

SCHEDULES

SCHEDULE 1

TENANTS' COMPENSATION FOR MILK QUOTA

PART III

SUPPLEMENTAL PROVISIONS

Determination of standard quota and tenant's fraction before end of tenancy

- 10 (1) Where, on the termination of a tenancy of any land, the tenant may be entitled to a payment under paragraph 1 above, the landlord or tenant may at any time before the termination of the tenancy by notice in writing served on the other demand that the determination of the standard quota for the land or the tenant's fraction shall be referred to arbitration.
- (2) On a reference under this paragraph the arbitrator shall determine the standard quota for the land or, as the case may be, the tenant's fraction (so far as determinable at the date of the reference).
- (3) Section 84 of the Agricultural Holdings Act 1986 (arbitrations) shall apply as if the matters mentioned in this paragraph were required by that Act to be determined by arbitration under that Act.

Settlement of tenant's claim on termination of tenancy

- 11 (1) Subject to the provisions of this paragraph, any claim arising under paragraph 1 above shall be determined by arbitration under the Agricultural Holdings Act 1986 and no such claim shall be enforceable unless before the expiry of the period of two months from the termination of the tenancy the tenant serves notice in writing on his landlord of his intention to make the claim.
- (2) The landlord and tenant may within the period of eight months from the termination of the tenancy by agreement in writing settle the claim but where the claim has not been settled during that period it shall be determined by arbitration under the Agricultural Holdings Act 1986.
- (3) In any case where on the termination of the tenancy in question a new tenancy of the land or part of the land may be granted to a different tenant by virtue of a direction under section 39 of the Agricultural Holdings Act 1986 then, as respects any claim in respect of that land or part, references in sub-paragraphs (1) and (2) above to the termination of the tenancy shall be construed as references to the following time, namely—
- (a) in a case where no application is made under that section within the period within which such an application may be made, the expiry of that period;

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- (b) in a case where every such application made within that period is withdrawn, the expiry of that period or the time when the last outstanding application is withdrawn (whichever is the later);
 - (c) in a case where the Agricultural Land Tribunal refuse every such application for a direction under that section, the time when the last outstanding application is refused; and
 - (d) in a case where the Tribunal give such a direction, the relevant time for the purposes of section 46 of that Act;
- and no notice may be served under sub-paragraph (1) above before that time.
- (4) Where a tenant lawfully remains in occupation of part of the land subject to the tenancy after the termination of the tenancy or, in a case where sub-paragraph (3) above applies, after the time substituted for the termination of the tenancy by virtue of that sub-paragraph, the references in sub-paragraphs (1) and (2) above to the termination of the tenancy shall be construed as references to the termination of the occupation.
- (5) Section 84 of the Agricultural Holdings Act 1986 (arbitrations) shall apply as if the requirements of this paragraph were requirements of that Act, but paragraph 18 of Schedule 11 to that Act (arbitration award to fix day for payment not later than one month after award) shall have effect for the purposes of this paragraph as if for the words " one month " there were substituted the words " three months ".
- (6) Where—
- (a) before the termination of the tenancy of any land the landlord and tenant have agreed in writing the amount of the standard quota for the land or the tenant's fraction or the value of milk quota which is to be used for the purpose of calculating the payment to which the tenant will be entitled under this Schedule on the termination of the tenancy; or
 - (b) the standard quota or the tenant's fraction has been determined by arbitration in pursuance of paragraph 10 above,
- the arbitrator determining the claim under this paragraph shall, subject to sub-paragraph (7) below, award payment in accordance with that agreement or determination.
- (7) Where it appears to the arbitrator that any circumstances relevant to the agreement or determination mentioned in subparagraph (6) above were materially different at the time of the termination of the tenancy from those at the time the agreement or determination was made, he shall disregard so much of the agreement or determination as appears to him to be affected by the change in circumstances.

Enforcement

- 12 Section 85 of the Agricultural Holdings Act 1986 (enforcement) and section 86(1), (3) and (4) of that Act (power of landlord to obtain charge on holding) shall apply to any sum which becomes due to a tenant by virtue of this Schedule as they apply to the sums mentioned in those sections.

Termination of tenancy of part of tenanted land

- 13 References in this Schedule to the termination of a tenancy of land include references to the resumption of possession of part of the land subject to the tenancy—

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- (a) by the landlord by virtue of section 31 or 43(2) of the Agricultural Holdings Act 1986 (notice to quit part);
- (b) by the landlord in pursuance of a provision in the contract of tenancy; or
- (c) by a person entitled to a severed part of the reversionary estate in the land by virtue of a notice to quit that part given to the tenant by virtue of section 140 of the Law of Property Act 1925;

and in the case mentioned in paragraph (c) above this Schedule shall apply as if the person resuming possession were the landlord of the land of which he resumes possession.

Severing of reversionary estate

- 14 (1) Where the reversionary estate in the land is for the time being vested in more than one person in several parts, the tenant shall be entitled, on quitting all the land, to require that any amount payable to him under this Schedule shall be determined as if the reversionary estate were not so severed.
- (2) Where sub-paragraph (1) above applies, the arbitrator shall, where necessary, apportion the amount awarded between the persons who for the purposes of this Schedule together constitute the landlord of the land, and any additional costs of the award caused by the apportionment shall be paid by those persons in such proportions as the arbitrator may determine.

Powers of limited owners

- 15 Notwithstanding that a landlord of any land is not the owner in fee simple of the land or, in a case where his interest is an interest in a leasehold, that he is not absolutely entitled to the leasehold, he may for the purposes of this Schedule do anything which he might do if he were such an owner or, as the case may be, were so entitled.

Notices

- 16 (1) Any notice under this Schedule 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) Any such notice to be served on a landlord or tenant of any land shall, where an agent or servant is responsible for the control of the management or farming, as the case may be, of the land, be duly served if served on that agent or servant.
- (4) For the purposes of this paragraph and of section 7 of the Interpretation Act 1978 (service by post), the proper address of any person on whom any such notice is to be served shall, in the case of the secretary or clerk of an incorporated company or body, be that of the registered or principal office of the company or body, and in any other case be the last known address of the person in question.
- (5) Unless or until the tenant of any land has received—
- (a) notice that the person who before that time was entitled to receive the rents and profits of the land (" the original landlord ") has ceased to be so entitled; and

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- (b) notice of the name and address of the person who has become entitled to receive the rents and profits,
any notice served on the original landlord by the tenant shall be deemed for the purposes of this Schedule to have been served on the landlord of the land.

Crown land

- 17 (1) The provisions of this Schedule shall apply to land which belongs to Her Majesty in right of the Crown 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, subject in each case to such modifications as the Minister may by regulations prescribe.
- (2) For the purposes of this Schedule—
- (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,
- (b) 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;
- (c) 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 and may do any act or thing which a landlord is authorised or required to do under this Act.
- (3) Any sum payable under this Schedule by the Duke of Cornwall (or any other possessor for the time being of the Duchy of Cornwall) may be raised and paid as if it were an expense incurred in permanently improving the possessions of the Duchy as mentioned in section 8 of the Duchy of Cornwall Management Act 1863.
- (4) Any sum payable under this Schedule by the Chancellor of the Duchy of Lancaster may—
- (a) be raised and paid as if it were an expense incurred in the improvement of land belonging to Her Majesty in right of the Duchy within section 25 of the Duchy of Lancaster Act 1817; or
- (b) be paid out of the annual revenues of the Duchy.
- (5) The power to make regulations under this paragraph shall be exercisable by statutory instrument and any statutory instrument containing such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Interpretation

- 18 (1) In this Schedule—
- " allocated quota " has the meaning given in paragraph 1(1) above;
- " holding " has the same meaning as in the 1986 Regulations;
- " landlord " means any person for the time being entitled to receive the rents and profits of any land and " sub-landlord " shall be construed accordingly;

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- " milk quota " means—
- (a) in the case of a tenant registered in the direct sales register maintained under the 1986 Regulations, a direct sales quota (within the meaning of the 1986 Regulations); and
 - (b) in the case of a tenant registered in the wholesale register maintained under those Regulations, a wholesale quota (within the meaning of those Regulations);
- " the Minister " means—
- (a) in the case of land in England, the Minister of Agriculture, Fisheries and Food; and
 - (b) in the case of land in Wales, the Secretary of State;
- " registered ", in relation to milk 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 a wholesale quota (within the meaning of those Regulations) registered in a wholesale register maintained under those Regulations;
- " relevant quota " has the meaning given in paragraph 1(2) above;
- " standard quota " has the meaning given in paragraph 6 above;
- " the 1986 Regulations " means the Dairy Produce Quotas Regulations 1986;
- " tenancy " means a tenancy from year to year (including any arrangement which would have effect as if it were such a tenancy by virtue of section 2 of the Agricultural Holdings Act 1986 if it had not been approved by the Minister) or a tenancy to which section 3 of that Act applies (or would apply apart from section 5 of that Act); and " tenant " and " sub-tenant " shall be construed accordingly;
- " tenant's fraction " has the meaning given in paragraph 7 above;
- " termination ", in relation to a tenancy, means the cesser of the letting of the land in question or the agreement for letting the land, by reason of effluxion of time or from any other cause;
- " transferred quota " has the meaning given in paragraph 1(2) above.
- (2) In this Schedule references to land used for the feeding of dairy cows kept on the land and to dairy cows have the same meaning as in paragraph 6 above.
 - (3) The designations of landlord and tenant shall continue to apply to the parties until the conclusion of any proceedings taken under or in pursuance of this Schedule.