

SCHEDULE 4

Regulations 8, 9, 10 and 32

APPORTIONMENTS AND PROSPECTIVE APPORTIONMENTS BY ARBITRATION—NORTHERN IRELAND

1. Paragraphs 3 to 19 shall apply to every arbitration in Northern Ireland.

2.—(1) Parts I, II and IV of the Arbitration Act 1996(1) shall, except insofar as they are inconsistent with paragraphs 3 to 19, apply to every arbitration in Northern Ireland as if that arbitration were pursuant to an arbitration agreement and as if paragraphs 3 to 11 and 13 to 18 were contained in an arbitration agreement.

(2) For the purposes of this paragraph “arbitration agreement” shall be construed in accordance with sections 5(1) and 6 of the Arbitration Act 1996.

Appointment of arbitrator

3.—(1) In any case where an apportionment is to be carried out by arbitration an arbitrator shall be appointed by agreement between the transferor and transferee within the period of 28 days referred to in regulation 7(1)(a) (referred to in this paragraph as “the relevant period”) and the transferee shall give notice of the appointment of the arbitrator to the Intervention Board within fourteen days of the date of the appointment.

(2) Notwithstanding sub-paragraph (1) above, the transferor or the transferee may at any time within the relevant period make an application to the President of the Law Society of Northern Ireland (referred to in this Schedule as “the President”) for the appointment of an arbitrator and the person who makes such an application to the President shall give notice of that fact to the Intervention Board within fourteen days of the date of the application.

(3) If at the expiry of the relevant period an arbitrator has not been appointed by agreement between the transferor and the transferee nor an application made to the President under sub-paragraph (2), the Intervention Board shall make an application to the President for the appointment of an arbitrator.

(4) Where the Intervention Board gives a notice in accordance with regulation 10 he shall make an application to the President for the appointment of an arbitrator and the Intervention Board shall be a party to the arbitration.

(5) Where an apportionment under regulation 32(5) is to be carried out by arbitration, the producer shall either appoint an arbitrator by agreement with all persons with an interest in the holding or make an application to the President for the appointment of an arbitrator.

4.—(1) In any case where a prospective apportionment is to be made by arbitration an arbitrator shall be appointed—

- (a) where regulation 10 applies, by the President;
- (b) in any other case, by agreement between the occupier of the holding to which the prospective apportionment relates and any other interested party, or, in default, by the President on an application by that occupier.

(2) Where sub-paragraph (1)(b) applies, the occupier shall give notice to the Intervention Board of the appointment of the arbitrator pursuant to the agreement, or of the application to the President for the appointment of an arbitrator, within fourteen days of the date of the appointment of the arbitrator or the date of the application to the President, as the case may be.

(1) 1996 c. 23.

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

5.—(1) An arbitrator appointed in accordance with paragraphs 3(1) to (4) and 4 shall conduct the arbitration in accordance with this Schedule and shall base his award on findings made by him as to areas used for milk production in the last five year period during which production took place before the change of occupation, or in the case of a prospective apportionment in the last five year period during which production took place before the appointment of the arbitrator.

(2) An arbitrator appointed in accordance with paragraph 3(5) shall conduct the arbitration in accordance with this Schedule and shall base his award on findings made by him as to areas used for milk production in the last five year period during which production took place.

(3) An arbitrator appointed under any paragraph of this Schedule shall base his award on findings made by him in accordance with the law in force at the time the event giving rise to an application for arbitration took place.

6. No application may be made to the President for an arbitrator to be appointed by him under this Schedule unless the application is accompanied by the fee which shall be £50 for such an application; but once the fee has been paid in connection with any such application no further fee shall be payable in connection with any subsequent application for the President to exercise any function exercisable by him in relation to the arbitration by virtue of this Schedule (including an application for the appointment by him in an appropriate case of a new arbitrator).

7. Where the Intervention Board makes an application to the President under paragraph 3(3) or (4), the fee payable to the President in respect of that application referred to in paragraph 6 above shall be recoverable by the Intervention Board as a debt due from the parties to the arbitration jointly or severally.

8. Any appointment of an arbitrator by the President shall be made by him within fourteen days after receiving the application.

9. If the arbitrator dies, or is incapable of acting, or for seven days after notice from any party requiring him to act fails to act, a new arbitrator may be appointed as if no arbitrator had been appointed.

10. A party to the arbitration shall have power to revoke the appointment of the arbitrator with the consent of all other parties.

11. Every appointment, application, notice, revocation and consent under paragraphs 1 to 10 shall be in writing.

Persons with an interest in the holding

12.—(1) In an arbitration to which this Schedule applies, the arbitrator may, in his absolute discretion, subject to sub-paragraph (2), join as a party to the arbitration any person having an interest in the holding, whether or not such person has applied to become a party to the arbitration, provided that such person consents to be so joined.

(2) Where an apportionment under regulation 32(5) is to be carried out by arbitration, any person with an interest in the holding who has refused to sign the statement referred to in regulation 32(5) (b)(ii) shall be a party to the arbitration.

Statement of case

13. The parties to the arbitration shall, within thirty-five days of the appointment of the arbitrator, deliver to him a statement of their respective cases with all necessary particulars and—

- (a) no amendment or addition to the statement or particulars delivered shall be allowed after the expiry of the said thirty-five days except with the consent of the arbitrator;

- (b) a party to the arbitration shall be confined at the hearing to the matters alleged in the statement and particulars delivered by him and any amendment or addition duly made.

Award

14. The arbitrator shall make and sign his award within fifty-six days of his appointment.
15. The arbitrator shall notify the terms of his award to the Intervention Board within eight days of the delivery of that award.
16. The arbitrator shall have power to correct in the award any clerical mistake or error arising from any accidental slip or omission.

Reasons for award

17. If requested by any party to the arbitration, on or before the making of the award, to make a statement, either written or oral, of the reasons for the award the arbitrator shall furnish such a statement.
18. For the purposes of this Schedule, an arbitrator appointed by the President shall be taken to have been so appointed at the time when the President executed the instrument of appointment; and in the case of any such arbitrator the periods mentioned in paragraphs 13 and 14 shall run from that time.
19. Any person having an interest in the holding to which the arbitration relates shall be entitled to make representations to the arbitrator.