STATUTORY INSTRUMENTS

# 2015 No. 1896

# AGRICULTURE

# The Single Common Market Organisation (Emergency Aid for Milk Producers) Regulations 2015

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| *Made - - - -* | *10th November 2015* |
| *Laid before Parliament* | *12th November 2015* |
| *Coming into force - -* | *16th November 2015* |

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972(**1**) in relation to the common agricultural policy(**2**).

The Secretary of State makes these Regulations under the powers conferred by section 2(2) of the European Communities Act 1972.

## Citation and commencement

**1.**—(1) These Regulations may be cited as the Single Common Market Organisation (Emergency Aid for Milk Producers) Regulations 2015.

(2) These Regulations come into force on 16th November 2015.

## Interpretation

**2.**—(1) In these Regulations—

"2014-2015 milk quota year" means the period from 1st April 2014 to 31st March 2015;

"authorised person" means any person who is authorised by any of the competent authorities, either generally or specifically, whether or not an officer or employee of that authority, to act in relation to matters arising under these Regulations;

"available aid" means the amount in the entry for "UK" in the Annex to Commission Regulation (EU) 2015/1853 minus the Northern Ireland uplift;

(**1**) 1972 c.68; section 2 was amended by the Legislative and Regulatory Reform Act 2006 (c.51), section 27(1)(a) and the European Union (Amendment) Act 2008 (c.7), Schedule, Part 1.

(**2**) The power of the Secretary of State to make regulations that extend to Scotland and Northern Ireland and apply in Wales remains exercisable by virtue of the Scotland Act 1998 (c.46), section 57(1), the European Communities (Designation) (No. 3) Order 2000 (S.I. 2000/2812), article 3(2) and the European Communities (Designation) (No. 5) Order 2010 (S.I. 2010/2690), article 6, respectively.

"Commission Regulation (EU) 2015/1853" means Commission Delegated Regulation (EU) 2015/1853 providing for temporary exceptional aid to farmers in the livestock sectors(**3**);

**[**F1"Commission Regulation (EU) 2016/1612" means Commission Delegated Regulation (EU) 2016/1612 providing aid for milk production reduction;**]**

"competent authorities" means—

(a) in relation to England, the Secretary of State;

(b) in relation to Scotland, the Scottish Ministers;

(c) in relation to Wales, the Welsh Ministers;

(d) in relation to Northern Ireland, the Department of Agriculture and Rural Development;

"the Direct Payments Regulation" means Regulation (EU) No 1307/2013 of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy(**4**)**[**F2, as last amended by Commission Delegated Regulation (EU) 2018/162**]**;

"farmer" has the same meaning as in the Direct Payments Regulation;

"markets" means to deliver or make direct sales of milk or other milk products;

"milk" means the product of the milking of one or more cows;

"milk equivalent" means the quantity of milk used to manufacture a milk product;

"milk producer" means—

(a) a Northern Ireland milk producer; or

(b) a farmer—

(i) who produces and markets milk; and

(ii) whose name was listed for part or all of the 2014-2015 milk quota year, in one or more registers maintained—

(aa) in respect of England, by the Secretary of State in accordance with regulation 4(1)(a) and (3)(a) of the Dairy Produce Quota Regulations 2005(**5**);

(bb) in respect of Scotland, by the Scottish Ministers in accordance with regulation 4(1)(a) and (3)(a) of the Dairy Produce Quotas (Scotland) Regulations 2005(**6**);

(cc) in respect of Wales, by the National Assembly of Wales in accordance with regulation 4(1)(a) and (3)(a) of the Dairy Produce Quotas (Wales) Regulations 2005(**7**);

**[**F1"milk reduction payment" means a payment due to any person under Article 5 of Commission Regulation (EU) 2016/1612;**]**

"Northern Ireland milk producer" means a farmer—

(a) who produces and markets milk; and

(b) whose name was listed for part or all of the 2014-2015 milk quota year, in one or more of the registers maintained, in respect of Northern Ireland, by the Department of Agriculture

(**3**) OJ No L 271, 16.10.15, p 25.
(**4**) OJ No L 347, 20.12.13, p 608, as last amended by Commission Delegated Regulation (EU) 2015/851 (OJ No L 135, 2.6.2015, p 8).
(**5**) S.I. 2005/465, as last amended by S.I. 2008/439.
(**6**) S.S.I. 2005/91, to which there are amendments not relevant to these Regulations.
(**7**) S.I. 2005/537 (W.47), to which there are amendments not relevant to these Regulations.

and Rural Development in accordance with regulation 4(1)(a) and (3)(a) of the Dairy Produce Quotas Regulations (Northern Ireland) 2005(**8**);

"Northern Ireland uplift" means the sum of €1.5 million to be shared amongst Northern Ireland milk producers;

"operative exchange rate" means the rate of exchange applied as a result of Article 1(2) of Commission Regulation (EU) 2015/1853;

"partnership" includes a Scottish partnership.

(2) In paragraph (1)—

"other milk products" means any milk product other than milk, in particular skimmed milk, cream, butter, yoghurt and cheese.

**Annotations:**

**F1** Words in reg. 2(1) inserted (1.12.2016) by The Single Common Market Organisation (Emergency Aid for Milk Producers) (Amendment) Regulations 2016 (S.I. 2016/1076), regs. 1, **3**

**F2** Words in reg. 2(1) inserted (17.9.2018) by The Environment, Food and Rural Affairs (Miscellaneous Amendments and Revocations) Regulations 2018 (S.I. 2018/942), regs. 1(2), **45(2)**

### Emergency payments to milk producers

**3.**—(1) The Secretary of State must make a payment ("the emergency payment") to every milk producer using the following formula—

$$EP = \frac{(AA - CR)}{UKTP} \times LP$$

where—

— "EP" is the emergency payment;

— "AA" is the available aid;

— "CR" is the contingency reserve, which is an amount of the available aid reserved at the discretion of the Secretary of State, that may be paid out to correct any errors in the amount of emergency payments made;

— "UKTP" is the total volume in litres of milk and milk equivalent produced and marketed in the United Kingdom during the 2014-2015 milk quota year;

— "LP" is the total volume of milk and milk equivalent notified to any of the competent authorities as having been produced and marketed by that milk producer during the 2014-2015 milk quota year.

(2) The Secretary of State may make the emergency payment in pounds sterling after applying the operative exchange rate or in euro.

### Additional payments to Northern Ireland milk producers

**4.**—(1) The Secretary of State must make an additional payment to every Northern Ireland milk producer ("the Northern Ireland additional payment") using the following formula—

$$NP = \frac{NIU}{NITP} \times LP$$

(**8**) S.R. 2005/70, to which there are amendments not relevant to these Regulations.

where—

— "NP" is the Northern Ireland additional payment;

— "NIU" is the Northern Ireland uplift;

— "NITP" is the total volume in litres of milk and milk equivalent produced and marketed in Northern Ireland during the 2014-2015 milk quota year;

— "LP" is the total volume of milk and milk equivalent notified to the Department of Agriculture and Rural Development as having been produced and marketed by that milk producer during the 2014-2015 milk quota year.

(2) The Secretary of State may make the Northern Ireland additional payment in pounds sterling after applying the operative exchange rate or in euro.

### Minimum payments

**5.** Regulations 3 and 4 do not apply where—

(a) the emergency payment, or

(b) the sum of the emergency payment and any Northern Ireland additional payment,

equals less than €108.33.

### Recovery of undue payments

**6.**—(1) The Secretary of State may recover on demand any sum paid to any person in excess of—

(a) any emergency payment, [F3]...

(b) the sum of any emergency payment and any Northern Ireland additional payment,

**[**[F4](c) any milk reduction payment,**]**

due to that person under these Regulations **[**[F5]or Commission Regulation (EU) 2016/1612**]**.

(2) Any sum recoverable under paragraph (1) is recoverable as a debt.

**Annotations:**

**F3** Word in reg. 6(1)(a) omitted (1.12.2016) by virtue of The Single Common Market Organisation (Emergency Aid for Milk Producers) (Amendment) Regulations 2016 (S.I. 2016/1076), regs. 1, **4(a)**

**F4** Reg. 6(1)(c) inserted (1.12.2016) by The Single Common Market Organisation (Emergency Aid for Milk Producers) (Amendment) Regulations 2016 (S.I. 2016/1076), regs. 1, **4(b)**

**F5** Words in reg. 6(1) inserted (1.12.2016) by The Single Common Market Organisation (Emergency Aid for Milk Producers) (Amendment) Regulations 2016 (S.I. 2016/1076), regs. 1, **4(c)**

### Interest

**7.**—(1) Interest may be charged in respect of each day of the period beginning with the date after the date of the demand made in accordance with regulation 6(1) and ending with (and including) the date on which the Secretary of State receives full payment of the sum recoverable under that regulation.

(2) For the purpose of paragraph (1), the rate of interest applicable on any day is one percentage point above the Bank of England base rate.

(3) In paragraph (2), "the Bank of England base rate" means—

(a) the rate announced from time to time by the Monetary Policy Committee of the Bank of England(**9**) for the time being in force as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short-term liquidity in the money markets; or

(b) if an order under section 19 of the Bank of England Act 1998 (Treasury's reserve powers)(**10**) is in force, any equivalent rate determined by the Treasury under that section.

### Set-off

**8.** The Secretary of State may set off—

(a) any sum payable under these Regulations or Commission Regulation (EU) 2016/1612 against any sum recoverable by any of the competent authorities under Regulation (EU) No 1306/2013 of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy **[**F6, as last amended by Regulation (EU) 2017/2393 of the European Parliament and of the Council**]**;

(b) any sum recoverable under regulation 6(1) (including any interest charged in accordance with regulation 7(1)) against any sum payable by any of the competent authorities under the Direct Payments Regulation or Regulation (EU) No 1305/2013 of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) **[**F7, as last amended by Commission Delegated Regulation (EU) 2018/162**]**.

**Annotations:**

**F6** Words in reg. 8(a) inserted (17.9.2018) by The Environment, Food and Rural Affairs (Miscellaneous Amendments and Revocations) Regulations 2018 (S.I. 2018/942), regs. 1(2), **45(3)(a)**

**F7** Words in reg. 8(b) inserted (17.9.2018) by The Environment, Food and Rural Affairs (Miscellaneous Amendments and Revocations) Regulations 2018 (S.I. 2018/942), regs. 1(2), **45(3)(b)**

### Powers of entry

**9.**—(1) An authorised person may exercise any of the powers specified in this regulation for the purpose of ascertaining whether any person has made any statement or made use of any document which is false in a material particular.

(2) An authorised person, on producing, if so required, a duly authenticated document showing that person's authority, may at any reasonable hour enter any land or premises other than premises used wholly or mainly as a private dwelling.

(3) A justice of the peace may by signed warrant permit an authorised person to enter any land or premises, if necessary by reasonable force, if the justice, on sworn information in writing (or, in Scotland, by evidence on oath, or, in Northern Ireland, on a sworn complaint in writing) is satisfied that—

(a) there are reasonable grounds for an authorised person to enter the land or premises for the purpose mentioned in paragraph (1); and

(b) one or more of the conditions in paragraph (4) is met.

(4) The conditions are that—

(a) entry to the land or premises has been refused, or is likely to be refused, and—

(i) notice of the intention to apply for a warrant has been served on the occupier, or

(**9**) The Monetary Policy Committee was established under section 19 of the Bank of England Act 1998 (c.11).
(**10**) 1998, c.11.