

---

STATUTORY INSTRUMENTS

---

**1994 No. 2759**

**The Milk Marketing Board (Residuary  
Functions) Regulations 1994**

**PART V**

**FUNCTIONS OF THE BOARD**

**Functions**

- 21.—**(1) The functions mentioned in regulation 4(1)(b) are—
- (a) collecting sums owed in payment for milk supplied by the Board in the final trading period and sums owed in respect of other debts as are due, or shall fall due, to the Board;
  - (b) collecting—
    - (i) contributions which in respect of milk sold before Vesting Day became payable pursuant to paragraph 71(1) or (4A) of the old marketing scheme;
    - (ii) contributions which in respect of milk sold before Vesting Day became payable pursuant to any agreement entered into under paragraph 56A(1)(i) of the old marketing scheme;
    - (iii) penalties which before Vesting Day became recoverable by the Board pursuant to paragraph 77(6) of the old marketing scheme;
    - (iv) contributions which become recoverable pursuant to the preserved provisions of the old marketing scheme to which reference is made in regulation 25;
    - (v) any sum which before Vesting Day became recoverable under section 10 of the 1958 Act;
    - (vi) any other sums which are recoverable by the Board;
  - (c) realising or otherwise disposing of their assets (other than the Dairy Crest shares and the whole or any part of the business of Dairy Crest Limited);
  - (d) holding and disposing of the Dairy Crest shares or the whole or any part of the business of Dairy Crest Limited as permitted in Schedule 5;
  - (e) in accordance with regulation 18(4), paragraphs (2) to (5) below and Schedule 4, making payments to end year producers and other relevant producers for milk supplied by them to the Board;
  - (f) discharging the Board's other liabilities as they fall due;
  - (g) making or procuring to be made interim distributions (in these Regulations referred to as "interim distributions") of relevant assets to registered eligible producers, in accordance with their distribution entitlements, in the circumstances specified in paragraph (7) below;
  - (h) collecting contributions from eligible producers in the exercise of any power conferred on the Board by order made under section 17(2) of the Act.

(2) The Board shall have the power–

- (a) to determine a price payable by the Board as the price of milk supplied by end year producers to them in the month immediately before Vesting Day (in this regulation referred to as “an October price”);
- (b) to determine any supplemental price payable by the Board by way of additional payment for milk supplied by end year producers to them in the final trading period (in this regulation referred to as “a supplemental price”); and
- (c) to determine the level of any contribution to which paragraph (1)(b)(i) refers and, to the extent consistent with any agreement to which paragraph (1)(b)(ii) above refers, of any contribution under that agreement;

and the board shall take such action as they consider expedient for the purpose of bringing an October price or any supplemental price or any payment they have determined under regulation 18(4) or any such contribution level to the notice of registered end year producers.

(3) In determining an October price or any supplemental price or any payment under regulation 18(4) the Board–

- (a) shall have regard to the provisions of Schedule 4, and
- (b) may determine different prices for different classes of producers or classes of sale or description of milk,

and in determining the level of contribution payable pursuant to paragraph 71(1) of the old marketing scheme the Board may determine different contribution levels for different descriptions of milk.

(4) The Board shall have the power to determine that the date on which any amount falling to be paid by the Board to relevant producers shall become due for payment shall be such date as is specified in the determination, but this power does not extend to determination of a date earlier than has before Vesting Day been determined by the Board as the date on which that amount shall become due for payment, and where a date has been determined under this paragraph the Board shall take such action as they consider expedient for the purpose of bringing it to the notice of those producers.

(5) Any determination by the Board of an October price, a supplemental price, the level of any contribution to which paragraph (1)(b)(i) above refers or any payment under regulation 18(4) or of any date under paragraph (4) above shall have effect as if it were a prescriptive resolution of the Board under paragraph 60, 64 or 71 of the old marketing scheme and as if those paragraphs, prescriptive resolution no. 1595 of the Board and prescriptive resolutions of the Board prescribing prices under that resolution (to the extent such resolutions were in effect immediately before Vesting Day) had been preserved, and for this purpose and for the purposes of paragraphs (2) to (4) above “determination” includes an amendment of a previous determination (including one made before Vesting Day).

(6) In connection with the discharging of the Board’s liabilities as they fall due–

- (a) the Board shall have the power if they deem it necessary or expedient to remit the whole or any part of their liabilities by way of composition or arrangement with their creditors;
- (b) all expenses properly incurred in discharging their liabilities and functions (including any fees payable to any person whom the Board may appoint as their agent) shall be payable out of the Board’s assets in priority to all other claims;
- (c) subject to sub–paragraph (b) above and the provisions of the 1986 Act as to preferential payments the Board’s assets shall be applied in satisfaction of their liabilities.

(7) The circumstances mentioned in paragraph (1)(g) above are that, subject to regulation 18(4) and paragraph 2(3) of Schedule 4, the Board may make interim distributions if in their judgement it is financially prudent to do so.

(8) In these Regulations–

- (a) “collecting” includes recovery in any proceedings or arbitration to which the Board is or becomes a party;
- (b) “relevant assets” means any assets forming part of the relevant asset total.

#### **Prohibition on buying and selling milk etc**

**22.** Nothing in these Regulations shall be construed as authorising the Board to carry out functions prohibited by paragraph 16 of Schedule 1 to the Act from inclusion within a qualifying scheme (as that expression is used in paragraph 1 of that Schedule).

#### **Assessment of sales**

**23.—(1)** Paragraph 71(2) of the old marketing scheme is preserved, subject to modifications, and shall have effect as set out in Schedule 3.

(2) Paragraph 71(5) of the old marketing scheme is preserved, subject to modifications, and shall have effect as set out in Schedule 3.

#### **Information**

**24.** Paragraph 75 of the old marketing scheme is preserved, subject to modifications, and shall have effect as set out in Schedule 3.

#### **Contraventions of the old marketing scheme**

**25.** Paragraph 77 of the old marketing scheme is preserved, subject to modifications, and shall have effect as set out in Schedule 3.