STATUTORY RULES OF NORTHERN IRELAND

2005 No. 70

FOOD

Dairy Produce Quotas Regulations (Northern Ireland) 2005

Made - - - -	*8th March 2005*
Coming into operation	*31st March 2005*

The Department of Agriculture and Rural Development, being a Department designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to the common agricultural policy of the European Community, in exercise of the powers conferred on it by virtue of the said section 2(2), and of every other power enabling it in that behalf, hereby makes the following Regulations:

PART 1

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Dairy Produce Quotas Regulations (Northern Ireland) 2005 and shall come into operation on 31st March 2005.

Interpretation

2.—(1) In these Regulations –

"the Commission Regulation" 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(**3**);

"Commission Regulation 1756/93" means Commission Regulation (EEC) No. 1756/93 fixing the operative events for the agricultural conversion rate applicable to milk and milk products(**4**);

(**1**) S.I. 2000/2812 to which there are amendments not relevant to the subject matter of these Regulations
(**2**) 1972 c. 68
(**3**) O.J. No. L94, 31.3.2004, p. 22
(**4**) O.J. No. L161, 2.7.1993, p. 48, as last amended by Commission Regulation (EC) No. 569/1999 (O.J. No. L70, 17.3.1999, p. 12)

"the Community legislation" means the Council Regulation, the Commission Regulation and Commission Regulation 1756/93;

"competent authority" has the meaning given by regulation 2 of the General Provisions Regulations;

"consent or sole interest notice" 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" means quota converted by the Department following an application made under regulation 21;

"the Council Regulation" means Council Regulation (EC) No. 1788/2003 establishing a levy in the milk and milk products sector(**5**);

"cow" includes a heifer that has calved;

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

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

"delivery" has the same meaning as in Article 5(f) of the Council Regulation;

"the Department" means the Department of Agriculture and Rural Development;

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

"direct sales quota" 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" means a person in whose name direct sales quota is registered pursuant to regulation 4;

"direct seller" 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" has the same meaning as in section 4 of the Electronic Communications Act (Northern Ireland) 2001(**6**);

"the General Provisions Regulations" means the Dairy Produce Quotas (General Provisions) Regulations 2002(**7**);

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

"interest" 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" means the levy payable under the Community legislation and these Regulations to the Department;

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

(**5**) O.J. No. L270, 21.10.03, p. 123, most recently amended by Council Regulation (EC) No. 2217/2004 (O.J. No. L375, 23.12.2004 p. 1)

(**6**) 2001 c. 9 (N.I.): the definition of "electronic communication" given in section 4 amended by section 406(1) of and paragraph 170 of Schedule 17 to the Communications Act 2003 c. 21

(**7**) S.I. 2002/458, as amended by S.I. 2005/466

"national reserve" has the meaning given it by regulation 2 of the General Provisions Regulations;

"occupier", 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;

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

"prospective apportionment", 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" 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 Department pursuant to regulation 5 and Article 23 of the Commission Regulation;

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

"quota" means direct sales quota or wholesale quota, as the case may be;

"quota holder", in relation to quota, means the person in whose name the quota is registered;

"quota year" 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" means wholesale quota registered pursuant to regulation 4(3) and (4);

"relevant competent authority" has the meaning given by regulation 3 of the General Provisions Regulations;

"relevant person" 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" 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 Regulations 2005", dated 31st January 2005, signed on behalf of the Secretary of State and deposited at the offices of the Department for Environment, Food and Rural Affairs at Nobel House, 17 Smith Square, London SW1P 3JR;

"transferee" 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" 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" 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" means a producer who delivers milk to a purchaser;

"wholesale quota" 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" means a person in whose name wholesale quota is registered pursuant to regulation 4; and

"working day" means any day other than a Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971(**8**);

(2) In these Regulations any reference to anything done in writing or produced in written form shall include 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.

(4) The Interpretation Act (Northern Ireland) 1954(**9**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Application

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

PART 2

REGISTRATION OF QUOTA

Registers and notices to be maintained and prepared by the Department

4.—(1) The Department shall –

(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.

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

(a) his name;

(b) his trading address;

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

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

(e) the details of his direct sales.

(3) The Department shall –

(**8**) 1971 c. 80
(**9**) 1954 c. 33 (N.I.)

(a) maintain a wholesale register;

(b) send to each wholesale producer a copy of the entry in the wholesale register relating to him; 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 purchaser quota.

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

(a) his name;

(b) his trading address;

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

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

(e) a list of the names and addresses 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 Department shall –

(a) maintain a register of purchasers; and

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

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

(a) his name; and

(b) his 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 Department a consent or sole interest notice in respect of that holding, agree with the Department 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 Department –

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

(9) Notwithstanding that a person is no longer a producer, he shall –

(a) remain registered pursuant to this regulation; and

(b) for the purposes of this regulation, and regulations 6, 7(a) and 33(1), continue to be regarded as a producer,

until the start of the quota year following the year in which the quota available to him has been transferred or until the quota has been withdrawn under Article 15 of the Council Regulation.