

## SCHEDULE 1 **S**

Regulation 2

### INTERPRETATION

#### **S**

In these Regulations—

“the Community compensation scheme” means—

- (a) the scheme instituted by Council Regulation (EEC) No. 2187/1993<sup>M1</sup> providing for an offer of compensation to certain producers of milk and milk products temporarily prevented from carrying on their trade and Commission Regulation (EEC) No. 2648/1993<sup>M2</sup> laying down detailed rules for the application of Council Regulation (EEC) No. 2187/1993; or
- (b) the scheme instituted by Council Regulation (EC) No. 2330/1998<sup>M3</sup> providing an offer of compensation to certain producers of milk and milk products temporarily restricted in carrying out their trade and Commission Regulation (EC) No. 2647/1998<sup>M4</sup> laying down detailed rules for the application of Council Regulation (EC) No. 2330/1998; or
- (c) both those schemes;

“the Community legislation” means—

- (a) the Commission Regulation;
- (b) Commission Regulation 1756/93;
- (c) Commission Regulation 2562/93;
- (d) Commission Regulation (EEC) No. 2648/1993 laying down detailed rules for the application of Council Regulation (EEC) No. 2187/1993;
- (e) Commission Regulation 2647/1998 laying down detailed rules for the application of Council Regulation 2330/1998<sup>M5</sup>;
- (f) the Council Regulation;
- (g) Council Regulation 2055/93;
- (h) Council Regulation (EEC) No. 2187/1993<sup>M6</sup> providing for an offer of compensation to certain producers of milk and milk products temporarily prevented from carrying on their trade;
- (i) Council Regulation (EC) No. 2330/1998 providing an offer of compensation to certain producers of milk and milk products temporarily restricted in carrying out their trade;

“the Commission Regulation” means Commission Regulation (EC) No. 1392/2001<sup>M7</sup> laying down detailed rules for applying Council Regulation (EEC) No. 3950/1992 establishing an additional levy on milk and milk products;

“the Council Regulation” means Council Regulation (EEC) No. 3950/1992<sup>M8</sup> establishing an additional levy in the milk and milk products sector, as amended by—

- (a) Council Regulation (EEC) No. 1560/1993<sup>M9</sup>;
- (b) Commission Regulation (EC) No. 647/1994<sup>M10</sup>;
- (c) Council Regulation (EC) No. 1883/1994<sup>M11</sup>;
- (d) Commission Regulation (EC) No. 630/1995<sup>M12</sup>;
- (e) Council Regulation (EC) No. 1552/1995<sup>M13</sup>;
- (f) Commission Regulation (EC) No. 635/1996<sup>M14</sup>;

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- (g) Commission Regulation (EC) No. 1109/1996<sup>M15</sup>;
- (h) Commission Regulation (EC) No. 614/1997<sup>M16</sup>;
- (i) Council Regulation (EC) No. 551/1998<sup>M17</sup>;
- (j) Commission Regulation (EC) No. 903/98<sup>M18</sup>;
- (k) Commission Regulation (EC) No. 751/1999<sup>M19</sup>;
- (l) Council Regulation (EC) No. 1256/1999<sup>M20</sup>;
- (m) Commission Regulation (EC) No. 749/2000<sup>M21</sup>;
- (n) Commission Regulation (EC) No. 603/2001<sup>M22</sup>;

“Council Regulation 2055/93” means Council Regulation (EEC) No. 2055/93<sup>M23</sup>, allocating a special reference quantity to certain producers of milk and milk products.

#### Marginal Citations

- M1** O.J. No. L 196, 05.08.93, p.6.
- M2** O.J. No. L 243, 29.09.93, p.1.
- M3** O.J. No. L 291, 30.10.98, p.4.
- M4** O.J. No. L 335, 10.12.98, p.33.
- M5** O.J. No. L 291, 30.10.98, p.4.
- M6** O.J. No. L 243, 29.09.93, p.1.
- M7** O.J. No. L 187 10.07.01, p.19.
- M8** O.J. No. L 405, 31.12.92, p.1.
- M9** O.J. No. L 154, 25.06.93, p.30.
- M10** O.J. No. L 80, 24.03.94, p.16.
- M11** O.J. No. L 197, 30.07.94, p.25.
- M12** O.J. No. L 66, 24.03.95, p.11.
- M13** O.J. No. L 148, 30.06.95, p.43.
- M14** O.J. No. L 90, 11.04.96, p.17.
- M15** O.J. No. L 148, 21.06.96, p.13.
- M16** O.J. No. L 94, 09.04.97, p.4.
- M17** O.J. No. L 73, 12.03.98, p.1.
- M18** O.J. No. L 127, 29.04.98, p.8.
- M19** O.J. No. L 96, 10.04.99, p.11.
- M20** O.J. No. L 160, 26.06.99, p.73.
- M21** O.J. No. L 90, 12.04.00, p.4.
- M22** O.J. No. L 89, 29.03.01, p.18.
- M23** O.J. No. L 187, 29.07.93, p.8 (as read with Corrigenda published in O.J. No. L 314, 16.12.93, p.51).

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## SCHEDULE 2 **S**

Regulations 9, 10 and 32

### APPORTIONMENTS AND PROSPECTIVE APPORTIONMENTS BY ARBITRATION OR THE SCOTTISH LAND COURT

#### PART I **S**

##### GENERAL

**1.**—(1) Subject to sub-paragraphs (2) and (3), all apportionments and prospective apportionments in respect of holdings in Scotland shall be carried out by arbitration and the provisions of Part II of this Schedule shall apply.

(2) The Scottish Land Court shall carry out the apportionment or prospective apportionment where the holding or any part of the holding constitutes or, immediately prior to the transfer giving rise to the apportionment, constituted—

- (a) a croft within the meaning of section 3 of the Crofters (Scotland) Act 1993 <sup>M24</sup>;
- (b) a holding within the meaning of section 2 of the Small Landholders (Scotland) Act 1911 <sup>M25</sup>, or
- (c) the holding of a statutory small tenant under section 32 of the Small Landholders (Scotland) Act 1911.

(3) Where sub-paragraph (2) does not apply and the holding or any part of the holding constitutes or, immediately prior to the transfer giving rise to the apportionment, constituted an agricultural holding within the meaning of section 1 of the Agricultural Holdings (Scotland) Act 1991 <sup>M26</sup>, the Scottish Land Court shall carry out the apportionment or prospective apportionment if requested to do so by a joint application of all parties interested in the apportionment, not later than 28 days after the change of occupation of the holding or part of the holding.

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

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#### Marginal Citations

**M24** 1993 c.44.

**M25** 1911 c.49.

**M26** 1991 c.55.

2.—(1) An arbiter or the Scottish Land Court, as the case may be, shall decide the apportionment on the basis of findings made by that arbiter or the Scottish Land Court, as the case may be, as to areas used for milk production in the last five-year period during which production took place before the change of occupation or, in the case of a prospective apportionment, in the last five-year period during which production took place before the appointment of the arbiter or the application to the Scottish Land Court.

(2) Notwithstanding sub-paragraph (1), an arbiter appointed in accordance with paragraph 3(4) shall conduct the arbitration in accordance with this Schedule and shall base the award on findings made by that arbiter as to the areas used for milk production in the last five-year period during which production took place.

(3) Where production has taken place for less than five years before the change of occupation or of appointment of the arbiter or of the application to the Scottish Land Court, the period of production before the change of occupation or the appointment of the arbiter or the application to the Scottish Land Court as the case may be shall be substituted for the five-year period referred to in sub-paragraphs (1) and (2).

## PART II **S**

### APPORTIONMENTS CARRIED OUT BY ARBITRATION

#### Appointment and remuneration of arbiter **S**

3.—(1) In any case where an apportionment is to be carried out by arbitration, an arbiter shall be appointed by agreement between the transferor and transferee within the period of 28 days from the change of occupation of the holding or part of the holding and the transferee shall give notice of the appointment of the arbiter to the Scottish Ministers within fourteen days from the date of the appointment.

(2) Notwithstanding sub-paragraph (1), the transferor or the transferee may at any time within the period of 28 days referred to in sub-paragraph (1) make an application to the Scottish Ministers for the appointment of an arbiter.

(3) If at the expiry of the period of 28 days referred to in sub-paragraph (1) an arbiter has not been appointed by agreement between the transferor and the transferee nor an application made to the Scottish Ministers under sub-paragraph (2), the Scottish Ministers shall at their own instance proceed to appoint an arbiter.

(4) Where an apportionment under regulation 32(4)(b)(iii) is to be carried out by arbitration, the producer shall either appoint an arbiter with the agreement of all persons with an interest in the holding or make an application to the Scottish Ministers for the apportionment of an arbiter.

4.—(1) In any case where a prospective apportionment is to be made by arbitration, an arbiter shall be appointed by agreement between the occupier and any other interested party or, in default of agreement, by the Scottish Ministers on an application by the occupier.

(2) Where an arbiter is appointed by agreement in terms of sub-paragraph (1), the occupier shall give notice of the appointment of the arbiter to the Scottish Ministers within fourteen days from the date of the appointment.

**5.—(1)** Where, in terms of a notice given by the Scottish Ministers under regulation 11, an apportionment or prospective apportionment is to be carried out by arbitration, the Scottish Ministers shall apply to the Scottish Land Court for the appointment of an arbiter.

(2) Any fee payable by the Scottish Ministers on an application to the Scottish Land Court under sub-paragraph (1) shall be recoverable by them as a debt due from the other parties to the arbitration jointly and severally.

(3) Where the Scottish Ministers are to be a party to an arbitration (otherwise than in terms of a notice given under regulation 11), the arbiter shall, in lieu of being appointed by the Scottish Ministers, be appointed by the Scottish Land Court.

**6.—(1)** If the person appointed arbiter dies, or is incapable of acting, or is removed by the sheriff under paragraph 21, or for seven days after notice from any party requiring that person to act fails to act, a new arbiter may be appointed as if no arbiter had been appointed.

(2) If an award is set aside by the sheriff under paragraph 22, a new arbiter may be appointed as if no arbiter had been appointed.

**7.** No party to the arbitration shall have power to revoke the appointment of the arbiter without the consent of all of the other parties.

**8.** Every appointment, application, notice, revocation and consent under paragraphs 1 to 7 must be in writing.

**9.** The remuneration of the arbiter shall be—

- (a) where the arbiter is appointed by agreement between the parties, such amount as may be agreed upon by the arbiter and the parties or, in default of agreement, fixed by the auditor of the sheriff court (subject to an appeal to the sheriff) on an application made by the arbiter or one of the parties;
- (b) where the arbiter is appointed by the Scottish Ministers, such amount as may be fixed by the Scottish Ministers;
- (c) where the arbiter is appointed by the Scottish Land Court, such amount as may be fixed by that Court;

and shall be recoverable by the arbiter as a debt due from any one of the parties to the arbitration.

## **Conduct of proceedings and witnesses** **S**

**10.** The parties to the arbitration shall within twenty-eight days of the appointment of the arbiter deliver to the arbiter a statement of their respective cases with all necessary particulars; and—

- (a) no amendment or addition to the statement or particulars delivered shall be allowed after the expiry of the said twenty-eight days except with the consent of the arbiter;
- (b) a party to the arbitration shall be confined at the hearing to the matters alleged in the statement and particulars delivered by that party and any amendment or addition duly made.

**11.** The parties to the arbitration, and all persons claiming through them, shall, subject to any legal objection, submit to be examined by the arbiter on oath or affirmation in relation to the matters in dispute and shall, subject to any such objection, produce before the arbiter all samples, books, deeds, papers, accounts, writings and documents, within their possession or power which may be

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required or called for, and do all other things as the arbiter reasonably may require for the purposes of the arbitration.

**12.** Any person having an interest in the holding to which the arbitration relates shall be entitled to make representations to the arbiter and the Scottish Ministers may make such representations where the arbitration follows on a notice given by them under regulation 11.

**13.** The arbiter shall have power to administer oaths, and to take the affirmation of parties and witnesses appearing, and witnesses shall, if the arbiter thinks fit, be examined on oath or affirmation.

### **Award** **S**

**14.—**(1) The arbiter shall make and sign the award within three months of the appointment of the arbiter or within such longer period as may, either before or after the expiry of the aforesaid period, be agreed to in writing by the parties or fixed by the Scottish Ministers.

(2) The arbiter shall notify the terms of that award to the Scottish Ministers within eight days of the delivery of the award.

(3) The award shall fix a date not later than one month after the delivery of the award for the payment of any expenses awarded under paragraph 17.

**15.** The award to be made by the arbiter shall be final and binding on the parties and any persons claiming under them.

**16.** The arbiter may correct in an award any clerical mistake or error arising from any accidental slip or omission.

### **Expenses** **S**

**17.** The expenses of and incidental to the arbitration and award shall be in the discretion of the arbiter, who may direct to and by whom and in what manner those expenses or any part thereof are to be paid, and the expenses shall be subject to taxation by the auditor of the sheriff court on the application of any party, but that taxation shall be subject to review by the sheriff.

**18.—**(1) The arbiter shall, in awarding expenses, take into consideration—

- (a) the reasonableness or unreasonableness of the claim of any party, whether in respect of amount or otherwise;
- (b) any unreasonable demand for particulars or refusal to supply particulars; and
- (c) generally all the circumstances of the case.

(2) The arbiter may disallow any expenses which the arbiter considers to have been incurred unnecessarily, including the expenses of any witness whom the arbiter considers to have been called unnecessarily.

**19.** It shall not be lawful to include in the expenses of and incidental to the arbitration and award, or to charge against any of the parties, any sum payable in respect of remuneration or expenses to any person appointed by the arbiter to act as clerk or otherwise to assist the arbiter in the arbitration unless such appointment was made after submission of the claim and answers to the arbiter and with either the consent of the parties to the arbitration or the sanction of the sheriff.

### **Statement of case** **S**

**20.** The arbiter may at any stage of the proceedings, and shall, if so directed by the sheriff (which direction may be given on the application of any party), state a case for the opinion of the sheriff on any questions of law arising in the course of the arbitration. The opinion of the sheriff on any case shall be final.

## Removal of arbiter and setting aside of award **S**

21. Where an arbiter has committed any misconduct, the sheriff may remove that arbiter.
22. Where an arbiter has committed any misconduct, or an arbitration or award has been improperly procured, the sheriff may set the award aside.

## Miscellaneous **S**

23. Any amount paid in respect of the remuneration of an arbiter by any party to the arbitration in excess of the amount, if any, directed by the award to be paid by that person in respect of the expenses of the award shall be recoverable from the other party or jointly from the other parties.
24. The Arbitration (Scotland) Act 1894 <sup>M27</sup> shall not apply to any arbitration carried out under this Schedule.

### Marginal Citations

M27 1894 c.13 (57 and 38 Vict).

## PART III **S**

### APPORTIONMENTS CARRIED OUT BY THE SCOTTISH LAND COURT

25. The provisions of the Scottish Land Court Act 1993 <sup>M28</sup> with regard to the Scottish Land Court shall apply for the purpose of the determination of any matter which they are required, in terms of paragraph 1, to determine, in like manner as those provisions apply for the purpose of the determination by the Land Court of matters referred to them under that Act.

### Marginal Citations

M28 1993 c.45.

26. Where an apportionment or prospective apportionment is to be dealt with by the Scottish Land Court, the party making application to that Court shall notify the Scottish Ministers in writing of the application within fourteen days of its being lodged with the Court.

27. Where, in terms of a notice given by the Scottish Ministers under regulation 11, an apportionment or prospective apportionment is to be carried out by the Scottish Land Court, any fee payable by the Scottish Ministers to the Court shall be recoverable by them as a debt due from the other parties to the case jointly and severally.

28. Any person having an interest in the holding to which the apportionment or prospective apportionment relates shall be entitled to be a party to the proceedings before the Scottish Land Court and the Scottish Ministers shall be entitled to be a party where the apportionment follows on a notice given by them under regulation 11.



SCHEDULE 3 **S**

Regulations 8 and 18

## REALLOCATION OF QUOTA AND CALCULATION OF LEVY LIABILITY

**Wholesale quota** **S**

1. The Scottish Ministers shall determine the amount, if any, by which the wholesale deliveries of dairy produce to each purchaser exceeds the purchaser quota of that purchaser.

2. In making that determination the Scottish Ministers shall complete in sequence the steps required by paragraphs 3 to 7.

3. The Scottish Ministers shall where necessary authorise an adjustment of the amount, if any, to which the quantity of wholesale deliveries of dairy produce to each purchaser must be adjusted to take account of its fat content, calculated in accordance with Article 4(1) of the Commission Regulation.

4. The Scottish Ministers shall authorise the adjustment by purchasers (to the extent possible from within the quota available to the purchaser to whom the producer makes deliveries) of the quota of any producer making wholesale deliveries to whom a temporary reallocation of quota has been made, to take account of that reallocation and any purchaser who has insufficient quota unused by producers registered with that purchaser to meet that temporary reallocation shall notify the Scottish Ministers of the amount of the shortfall in such form as may reasonably be required by the Scottish Ministers.

5. The Scottish Ministers shall determine for each purchaser the amount, if any, by which the purchaser quota of each purchaser exceeds or falls short of the quantity of wholesale deliveries of dairy produce made to that purchaser taking into account the amount of quota converted in accordance with regulation 16, and any temporary reallocation made in accordance with paragraph 4.

6. The Scottish Ministers shall determine the total amount, if any, of excess quota remaining for any purchaser whose purchaser quota exceeds the quantity of wholesale deliveries of dairy produce made to that purchaser, as determined in accordance with paragraph 5, and shall make arrangements for that amount to be added to the national reserve.

7. The Scottish Ministers shall make arrangements for the reallocation of the amount, if any, referred to in paragraph 6—

- (a) in the first instance, to meet any award of a temporary reallocation of quota which has not been met by the adjustment referred to in paragraph 4 above;
- (b) thereafter, to offset the amount by which the deliveries made to any purchaser exceed that purchaser's purchaser quota, such allocation being made proportionately to the amount of quota; and
- (c) where the allocations referred to in sub-paragraph (b) exceed the amount required by the purchaser, the surplus shall be allocated to all purchasers where the deliveries exceed purchaser quota, until all unallocated quota has been exhausted.

8. Where a purchaser fails to notify the Scottish Ministers on or before 14th May immediately following the end of the quota year of the actual quantity of milk or milk products delivered to that purchaser in that year, the Scottish Ministers may decide that that purchaser shall not benefit from the reallocation of quota referred to in paragraph 7(b).

9. The Scottish Ministers shall determine the total amount of the levy payable by a purchaser by multiplying the amount, if any, by which deliveries to that purchaser exceed the purchaser's quota following the steps specified in paragraphs 3 to 7 by the rate of levy calculated in accordance with Article 1 of the Council Regulation.



10. Where, for any quota year, a purchaser is unable to supply such proof of the quantities of dairy produce delivered to that purchaser that year as the Scottish Ministers may reasonably require, the Scottish Ministers shall make their own determination of those quantities, based on all the information available to them, for the purposes of calculating any levy payable by that purchaser, and shall inform the purchaser of such determination.

11. Where a purchaser—

- (a) has not been approved pursuant to regulation 24; or
- (b) has had the approval of that purchaser withdrawn by the Scottish Ministers pursuant to Article 13(3) of the Commission Regulation,

the Scottish Ministers may require any levy payable by that purchaser to be paid in such proportion as they may reasonably require by any producer whose wholesale deliveries to that purchaser have given rise to the liability for levy.

### **Direct sales quota** **S**

12. The Scottish Ministers shall determine for each direct seller the amount, if any, after taking into account the amount of quota converted in accordance with regulation 16, by which that direct seller's direct sales quota exceeds the quantity of dairy produce sold by direct sale by that direct seller, and shall make arrangements for this to be added to any quantities available in the national reserve.

13. The Scottish Ministers shall make arrangements for the temporary reallocation of direct sales quota, under the terms of regulation 15 from the aggregate of amounts, if any, referred to in paragraph 12.

14. The Scottish Ministers shall determine the aggregate amount, if any, by which the direct sales quota of all direct sellers falls short of the total quantity of dairy produce sold by direct sales by them, after taking into account the amount of quota converted in accordance with regulation 17, and any temporary reallocation made in accordance with paragraph 13.

15. The Scottish Ministers shall determine for each direct seller the amount, if any, by which that direct seller's direct sales quota falls short of the quantity of dairy produce sold by direct sale by that direct seller, taking into account the amount of quota converted in accordance with regulation 17, and any temporary reallocation of quota made in accordance with paragraph 13.

16. The Scottish Ministers shall determine the aggregate of the amounts, if any, referred to in paragraph 15.

17. The Scottish Ministers shall determine the total amount of the levy payable by multiplying the amount, if any, referred to in paragraph 14 by the rate of levy calculated in accordance with Article 1 of the Council Regulation.

18. The Scottish Ministers shall calculate the rate of levy per litre, if any, to be paid by each direct seller on the amount, if any, at paragraph 15 by dividing the amount calculated in accordance with paragraph 17 by the aggregate referred to in paragraph 16.

19. Where a direct seller fails to notify the Scottish Ministers on or before 14th May immediately following the end of the quota year of the total quantity of milk products sold by that direct seller by direct sales in that year, the Scottish Ministers may require that the rate of levy per litre to be paid by that direct seller on the quantity not notified shall be the rate calculated in accordance with Article 1 of the Council Regulation.

20. Where for any quota year a direct seller is unable to supply such proof as the Scottish Ministers may reasonably require of the quantities of dairy produce sold by that direct seller in that year, the Scottish Ministers shall make their own determination of those quantities, based on all the

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information available to them, for the purposes of calculating any levy payable by that direct seller, and shall inform the direct seller of their determination.

## SCHEDULE 4 **S**

Regulation 29

### KEEPING AND RETENTION OF RECORDS

#### Records to be kept by purchasers **S**

1. In respect of each quota year, a purchaser shall keep, and retain for the relevant period, records comprising—

- (a) details of each producer making deliveries to that purchaser, including—
  - (i) the name and address of each producer;
  - (ii) the wholesale quota available to each producer at the beginning and end of each quota year;
  - (iii) the representative fat content (butterfat base) of the milk delivered by each producer; and
  - (iv) the total quota available for the purchaser group concerned and weighted butterfat of that quota;
- (b) details, in terms of each delivery and each month, of the quantities of milk or milk equivalent which each producer has delivered to that producer;
- (c) details of the cumulative total of the quantities delivered to that producer each month by all producers;
- (d) details of the average fat content of deliveries per month of each producer;
- (e) details of the weighted average fat content of the cumulative total referred to in paragraph (c);
- (f) a list of purchasers and other undertakings which deliver treated or processed milk or milk products to that purchaser;
- (g) details, in terms of each such purchaser or undertaking and each month, of the quantities delivered to that purchaser by such purchaser or undertaking;
- (h) details of the use to which milk and milk equivalent collected from that purchaser has been put;
- (i) records of individual deliveries and accompanying collection documents identifying each delivery by producer, purchaser or other undertaking; and
- (j) all books, registers, accounts, correspondence, commercial data, vouchers and supporting documents relating to the business activities of that purchaser.

#### Records to be kept by producers **S**

2.—(1) In respect of each quota year, a direct seller shall keep, and retain for the relevant period, records comprising—

- (a) details of the quota held by that direct seller, including any permanent and temporary transfers of quota if appropriate;
- (b) that direct seller's herd records (comprising number and breed of cows and calved heifers in dairy herd with details of numbers in milk and numbers dry);

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- (c) daily records of milk produced;
  - (d) details recorded as a result of that direct seller's participation in the National Milk Recording Scheme or other recording scheme;
  - (e) details of quantities of milk processed, methods of processing and quantities and type of milk products produced;
  - (f) details of quantities of wholemilk used in the production of milk products (with conversion rates applied);
  - (g) details of quantities and types of milk and milk products which are produced and used on that direct seller's holding for stockfeeding and human consumption;
  - (h) details of quantities and types of milk products which are disposed of (other than under paragraph (g)) or wasted on the holding;
  - (i) details of quantities and types of milk and milk products sold direct to the consumer or transferred free of charge from that direct seller's holding (including milk and milk products sold on the holding of that direct seller);
  - (j) details of quantities and types of milk and milk products purchased, exchanged or otherwise received by that direct seller, and records relating to their disposal; and
  - (k) details of stocks of milk and milk products held by that direct seller on a monthly basis.
- (2) Where a direct seller delivers milk or milk products to a purchaser, that direct seller shall, in respect of each quota year, also keep, and retain for the relevant period, records comprising—
- (a) details of quantities and types of milk and milk products delivered wholesale by that direct seller and the name and address of any purchaser involved;
  - (b) the payment slips issued in respect of any such purchaser; and
  - (c) where there is a discrepancy between a payment slip of the purchaser and the relevant tanker receipt, that tanker receipt.
- 3.** A producer, other than a direct seller, who makes wholesale deliveries to a purchaser shall, in respect of each quota year, keep, and retain for the relevant period, records comprising—
- (a) details of the quota held by that producer, showing permanent and temporary transfers of quotas if appropriate;
  - (b) that producer's herd records (comprising number and breed of cows and calved heifers in dairy herd with details of numbers in milk and number dry);
  - (c) daily records of milk produced;
  - (d) details of quantities and types of milk and milk products delivered wholesale by that producer, and the name and address of any purchaser involved;
  - (e) the payment slips issued in respect of any such purchaser;
  - (f) where there is a discrepancy between a payment slip of a purchaser and the relevant tanker receipt, that tanker receipt;
  - (g) details recorded as a result of that producer's participation in the National Milk Recording Scheme or other recording scheme;
  - (h) details of quantities and types of milk and milk products produced and used on that producer's holding for stockfeeding and human consumption;
  - (i) details of quantities and types of milk and milk products which are disposed of (other than under paragraph (h)) or wasted on the holding;
  - (j) details of quantities and types of milk and milk products transferred free of charge from that producer's holding;

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- (k) details of quantities and types of milk and milk products purchased, swapped or otherwise received, and records relating to their disposal; and
- (l) details of stocks of milk produced on that producers holding and any resulting milk products.

#### **Records to be kept by any person undertaking butterfat testing in a laboratory** **S**

4. Any person undertaking butterfat testing for a purchaser in a laboratory shall keep, and retain for the relevant period, records comprising details of all samples of milk analysed, showing—

- (a) the time and date the sample was taken on the holding;
- (b) the time and date of that persons receipt of the sample;
- (c) the time and date of the analysis;
- (d) the identity of the purchaser concerned;
- (e) the identity of the producer concerned (by name or reference number);
- (f) the butterfat content of each sample recorded to two decimal places;
- (g) the method of analysis used; and
- (h) the results of any repeat analyses undertaken.

#### **Records to be kept by hauliers** **S**

5. Any haulier collecting milk or milk products on behalf of a purchaser shall keep, and retain for the relevant period, records comprising details of all quantities of milk or milk products so collected, showing—

- (a) the time and date of collection from each producer;
- (b) the time and date of sampling of the milk or milk products of each producer;
- (c) the identity of the producer concerned;
- (d) the volume of milk collected (including a copy of the tanker receipt in the cases referred to in sub-paragraphs 2(2)(c) and 3(f));
- (e) the identity of the purchaser concerned;
- (f) the volume of milk delivered, and the name and address of each reception site;
- (g) the sources of all the milk carried on each tanker; and
- (h) details of any malfunction in any equipment used by that haulier.

#### **Records to be kept by processors** **S**

6. Any processor in receipt of milk or milk products for processing or treating shall keep, and retain for the relevant period, records comprising details of all quantities of milk and milk products received, showing—

- (a) the time and date of their delivery;
- (b) their volume or weight per delivery (including copies of tanker receipts and weighbridge tickets in the cases referred to in sub-paragraphs 2(2)(c) and 3(f));
- (c) the name and address of the haulier concerned;
- (d) the name and address of their seller or donor;
- (e) the quantities of milk processed, types of processing undertaken, and quantities and types of milk products produced;

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- (f) the quantities of milk used in the production of milk products (if not ascertainable from the information provided under paragraph (e));
- (g) the calculated stocks of milk and milk products held by that processor at the end of each month and details of actual stocks physically held as at 31st March each year; and
- (h) the quantities of milk or milk products sold or otherwise disposed of, with the date of supply or disposal, and the names and addresses of the buyers or recipients concerned.

#### **Records to be kept by persons buying, selling or supplying milk or milk products obtained directly from a producer or purchaser** **S**

7. Any person buying, selling or supplying milk products obtained directly from a producer or purchaser shall keep, and retain for the relevant period, records comprising details of all quantities of milk or milk products received, showing—

- (a) the time and date of their receipt;
- (b) their volume or weight per delivery (including copies of tanker receipts or invoices in the cases referred to in paragraphs 2(2)(c) and 3(f));
- (c) the name and address of the haulier concerned;
- (d) the name and address of their seller or donor;
- (e) the quantities of milk or milk products sold or supplied, with the date of sale or supply, and the names and addresses of the buyers or recipients concerned; and
- (f) the quantities of milk or milk products returned to the producer or purchaser unsold or unused, and the date of that return.

#### **Interpretation** **S**

8. In this Schedule, in relation to any records—
- (a) “the relevant period” means the remainder of the year of record and a period of at least three calendar years thereafter; and
  - (b) “the remainder of the year” means, following the making of the records, the remainder of the year in which they were made.

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**Changes and effects yet to be applied to :**

- Sch 1 defn(s) subst by S.S.I. 2004/118 regs 320
- Sch 2 Pt II para 3 am by S.S.I. 2004/118 regs 321
- Sch 3 para 11 am by S.S.I. 2002/228 reg 2(1)(8)
- Sch 3 paras 13–15 am by S.S.I. 2002/228 reg 2(1)(7)
- Sch 3 para 9 am by S.S.I. 2004/118 regs 322
- Sch 3 para 17 am by S.S.I. 2004/118 regs 322
- Sch 3 para 19 am by S.S.I. 2004/118 regs 322
- Regulations revoked by S.S.I. 2005/91 reg. 41(1)
- reg 1 am by S.S.I. 2002/228 reg 2(1)(2)
- reg 2 defn(s) added by S.S.I. 2004/118 regs 34(c) (i)
- reg 2 defn(s) am by S.S.I. 2004/118 regs 34(a)4(a)(b)(d)–(g)
- reg 2 defn(s) subst by S.S.I. 2004/118 regs 34(h)
- reg 4 subst by S.S.I. 2004/118 regs 35
- reg 5 am by S.S.I. 2004/118 regs 36
- reg 7 am by S.S.I. 2002/228 reg 2(1)(8)
- reg 7 am by S.S.I. 2004/118 regs 37
- reg 8 am by S.S.I. 2002/228 reg 2(1)(3)
- reg 8 am by S.S.I. 2004/118 regs 38(a)
- reg 8 rev in pt by S.S.I. 2004/118 regs 38(b)
- reg 12 subst by S.S.I. 2004/118 regs 39
- reg 13 am by S.S.I. 2004/118 regs 310
- reg 14 am by S.S.I. 2002/228 reg 2(1)(8)
- reg 14 am by S.S.I. 2004/118 regs 311
- reg 16 am by S.S.I. 2004/118 regs 312
- reg 18 am by S.S.I. 2004/118 regs 313
- reg 20 am by S.S.I. 2002/228 reg 2(1)(8)
- reg 20 am by S.S.I. 2004/118 regs 314
- reg 22 am by S.S.I. 2004/118 regs 315(c)
- reg 22 rev in pt by S.S.I. 2004/118 regs 315(a)(b)
- reg 25 rev in pt by S.S.I. 2004/118 regs 316
- reg 27 am by S.S.I. 2004/118 regs 317
- reg 28 am by S.S.I. 2002/228 reg 2(1)(8)
- reg 30 am by S.S.I. 2002/228 reg 2(1)(4)
- reg 30 am by S.S.I. 2004/118 regs 318
- reg 32 am by S.S.I. 2002/228 reg 2(1)(5)
- reg 32 subst by S.S.I. 2004/118 regs 319
- reg 33 am by S.S.I. 2002/228 reg 2(1)(8)

**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg 33A added by S.S.I. 2002/228 reg 2(1)(6)