that Act;
  - (c) in the case of a holding within the meaning of the 1911 Act to which [<sup>F16</sup>the 1991 Act]does not apply, the landholder within the meaning of section 2(2) of the 1911 Act;
 “tenant’s fraction” has the meaning given in paragraph 7 below; “termination” means the resumption of possession of the whole or part of the tenancy by the landlord by virtue of any enactment, rule of law or term of the lease which makes provision for removal of or renunciation by a tenant, or resumption of possession by a landlord, and in particular includes resumption of possession following—
  - (a) vacancy arising under section 11(5) of the 1955 Act;
  - (b) termination of a lease in pursuance of section 16(3) of the <sup>M47</sup>Succession (Scotland) Act 1964;
 “transferred quota” has the meaning given in paragraph 2(2) below;



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“the 1886 Act” means the <sup>M48</sup>Crofters Holdings (Scotland) Act 1886;  
“the 1911 Act” means the <sup>M49</sup>Small Landholders (Scotland) Act 1911;  
“the 1949 Act” means the <sup>M50</sup>Agricultural Holdings (Scotland) Act 1949;  
“the 1955 Act” means the <sup>M51</sup>Crofters (Scotland) Act 1955;  
“the 1986 Regulations” means the <sup>M52</sup>Dairy Produce Quotas Regulations 1986.

(2) For the purposes of this Schedule, the designations of landlord and tenant shall continue to apply to the parties to any proceedings taken under or in pursuance of it until the conclusion of those proceedings.

#### Textual Amendments

- F12** Words in *Sch. 2 para. 1(1)* in the definition of "landlord" subpara. (a) substituted (25.9.1991) by *Agricultural Holdings (Scotland) Act 1991 (c. 55, SIF 2:3)*, ss. 88(1), 89(2), **Sch. 11 para. 48(a)(i)**(with s. 45(3), *Sch. 12 para. 3*)
- F13** Words in *Sch. 2 para. 1(1)* in the definition of "landlord" subpara. (c) substituted (25.9.1991) by *Agricultural Holdings (Scotland) Act 1991 (c. 55, SIF 2:3)*, ss. 88(1), 89(2), **Sch. 11 para. 48(a)(ii)**(with s. 45(3), *Sch. 12 para. 3*)
- F14** Words in *Sch. 2 para. 1(1)* in the definition of "tenancy" substituted (25.9.1991) by *Agricultural Holdings (Scotland) Act 1991 (c. 55, SIF 2:1)*, ss. 88(1), 89(2), **Sch. 11 para. 48(b)**(with s. 45(3), *Sch. 12 para. 3*)
- F15** Words in *Sch. 2 para. 1(1)* in the definition of "tenant" subpara. (a) substituted (25.9.1991) by *Agricultural Holdings (Scotland) Act 1991 (c. 55, SIF 2:1)*, ss. 88(1), 89(2), **Sch. 11 para. 48(c)(i)**(with s. 45(3), *Sch. 12 para. 3*)
- F16** Words in *Sch. 2 para. 1(1)* in the definition of "tenant" subpara. (c) substituted (25.9.1991) by *Agricultural Holdings (Scotland) Act 1991 (c. 55, SIF 2:1)*, ss. 88(1), 89(2), **Sch. 11 para. 48(c)(ii)**(with s. 45(3), *Sch. 12 para. 3*)

#### Marginal Citations

- M47** 1964 c.41.  
**M48** 1886 c.29.  
**M49** 1911 c. 49.  
**M50** 1949 c. 75.  
**M51** 1955 c. 21.  
**M52** S.I. 1986/470.

#### *Tenant's right to compensation*

- 2 (1) Subject to this Schedule, where, on the termination of the lease, the tenant has milk quota registered as his in relation to a holding consisting of or including the tenancy, he shall be entitled, on quitting the tenancy, to obtain from his landlord a payment—
- (a) if the tenant had milk quota allocated to him in relation to a holding consisting of or including the tenancy (“allocated quota”), in respect of so much of the relevant quota as consists of allocated quota; and
- (b) if the tenant had quota allocated to him as aforesaid or was in occupation of the tenancy as a tenant on 2nd April 1984 (whether or not under the lease which is terminating), in respect of so much of the relevant quota as consists of transferred quota by virtue of a transaction the cost of which was borne wholly or partly by him.
- (2) In sub-paragraph (1) above—

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“the relevant quota” means—

- (a) where the holding consists only of the tenancy, the milk quota registered in relation to the holding; and
- (b) otherwise, such part of that milk quota as falls to be apportioned to the tenancy on the termination of the lease;

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

- (3) A tenant shall not be entitled to more than one payment under this paragraph in respect of the same tenancy.
- (4) Nothing in this paragraph shall prejudice the right of a tenant to claim any compensation to which he may be entitled under an agreement in writing, in lieu of any payment provided by this paragraph.

*Succession to lease of tenancy*

- 3 (1) This paragraph applies where a person (the successor) has acquired right to the lease of the tenancy after 2nd April 1984—
  - (a) under section 16 of the <sup>M53</sup>Succession (Scotland) Act 1964;
  - (b) as a legatee, under [<sup>F17</sup>section 11 of the 1991 Act] or under section 16 of the 1886 Act;
  - (c) under a bequest of a croft under section 10 of the 1955 Act, or following nomination under section 11 of that Act;
  - (d) under a lawful assignation of the lease,
 and the person whom he succeeded or, as the case may be, who assigned the lease to him is described in this paragraph as his “predecessor”.
- (2) Where this paragraph applies—
  - (a) any milk quota allocated or transferred to the predecessor (or treated as having been allocated or transferred to him) in respect of the tenancy shall be treated as if it had been allocated or transferred to his successor;
  - (b) where, under (a) above, milk quota is treated as having been transferred to the successor, he shall be treated as if he had paid so much of the cost of the transaction by virtue of which the milk quota was transferred as his predecessor bore (or is treated as having borne).

**Textual Amendments**

**F17** Words in *Sch. 2 para. 3(1)(b)* substituted (25.9.1991) by *Agricultural Holdings (Scotland) Act 1991 (c. 55, SIF 2:3)*, ss. 88(1), 89(2), *Sch. 11 para.49*(with s. 45(3), *Sch. 12 para. 3*)

**Marginal Citations**

**M53** 1964 c. 41.

*Sub-tenants*

- 4 In the case of a tenancy which is sub-let, if the sub-tenant quits the tenancy—
  - (a) paragraph 2 above shall apply so as to entitle the sub-tenant to obtain payment from the head tenant, and for that purpose, references to the

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landlord and the tenant in this Schedule shall be respectively construed as references to the head tenant and the sub-tenant; and

- (b) for the purposes of the application of paragraph 2 above as between the original landlord and the head tenant—
  - (i) the head tenant shall be deemed to have had the relevant quota allocated to him, and to have been in occupation of the tenancy as a tenant on 2nd April 1984; and
  - (ii) if the head tenant does not take up occupation of the tenancy when the sub-tenant quits, the head tenant shall be treated as if he had quitted the tenancy when the sub-tenant quitted it.

#### *Calculation of payment*

- 5 (1) The amount of the payment to which a tenant is entitled under paragraph 2 above on the termination of the lease shall be determined in accordance with this paragraph.
- (2) The amount of the payment in respect of allocated quota shall be equal to the value of—
  - (a) where the allocated quota exceeds the standard quota for the tenancy—
    - (i) the tenant's fraction of so much of the allocated quota as does not exceed the standard quota; together with
    - (ii) the amount of the excess;
  - (b) where the allocated quota is equal to the standard quota, the tenant's fraction of the allocated quota;
  - (c) where the allocated quota is less than the standard quota, such proportion of the tenant's fraction of the allocated quota as the allocated quota bears to the standard quota.
- (3) The amount of the payment in respect of transferred quota shall be equal to the value of—
  - (a) where the tenant bore the whole of the cost of the transaction by virtue of which the transferred quota was transferred to him, the transferred quota; and
  - (b) where the tenant bore only part of that cost, the corresponding part of the transferred quota.

#### *Standard quota*

- 6 (1) Subject to this paragraph, the "standard quota" for any tenancy for the purposes of this Schedule shall be calculated by multiplying the relevant number of hectares by the standard yield per hectare.
- (2) Where by virtue of the quality of the land in question or of climatic conditions in the area the amount of milk which could reasonably be expected to have been produced from one hectare of the tenancy during the relevant period ("the reasonable amount") is greater or less than the average yield per hectare then sub-paragraph (1) above shall not apply and the standard quota shall be calculated by multiplying the relevant number of hectares by such proportion of the standard yield per hectare as the reasonable amount bears to the average yield per hectare; and the Secretary of State shall by order prescribe the amount of milk to be taken as the average yield per hectare for the purposes of this sub-paragraph.

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- (3) Where the relevant quota includes milk quota allocated in pursuance of an award of quota made by the Dairy Produce Quota Tribunal for Scotland which has not been allocated in full, the standard quota shall be reduced by the amount by which the milk quota allocated in pursuance of the award falls short of the amount awarded (or, in the case where only part of the milk quota allocated in pursuance of the award is included in the relevant quota, by the corresponding proportion of that shortfall).
- (4) In sub-paragraph (3) above the references to milk quota allocated in pursuance of an award of quota include references to quota allocated by virtue of the amount awarded not originally having been allocated in full.
- (5) For the purposes of this paragraph—
  - (a) “the relevant number of hectares” means the average number of hectares of the tenancy used during the relevant period for the feeding of dairy cows kept on the tenancy or, if different, the average number of hectares of the tenancy which could reasonably be expected to have been so used (having regard to the number of grazing animals other than dairy cows kept on the tenancy during that period); and
  - (b) “the standard yield per hectare” means such number of litres as the Secretary of State may from time to time by order prescribe for the purposes of this sub-paragraph.
- (6) In this and in paragraph 7 below—
  - (a) references to the area of a tenancy used for the feeding of dairy cows kept on the tenancy do not include references to land used for growing cereal crops for feeding to dairy cows in the form of loose grain; and
  - (b) “dairy cows” means milking cows and calved heifers.
- (7) An order under this paragraph may make different provision for different cases.
- (8) The powers to make an order under this paragraph shall be exercisable by statutory instrument and any statutory instrument containing such an order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### *Tenant’s fraction*

- 7 (1) For the purposes of this Schedule “the tenant’s fraction” means the fraction of which—
  - (a) the numerator is the annual rental value at the end of the relevant period of the tenant’s dairy improvements and fixed equipment; and
  - (b) the denominator is the sum of that value and such part of the rent payable by the tenant in respect of the relevant period as is attributable to the land used in that period for the feeding, accommodation or milking of dairy cows kept on the tenancy.
- (2) For the purposes of sub-paragraph (1)(a) above, in the case of an agricultural holding within the meaning of [F18the 1991 Act], the annual rental value of the tenant’s dairy improvements and fixed equipment shall be taken to be the amount which would be disregarded, on a reference to arbitration made in respect of the tenancy under [F18section 13 of the 1991 Act] (variation of rent), as being—
  - (a) an increase in annual rental value due to dairy improvements at the tenant’s expense (in terms of subsection (2)(a) of that section); or

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- (b) the value of tenant's fixed equipment and therefore not relevant to the fixing of rent under that section,

so far as that amount is attributable to tenant's dairy improvements and fixed equipment which are relevant to the feeding, accommodation or milking of dairy cows kept on the tenancy.

- (3) Where—

- (a) the relevant period is less than or greater than 12 months; or
- (b) rent was payable by the tenant in respect of only part of the relevant period, the average rent payable in respect of one month in the relevant period or, as the case may be, in that part shall be determined and the rent referred to in sub-paragraph (1) (b) above shall be taken to be the corresponding annual amount.

- (4) For the purposes of this paragraph—

- (a) "dairy improvement"—
  - (i) in the case of an agricultural holding or a statutory small tenancy, means a "new improvement" or an "old improvement" within the meaning of [<sup>F19</sup>section 85 of the 1991 Act];
  - (ii) in the case of a croft, means a "permanent improvement" within the meaning of section 37 of the 1955 Act;
  - (iii) in the case of a holding under the 1911 Act to which [<sup>F20</sup>the 1991 Act] does not apply, means a "permanent improvement" within the meaning of section 34 of the 1886 Act,

so far as relevant to the feeding, accommodation or milking of dairy cows kept on the tenancy;

- (b) "fixed equipment" means fixed equipment, within the meaning of [<sup>F21</sup>section 85 of the 1991 Act], so far as relevant to the feeding, accommodation or milking of dairy cows kept on the tenancy;
- (c) all dairy improvements and fixed equipment provided by the tenant shall be taken into account for the purposes of sub-paragraph (1)(a) above, except for such improvements and fixed equipment in respect of which he has, before the end of the relevant period, received full compensation directly related to their value.

- (5) For the purposes of this paragraph—

- (a) any allowance made or benefit given by the landlord after the end of the relevant period in consideration of the execution of dairy improvements or fixed equipment wholly or partly at the expense of the tenant shall be disregarded;
- (b) any compensation received by the tenant after the end of the relevant period in respect of any dairy improvement or fixed equipment shall be disregarded; and
- (c) where paragraph 3 above applies, dairy improvements or fixed equipment which would be regarded as tenant's dairy improvements or fixed equipment on the termination of a former tenant's lease (if he were entitled to a payment under this Schedule in respect of the land) shall be regarded as the new tenant's dairy improvements or fixed equipment.

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### Textual Amendments

- F18** Words in Sch. 2 para. 7(2) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 89(2), 88(1), **Sch. 11 para. 50(a)**(with s. 45(3), Sch. 12 para. 3)
- F19** Words in Sch. 2 para. 7(4)(a)(i) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(1), 89(2), **Sch. 11 para. 50(b)(i)**(with s. 45(3), Sch. 12 para. 3)
- F20** Words in Sch. 2 para. 7(4)(a)(iii) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(1), 89(2), **Sch. 11 para. 50(b)(ii)**(with s. 45(3), Sch. 12 para. 3)
- F21** Words in Sch. 2 para. 7(4)(b) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(1), 89(2), **Sch. 11 para. 50(b)(iii)** (with s. 45(3), Sch. 12 para. 3)

### *Relevant period*

- 8 In this Schedule “the relevant period” means—
- (a) the period in relation to which the allocated quota was determined; or
  - (b) where it was determined in relation to more than one period, the period in relation to which the majority was determined or, if equal amounts were determined in relation to different periods, the later of those periods.

### *Valuation of milk quota*

- 9 The value of milk quota to be taken into account for the purposes of paragraph 5 above is the value of the milk quota at the time of the termination of the lease and in determining that value there shall be taken into account such evidence as is available, including evidence as to the sums being paid for interests in land—
- (a) in cases where milk quota is registered in relation to land; and
  - (b) in cases where no milk quota is so registered.

### *Determination of standard quota and tenant’s fraction before end of lease*

- 10 (1) Where it appears that on the termination of a lease, the tenant may be entitled to a payment under paragraph 2 above, the landlord or tenant may at any time before the termination of the lease by notice in writing served on the other demand that the determination of the standard quota for the land or the tenant’s fraction shall be referred—
- (a) in the case of an agricultural holding within the meaning of [<sup>F22</sup>the 1991 Act] to arbitration under that Act or, under [<sup>F23</sup>section 60(2)] of that Act, to the Scottish Land Court;
  - (b) in any other case, to the Scottish Land Court, for determination by that court, and where (a) above applies, [<sup>F24</sup>section 60(1) (or, where the circumstances require, sections 64 and 80) of the 1991 Act] shall apply, as if the matters mentioned in subparagraph (1) above were required by that Act to be determined by arbitration.
- (2) On a reference under this paragraph the arbiter or, as the case may be, the Scottish Land Court shall determine the standard quota for the land or, as the case may be, the tenant’s fraction (as nearly as is practicable at the end of the relevant period).

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### Textual Amendments

- F22** Words in Sch. 2 para. 10(1)(a) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(1), 89(2), **Sch. 11 para. 51(a)**( with s. 45(3), Sch. 12 para. 3)
- F23** Words in Sch. 2 para. 10(1)(a) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(1), 89(2), **Sch. 11 para. 51(a)**(with s. 45(3), Sch. 12 para. 3)
- F24** Words in Sch. 2 para. 10(1) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(1), 89(2), **Sch. 11 para. 51(b)**(with s. 45(3), Sch. 12 para. 3)

### *Settlement of tenant's claim on termination of lease*

- 11 (1) Subject to this paragraph, any claim arising under paragraph 2 above shall be determined—
- (a) in the case of an agricultural holding within the meaning of [<sup>F25</sup>the 1991 Act] by arbitration under that Act or, under [<sup>F25</sup>section 60(2)] of that Act, by the Scottish Land Court;
  - (b) in any other case, by the Scottish Land Court,
- and no such claim shall be enforceable unless before the expiry of the period of 2 months from the termination of the lease the tenant has served notice in writing on the landlord of his intention to make the claim, specifying the nature of the claim.
- (2) The landlord and tenant may within the period of 8 months from the termination of the lease by agreement in writing settle the claim but where the claim has not been settled during that period it shall be determined as provided in sub-paragraph (1) above.
- (3) Where a tenant lawfully remains in occupation of part of the tenancy after the termination of the lease, the references in sub-paragraphs (1) and (2) above to the termination of the lease shall be construed as references to the termination of the occupation.
- (4) In the case of an arbitration under this paragraph, [<sup>F26</sup>section 60(1) (or, where the circumstances require, sections 64 and 80) of the 1991 Act] (arbitrations) shall apply as if the requirements of this paragraph were requirements of that Act, but [<sup>F26</sup>paragraph 14 of Schedule 7] to that Act (arbitration awards to fix day for payment not later than one month after award) shall have effect for the purposes of this paragraph with the substitution for the words “one month” of the words “three months”.
- (5) In the case of an arbitration under this paragraph, [<sup>F27</sup>section 50 of the 1991 Act](determination of claims for compensation where landlord's interest is divided) shall apply, where the circumstances require, as if compensation payable under paragraph 2 above were compensation payable under that Act.
- (6) Where—
- (a) before the termination of the lease of any land the landlord and tenant have agreed in writing the amount of the standard quota for the land or the tenant's fraction or the value of milk quota which is to be used for the purpose of calculating the payment to which the tenant will be entitled under this Schedule on the termination of the lease; or
  - (b) the standard quota or the tenant's fraction has been determined by arbitration in pursuance of paragraph 10 above,

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the arbiter or, as the case may be, the Scottish Land Court in determining the claim under this paragraph shall, subject to sub-paragraph (7) below, award payment in accordance with that agreement or determination.

- (7) Where it appears to the arbiter or, as the case may be, the Scottish Land Court that any circumstances relevant to the agreement or determination mentioned in sub-paragraph (6) above were materially different at the time of the termination of the lease from those at the time the agreement or determination was made, he shall disregard so much of the agreement or determination as appears to him to be affected by the change in circumstances.

#### Textual Amendments

- F25** Words in Sch. 2 para. 11(1)(a) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(1), 89(2), **Sch. 11 para. 52(a)**(with s. 45(3), Sch. 12 para. 3)
- F26** Words in Sch. 2 para. 11(4) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(1), 89(2), **Sch. 11 para. 52(b)(i)**(with s. 45(3), Sch. 12 para. 3)
- F27** Words in Sch. 2 para. 11(5) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(1), 89(2), **Sch. 11 para. 52(c)**(with s. 45(3), Sch. 12 para. 3)

#### *Enforcement*

- [<sup>F28</sup>12 Sections 65 and 75(1), (2), (4) and (6) of the 1991 Act (recovery of sums due and power of tenant to obtain charge on holding) shall apply in relation to any sum payable to the tenant under this Schedule as they apply to sums payable under that section.]

#### Textual Amendments

- F28** [Sch. 2 para. 12](#) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:1\)](#), ss. 88(1), 89(2), **Sch. 11 para. 53**(with s. 45(3), Sch. 12 para. 3)

#### *Powers of limited owners*

- 13 Whatever his interest in the tenancy, the landlord may, for the purposes of this Schedule, do or have done to him anything which might be so done if he were absolute owner of the tenancy.

#### *Notices*

- 14 (1) Any notice or other document required or authorised by this Schedule to be served on any person shall be duly served if it is delivered to him, or left at his proper address, or sent to him by post in a recorded delivery letter or a registered letter.
- (2) In the case of an incorporated company or body, any such document shall be duly served if served on the secretary or clerk of the company or body.
- (3) Any such document to be served by or on a landlord or tenant shall be duly served if served by or on any agent of the landlord or tenant.
- (4) For the purposes of this paragraph and of section 7 of the <sup>M54</sup>Interpretation Act 1978, the proper address of a person is—



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- (a) in the case of a secretary or clerk to a company or body, that of the registered or principal office of the company or body;
  - (b) in any other case, the person's last known address.
- (5) Unless and until the tenant receives notice of a change of landlord, any document served by him on the person previously known to him as landlord shall be deemed to be duly served on the landlord under the tenancy.

**Marginal Citations**

**M54** 1978 c. 30.

*Crown land*

- 15 (1) This Schedule shall apply to land belonging to Her Majesty in right of the Crown, subject to such modifications as may be prescribed; and for the purposes of this Schedule the Crown Estates Commissioners or other proper officer or body having charge of the land for the time being or, if there is no such officer or body, such person as Her Majesty may appoint in writing under the Royal Sign Manual, shall represent Her Majesty and shall be deemed to be the landlord.
- (2) Without prejudice to sub-paragraph (1) above, subject to such modifications as may be prescribed, section 14 of this Act and this Schedule shall apply to land where the interest of the landlord or of the tenant belongs to a government department or is held on behalf of Her Majesty for the purposes of a government department.

SCHEDULE 3

Section 24(4).

CONSEQUENTIAL AMENDMENTS

- 1 In section 2(15) of the <sup>M55</sup>Agricultural Marketing Act 1958 for the words “or revoked” there shall be substituted the words “revoked or consolidated”.

**Marginal Citations**

**M55** 1958 c. 47.

- 2 In the <sup>M56</sup>Cereals Marketing Act 1965—
- (a) in section 1(5) for the words “paragraphs (b) and (c) of subsection (2)” there shall be substituted the words “paragraph (b) of subsection (3)”;
  - (b) in section 7(5) for the words “sections 2 to 6” there shall be substituted the words “section 6”;
  - (c) in section 16 (6) for the words from the beginning to “under this section” there shall be substituted the words “Where for any year the Ministers have made an order under section 13 of this Act specifying a rate of levy for that year in respect of any kind of home-grown cereals”;
  - (d) in Schedule 1, in paragraph 5(3) for the words “and the chairman or deputy chairman” there shall be substituted the words “and in a case where there

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is another person eligible to be appointed as chairman, the chairman, and the deputy chairman”;

- (e) in Schedule 3, in paragraph 3 for the words “sections 15 and 16” there shall be substituted the words “section 16”.

**Marginal Citations**

**M56** 1965 c. 14.

- 3 In subsection (3) of section 43 of the <sup>M57</sup>Land Drainage Act 1976 for the words “by a scheme under section 103 of the Agriculture Act 1947” there shall be substituted the words “under section 1 of the Agriculture Act 1986”.

**Marginal Citations**

**M57** 1976 c. 70.

- 4 In subsection (2) of section 41 of the <sup>M58</sup>Wildlife and Countryside Act 1981 for the words from “such advice” onwards there shall be substituted the words—
- “(a) advice to persons carrying on agricultural businesses on the conservation and enhancement of the natural beauty and amenity of the countryside;
  - (b) advice to such persons on diversification into other enterprises of benefit to the rural economy; and
  - (c) advice to government departments and other bodies exercising statutory functions on the promotion and furtherance of such diversification as is mentioned in paragraph (b).”.

**Marginal Citations**

**M58** 1981 c. 69.

SCHEDULE 4

Section 24(5).

REPEALS

**Commencement Information**

**I3** Sch. 4 partly in force 21.11.1991 see s. 24(2) and S.I. 1986/2301, 1991/2635

Chapter	Short title	Extent of repeal
7 & 8 Geo. 6. c. 28.	The Agriculture (Miscellaneous Provisions) Act 1944.	Section 1.  Schedule 1.

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10 & 11 Geo. 6. c. 48.	The Agriculture Act 1947.	Section 103.
5 & 6 Eliz. 2. c. 57.	The Agriculture Act 1957.	In Part II of Schedule 1, the words “Eggs (Hen and Duck in Shell)”.
1965 c. 14.	The Cereals Marketing Act 1965.	Sections 2 to 5.  Sections 8 to 11.  In section 12(1) the words from “except” onwards.  In section 13, in subsection (1) the word “either” and the words from “or” onwards, in subsection (3)(a) the words from “and (where applicable)” to “Act”, in subsection (3)(b) the words from “(or” to “amounts)” and in subsection (3)(c) the words from “(or” to “amount)”.
		Sections 14 and 15.  In section 18(1), the words from “and may” onwards.  Section 19(2), (3) and (4).  In section 23(4), the words “section 8” and “or section 19”.
		In section 24(2) the definitions of “cereals (guarantee payments) order”, “deficiency payment”, “forward contract” and “registered grower”.
		In section 24(4), in paragraph (a) the words from “any scheme” to “Act, and”, the words “scheme or” and the words “the scheme” in the second place where they occur, paragraph (b) and the word “and” immediately preceding it.
		In section 24(5) the words “with a view to selling the processed cereals”.
		Schedule 2.

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		In Schedule 3, in paragraphs 1 and 2 the words “or, as the case may be, Part II”.
1967 c. 22.	The Agriculture Act 1967.	In section 13, in subsection (4), the word “and” at the end of paragraph (a) and in subsection (6) the words “all or a specified part of”.
1970 c. 40.	The Agriculture Act 1970.	Sections 1 to 27. Section 103. Section 107. Schedule 1.
1972 c. 62.	The Agriculture (Miscellaneous Provisions) Act 1972.	In section 16, in subsection (1) the words “subsection (1) of”, the words from “(which” to “accordingly” and the words “of that section”.
1973 c. 65.	The Local Government (Scotland) Act 1973.	In Schedule 27, paragraph 197.
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Part II of Schedule 1, the words “The Eggs Authority”.
1975 c. 25.	The Northern Ireland Assembly Disqualification Act 1975.	In Part II of Schedule 1, the words “The Eggs Authority”.
1976 c. 34.	The Restrictive Trade Practices Act 1976.	In Schedule 5, the entries relating to the Agriculture Act 1970.
1981 c. 69.	The Wildlife and Countryside Act 1981.	In section 41, subsection (1) and in subsection (6) the words from the beginning to “Wales and”.
1983 c. 3.	The Agricultural Marketing Act 1983.	In section 7(3), the words from “or” onwards.  In Schedule 1, in paragraph 6 the words “with the approval of the Ministers and the Treasury” and in paragraph 11(2) the words “with the approval of the Ministers and the consent of the Treasury” in each place where they occur and the words “with such approval”.

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