
 STATUTORY INSTRUMENTS

1986 No. 1611

AGRICULTURE

**The Milk (Community Outgoers Scheme) (England and Wales)
Regulations 1986**

<i>Made - - - -</i>	<i>15th September 1986</i>
<i>Laid before Parliament</i>	<i>18th September 1986</i>
<i>Coming into Operation</i>	<i>19th September 1986</i>

The Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated^(a) for the purposes of section 2(2) of the European Communities Act 1972^(b) in relation to the common agricultural policy of the European Economic Community, acting jointly in exercise of the powers conferred on them by that section and of all other powers enabling them in that behalf, after consultation with the Council on Tribunals in accordance with section 10 of the Tribunals and Inquiries Act 1971^(c), hereby make the following regulations:—

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(a) S.I. 1972/1811.

(b) 1972 c.68; section 2 is subject to Schedule 2 to that Act and is to be read with sections 37, 40 and 46 of the Criminal Justice Act 1982 (c.48) and S.I. 1984/447.

(c) 1971 c.62.

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Schedule

Application, title and commencement

1. These regulations, which apply to England and Wales, may be cited as the Milk (Community Outgoers Scheme) (England and Wales) Regulations 1986, and shall come into operation on 19th September 1986.

Interpretation

- 2.—(1) In these regulations, unless the context otherwise requires—
- “allocated quota” means registered quota other than transferred quota;
 - “applicant” means a person who applies for compensation under this scheme, and “application” shall be construed accordingly;
 - “appropriate Minister” means, in relation to England, the Minister of Agriculture, Fisheries and Food and, in relation to Wales, the Secretary of State for Wales;
 - “authorised officer” means a duly authorised officer of the appropriate Minister;
 - “base quota” means quota, other than transferred quota, which was allocated under the Dairy Produce Quotas Regulations 1984(a) otherwise than in accordance with Article 3(1) (development awards) or Article 4(1)(c) (awards to producers undertaking farming as their main occupation) of Council Regulation (EEC) 857/84(b);
 - “Commission Regulation” means Commission Regulation (EEC) No. 2321/86(c), laying down detailed rules for the application of the Council Regulation;
 - “Community legislation” means the Council Regulation and the Commission Regulation;
 - “Council Regulation” means the Council Regulation (EEC) No. 1336/86(d) fixing compensation for the definitive discontinuation of milk production;
 - “eligible quota” means base quota and transferred quota;
 - “farming press” means any newspaper, journal or similar publication considered by the appropriate Minister to be likely to be read by interested parties;
 - “Gazette” means the London Gazette;
 - “holding” has the same meaning as in the 1986 Regulations;

(a) S.I. 1984/1047, amended by S.I. 1984/1048, 1538 and 1787 and 1985/509.

(b) O.J. No. L90, 1.4.84, p.13.

(c) O.J. No. L202, 25.7.86, p.13.

(d) O.J. No. L119, 8.5.86, p.21.

“landlord” means, in relation to the tenant of a holding or part of a holding, any person who either solely or jointly owns, or has a superior tenancy of, that holding or that part of that holding, and “landlord’s interest” shall be construed accordingly;

“landlord’s amount” means an amount calculated in accordance with regulation 13;

“milk” means cows’ milk;

“notice” means notice in writing;

“quota”, in relation to a holding, has the meaning ascribed to it in the 1986 Regulations;

“quota year” has the same meaning as in the 1986 Regulations;

“registered”, in relation to 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 wholesale quota (within the meaning of those Regulations) registered in a wholesale register maintained under those Regulations;

“relevant quota” means—

(a) in a case where a tenant’s holding consists only of the land subject to the relevant tenancy, the quota registered in relation to that holding under the 1986 Regulations; and

(b) in any other case, such part of that quota as would fall to be apportioned to land comprised in the relevant tenancy under regulation 8 of the 1986 Regulations on a change of occupation of that land;

“tenant” means a person who occupies a holding or part of a holding by virtue of a tenancy or a licence to occupy, and “tenancy” shall be construed accordingly;

“the 1986 Regulations” means the Dairy Produce Quotas Regulations 1986(a);

“the Tribunal” means the Dairy Produce Quota Tribunal for England and Wales;

“transferred quota” means quota transferred to a holding by virtue of the transfer to that holding of the whole or part of another holding.

(2) In these regulations—

(a) any reference to a numbered regulation shall be construed as a reference to the regulation so numbered in these regulations;

(b) any reference in a regulation to a numbered paragraph shall be construed as a reference to the paragraph so numbered in that regulation; and

(c) any reference in a paragraph to a numbered or lettered subparagraph shall be construed as a reference to the subparagraph so numbered or lettered in that paragraph.

Appointment of competent authority

3. For the purposes of the Commission Regulation the competent authority shall be the appropriate Minister.

(a) S.I. 1986/470.

Amount of compensation

4.—(1) For the purposes of Article 1 of the Commission Regulation (which obliges Member States to fix the maximum amount of compensation payable to producers who undertake to discontinue milk production definitively) the amount shall be 2.618 pence per year per litre of milk for the first year of application.

(2) A person may claim compensation under the Community legislation in respect of either—

- (a) loss of profits in the 7 years immediately following the date on which he ceases to produce milk for sale or for processing into cream, butter or cheese for sale by reference to the amount of eligible quota he surrenders; or
- (b) the value of the amount of the eligible quota he surrenders.

(3) Compensation paid by the appropriate Minister under the Community legislation shall be calculated—

- (a) in a case falling within paragraph (2)(a), at the rate of 2.618 pence per litre on a quantity equal to the amount of eligible quota surrendered for each of the 7 years immediately following the date on which the applicant ceases to produce milk for sale or for processing into cream, butter or cheese for sale in relation to the amount of quota surrendered; and
- (b) in a case falling within paragraph (2)(b), at the rate of 18.326 pence per litre on that quantity, payable in 7 equal instalments.

Rules for acceptance of applications

5. For the purposes of Articles 1 and 3(2) of the Commission Regulation (Member States to make rules for the acceptance of applications), where the sum of valid applications throughout the United Kingdom together relate to a quantity of eligible quota which exceeds 305,429,820 litres, applications representing the excess quantity shall be refused according to the following rules : firstly,

- (a) where, in the opinion of the Minister of Agriculture, Fisheries and Food, the Secretaries of State for Scotland and Wales and the Department of Agriculture for Northern Ireland (“the Ministers”), circumstances exist in which the acceptance of certain applications could hamper the restructuring of milk production, then applications which, in the opinion of the Ministers, could cause those difficulties shall be refused in preference to those applications which, in their opinion, would not; and secondly
- (b) applications from applicants with a greater quantity of quota registered in their name should, where possible, be refused in preference to those from applicants with a smaller quantity of quota so registered.

Application for compensation

6.—(1) The appropriate Minister shall by advertisement published in the Gazette and the farming press announce the opening and closing dates of the period for, and the procedural requirements in respect of, applications.

(2) An applicant may withdraw his application within 14 days beginning on the date of service by the appropriate Minister of a notice of acceptance of the application but in any event not later than 31st January 1987.

(3) An application under these regulations by a person part of whose holding is in a part of the United Kingdom other than England and Wales shall not be valid unless he makes an application in respect of the part of the holding in that other part of the United Kingdom in accordance with the legislation (if any) corresponding with this legislation which applies to that part.

Requirement for landlord's consent

7.—(1) Where an application is made by an applicant who occupies his holding, or any part thereof, as a tenant, he shall, unless the condition specified in paragraph (2) has been fulfilled, serve a copy of the application on his immediate landlord on the day on which he submits it; and that application shall cease to be valid on the 31st January 1987 unless, on or before that date, both the condition specified in paragraph (2) is fulfilled and the tenant has served a notice on the appropriate Minister informing him that that condition has been fulfilled.

(2) The condition referred to in paragraph (1) is that, in respect of each person having a landlord's interest in the holding in relation to which the application is made, or in any part thereof, either—

- (a) the consent in writing of that person to the application has been obtained by the tenant; or
- (b) that person has unreasonably refused his consent to the application.

(3) Where, within 21 days of the receipt of a copy of an application served in accordance with paragraph (1) or of a notice served in accordance with regulation 11, a landlord objects to the application by notice served on the tenant and the appropriate Minister on one or more of the grounds specified in regulation 9, the tenant shall be deemed to have withdrawn his application, unless within 14 days of receipt of that notice of objection, he—

- (a) by notice served on that landlord, demands that the question of whether or not that objection should be upheld shall be determined by arbitration; and
- (b) by notice served on the appropriate Minister, informs him of that demand.

Unreasonable refusal of consent

8.—(1) For the purposes of regulation 7, a landlord shall have unreasonably refused his consent to an application if—

- (a) having been served with a notice informing him of the tenant's application or intention to make an application, he has not, within 21 days of service on him of that notice, served a notice objecting to that application on one or more of the grounds specified in regulation 9, on—
 - (i) the tenant,
 - (ii) his immediate lessee or licensee, where that person is not the tenant, and
 - (iii) where the application has already been made, the appropriate Minister; or
- (b) he has so objected, but on arbitration under regulation 10 an arbitrator has made a determination not to uphold the objection, and the arbitrator's determination has not been reversed, and there is not pending in respect thereof an appeal lodged under regulation 17.

(2) If a landlord objects to the determination of an arbitrator, he may, within 14 days of the delivery of that determination, lodge an appeal under regulation 17, and, in that event, he shall serve a notice on—

- (a) the tenant,
- (b) his immediate lessee or licensee, where that person is not the tenant, and
- (c) the appropriate Minister,

informing them of that appeal; and during that period of 14 days, there shall, for the purposes of paragraph (1), be deemed to be pending an appeal lodged under paragraph 17.

Landlord's objections to an application

9.—(1) Subject to paragraph (2), the grounds upon which a landlord may object to a tenant's application in relation to a holding, or part of a holding, for the purposes of regulation 7 or regulation 8 are—

- (a) that it appears to him that the payment which he would receive on arbitration in accordance with these regulations if that application was successful or the amount which the tenant is prepared to pay (if that amount is greater) would be less than the capital value of the loss of rent which an arbitrator would determine that he would suffer as a result of the surrender of the relevant quota;
- (b) that the tenant, or any landlord, is bound by a covenant (however expressed) entered into with any person holding a superior interest in the relevant land, or with the predecessor of that person, to the effect either that—
 - (i) the holding or any part thereof will be farmed as a dairy farm, or
 - (ii) any quota on that holding or part of that holding will be maintained; and
- (c) that the landlord is a smallholdings authority for the purposes of section 38 of the Agriculture Act 1970(a) (smallholdings authorities) which holds the holding, or any part thereof, for the purposes of smallholdings in accordance with Part III of that Act and which intends, at the end of the current tenancy, to re-let, for the purposes of smallholdings, the holding, or any part thereof, or part of any part of that holding to be farmed as a dairy farm.

(2) A landlord may not object to a tenant's application on the ground specified in paragraph (1)(b)(ii) if the covenant concerned relates solely to commodities other than milk.

Arbitration of landlord's objection to an application

10.—(1) On a reference under regulation 7(3) the arbitrator shall determine whether or not the objection should be upheld.

- (2) (a) An objection on the ground specified in regulation 9(1)(a) shall not be upheld unless the arbitrator is satisfied that the landlord's payment under the scheme or the amount which the tenant is prepared to pay (if that amount is greater) would be less than the capital value of the loss of rent which the landlord could reasonably be expected to suffer as a result of the surrender of the relevant quota;

(a) 1970 c.40.

(b) Where the capital value referred to in subparagraph (a) has previously been assessed by an arbitrator for the purposes of regulation 13(2)(a), the capital value so assessed shall be deemed to be the capital value for the purposes of subparagraph (a), but where that capital value has not previously been so assessed, the arbitrator on a reference under regulation 7(3) shall assess that capital value in accordance with regulation 13(3)(b).

(3) An objection on the ground specified in regulation 9(1)(c) shall not be upheld by the arbitrator unless the authority concerned enters into a covenant with the tenant to the effect that—

(a) if any land subject to the tenancy is re-let for any purpose other than dairy farming within 5 years from the date of the covenant or if any part of that land is sold within that period, and

(b) if, but for the authority's refusal of consent, the tenant could have made a valid application,

the authority will pay to the tenant an amount equal to that which he will have lost as a result of the authority's objection.

(4) Any amount due to the tenant by virtue of paragraph (3) may be determined by agreement between the parties and, in default of agreement, the tenant may by notice in writing served on the authority demand that the amount be determined by arbitration; and on a reference under this paragraph the arbitrator shall determine the amount.

(5) In assessing the amount which the tenant will have lost for the purposes of paragraph (3) the arbitrator shall take into account any payment made to the tenant by any person in respect of the relevant quota.

Service of notice on superior landlord

11. Where a landlord is informed, by the service of a copy of an application under regulation 7 or a notice under regulation 8 or under this regulation, of a tenant's application or intention to make an application in respect of a holding he shall, in respect of any part of that holding in which he has an interest (but in respect of which he is not the owner) within 7 days of receipt of such copy or notice, serve a notice on his immediate landlord informing him of the tenant's application or intention to make an application; and he shall send a copy of such notice to the tenant and to the appropriate Minister.

Landlord's right to payment

12.—(1) Subject to paragraph (4), where a successful applicant for compensation occupies his holding or any part of that holding as a tenant, each of his landlords shall be entitled to obtain from the tenant a payment in respect of the relevant quota.

(2) The payment to which a landlord is entitled under paragraph (1) shall be an amount agreed between the tenant and the landlord or, in default of agreement—

(a) where the tenant has only one landlord, the landlord's amount; and

(b) where the tenant has two or more landlords, such proportion of the landlord's amount as shall be agreed or determined in accordance with regulation 14.

(3) The landlord's amount, or, where paragraph (2)(b) applies, the proportion of the landlord's amount to which a landlord is entitled, shall be payable in seven equal yearly instalments, each instalment being due—

- (a) on the day after the day on which the tenant receives his instalment of compensation, or
- (b) where, in respect of any quota year the tenant, by reason of his death or any default of his, does not receive an instalment of compensation, not later than 30th June in that year.

(4) Where—

- (a) a successful applicant who is a tenant dies before he has received all his instalments of compensation, and
- (b) a successor of the deceased tenant enters into that tenant's obligations for the purposes of Article 4(3) of the Commission Regulation,

any landlord of the deceased tenant shall be entitled to recover from the successor such instalments of the payment described in paragraph (2) as become due to that landlord on or after the date on which that successor entered into those obligations and from that date the landlord shall no longer be entitled to recover those instalments from the estate of the deceased tenant.

The landlord's amount

13.—(1) The landlord's amount shall be an amount equal to the full rate of compensation for so much of the relevant quota as consists of—

- (a) standard quota or, where it is less, allocated quota, multiplied firstly by the landlord's fraction, and then by a fraction of which—
 - (i) the numerator is the base quota, and
 - (ii) the denominator is the allocated quota; and
- (b) transferred quota as follows—
 - (i) where the landlord bore the whole of the cost of the transaction by virtue of which the transferred quota was transferred to the holding, the whole of the transferred quota; and
 - (ii) where the landlord bore only a part of that cost, the corresponding part of the transferred quota.

(2) In paragraph (1), "the landlord's fraction" means the fraction of which—

- (a) the numerator is an amount equal to the capital value of the rent which the immediate landlord can reasonably be expected to lose as a consequence of the surrender of the quota; and
- (b) the denominator is the sum of that amount and an amount equal to the capital value of the loss of earnings which can reasonably be expected to be suffered by the tenant as a consequence of the surrender of the quota.

(3) For the purposes of paragraph (2)—

- (a) "rent" includes any other periodic payment;
- (b) the capital value of the rent shall be assessed in accordance with Schedule 2 to the Agricultural Holdings Act 1986 (a) (arbitration of rent) on the assumption that the rent will not change until the next

(a) 1986 c.5.

rent review; and the said Schedule 2 shall be construed accordingly; and

- (c) in assessing loss of earnings, the loss of the annual value of the tenant's dairy improvements and fixed equipment shall be included; and the capital value thus calculated shall be reduced by the sale value of any dairy items made redundant but which the tenant can sell.

(4) For the purposes of paragraph (1), subject to the provisions of paragraph (5), the standard quota for any land shall be calculated by multiplying the relevant number of hectares by the prescribed quota per hectare, and in this paragraph and paragraph (5)—

- (a) "the relevant number of hectares" means the average number of hectares of the land in question used by the applicant 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 that land during that period); and
- (b) "the prescribed quota per hectare" means, in respect of each of the breeds shown in Column 1 of the Schedule to these regulations, the number of litres shown opposite that breed in—
- (i) Column 2(a), in relation to severely disadvantaged land,
 - (ii) Column 3(a), in relation to disadvantaged land, and
 - (iii) Column 4(a), in relation to any other land.

(5) Where, by virtue of the quality of the land in question or the climatic conditions in the area, the reasonable amount is greater or less than the prescribed average yield per hectare, paragraph (4) 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 for the purposes of this paragraph—

- (a) the amount of milk to be taken as the average yield per hectare in respect of each of the breeds shown in Column 1 of the Schedule to these regulations shall be the number of litres shown opposite that breed in—
- (i) Column 2(b), in relation to severely disadvantaged land,
 - (ii) Column 3(b), in relation to disadvantaged land, and
 - (iii) Column 4(b), in relation to any other land; and
- (b) "reasonable amount" means the amount of milk which could reasonably be expected to have been produced from one hectare of the land during the relevant period.

(6) In the application of these regulations—

- (a) "dairy cows" means cows kept for milk production (other than uncalved heifers);
- (b) "disadvantaged land" and "severely disadvantaged land" means land which has been determined to be disadvantaged land or severely disadvantaged land, as the case may be, in accordance with the definitions of those expressions as they are set out in regulation 2 of the Hill Livestock (Compensatory Allowances) Regulations 1984(a) ;

(a) S.I. 1984/2024.

- (c) “land used for the feeding of dairy cows kept on the land” does not include land used for the growing of cereal crops for feeding to dairy cows in the form of loose grain; and
- (d) “the relevant period” means—
 - (i) the period in relation to which the base quota was determined, or
 - (ii) where the base quota 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.

Apportionment of landlord's amount

14.—(1) The landlord's amount (or, where one or more landlords have agreed with the tenant the payment to which they are entitled under regulation 12(2), such proportion of the landlord's amount as the remaining landlords shall agree, or, in default of agreement, as an arbitrator shall determine) shall be apportioned between the landlords who have not made an agreement with the tenant under regulation 12(2) by agreement or, in default of agreement, by arbitration; and on a reference under this paragraph an arbitrator shall take all relevant factors into account in making his award.

(2) Where a reference to arbitration is made under this regulation in conjunction with another regulation, any additional costs of the award caused by the apportionment under this regulation shall be paid by the landlords in such proportions as the arbitrator may determine.

Settlement of claims

15. Any claim arising under regulation 12(2)(a) or (b) shall be determined by arbitration.

Arbitrations

16.—(1) Subject to paragraphs (2) to (5), where any matter is, under these regulations, to be determined by arbitration, section 84 of the Agricultural Holdings Act 1986 (arbitrations) shall apply as if that matter were required by that Act to be determined by arbitration under that Act.

(2) Paragraph 7 of Schedule 11 to the Agricultural Holdings Act 1986 (time for statement and particulars of case and for amendments thereto) shall apply to arbitrations under these regulations as if for the words “thirty-five days”, in both cases where they occur, there were substituted the words “twenty-one days”.

(3) Paragraph 14 of that Schedule (time for making and signing award) shall apply to arbitrations under these regulations as if for the words “fifty-six days” there were substituted the words “thirty-five days”.

(4) Paragraph 18 of that Schedule (arbitration award to fix a day for payment of money awarded not later than one month after award) shall not apply for the purposes of these regulations except in relation to costs.

(5) Paragraphs 26 to 28 of that Schedule (special case procedure, setting aside award and remission by the County Court) shall not apply in relation to arbitrations under these regulations.

Appeals

17.—(1) An appeal shall lie on any question of law arising in the course of an arbitration under these regulations or on any question as to the jurisdiction of an arbitrator under these regulations to the Tribunal; and, for the purposes of determining an appeal under this regulation, the Tribunal shall consist of a single legally qualified member, approved for the purpose by the Chairman of the Tribunal, assisted, if the Chairman so directs, by such other non-voting member as the Chairman may appoint.

(2) For the purposes of this regulation paragraphs 2 (quorum for any determination of the Tribunal) and 3 (determinations by the Tribunal to be by majority) of Schedule 18 to the 1986 Regulations shall not apply.

(3) An appeal under paragraph (1) in relation to an arbitration shall be lodged within 14 days of the delivery of the arbitrator's determination in that arbitration.

Temporarily reallocated quota

18. For the purposes of these regulations, quota which has been temporarily reallocated from one holding to another under regulation 11(2) of the 1986 Regulations (reallocation of wholesale quota) shall be treated as if it had not been temporarily reallocated.

Service of notices or of copies of applications

19.—(1) Any notice under these regulations 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) For the purposes of these regulations and of section 7 of the Interpretation Act 1978(a) (service by post), the proper address of any person on whom any such notice is to be served shall be—

(a) in the case of the secretary or clerk of an incorporated company or body, the address of the registered or principal office of the company or body; and

(b) in any other case, the last known address of the person in question.

(4) Unless or until the tenant or a landlord of any land has received—

(a) notice that the original landlord has ceased to be his immediate landlord, and

(b) notice of the name and address of the person who has become his immediate landlord,

any notice served on the original landlord by the tenant or landlord shall be deemed for the purposes of these regulations to have been properly served; and for the purposes of this paragraph and paragraph (5), "original landlord" means any person who was the tenant's or the landlord's immediate landlord before the person who has become the tenant's or the landlord's immediate landlord.

(5) Where an original landlord receives a notice in the circumstances referred to in paragraph 4 he shall forthwith transmit that notice to the person on whom it should have been served.

(a) 1978 c.30.

(6) In this regulation “notice” includes a copy of an application served under regulation 7.

Cancelled quota

20. Where, by virtue of an application whether or not made in compliance with these regulations and the Community legislation, any quota is cancelled under the Community legislation, that quota shall not be recoverable by any person.

Loss arising from failure to comply with provisions of this Scheme

21.—(1) Where, in consequence of the failure of any person to comply with the requirements of regulation 7 or regulation 11 in relation to a holding or a part of a holding, a landlord suffers loss, the landlord shall be entitled to recover the amount involved as a civil debt from that person.

(2) Where a sum agreed or awarded under these regulations to be paid by any person is not paid within 14 days after the time when the payment becomes due, it shall be recoverable, if the County Court so orders, as if it were payable under an order of that Court.

Powers of inspection

22. Subject to regulation 26, where any person has made an application, an authorised officer may, at all reasonable times and on production of his authority on demand, enter on any land occupied, or otherwise used, by that person and may—

- (a) inspect and count any cows kept on that land, and
- (b) require that person to furnish for inspection any bill, account, voucher or record in his possession or under his control relating to any cows kept or formerly kept by him or to the sale of any milk, cream, butter or cheese.

Recovery of compensation

23.—(1) Where any person with a view to obtaining any payment by virtue of these regulations or of the Community legislation to himself or any other person—

- (a) makes any statement which is untrue or misleading in a material respect, or
- (b) furnishes to any of the appropriate Ministers any inaccurate information, that Minister shall be entitled to recover on demand as a civil debt the whole or any part of any compensation paid to that person or to such other person.

(2) Where any person having undertaken pursuant to Article 1 of the Council Regulation to discontinue milk production, fails in any way to comply with that undertaking, the appropriate Minister shall be entitled to recover from him on demand as a civil debt the whole or any part of any compensation paid to him or to any other person in respect of quota registered in that person’s name.

(3) Where any person—

- (a) intentionally obstructs an authorised officer in the exercise of the powers conferred on him by regulation 22, or

- (b) fails without reasonable excuse to comply with a requirement of these regulations or the Community legislation,

the appropriate Minister shall be entitled to recover on demand as a civil debt the whole or any part of any compensation paid to that person.

Offences

24. Any person who—

- (a) in connection with these regulations makes a statement or uses a document which he knows to be false in a material respect or recklessly makes a statement or uses a document which is false in a material respect, or
- (b) intentionally obstructs an authorised officer in the exercise of the powers conferred by regulation 22,

shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding £2,000.

Application to Crown, etc

25.—(1) These regulations shall apply to any holding or any part of a holding which belongs to Her Majesty 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.

(2) For the purposes of these regulations—

- (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 or the tenant, as the case may be;
- (b) as respects land belonging to Her Majesty privately, 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;
- (c) 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 or the tenant, as the case may be;
- (d) 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 or the tenant, as the case may be.

(3) Any sum payable under these regulations to or by the Duke of Cornwall (or any other possessor for the time being of the Duchy of Cornwall) may be treated, or raised and paid, as if it were a payment made for, or an expense incurred in, as the case may be, permanently improving the possessions of the Duchy as mentioned in section 8 of the Duchy of Cornwall Management Act 1863 (a) .

(4) Any sum payable under these regulations to or by the Chancellor of the Duchy of Lancaster may—

- (a) be treated, or raised and paid, as if it were a payment made for, or an expense incurred in, as the case may be, the improvement of land

(a) 1863 c.49.

belonging to Her Majesty in right of the Duchy within section 25 of the Duchy of Lancaster Act 1817 (a) ; or

(b) be paid in to or out of the annual revenues of the Duchy.

26.—(1) No authorised officer shall exercise any powers under regulation 22—

(a) in relation to land in which there is no interest other than a Crown interest or a Duchy interest; or

(b) in relation to land which is exclusively in Crown occupation.

(2) In this regulation—

“Crown interest” means any interest belonging to Her Majesty or belonging to a government department or held in trust for Her Majesty for the purposes of a government department;

“Crown occupation” means occupation by Her Majesty or occupation by a government department; and

“Duchy interest” means an interest belonging to Her Majesty in right of the Duchy of Lancaster, or belonging to the Duchy of Cornwall.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 14th September 1986.



Michael Jopling,
Minister of Agriculture,
Fisheries and Food.

Nicholas Edwards,
Secretary of State for Wales.

15th September 1986.

SCHEDULE
Regulation 13(4) and (5)

Column 1	Column 2		Column 3		Column 4	
	Severely disadvantaged land		Disadvantaged land		Other land	
Breed	(a) Quota/Hectare	(b) Average Yield/ Hectare	(a) Quota/Hectare	(b) Average Yield/ Hectare	(a) Quota/Hectare	(b) Average Yield/ Hectare
Channel Island and South Devon, and breeds with similar characteristics	litres 5,100	litres 5,737	litres 5,950	litres 6,694	litres 6,800	litres 7,650
Ayrshire and Dairy Shorthorn, and breeds with similar characteristics	5,833	6,562	6,805	7,656	7,778	8,750
Other	6,000	6,750	7,000	7,875	8,000	9,000

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations implement Council Regulation (EEC) No. 1336/86 (O.J. No. L119, 8.5.86, p.21), which fixes compensation for the definitive discontinuation of milk production and Commission Regulation (EEC) No. 2321/86 (O.J. No. L202/13) which lays down general rules for the application of the above Council Regulation. Under these Regulations compensation is to be paid to any person who gives up the whole of the milk quota registered in his name and who undertakes to discontinue milk production definitively.

The present regulations make provision for those matters which the Community Regulations leave to Member States and which are necessary for the proper implementation of the scheme for compensation in England and Wales. They appoint the "competent authority" responsible for administering the scheme in England and Wales (regulation 3), fix the maximum amount of compensation payable to producers (regulation 4) and lay down the rules for the acceptance of applications in the event of too many applications being submitted (regulation 5). Regulation 6 provides that the time limits and procedural requirements for applications for compensation shall be published in the London Gazette and farming press.

An applicant for compensation who does not own all of the land which he occupies must attempt to obtain the consent of any person who owns or has a superior tenancy or licence of that holding or any part of it (the "landlords"). An application will only be valid if that consent is given or unreasonably refused by 31st January 1987 (Regulation 7 and Article 3 of the Council Regulation). Regulations 8 and 9 spell out the criteria for deciding whether or not a landlord's consent has been unreasonably refused and regulation 10 deals with arbitration on this matter in cases of dispute.

Regulation 12 provides that landlords shall be entitled to obtain from the tenant a payment in respect of the relevant quota and regulation 13 sets out the amount (the "landlord's amount") to which the landlords as a whole are entitled in the absence of agreement. That amount is to be apportioned among the landlords by agreement or arbitration (regulation 14).

Arbitrations under the regulations are to be by a single arbitrator in accordance with the provisions of Schedule 11 to the Agricultural Holdings Act 1986. By regulation 16 two of the provisions of that Schedule have been amended for the purposes of these regulations in order to speed up proceedings (regulation 15) and other provisions have been disapplied to arbitrators or their awards under these regulations, in particular the case stated procedure set out in paragraph 26 (regulation 16(5)). An appeal on any question of law or as to the jurisdiction of an arbitrator to the Dairy Produce Quota Tribunal has been created by regulation 17.

Provision is made for recovery from a tenant of any loss suffered by a landlord as a result of the failure of that tenant to comply with regulation 7 or regulation 11, and for recovery through the County Court of sums agreed or awarded under the regulations (regulation 21).

Authorised officers are given powers to inspect and count cows on land occupied or otherwise used by the producer and to require relevant documents to be furnished (regulation 22) and the appropriate Minister may recover compensation paid under specified circumstances (regulation 23). By

regulation 24 it is made an offence punishable on summary conviction by a fine not exceeding £2,000 to make a materially false statement or use a materially false document or intentionally obstruct an authorised officer.

These regulations apply to Crown land (regulation 25).

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