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STATUTORY INSTRUMENTS

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**1988 No. 182 (S.20)**

**AGRICULTURE**

**The Scottish Milk Marketing Schemes  
(Amendment) Regulations 1988**

<i>Made</i>	- - - -	<i>4th February 1988</i>
<i>Laid before Parliament</i>		<i>17th February 1988</i>
<i>Coming into force</i>	- -	<i>9th March 1988</i>

The Secretary of State, being a Minister designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to the common agricultural policy of the European Economic Community, in exercise of the powers conferred on him by the said section 2(2) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Scottish Milk Marketing Schemes (Amendment) Regulations 1988 and shall come into force on 9th March 1988.

**Amendment of the Scottish Milk Marketing Scheme**

2. The Scottish Milk Marketing Scheme 1933<sup>(3)</sup> shall be further amended—

- (a) by substituting in section 23(5A) thereof for the words “Subject to subsection (5B)”, the words “Subject to subsections (5AA) and (5B)”;
- (b) by substituting in section 23(5A) thereof for the final sentence, the following sentence:—

“If whole milk is fractionated and only part of the solid constituents is utilised in the production of any of the commodities specified above, the Joint Committee may negotiate different prices according to the uses of each constituent, except that prices in respect of any constituent shall be set at the same level for all uses which qualify that constituent, or any milk product derived therefrom, for sale to the Intervention Board for Agricultural Produce or for the benefit of any Community aid scheme.”;
- (c) by inserting after section 23(5A) thereof, the following sub-section:—

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(1) S.I. 1972/1811

(2) 1972 c. 68

(3) S.R. & O. 1933/479; the relevant amending instruments are S.I. 1979/319, 1981/445 and 1982/616

“(5AA) The price of milk to be sold by the Board shall be set at the same level for all buyers who intend to use the milk for the same purpose and, without prejudice to the generality of this sub-section, no price shall be differentiated by reason only that the milk or any milk product derived therefrom is intended for export outside the United Kingdom or for sale to the Intervention Board for Agricultural Produce.”

(d) by omitting from section 23(5B) thereof the words “The price of milk to be sold by the Board shall be set at the same level for all buyers who intend to use the milk for the same purpose, except that”;

(e) by substituting for section 23(5E) thereof, the following sub-section:—

“(5E) Notwithstanding the foregoing provisions of this section, the price of milk sold by the Board shall not be set at such a level that the sale of milk by the Board at that price would contravene Article 9 of Council Regulation (EEC) No. 1422/78<sup>(4)</sup> or Article 6.2 of Commission Regulation (EEC) No. 1565/79<sup>(5)</sup>. In the event of any such contravention or any other failure by the Board to comply with the Community principles, rules or special conditions referred to in Article 10 of Council Regulation (EEC) No. 1422/78, the Board shall make such adjustment in their arrangements for milk sold or to be sold as shall satisfy the Minister that the effect of such contravention or failure has been counteracted.”

### **Amendment of the Aberdeen and District Milk Marketing Scheme**

3. The Aberdeen and District Milk Marketing Scheme 1984<sup>(6)</sup> shall be further amended—

(a) by substituting in section 25(6) thereof for the words “Subject to subsection (7)”, the words “Subject to subsections (6A) and (7)”;

(b) by substituting in section 25(6) thereof for the final sentence, the following sentence:—

“If whole milk is fractionated and only part of the solid constituents is utilised in the production of any of the commodities specified above, the Joint Committee may negotiate different prices according to the uses of each constituent, except that prices in respect of any constituent shall be set at the same level for all uses which qualify that constituent, or any milk product derived therefrom, for sale to the Intervention Board for Agricultural Produce or for the benefit of any Community aid scheme.”

(c) by inserting after section 25(6) thereof, the following sub-section:—

“(6A) The price of milk to be sold by the Board shall be set at the same level for all buyers who intend to use the milk for the same purpose and, without prejudice to the generality of this sub-section, no price shall be differentiated by reason only that the milk or any milk product derived therefrom is intended for export outside the United Kingdom or for sale to the Intervention Board for Agricultural Produce.”

(d) by omitting from section 25(7) thereof the words “The price of milk to be sold by the Board shall be set at the same level for all buyers who intend to use the milk for the same purpose, except that”;

(e) by substituting for section 25(10) thereof, the following sub-section:—

“(10) Notwithstanding the foregoing provisions of this section, the price of milk sold by the Board shall not be set at such a level that the sale of milk by the Board at that price would contravene Article 9 of Council Regulation (EEC) No. 1422/78 or Article 6.2 of Commission Regulation (EEC) No. 1565/79. In the event of any such contravention or any other failure by the Board to comply with the Community principles, rules or special

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(4) O.J. No. L171, 28.6.78, p.14.

(5) O.J. No. L188, 26.7.79, p.29.

(6) The Scheme is set out in the Schedule to S.I. 1984/464 and was amended by S.I. 1987/740

conditions referred to in Article 10 of Council Regulation (EEC) No. 1422/78, the Board shall make such adjustment in their arrangements for milk sold or to be sold as shall satisfy the Minister that the effect of such contravention or failure has been counteracted.”

#### **Amendment of the North of Scotland Milk Marketing Scheme**

4. The North of Scotland Milk Marketing Scheme 1934(7) shall be further amended—
- (a) by substituting in section 23A(5A) thereof for the words “Subject to subsection (5B)”, the words “Subject to subsections (5AA) and (5B)”;
  - (b) by substituting in section 23A(5A) thereof for the final sentence, the following sentence:—

“If whole milk is fractionated and only part of the solid constituents is utilised in the production of any of the commodities specified above, the Joint Committee may negotiate different prices according to the uses of each constituent, except that prices in respect of any constituent shall be set at the same level for all uses which qualify that constituent, or any milk product derived therefrom, for sale to the Intervention Board for Agricultural Produce or for the benefit of any Community aid scheme.”
  - (c) by inserting after section 23A(5A) thereof, the following sub-section:—

“(5AA) The price of milk to be sold by the Board shall be set at the same level for all buyers who intend to use the milk for the same purpose and, without prejudice to the generality of this sub-section, no price shall be differentiated by reason only that the milk or any milk product derived therefrom is intended for export outside the United Kingdom or for sale to the Intervention Board for Agricultural Produce.”
  - (d) by omitting from section 23A(5B) thereof the words “The price of milk to be sold by the Board shall be set at the same level for all buyers who intend to use the milk for the same purpose, except that”;
  - (e) by substituting for section 23A(5E) thereof, the following sub-section:—

“(5E) Notwithstanding the foregoing provisions of this section, the price of milk sold by the Board shall not be set at such a level that the sale of milk by the Board at that price would contravene Article 9 of Council Regulation (EEC) No. 1422/78 or Article 6.2 of Commission Regulation (EEC) No. 1565/79. In the event of any such contravention or any other failure by the Board to comply with the Community principles, rules or special conditions referred to in Article 10 of Council Regulation (EEC) No. 1422/78, the Board shall make such adjustment in their arrangements for milk sold or to be sold as shall satisfy the Minister that the effect of such contravention or failure has been counteracted.”

New St Andrew’s House,  
Edinburgh  
4th February 1988

*Sanderson of Bowden*  
Minister of State, Scottish Office

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

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## EXPLANATORY NOTE

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

These Regulations further amend the Scottish Milk Marketing Scheme 1933, the Aberdeen and District Milk Marketing Scheme 1984 and the North of Scotland Milk Marketing Scheme 1934.

Following the European Court's judgment of 2nd December 1986 in Case 23/84, the Regulations further implement the United Kingdom's obligation to supervise compliance with Council Regulation (EEC) No. 1422/78 concerning the granting of certain special rights to milk producer organisations in the United Kingdom, by—

- (a) requiring that prices negotiated by the respective Joint Committees, appointed by the Milk Marketing Boards (“the Boards”) and the dairy trade, according to the uses of any constituent of whole milk shall be set at the same level for all uses which qualify that constituent, or any milk product derived therefrom, for sale to the Intervention Board for Agricultural Produce or for a Community aid scheme (regulations 2(b), 3(b) and 4(b));
- (b) prohibiting the differentiation of prices of milk to be sold by the Boards by reason only that the milk or any milk product derived therefrom is intended for export outside the United Kingdom or for sale to the Intervention Board (regulations 2(c), 3(c) and 4(c));
- (c) prohibiting the setting of prices of milk sold by the Boards at levels which would contravene Article 9 of Council Regulation (EEC) No. 1422/78 or Article 6.2 of Commission Regulation (EEC) No. 1565/79 and requiring that, in the event of a contravention or other failure to comply with the Community provisions referred to in Article 10 of Regulation 1422/78, the Boards shall make such adjustment in their arrangements for milk sold or to be sold as shall satisfy the Secretary of State that the effect of such contravention or failure has been counteracted (regulations 2(e), 3(e) and 4(e)).