Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Dairy Produce Quotas (Wales) Regulations 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

WELSH STATUTORY INSTRUMENTS

2005 No. 537 (W.47)

FOOD, WALES

The Dairy Produce Quotas (Wales) Regulations 2005

Made - - - -	*8 March 2005*
Coming into force - -	*31 March 2005*

The National Assembly for Wales, being designated [F1] for the purposes of section 2(2) of the European Communities Act 1972 [F2] in relation to the common agricultural policy of the European Community, in exercise of powers conferred on it by virtue of the said section 2(2), hereby makes the following Regulations:—

F1 S.I. 1999/2788.
F2 1972 c. 68.

PART 1

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Dairy Produce Quotas (Wales) Regulations 2005 and shall come into force on 31 March 2005.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires —

"the Commission Regulation" ("*Rheoliad y Comisiwn*") means Commission Regulation (EC) No. 595/2004 laying down detailed rules for applying Council Regulation (EC) No. 1788/2003 establishing a levy in the milk and milk products sector [F3];

"Commission Regulation 1756/93" ("*Rheoliad y Comisiwn 1756/93*") means Commission Regulation (EEC) No. 1756/93 fixing the operative events for the agricultural conversion rate applicable to milk and milk products [F4];

"the Community legislation" ("*deddfwriaeth y Gymuned*") means the Council Regulation, the Commission Regulation, and Commission Regulation 1756/93;

"competent authority" ("*awdurdod cymwys*") has the meaning given by regulation 2 of the General Provisions Regulations;

"consent or sole interest notice" ("*hysbysiad cydsyniad neu hysbysiad unig fuddiant*") means a notice, in relation to a holding, which states that —

(a) the person providing the notice is the occupier of that holding and that no other person has an interest in that holding or part of that holding; or

(b) every person having an interest in that holding or any part of it, the value of which interest might be reduced by the apportionment or prospective apportionment to which the notice relates, agrees to that apportionment or prospective apportionment;

"converted quota" ("*cwota addasedig*") means quota converted by the National Assembly following an application made under regulation 21;

"the Council Regulation" ("*Rheoliad y Cyngor*") means Council Regulation (EC) No. 1788/2003 establishing a levy in the milk and milk products sector [F5];

"cow" ("*buwch*") includes a heifer that has calved;

"dairy enterprise" ("*menter laeth*") means an area stated by the occupier of that area to be run as a self-contained dairy produce business;

"dairy produce" ("*cynnyrch llaeth*") means produce, expressed in kilograms or litres (one kilogram being 0.971 litres), in respect of which levy is payable;

"delivery" ("*danfon*") has the same meaning as in Article 5(f) of the Council Regulation, and "deliver" shall be construed accordingly;

"direct sale" ("*gwerthiant uniongyrchol*") has the same meaning as in Article 5(g) of the Council Regulation;

"direct sales quota" ("*cwota gwerthiannau uniongyrchol*") means the quantity of dairy produce which may be sold or transferred free of charge by direct sale by a producer in a quota year without that producer being liable to pay levy;

"direct sales quota holder" ("*deiliad cwota gwerthiannau uniongyrchol*") means a person in whose name direct sales quota is registered pursuant to regulation 4;

"direct seller" ("*gwerthwr uniongyrchol*") means a producer who produces milk and treats that milk or processes it into milk products on his holding and subsequently sells or transfers free of charge that milk or those milk products without their having been further treated or processed by a different undertaking which treats or processes milk or milk products;

"electronic communication" ("*cyfathrebu uniongyrchol*") has the same meaning as in section 15 of the Electronic Communications Act 2000 [F6];

"the General Provisions Regulations" ("*y Rheoliadau Darpariaethau Cyffredinol*") means the Dairy Produce Quotas (General Provisions) Regulations 2002 [F7];

"holding" ("*daliad*") has the same meaning as in Article 5(d) of the Council Regulation;

"interest" ("*buddiant*") includes a licence to occupy land and the interest of a mortgagee and a trustee, but does not include the interest of a beneficiary under a trust or settlement;

"levy" ("*ardoll*") means the levy payable under the Community legislation and these Regulations to the National Assembly;

"milk" ("*llaeth*") has the same meaning as in Article 5(a) of the Council Regulation;

"the National Assembly" ("*y Cynulliad Cenedlaethol*") means the National Assembly for Wales;

"national reserve" ("*cronfa genedlaethol*") has the meaning given it by regulation 2 of the General Provisions Regulations;

"occupier" ("*deiliad*"), in relation to land, includes the person entitled to grant occupation of that land to another, and, during the currency of an interest mentioned in regulation 16(1), the person entitled to grant occupation when that interest terminates, and "occupation" shall be construed accordingly;

"producer" ("*cynhyrchwr*") has the same meaning as in Article 5(c) of the Council Regulation;

"prospective apportionment" ("*dosraniad rhagolygol*"), in relation to quota in respect of a holding, means an apportionment of quota between the persons with an interest in the holding for the purposes of ascertaining the quota referable to a part of that holding in the event of a transfer of that part;

"purchaser" ("*prynwr*") means a purchaser within the meaning of Article 5(e) of the Council Regulation and, other than in regulation 5(1) to (4) and regulation 31(7), approved by the National Assembly pursuant to regulation 5 and Article 23 of the Commission Regulation;

"purchaser quota" ("*cwota prynwr*") means the quantity of milk which may be delivered to a purchaser during a quota year without any liability for levy arising;

"quota" ("*cwota*") means direct sales quota or wholesale quota, as the case may be;

"quota holder" ("*deiliad cwota*"), in relation to quota, means the person in whose name the quota is registered;

"quota year" ("*blwyddyn gwota*") means any of the periods of 12 months referred to in Article 1(1) of the Council Regulation (which concerns the introduction of the levy);

"registered wholesale quota" ("*cwota cyfanwerthol cofrestredig*") means wholesale quota registered pursuant to regulation 4(3) and (4);

"relevant competent authority" ("*awdurdod cymwys perthnasol*") has the meaning given by regulation 3 of the General Provisions Regulations;

"relevant person" ("*person perthnasol*") means a producer, a purchaser, any employee or agent of a producer or of a purchaser, any milk haulier, any person undertaking butterfat testing for purchasers in a laboratory, a processor of milk or milk products, or any other person involved in the buying, selling or supply of milk or milk products obtained directly from a producer or purchaser, but does not include a consumer of milk or milk products;

"Scottish Islands area" ("*ardal Ynysoedd yr Alban*") means either —

(a) the islands of Orkney except for the island of Stronsay; or

(b) the islands of Jura, Gigha, Arran, Bute, Great Cumbrae and Little Cumbrae, the Kintyre peninsula south of Tarbert and the areas of land within the Argyll and Bute District comprising those parts of the parishes of Dunoon and Kilmun and Inverchaolain shown bounded by a red line on a map marked "Map referred to in sub-paragraph (b) of the definition of Scottish Islands area in regulation 2(1) of the Dairy Produce Quotas (Wales) Regulations 2005", dated 31 January 2005, signed on behalf of the National Assembly and deposited at its offices at Cathays Park, Cardiff CF10 3NQ;

"transferee" ("*trosglwyddai*") means —

(a) where quota is transferred with a holding or part of a holding, a person who replaces another as occupier of that holding or part of a holding; and

(b) in any other case, the person to whom quota is transferred;

"transferor" ("*trosglwyddwr*") means

(a) where quota is transferred with a holding or part of a holding, a person who is replaced by another occupier of that holding or part of a holding; and

(b) in any other case, the person from whom quota is transferred;

"unused quota" ("*cwota nas defnyddiwyd*") means quota remaining unused after any direct sales or deliveries have been taken into account, following such adjustment (if any) as is required by Article 10(1) of the Commission Regulation (which concerns the fat content of milk), and "used quota" shall be construed accordingly;

"wholesale producer" ("*cynhyrchwr cyfanwerthol*") means a producer who delivers milk to a purchaser;

"wholesale quota" ("*cwota cyfanwerethol*") means the quantity of milk which may be delivered to a purchaser by a producer in a quota year without that producer being liable to pay levy;

"wholesale quota holder" ("*deiliad cwota cyfanwerthol*") means a person in whose name wholesale quota is registered pursuant to regulation 4; and

"working day" ("*diwrnod gwaith*") means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 [F8].

(2) In these Regulations any reference to anything done in writing or produced in written form includes a reference to an electronic communication which has been recorded and is capable of being subsequently reproduced.

(3) Other expressions which are used—

(a) in these Regulations; and

(b) in the Community legislation,

shall have the same meaning as in the Community legislation and cognate expressions shall be construed accordingly.

F3 OJ No. L94, 31.3.2004, p.22.
F4 OJ No.L161, 2.7.1993, p.48, as last amended by Commission Regulation (EC) No. 569/1999 (OJ No. L70, 17.3.1999, p.12).
F5 OJ No. L270, 21.10.03, p.123, as corrected by corrigendum OJ No. L94, 31.3.2004, p. 71.
F6 2000 c. 7.
F7 S.I. 2002/458, as amended by S.I. 2005/466.
F8 1971 c. 80.

Application

3. Except as otherwise provided, these Regulations apply to relevant persons in respect of whom the National Assembly is the relevant competent authority.

PART 2

REGISTRATION OF QUOTA

Registers and notices to be maintained and prepared by the National Assembly

4.—(1) The National Assembly must —

(a) maintain a direct sales register; and

(b) send to each direct seller a copy of the entry in the direct sales register relating to him or her.

(2) The direct sales register must contain an entry in respect of each direct seller setting out in particular —

(a) his or her name;

(b) his or her trading address;

(c) a reference number which serves to identify him or her;

(d) the direct sales quota available to him or her for the quota year; and

(e) the details of his or her direct sales.

(3) The National Assembly must—

(a) maintain a wholesale register;

(b) send to each wholesale producer a copy of the entry in the wholesale register relating to him or her; and

(c) send to each purchaser named in the list referred to in paragraph (4)(e) a copy of that part of the entry relating to his or her purchaser quota.

(4) The wholesale register must contain an entry in respect of each wholesale producer setting out in particular —

(a) his or her name;

(b) his or her trading address;

(c) a reference number which serves to identify him or her;

(d) the wholesale quota available to him or her for the quota year; and

(e) a list of the name and address of each purchaser whose purchaser quota will be calculated to take into account all or part of that wholesale producer's total wholesale quota, and of the wholesale quota registered with each purchaser, showing the representative fat content base of that quota calculated in accordance with Article 7 of the Commission Regulation.

(5) The National Assembly must —

(a) maintain a register of purchasers; and

(b) send to each purchaser a copy of the purchaser entry relating to him or her.

(6) The register of purchasers must contain an entry in respect of each purchaser setting out in particular —

(a) his or her name; and

(b) his or her purchaser quota.

(7) For the purposes of paragraphs (1) to (4), where the holding of a quota holder comprises more than one dairy enterprise, that quota holder may, after submitting to the National Assembly a consent or sole interest notice in respect of that holding, agree with the National Assembly the partition of the quota available to that quota holder relating to that holding between separate direct sales register entries or separate wholesale register entries, as the case may be.

(8) The National Assembly —

(a) may make such enquiries as it reasonably considers necessary for the purposes of ensuring the accuracy of the registers which it is required to maintain under this regulation;

(b) must amend the registers —

(i) to record any allocation or adjustments made under or by virtue of these Regulations, or

(ii) to make any correction or amendment which it reasonably considers to be necessary; and

(c) must notify any person affected by any correction or amendment made by it.

(9) Notwithstanding that a person is no longer a producer, he or she must—

(a) remain registered pursuant to this regulation; and