
STATUTORY INSTRUMENTS

1993 No. 3036

AGRICULTURE

**The Sheep Annual Premium and Suckler Cow
Premium Quotas (Amendment) Regulations 1993**

<i>Made</i>	- - - -	<i>6th December 1993</i>
<i>Laid before Parliament</i>		<i>6th December 1993</i>
<i>Coming into force</i>	- -	<i>7th December 1993</i>

The Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to the common agricultural policy of the European Economic Community, acting jointly in exercise of the powers conferred on them by that section, and of all other powers enabling them in that behalf, hereby make the following Regulations:

Title and commencement.

1. These Regulations may be cited as the Sheep Annual Premium and Suckler Cow Premium Quotas (Amendment) Regulations 1993 and shall come into force on 7th December 1993. Amendments to the Sheep Annual Premium and Suckler Cow Premium Quotas Regulations 1993

2.—(1) The Sheep Annual Premium and Suckler Cow Premium Quotas Regulations 1993⁽³⁾ shall be amended in accordance with the following paragraphs of this regulation.

(2) The following definitions shall be inserted after the definition of “national reserve” in regulation 2(1)

““the national reserve for 1993” means the national reserve insofar as it comprises—

- (a) the initial national reserves of sheep annual premium quota and suckler cow premium quota referred to in regulation 11;
- (b) the additional reserves of quota referred to in regulation 13(3);
- (c) the quota referred to in regulation 13(4);
- (d) any sheep annual premium quota such as is referred to in regulation 13(5) which is surrendered to the national reserve in the 1993 marketing year; and

(1) S.I. 1972/1811.
(2) 1972 c. 68.
(3) S.I. 1993/1626.

- (e) any suckler cow premium quota such as is referred to in regulation 13(5) which is surrendered to the national reserve in the 1993 calendar year;
- “the national reserve for any given year later than 1993” means the national reserve insofar as it comprises—
- (a) any sheep annual premium quota such as is referred to in regulation 13(5) which is surrendered to the national reserve in the marketing year corresponding with that year;
- (b) any suckler cow premium quota such as is referred to in regulation 13(5) which is surrendered to the national reserve in the calendar year corresponding with that year;
- (c) quota surrendered or as the case may be transferred to the national reserve in accordance with Article 6 of Commission Regulation 3567/92(4);
- (d) quota repaid to the national reserve in accordance with Article 32 of Commission Regulation 3886/92(5);
- (e) quota paid to the national reserve in accordance with Article 33 of Commission Regulation 3886/92; and
- (f) quota carried forward from the national reserve for the previous year in accordance with paragraph (5) or (11) of regulation 13A of or paragraph 6(1) of Schedule 3 to these Regulations;”.
- (3) The following definition shall be inserted after the definition of “quota register” in regulation 2(1)—
- ““relevant year” means, in the case of a sheep producer, the 1991 marketing year and, in the case of a suckler cow producer, the 1992 calendar year;”.
- (4) In the definition of “sensitive zones” in regulation 2(1), substitute “Schedule 1” for “the Schedule”.
- (5) The following definition shall be inserted after the said definition of “sensitive zones”—
- ““sharefarming agreement” means a farming contract made between the owner of land (including a person entitled for a term of years certain or other limited estate) and a farmer with no legal interest or charge in or over the land concerned which does not constitute the parties partners or employer and employee but merely contracting parties whose liabilities remain separate, whose contributions are defined by the agreement between them, whose responsibility for planning and managing the farming enterprise is joint and whose rewards are an agreed share of the revenue of that enterprise; and any reference in these Regulations to a “sharefarmer” is a reference to any farmer such as is specified above;”.
- (6) In the definition of “sheep annual premium” in regulation 2(1), insert at the end “and any reference in these Regulations to a particular Sheep Annual Premium Scheme is a reference to the arrangements adopted by the Minister for enabling sheep annual premium to be granted in the marketing year in which the scheme concerned operates”.
- (7) In the definition of “suckler cow premium” in regulation 2(1), insert at the end “and any reference in these Regulations to a particular Suckler Cow Premium Scheme is a reference to the arrangements adopted by the Minister for enabling suckler cow premium to be granted in the calendar year in which the scheme concerned operates”.
- (8) In regulation 5(5), insert “or leases” after “transfers”.
- (9) The following regulation shall be inserted after regulation 13

(4) OJ No.L362, 11.12.92, p. 41, as read with the corrigenda at OJ No. L6, 12.1.93, p. 16.

(5) OJ No. L391, 31.12.92, p. 20.

“Allocations of quota from the 1993 and subsequent national reserves

13A.—(1) There shall be 7 categories of person (of which 2 shall be sub-divided into a number of groups) eligible to be allocated quota from the national reserve for 1993 and 6 categories of person (of which 2 shall be divided into a number of groups) eligible to be allocated quota from the national reserve for any given year later than 1993.

(2) The categories of person eligible to be allocated quota from the national reserve for 1993 are as specified in Part I of Schedule 2 to these Regulations and the categories of person eligible to be allocated quota from the national reserve for any given year later than 1993 are as specified in Part II of that Schedule, and any reference in these Regulations to a numbered category is a reference to the corresponding category of person specified in the relevant Part specified in this paragraph.

(3) Where a person who considers that he falls within any of the categories of person specified in Part I or Part II of Schedule 2 to these Regulations wishes to be allocated quota from the national reserve to which that category relates he may apply for such an allocation to be made to him to the Minister with responsibility for the part of the United Kingdom in which his holding is situated (or if he does not possess a holding) to the Minister with responsibility for the part of the United Kingdom in which he intends his holding to be situated, in such form and by such date as that Minister may from time to time determine.

(4) Where a person has made a successful application for an allocation of quota from a particular national reserve in accordance with paragraph (3) of this regulation the Minister to whom the application was made shall—

- (a) subject to paragraphs (5), (6) and (19) of this regulation; and
- (b) to the extent available under paragraphs (7), (10) and (11) thereof, allocate to the person concerned the amount of quota specified in Schedule 3 to these Regulations from the division of the national reserve concerned relating to the sensitive zone in which his holding is situated or (if he does not possess a holding) the sensitive zone in which he intends his holding to be situated.

(5) Notwithstanding paragraph (4) of this regulation, where quota remains in a division of a particular national reserve after allocations of quota from that division have been made to all successful applicants, the Minister with responsibility for the part of the United Kingdom in which the sensitive zone relating to that division is situated shall—

- (a) transfer some of the remaining quota to such other divisions of that national reserve as he may determine and direct that the rest of that quota be carried forward for distribution from the corresponding division of the following national reserve; or
- (b) transfer all of the remaining quota to such other divisions of that national reserve as he may determine or direct that all of that quota be carried forward for distribution from the corresponding division of the following national reserve.

(6) Notwithstanding paragraph (4) of this regulation, where—

- (a) quota is surrendered to a particular national reserve under Article 5a(4)(b) of Council Regulation 3013/89(6) or Article 4e(1) of Council Regulation 805/68(7) as read with regulation 6(1) on a transfer of quota under regulation 9(1); and
- (b) there is sufficient quota in the division of that national reserve relating to the sensitive zone in which the transferor’s holding is situated to enable all successful applications for allocations of quota from that division by persons falling within category 3 or as the case may be category II to be met; and

(6) OJ No. L289, 7.10.89, p.1.

(7) OJ No. L148, 28.6.68, p.24 (OJ/SE 1968)

- (i) (in the case of a transfer from one of sensitive zones 1 to 4) there is insufficient quota in division 5 of that national reserve to enable all eligible applications for allocations of quota from that division to be met, or
- (ii) (in the case of a transfer from sensitive zone 6) there is insufficient quota in division 7 of that national reserve to enable all eligible applications for allocations of quota from that division to be met, the Minister with responsibility for the part of the United Kingdom in which the transferor's holding is situated may transfer some or all of the quota so surrendered from division 1, 2, 3 or 4 of that national reserve to division 5 thereof or, as the case may be, from division 6 of that national reserve to division 7 thereof.

(7) Within each division of a particular national reserve the Minister with responsibility for the part of the United Kingdom in which the sensitive zone relating to that division is situated shall make allocations of quota category by category, beginning with the first category of person for the national reserve concerned specified in Part I or Part II of Schedule 2 to these Regulations until, subject to paragraph (11) of this regulation, all available quota in that division is exhausted.

(8) The individual groups within a particular category of person specified in Part I or Part II of Schedule 2 to these Regulations shall rank equally.

(9) Where in any given year a person (other than one falling within category 1, category 2 or category I) has acquired quota by transfer that quota shall be deducted from any claim for an allocation of quota of the corresponding kind made from the national reserve for that year; and in this paragraph "transfer" does not include a lease.

(10) If there is insufficient quota within a division of a particular national reserve or all successful applications for allocations of quota from it by a particular category of person specified in Part I or as the case may be Part II of Schedule 2 to these Regulations to be met, the Minister with responsibility for the part of the United Kingdom in which the sensitive zone relating to that division is situated shall, subject to paragraph (11) of this regulation, reduce the amount of quota allocated to each applicant within the category concerned proportionately.

(11) Notwithstanding paragraphs (7) and (10) of this regulation, if, in calculating an allocation of quota from the appropriate national reserve to any given category of person specified in Part I or II of Schedule 2 to these Regulations, the result would be that each successful applicant would receive less than the minimum quota allocation permitted under the Community legislation, the quota which would otherwise be allocated shall be carried forward for distribution from the following national reserve.

(12) The reference to exceptional circumstances in category 2, group (b), is a reference to any of the circumstances specified in column 1 of Part III of Schedule 2 to these Regulations; the reference to exceptional circumstances in category 2, group (c), is a reference to any of the circumstances specified in the said column 1 save for that listed as item 8 therein; and the references to appropriate documentation in those groups are references to the documentation specified in column 2 of the said Part III corresponding with the circumstances specified as aforesaid.

(13) Where—

- (a) a person is entitled to have his quota allocation adjusted in accordance with any provision of the Community legislation in consequence of the occurrence of any specific natural circumstance specified therein, he shall not be entitled to an allocation of quota from the national reserve for 1993 as a person falling within category 2, group (c), by virtue of the fact that he can show the existence of one or both of the exceptional circumstances listed as items 4 and 5 in column 1 of Part III of Schedule 2 to these Regulations; or

(b) a person is eligible to be allocated quota from the national reserve for 1993 as a person falling within category 1, category 3, category 4, category 5, category 6 or category 7, he shall not be entitled to an additional allocation of quota from that national reserve as a person as calling simultaneously within category 2, group (b) or (c), where, although he can show the presence of the exceptional circumstance listed as item 9 in column 1 of Part III of that Schedule, the matters shown by him to be present in that regard bring him within any of the categories listed at the beginning of this sub-paragraph.

(14) A person falls within category 3, group (a), or category II only if the condition specified in Part IV of Schedule 2 to these Regulations is satisfied in his case.

(15) A person falls within category 3, group (c), only if the conditions specified in Part V of Schedule 2 to these Regulations are satisfied in his case.

(16) A person falls within category III, group (b), or category IV only if the relevant conditions specified in Part VI of Schedule 2 to these Regulations are satisfied in his case.

(17) Where any category of person specified in Part I or Part II of Schedule 2 to these Regulations is divided into a number of groups, a person shall be eligible for an allocation of quota from the national reserve relevant to that category in respect of only one of those groups and shall specify in any application under any such category the particular group in respect of which he wishes the allocation to be made.

(18) A person shall, subject to paragraph (19) of this regulation, be eligible for an allocation of quota from a particular national reserve in respect of each category of person relevant to that national reserve and specified in Part I or II of Schedule 2 to these Regulations which he occupies.

(19) An allocation of quota shall not be made under these Regulations to the extent that it would result in the applicant concerned receiving quota more than once in respect of the same set of circumstances.

(20) Schedule 4 to these Regulations shall have effect for showing when allocations of quota from a particular national reserve are to become effective and when they are to be regarded as having been obtained for the purposes of Commission Regulations 3567/92 and 3886/92.

(21) In the case of an allocation of—

(a) sheep annual premium quota from the national reserve for 1993 to a person falling within category 3, group (c), the producer concerned may elect—

(i) (where the relevant investment plan ends in the 1995 or any later marketing year) to have that quota allocated to him in stages over the 1993 and 1994, the 1994 and 1995 or the 1993, 1994 and 1995 marketing years and in such proportions as are consistent with that plan, or

(ii) (where the relevant investment plan ends in the 1994 marketing year) to have that quota allocated to him in stages over the 1993 and 1994 marketing years and in such proportions as are consistent with that plan; or

(b) suckler cow premium quota from the national reserve for 1993 to a person falling within category 3, group (c), the producer concerned may elect—

(i) (where the relevant investment plan ends in the 1995 or any later calendar year) to have that quota allocated to him in stages over the 1993 and 1994, the 1994 and 1995 or the 1993, 1994 and 1995 calendar years and in such proportions as are consistent with that plan, or

- (ii) Tir Cymen (in Wales), (established in each case under section 4 of the Countryside Act 1968⁽⁸⁾);
 - (b) who because of his participation in the relevant scheme specified in sub-paragraph (a) of this paragraph was required to reduce in (or in a period including) the relevant year the number of sheep or as the case may be suckler cows kept by him;
 - (c) who made a claim under the 1993 Sheep Annual Premium Scheme or as the case may be the 1993 Suckler Cow Premium Scheme; and
 - (d) whose participation in the relevant scheme specified in sub-paragraph (a) of this paragraph ended before making the claim referred to in sub-paragraph (c) thereof.
- (2) Any producer who—
- (a) in the relevant year was a party to—
 - (i) any Wildlife Enhancement Scheme management agreement entered into under section 15 of the Countryside Act 1968⁽⁹⁾,
 - (ii) any management agreement concerning a Site of Special Scientific Interest entered into under the said section 15,
 - (iii) any management agreement concerning land adjacent to a Site of Special Scientific Interest entered into under the said section 15,
 - (iv) any management agreement concerning a National Nature Reserve entered into under section 16 of the National Parks and Access to the Countryside Act 1949⁽¹⁰⁾, or
 - (v) any management agreement made or as the case may be entered into under section 39 of the Wildlife and Countryside Act 1981⁽¹¹⁾ or section 49A of the Countryside (Scotland) Act 1967⁽¹²⁾;
 - (b) by virtue of his being bound by the relevant agreement specified in sub-paragraph (a) of this paragraph was required to reduce in (or in a period including) the relevant year the number of sheep or as the case may be suckler cows kept by him;
 - (c) made a claim under the 1993 Sheep Annual Premium Scheme or as the case may be the 1993 Suckler Cow Premium Scheme; and
 - (d) ceased to be a party to the relevant agreement specified in sub-paragraph (a) of this paragraph before making the claim referred to in sub-paragraph (c) thereof.

Category 2, group (a)

Any sheep producer who submitted an application for sheep annual premium in each of the 1990 and 1992 marketing years, without having submitted an application for such premium in the relevant year or any suckler cow producer who submitted an application for suckler cow premium in each of the 1990 and 1991 calendar years, without having submitted an application for such premium in the relevant year.

⁽⁸⁾ p. 187.

⁽⁹⁾ 1968 c. 41; section 4 was amended by the Wildlife and Countryside Act 1981 (1981 c. 69) and the Environmental Protection Act 1990 (1990 c. 43).

⁽¹⁰⁾ 1968 c. 41; section 15 was amended by the Nature Conservancy Council Act 1973 (1973 c. 54), the Wildlife and Countryside Act 1981 (1981 c. 69), the Environmental Protection Act 1990 (1990 c. 43) and the Natural Heritage (Scotland) Act 1991 (1991 c. 28).

⁽¹¹⁾ 1949 c. 97; section 16 was amended by the Nature Conservancy Council Act 1973 (1973 c. 54), the Environmental Protection Act 1990 (1990 c. 43) and the Natural Heritage (Scotland) Act 1991 (1991 c. 28).

⁽¹²⁾ 1981 c. 69; section 39 was amended by the Local Government Act 1985 (1985 c. 51) and the Norfolk and Suffolk Broads Act 1988 (1988 c. 4).

Category 2, group (b)

Any sheep producer who, whilst obtaining sheep annual premium in the 1991 marketing year, can show with the assistance of appropriate documentation that he did not submit an application for such premium in the 1992 marketing year because of the presence of exceptional circumstances, but who nevertheless remains a sheep producer.

Category 2, group (c)

Any producer who can show—

- (a) that he submitted an application for sheep annual premium or as the case may be suckler cow premium in the relevant year; and
- (b) (with the assistance of appropriate documentation) that that application did not correspond with the situation as ascertained in previous marketing or as the case may be calendar years because of the presence of exceptional circumstances; and
 - (i) (where he is a sheep producer) that the average of the total number of sheep for which he received sheep annual premium in the 1988, 1989 and 1990 marketing years was at least 5% higher than the number of such animals for which he received such premium in the 1991 marketing year, or
 - (ii) (where he is a suckler cow producer) that the average of the total number of suckler cows for which he received suckler cow premium in the 1989, 1990 and 1991 calendar years was at least 5% higher than the number of such animals for which he received such premium in the 1992 calendar year.
- Category 2, group (d) Any sheep producer who submitted an application for sheep annual premium for the first time in the 1992 marketing year but whose allocation of quota under—
 - (a) the second paragraph of Article 12(1) of Commission Regulation 3567/92; and
 - (b) (where appropriate) the second paragraph of Article 2(2) of that Commission Regulation, was less than the number of sheep in respect of which he received that premium in that marketing year.
- Category 3, group (a) Any producer who, by the time of making his application for sheep annual premium in respect of the 1993 marketing year or as the case may be his application for suckler cow premium in respect of the 1993 calendar year, had in any capacity taken over any proportion of any land from which any amount of quota acquired under the Community legislation other than by way of lease or transfer had been removed by a departing tenant or sharefarmer

Category 3, group (b)

Any sheep producer making his first application for sheep annual premium in respect of the 1993 marketing year or any suckler cow producer making his first application for suckler cow premium in respect of the 1993 calendar year

Category 3, group (c)

Any sheep producer who submitted an application for sheep annual premium prior to the 1992 marketing year or any suckler cow producer who submitted an application for suckler cow premium prior to 1st January 1993 and who can show, to the satisfaction of the Minister with responsibility for the part of the United Kingdom in which his holding is situated, that the application of quota would jeopardise the viability of that holding, taking into consideration the implementation of an investment programme drawn up before 1st January 1993.

Category 4

Any person becoming a producer or any existing producer increasing the size of his flock or as the case may be herd (in each case before applying for sheep annual premium in respect of the 1993 marketing year or as the case may be suckler cow premium in respect of the 1993 calendar year) in consequence of his having reverted from arable to livestock farming by virtue of his—

- (a) making any Environmentally Sensitive Area Scheme agreement under section 18 of the Agriculture Act 1986(13) or article 3 of the Agriculture (Environmental Areas) (Northern Ireland) Order 1987(14);
- (b) entering into any Nitrate Sensitive Area Scheme agreement under section 112 of the Water Act 1989(15) or section 31B of the Control of Pollution Act 1974(16);
- (c) participating in the Countryside Stewardship Scheme in England or Tir Cymen in Wales (established in each case under section 4 of the Countryside Act 1968);
- (d) entering into any Wildlife Enhancement Scheme management agreement under section 15 of the Countryside Act 1968;
- (e) entering into any management agreement concerning a Site of Special Scientific Interest under the said section 15;
- (f) entering into any management agreement concerning land adjacent to a Site of Special Scientific Interest under the said section 15;
- (g) entering into any management agreement concerning a National Nature Reserve under section 16 of the National Parks and Access to the Countryside Act 1949; or
- (h) making or as the case may be entering into any management agreement under section 39 of the Wildlife and Countryside Act 1981, section 49A of the Countryside (Scotland) Act 1967 or article 9 of the Nature (Conservation and Amenity Lands) (Northern Ireland) Order 1985(17).

Category 5

Any person becoming a producer or any existing producer increasing the size of his flock or as the case may be herd (in each case before applying for sheep annual premium in respect of the 1993 marketing year or as the case may be suckler cow premium in respect of the 1993 calendar year) in consequence of his following a plan approved under the Community aid scheme for organic agriculture established by Council Regulation (EEC) No. 2078/92(18).

Category 6

Any producer who before applying for sheep annual premium in respect of the 1993 marketing year or as the case may be suckler cow premium in respect of the 1993 calendar year—

- (a) had acquired part of an area—
 - (i) formerly used for sheep or as the case may be suckler cow production by another producer, and
 - (ii) which was acquired for industrial, military, commercial or construction purposes on the undertaking that it would in due course be returned to agricultural use; and
- (b) does not simultaneously fall within any higher category of producer set out in this Part.

Category 7

Any producer who has claimed sheep annual premium or suckler cow premium in any 2 marketing or as the case may be calendar years since 1987 but did not submit an application for that premium in the relevant year, and who does not simultaneously fall within category 2, group (a).

(13) 1967 c. 86; section 49A was inserted by the Countryside (Scotland) Act 1981 (1981 c. 44) and amended by the Natural Heritage (Scotland) Act 1991 (1991 c. 28).

(14) 1986 c. 49; section 18 was amended by the Environmental Protection Act 1990 (1990 c. 43), the Natural Heritage (Scotland) Act 1991 (1991 c. 28) and the Agricultural Holdings (Scotland) Act 1991 (1991 c. 55).

(15) S.I. 1987/458 (N.I.3).

(16) 1989 c. 15; section 112 was repealed by the Water Consolidation (Consequential Provisions) Act 1991 (1991 c. 60).

(17) 1974 c. 40; section 31B was inserted by the Water Act 1989 (1989 c. 15).

(18) S.I. 1985/170 (N.I.1).

PART II

CATEGORIES OF PERSON ELIGIBLE TO BE ALLOCATED QUOTA FROM THE NATIONAL RESERVE FOR ANY GIVEN YEAR LATER THAN 1993

CATEGORY I

- (1) Any producer who—
 - (a) in the relevant year participated in—
 - (i) the Countryside Stewardship Scheme (in England); or
 - (ii) Tir Cymen (in Wales), (established in each case under section 4 of the Countryside Act 1968);
 - (b) because of his participation in the relevant scheme specified in sub-paragraph (a) of this paragraph was required to reduce in (or in a period including) the relevant year the number of sheep or as the case may be suckler cows kept by him; and
 - (c) can demonstrate that at the time he makes his application for an allocation of quota from the appropriate national reserve—
 - (i) his participation in the relevant scheme specified in sub-paragraph (a) of this paragraph has ended, or
 - (ii) he was irrevocably committed to ending his participation in the relevant scheme specified in sub-paragraph (a) of this paragraph before the close of the application period for the particular Sheep Annual Premium Scheme or Suckler Cow Premium Scheme in respect of which he intends to use the quota allocated to him following that application.
- (2) Any producer who—
 - (a) in the relevant year was a party to—
 - (i) any Wildlife Enhancement Scheme management agreement entered into under section 15 of the Countryside Act 1968,
 - (ii) any management agreement concerning a Site of Special Scientific Interest entered into under the said section 15,
 - (iii) any management agreement concerning land adjacent to a Site of Special Scientific Interest entered into under the said section 15,
 - (iv) any management agreement concerning a National Nature Reserve entered into under section 16 of the National Parks and Access to the Countryside Act 1949, or
 - (v) any management agreement made under section 39 of the Wildlife and Countryside Act 1981 or section 49A of the Countryside (Scotland) Act 1967;
 - (b) by virtue of his being bound by the relevant agreement specified in sub-paragraph (a) of this paragraph was required to reduce in (or in a period including) the relevant year the number of sheep or as the case may be suckler cows kept by him; and
 - (c) can demonstrate that at the time he makes his application for an allocation of quota from the appropriate national reserve—
 - (i) he has ceased to be a party to the relevant agreement specified in sub-paragraph (a) of this paragraph, or
 - (ii) he was irrevocably committed to ending his participation in the relevant agreement specified in sub-paragraph (a) of this paragraph before the close of the application period for the particular Sheep Annual Premium Scheme or Suckler Cow Premium Scheme in respect of which he intends to use the quota allocated to him following that application.

CATEGORY II

Any producer who can demonstrate that at the time he makes his application for an allocation of quota from the appropriate national reserve—

- (a) he has in any capacity taken over any proportion of any land from which any amount of quota acquired under the Community legislation other than by way of lease or transfer has been removed by a departing tenant or sharefarmer; or
- (b) he has irrevocably committed himself to taking over any such proportion by the close of the application period for the particular Sheep Annual Premium Scheme or Sucker Cow Premium Scheme in respect of which he intends to use the quota allocated to him following that application.

CATEGORY III, GROUP (a)

Any person who at the time he makes his application for an allocation of quota from the appropriate national reserve can demonstrate that—

- (a) he has become a producer or (already being a producer) increased the size of his existing flock or as the case may be herd in consequence of his reverting from arable to livestock farming by virtue of his taking the action referred to in category 4 or participating in a development project or scheme established under section 5 of the Natural Heritage (Scotland) Act 1991(19); or
- (b) he has irrevocably committed himself to becoming a producer or (already being a producer) increasing the size of his existing flock or as the case may be herd by the close of the application period for the particular Sheep Annual Premium Scheme or Suckler Cow Premium Scheme in respect of which he intends to use the quota allocated to him following that application in consequence of his reverting from arable to livestock farming by virtue of his taking the said action or participating in any such project or scheme.

CATEGORY III, GROUP (b)

Any young person who is a newcomer to farming and who intends subsequently to make an application for sheep annual premium or as the case may be suckler cow premium.

CATEGORY IV

Any other person who is a newcomer to farming and who intends subsequently to make an application for sheep annual premium or as the case may be suckler cow premium.

CATEGORY V

Any person who at the time he makes his application for an allocation of quota from the appropriate national reserve can demonstrate that—

- (a) he has become a producer or (already being a producer) increased the size of his existing flock or as the case may be herd in consequence of his taking the action referred to in category 5; or
- (b) he has irrevocably committed himself to becoming a producer or (already being a producer) increasing the size of his existing flock or as the case may be herd by the close of the application period for the particular Sheep Annual Premium Scheme or Suckler Cow Premium Scheme in respect of which he intends to use the quota allocated to him following that application in consequence of his taking the action referred to in category 5.

CATEGORY VI, GROUP (a)

(1) Any sheep producer who—

- (a) has not previously applied for sheep annual premium;

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- (b) can produce appropriate documentary evidence that he proposes to make an application for that premium using the quota allocated to him from the national reserve concerned; and
 - (c) does not simultaneously fall within any higher category of person set out in this Part.
- (2) Any suckler cow producer who—
- (a) has not previously applied for suckler cow premium;
 - (b) can produce appropriate documentary evidence that he proposes to make an application for that premium using the quota allocated from the national reserve concerned; and
 - (c) does not simultaneously fall within any higher category of person set out in this Part.

CATEGORY VI, GROUP (b)

Any producer who at the time he makes his application for an allocation of quota from the appropriate national reserve can demonstrate that—

- (a) he has acquired any such part of an area as is specified in category 6; or
- (b) he has irrevocably committed himself to acquiring any such part of an area as is specified in category 6 before the close of the application period for the particular Sheep Annual Premium Scheme or Suckler Cow Premium Scheme in respect of which he intends to use the quota allocated to him following that application; and
- (c) he does not simultaneously fall within any higher category of person set out in this Part.

PART II

I EXCEPTIONAL CIRCUMSTANCES AND APPROPRIATE DOCUMENTATION

<i>(1) Circumstances</i>	<i>(2) Documentation</i>
1. Death of an active member of the farming business.	Death certificate
2. Illness of the applicant or an active member of the farming business.	Medical certificate
3. Disruption of the farming enterprise because of the building of roads, laying of pipelines, opencast coal mining or other such disturbance.	Evidence from the body responsible for the disturbance
4. Disruption of the farming enterprise due to gales, flooding, fire or similar cause, including the effects of damage to or destruction of buildings and fodder stores.	Evidence of insurance claim and its payment or as the case may be Meteorological Office records
5. An epidemic affecting some or all of the person’s flock or herd.	Veterinary evidence
6. Accidental death, compulsory slaughter under a disease eradication programme or slaughter on veterinary advice of all or some of the person’s flock or as the case may be herd.	Veterinary evidence
7. The theft of some or all of the eligible animals.	Evidence of notification to the police
8. Postal delays leading to the loss of the claim or to the arrival of the claim after the last date for	

(1) <i>Circumstances</i>	(2) <i>Documentation</i>
acceptance of the Post Office at the time of the incident or other documentary evidence.	Evidence of posting, correspondence with the Post Office at the time of the incident or other documentary evidence.
9. Other exceptional circumstances specified in the application.	Appropriate documentary evidence

PART IV

CONDITION WHICH HAS TO BE SATISFIED IF A PERSON IS TO FALL WITHIN CATEGORY 3, GROUP (a), OR WITHIN CATEGORY II

The departing tenant or sharefarmer shall have surrendered all the land in respect of which he had the relevant tenancy or as the case may be sharefarming agreement.

PART V

CONDITIONS WHICH HAVE TO BE SATISFIED IF A PERSON IS TO FALL WITHIN CATEGORY 3, GROUP (c)

1. The person concerned shall fall within one of the following classes—
 - (a) a producer who can provide a formal, comprehensive and written investment plan which—
 - (i) was drawn up before 1st January 1993,
 - (ii) was certified at the time it was drawn up by an accountant, agricultural consultant or other suitably qualified financial adviser,
 - (iii) involves a clear financial commitment to acquiring further sheep or as the case may be suckler cows,
 - (iv) both specifies and justifies the number of further sheep or as the case may be suckler cows to be acquired by the end of the plan,
 - (v) estimates the income to be gained from sales made from his holding between the beginning and end of the plan, and
 - (vi) shows the timescale for its completion;
 - (b) a producer who, without a plan such as is specified in sub-paragraph (a) of this paragraph, can nevertheless provide a formal document which—
 - (i) was drawn up before 1st January 1993 for the purpose of securing a loan from a bank or other lender,
 - (ii) shows the bank or other lender's agreement to the loan being granted,
 - (iii) states that the loan is to be used for the purpose of increasing the producer's sheep or as the case may be suckler cow numbers,
 - (iv) specifies the term of the loan, and
 - (v) specifies the number of sheep or as the case may be suckler cows to be acquired using the loan; or
 - (c) a producer who, without a formal plan such as is referred to in sub-paragraph (a) of this paragraph, can nevertheless provide a written statement which—

- (i) was prepared before 1st January 1993,
 - (ii) was verified at the time it was prepared by an accountant, banker or other suitably qualified person,
 - (iii) commits the producer to an investment in sheep or as the case may be suckler cows,
 - (iv) shows the timescale for completion of the investment, and
 - (v) specifies the number of sheep or as the case may be suckler cows to be acquired, and any reference in these Regulations to “the relevant investment plan” is a reference to the appropriate plan, document or statement provided by the producer concerned in accordance with this Part.
2. In order to bring himself within any class described in paragraph 1 of this Part the producer concerned shall demonstrate that the income of his holding attributable to sheep or as the case may be suckler cows at the end of the relevant investment plan will be at least equal to such income at the time that plan was drawn up.
3. In order to bring himself within the class described in sub-paragraph
- (b) of paragraph 1 of this Part the producer concerned shall demonstrate that the loan referred to in that sub-paragraph was used in relation to the purchase of additional sheep or as the case may be suckler cows.

PART VI

CONDITIONS WHICH HAVE TO BE SATISFIED IF A PERSON IS TO FALL WITHIN CATEGORY III, GROUP (b), OR CATEGORY IV.

1. A person falls within category III, group (b), only if he is under 40 years of age on the date his application for an allocation of quota from the national reserve for any given year later than 1993 is received by the Minister to whom that application is required by these Regulations to be submitted.
2. A person falls within category IV only if he is at least 40 years of age on the date his application for an allocation of quota from the national reserve for any given year later than 1993 is received by the Minister to whom that application is required by these Regulations to be submitted.
3. The applicant concerned shall not previously have been the sole trader of or a manager in an enterprise, or a partner in a firm, involving the production of an agricultural commodity, although he may have owned no more than 5% of the issued share capital of any such enterprise of which he was a director or an employee.
4. The applicant concerned shall—
 - (a) hold an appropriate certificate relating to the possession of agricultural skill and competence issued by an establishment recognised for that purpose by the Minister to whom he is required by these Regulations to submit his application; or
 - (b) produce appropriate documentary evidence that, whilst not holding any such certificate as is specified in sub-paragraph (a) of this paragraph, he nevertheless possesses at least one year’s relevant agricultural experience.”

SCHEDULE 3

Regulation 13A(4)

AMOUNTS OF QUOTA TO BE ALLOCATED FROM THE NATIONAL RESERVES

1.—(1) In the case of a successful application for an allocation of quota from the appropriate national reserve by a person falling within category 1 or category I the amount of quota allocated to him shall, subject to sub-paragraphs (2) and (3) of this paragraph, be equivalent to the difference between the number of animals in respect of which he received sheep annual premium or as the case may be suckler cow premium in the relevant year and the number of animals in respect of which he received that premium in the marketing or as the case may be calendar year before his participation in the relevant scheme specified in that category began or he became a party to the relevant agreement specified therein.

(2) Notwithstanding sub-paragraph (1) of this paragraph, where Article 5a(2) of Council Regulation 3013/89 applies in the case of a sheep producer falling within category 1 or category I, the reference in that sub-paragraph to “the relevant year” shall be construed as a reference to the most recent marketing year (as defined by Article 3(a) of Commission Regulation 3567/92) in which he participated in the relevant scheme specified in that category or in which he was a party to the relevant agreement specified therein.

(3) Notwithstanding sub-paragraph (1) of this paragraph, where Article 4d(3) of Council Regulation 805/68 applies in the case of a suckler cow producer falling within category 1 or category I, the reference in that sub-paragraph to “the relevant year” shall be construed as a reference to the nearest reference year (as defined by Article 28(a) of Commission Regulation 3886/92) in which he participated in the relevant scheme specified in that category or in which he was a party to the relevant agreement specified therein.

2. In the case of a successful application for an allocation of quota from the national reserve for 1993—

- (a) by a person (being a sheep producer) falling within category 2, group (a), the amount of quota allocated to him shall be the average of the numbers of sheep in respect of which he received sheep annual premium in the 1990 and 1992 marketing years; or
- (b) by a person (being a suckler cow producer) falling within category 2, group (a), the amount of quota allocated to him shall be the average of the numbers of suckler cows in respect of which he received suckler cow premium in the 1990 and 1991 calendar years.

3. In the case of a successful application for an allocation of quota from the national reserve for 1993 by a person (being a sheep producer) falling within category 2, group (b), the amount of quota allocated to him shall correspond with the number of sheep in respect of which he received sheep annual premium in the 1991 marketing year.

4. In the case of a successful application for an allocation of quota from the national reserve for 1993—

- (a) by a person (being a sheep producer) falling within category 2, group (c), the amount of quota allocated to him shall be the average of the numbers of sheep in respect of which he received sheep annual premium in the 1988, 1989 and 1990 marketing years; or
- (b) by a person (being a suckler cow producer) falling within category 2, group (c), the amount of quota allocated to him shall be the average of the numbers of suckler cows in respect of which he received suckler cow premium in the 1989, 1990 and 1991 calendar years.

5. In the case of a successful application for an allocation of quota from the national reserve for 1993 by a person (being a sheep producer) falling within category 2, group (d), the amount of quota allocated to him shall be the difference between the number of sheep in respect of which he received sheep annual premium in the 1992 marketing year and the quota allocated to him under the second

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paragraph of Article 12(1) of Commission Regulation 3567/92 and (where appropriate) under the second paragraph of Article 2(2) of that Commission Regulation.

6.—(1) In the case of a successful application for an allocation of quota from the appropriate national reserve by a person falling within category 3, group (a), or category II (but subject to sub-paragraph (2) of this paragraph)—

- (a) where a single producer takes over the whole of the land from which the quota has been removed, the amount of quota allocated to that producer shall correspond with the amount of quota acquired by the departing tenant or sharefarmer in respect of that land under the Community legislation other than by way of lease or transfer;
- (b) where a single producer takes over part only of the land from which the quota has been removed, the amount of quota allocated to that producer shall equal

$$A \times \frac{B}{C}$$

where A is the quota acquired as aforesaid, B is the available forage hectarage of that part and C is the available forage hectarage of that land;

- (c) where a number of producers simultaneously take over the whole of the land from which the quota has been removed—
 - (i) the total amount of quota allocated to those producers shall correspond with the amount of quota acquired by the departing tenant or sharefarmer in respect of that land under the Community legislation other than by way of lease or transfer, and
 - (ii) the amount of quota allocated to each producer shall
 - (aa) where the producers concerned farm the land as a single holding, be that agreed between them or if there is no such agreement such amount as gives each producer an equal allocation of quota units with any surplus being carried forward for distribution from the following national reserve, or
 - (bb) where the producers concerned farm the land individually in separate holdings, be calculated by reference to the available forage hectarage of his holding; and
- (d) where a number of producers simultaneously take over part only of the land from which the quota has been removed—
 - (i) the total amount of quota allocated to those producers shall equal

$$A \times \frac{B}{C}$$

where A is the quota acquired as specified in paragraph (c)(i) of this sub-paragraph, B is the available forage hectarage of that part and C is the available forage hectarage of that land, and

- (i) the amount of quota allocated to each producer shall
 - (aa) where the producers concerned farm the land taken over as a single holding, be that agreed between them or if there is no such agreement such amount as gives each producer an equal allocation of quota units with any surplus being carried forward for distribution from the following national reserve, or
 - (bb) where the producers concerned farm the land taken over individually in separate holdings, be calculated by reference to the available forage hectarage of his holding.

(2) Notwithstanding sub-paragraph (1) of this paragraph, where the departing tenant or sharefarmer's holding comprised both the land from which quota had been removed and other

production units the total amount of quota available for allocation to the producer taking over the land from which quota had been removed shall be that specified in the relevant tenancy or sharefarming agreement or (where that information is not available) shall equal

$$A \times \frac{B}{C}$$

where A is the amount of quota acquired by that tenant or sharefarmer other than by way of lease or transfer, B is the available forage hectareage of that land and C is the available forage hectareage of that holding.

(3) Where there is insufficient quota to satisfy a successful application for an allocation of quota from the national reserve for 1993 by a person falling within category 3, group (a), that person shall be deemed to have applied to the following national reserve for that shortfall in quota to be met as if he were a person falling within category II.

7. In the case of a successful application for an allocation of quota from the appropriate national reserve—

- (a) by any person falling within category 3, group (b), the amount of quota allocated to him shall correspond with the number of sheep in respect of which he claimed sheep annual premium in the 1993 marketing year or as the case may be the number of suckler cows in respect of which he claimed suckler cow premium in the 1993 calendar year; or
- (b) by any person falling within category VI, group (a), the amount of quota allocated to him shall correspond with the number of sheep or as the case may be suckler cows in respect of which intends to make the relevant application specified in that category.

8. In the case of a successful application for an allocation of quota from the national reserve for 1993 by a person falling within category 3, group (c), the amount of quota allocated to him shall correspond with the number of sheep or as the case may be suckler cows a commitment to acquire which has been made in the relevant investment plan, provided that where that plan extends beyond 1995, the amount of quota allocated to the producer shall correspond with the number of sheep or as the case may be suckler cows specified in the plan concerned as committed for acquisition by 31st December 1995.

9. In the case of a successful application for an allocation of quota from the appropriate national reserve by a person falling within category 4 or category III, group (a), the amount of quota allocated to him shall be determined—

- (a) where the producer has made any Environmentally Sensitive Area Scheme agreement under section 18 of the Agriculture Act 1986 or article 3 of the Agriculture (Environmental Areas) (Northern Ireland) Order 1987 or entered into any Nitrate Sensitive Area Scheme agreement under section 112 of the Water Act 1989 or section 31B of the Control of Pollution Act 1974, by the Minister with responsibility for the part of the United Kingdom in which that person's holding is situated;
- (b) where the producer is participating in the Countryside Stewardship Scheme in England or Tir Cymen in Wales (established in each case under section 4 of the Countryside Act 1968) or a development project or scheme established under section 5 of the Natural Heritage (Scotland) Act 1991, by the Minister with responsibility for the part of the United Kingdom in which that person's holding is situated after that Minister has taken into account a recommendation made by the body responsible for accepting his application to join the scheme concerned; or
- (c) where the producer has entered into or as the case may be made—
 - (i) any Wildlife Enhancement Scheme management agreement under section 15 of the Countryside Act 1968,

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- (ii) any management agreement concerning a Site of Special Scientific Interest under the said section 15,
- (iii) any management agreement concerning land adjacent to a Site of Special Scientific Interest under the said section 15,
- (iv) any management agreement concerning a National Nature Reserve under section 16 of the National Parks and Access to the Countryside Act 1949, or
- (v) any management agreement under section 39 of the Wildlife and Countryside Act 1981, section 49A of the Countryside (Scotland) Act 1967 or article 9 of the Nature (Conservation and Amenity Lands) (Northern Ireland) Order 1985,

by the Minister with responsibility for the part of the United Kingdom in which that person's holding is situated after that Minister has taken into account a recommendation made by the body responsible for accepting his application to enter into or make the agreement concerned,

so as to ensure that he receives such amount of quota as corresponds with the number of sheep or as the case may be suckler cows which is necessary to ensure that the requirements of the appropriate scheme or agreement are fulfilled.

10. In the case of a successful application for an allocation of quota from the appropriate national reserve by a person falling within category 5 or category V the amount of quota allocated to him shall correspond with the number of additional sheep or as the case may be suckler cows as are specified in the relevant approved plan.

11. In the case of a successful application for an allocation of quota from the appropriate national reserve by a person falling within category 6 or category VI, group (b), the amount of quota allocated to that producer shall correspond with the number of sheep or as the case may be suckler cows which in the opinion of the Minister to whom the application was made his holding can support.

12. In the case of a successful application for an allocation of quota from the national reserve for 1993 by a person falling within category 7, the amount of quota allocated to him shall be the average of the numbers of animals in respect of which he received sheep annual or suckler cow premium in the most recent group of 2 marketing or as the case may be calendar years.

13. In the case of a successful application for an allocation of quota from the national reserve for any given year later than 1993 by a person falling within category III, group (b), or category IV the amount of quota allocated to that person shall be calculated by reference to the amount of quota reasonably specified in his application.

SCHEDULE 4

Regulation 13A (20)

WHEN ALLOCATIONS OF QUOTA FROM THE NATIONAL RESERVE ARE TO BE EFFECTIVE AND WHEN THEY ARE TO BE REGARDED AS HAVING BEEN OBTAINED FOR THE PURPOSES OF COMMISSION REGULATIONS 3567/92 AND 3886/92.

1. In the case of any allocation of quota from the national reserve for 1993 to a person falling within category 2, category 3, group (b), or category 7, that quota shall be effective from the 1993 marketing year insofar as it relates to sheep annual premium and from the 1993 calendar year insofar as it relates to suckler cow premium.

2. In the case of any allocation of quota from the national reserve for 1993 to a person falling within category 1, category 3, group (a), category 4, category 5 or category 6, that quota shall be effective from the 1993 marketing year insofar as it relates to sheep annual premium and from the 1993 calendar year insofar as it relates to suckler cow premium unless the producer concerned elects

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for it to be effective from the 1994 or the 1995 marketing year or as the case may be the 1994 or the 1995 calendar year, in which case it shall become so effective.

3.—(1) In the case of any allocation of quota from the national reserve for 1993 to a person falling within category 3, group (c), that quota shall, subject to sub-paragraphs (2) and (3) of this paragraph, be effective from the marketing year in which the relevant investment plan ends (where it relates to sheep production) or from the calendar year in which the relevant investment plan ends (where it relates to suckler cow production).

(2) In the case where the relevant investment plan ends later than the 1995 marketing year insofar as it relates to sheep production or later than the 1995 calendar year insofar as it relates to suckler cow production the quota referred to in sub-paragraph (1) of this paragraph shall be effective from that marketing year or as the case may be that calendar year.

(3) In the case where the producer concerned elects to have the quota allocated to him in stages in accordance with regulation 13A(21) each portion of quota shall be effective from the marketing or as the case may be calendar year in respect of which it was allocated.

4.—(1) In the case of any allocation of quota from the national reserve for any given year later than 1993 to a person falling within category I, category II, category III, category IV, category V or category VI, that quota shall be effective in accordance with sub-paragraphs (2) and (3) of this paragraph.

(2) In the case where the quota allocated relates to sheep annual premium it shall be effective from the marketing year which corresponds with the national reserve for the year from which the allocation is made unless the person concerned elects for it to be effective from the next marketing year, in which case it shall become so effective.

(3) In the case where the quota allocated relates to suckler cow premium it shall be effective from the calendar year which corresponds with the national reserve for the year from which the allocation is made unless the person concerned elects for it to be effective from the next calendar year, in which case it shall become so effective.

5. A person obtains quota for the purposes of Article 6 of Commission Regulation 3567/92 or as the case may be Article 32 of Commission Regulation 3886/92 when it becomes effective in accordance with this Schedule..

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 3rd December 1993.

L.S.

Gillian Shephard
Minister of Agriculture, Fisheries and Food

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Scottish Office
6th December 1993

Hector Monro
Parliamentary Under Secretary of State,

EXPLANATORY NOTE

(This note is not part of the Regulations).

1. These Regulations (“the Regulations”) amend the Sheep Annual Premium and Suckler Cow Premium Quotas Regulations 1993 (S.I.1993/1626) [“the 1993 Regulations—”].

2. Those last mentioned Regulations, which apply throughout the United Kingdom, make provision for the implementation in part of Articles 5a and 5b of Council Regulation (EEC) No.3013/89, Articles 4d to 4h of Council Regulation (EEC) No.805/68, Commission Regulation (EEC) No.3567/92 and Articles 22 to 45 of Commission Regulation (EEC) No.3886/92 (all defined in regulation 2(1) of the said Regulations). Articles 5a and 5b of Council Regulation (EEC) No.3013/89 and Commission Regulation (EEC) No.3567/92 establish a system of quotas for sheep annual premium; Articles 4d to 4h of Council Regulation (EEC) No.805/68 and Articles 22 to 45 of Commission Regulation (EEC) No.3886/92 establish a system of quotas for suckler cow premium.

3. The Regulations (which likewise apply throughout the United Kingdom) make further provision for the implementation of the Community truments referred to above.

4. The Regulations—

- (a) insert two new regulations, 13A and 15A, into the 1993 Regulations;
- (b) add a further paragraph, (3), to regulation 16 of the 1993 Regulations;
- (c) add three Schedules (numbered 2 to 4) to the 1993 Regulations;
- (d) make a number of amendments to the 1993 Regulations which are consequential upon the above insertions and additions; and
- (e) correct a textual error in regulation 5(5) of the 1993 Regulations.

5. The new regulation 13A lays down the principles governing allocations of sheep annual premium quota and suckler cow premium quota from—

- (a) the national reserve for 1993 (a definition of which phrase is inserted by regulation 2(2)); and
- (b) the national reserve for any given year later than 1993 (a definition of which phrase is also inserted by regulation 2(2)).

6. The new regulation 15A gives specified persons a number of powers which may be used for the purpose of verifying an application for an application of quota from a particular national reserve.

7. The new paragraph (3) of regulation 16 creates an offence (together with an associated penalty) in connection with the exercise of the powers referred to in paragraph 6 above.

8. The new Schedule 2 (Parts I and II) lists the categories of person who, subject to the conditions referred to in paragraph 9 below, are eligible to be allocated quota from the various national reserves.

9. The new Schedule 2 (Parts III to VI) lays down further conditions relating to the eligibility of the persons referred to in paragraph 8 above to be allocated quota from the various national reserves.

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10. The new Schedule 3 specifies how much quota is to be allocated to successful applicants for allocations of quota from the various national reserves, and the new Schedule 4 states when allocations of quota from those reserves—

- (a) are to be effective; and
- (b) are to be regarded as having been obtained for the purposes of Commission Regulation (EEC) No.3567/92 and Commission Regulation (EEC) No.3886/92.