STATUTORY RULES OF NORTHERN IRELAND

2004 No. 59

FOOD

Dairy Produce Quotas (Amendment) Regulations (Northern Ireland) 2004

Made - - - - *24th February 2004*

Coming into operation *1st April 2004*

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:

Citation and commencement

1. These Regulations may be cited as the Dairy Produce Quotas (Amendment) Regulations (Northern Ireland) 2004 and shall come into operation on 1st April 2004.

Application

2.—(1) These Regulations shall apply in relation to producers, purchasers and other relevant persons in relation to whom the Department is the relevant competent authority.

(2) In this regulation –

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

"relevant competent authority" has the meaning given to it by regulation 3 of the Dairy Produce Quotas (General Provisions) Regulations 2002(**3**).

Interpretation

3.—(1) In these Regulations, "the principal Regulations" means the Dairy Produce Quotas Regulations (Northern Ireland) 2002(**4**).

(**1**) S.I. 2000/2812
(**2**) 1972 c. 68
(**3**) S.I. 2002/458
(**4**) S.R. 2002 No. 88

(2) The Interpretation Act (Northern Ireland) 1954(**5**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Amendment of the principal Regulations

4. The principal Regulations shall be amended in accordance with regulations 5 to 18.

5. In regulation 3(1) (interpretation) –

(a) for the definition of "the Council Regulation" there shall be substituted the following definition –

> ""the Council Regulation" means Council Regulation (EC) No. 1788/2003 establishing a levy in the milk and milk products sector(**6**);";

(b) for the definition of "Scottish Islands area" there shall be substituted the following definition –

> ""Scottish Islands area" means either one of –
>
> (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 comprising those parts of the parishes of Dunoon and Kilmun and of Inverchaolain in the Argyll and Bute District 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 3 of the Dairy Produce Quotas Regulations 2002, as amended by regulation 5(b) of the Dairy Produce Quotas (Amendment) Regulations 2004", dated 2nd February 2004, 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;".

6. For regulation 4 (Scottish Islands areas) there shall be substituted the following regulation –

"Scottish Islands areas

4.—(1) Quota registered to direct sales quota holders and wholesale quota holders within a Scottish Islands area may be used by producers and purchasers only against direct sales or wholesale deliveries of milk produced within that Scottish Islands area.

(2) Where a direct sales quota holder or wholesale quota holder has a part of his dairy enterprise outside a Scottish Islands area, he shall be treated for the purposes of this regulation as a direct sales quota holder or wholesale quota holder within a Scottish Islands area if he has 50 per cent or more of his dairy enterprise within that area.

(3) Paragraph (1) shall not apply to the reallocation of quota undertaken in accordance with Schedule 2.

(4) In this regulation –

(a) "direct sales quota holder" means a person in whose name direct sales quota is registered;

(b) "wholesale quota holder" means a person in whose name wholesale quota is registered.".

7. In regulation 8 (transfer of quota with transfer of land) –

(**5**) 1954 c. 33 (N.I.)
(**6**) O.J. No. L270, 21.10.2003, p. 123

(a) in paragraph (1)(a)(i), for the words "in the case of a transfer made by lease before 1st March" there shall be substituted the words "in the case of a transfer made by lease"; and

(b) in paragraph (1)(a)(ii), the words "made by lease on any date during March or" shall be deleted.

8. For regulation 12 (transfer of quota without transfer of land) there shall be substituted the following regulation –

"Transfer of quota without transfer of land

12.—(1) This regulation applies where the competent authorities in England, Wales, Scotland and Northern Ireland have jointly determined, in accordance with paragraphs (1)(e) and (2) of Article 18 of the Council Regulation, that within each United Kingdom quota region transfer of quota without transfer of the corresponding land is authorised.

(2) A transferee of quota for whom the Department is the relevant competent authority shall submit a notice of any such transfer within the general quota region in such form as the Department may reasonably require to reach the Department no later than 31st March in the quota year in which the transfer takes place.

(3) The notice referred to in paragraph (2) shall include –

(a) statements by the transferor and transferee that they have agreed to the transfer of quota, stating the amounts of used and unused quota transferred;

(b) a consent or sole interest notice given by the transferor in respect of the entirety of the holding from which the quota is to be transferred; and

(c) a statement by the transferee that he is a producer.

(4) Where the Department has received a notice pursuant to paragraph (2), it may require that the transferor or transferee shall produce such other information relating to the transfer, and within such time, as the Department may reasonably determine.

(5) In this regulation, –

(a) "competent authority" has the meaning given to it by regulation 2 of the General Provisions Regulations;

(b) "general quota region" means the United Kingdom other than the Scottish Islands areas;

(c) "United Kingdom quota region" means a Scottish Islands area or the general quota region.".

9. In regulation 17 (conversion of quota) in paragraph (3)(b), for the words "14th May in any year" there shall be substituted the words "14th May in the year".

10. In regulation 21 (payment of levy) in paragraph (4), for the words "following the adjustment of that quota" there shall be substituted the words "following adjustment of the quantity delivered".

11. In regulation 23 (registers to be prepared and maintained by the Department) in paragraph (1)(b)(ii) and (2)(b)(ii), in each case the words "or, where there is more than one such address, each such address and his principal trading address" shall be deleted.

12. For regulation 23(6) (direct sellers and producers for the purposes of registers prepared and maintained by the Department) there shall be substituted the following paragraph –

"(6) Notwithstanding that a person no longer produces and markets milk and for that reason is not a direct seller or producer, he shall remain registered under paragraph (1) or (2) and, for the purposes of this regulation and regulations 24(a), 26 and 28(1), continue to be regarded as a direct seller or producer, as the case may be, until the quota allocated or

issued to him has been transferred or has been withdrawn under Article 15 of the Council Regulation.".

13. In regulation 26(2) (registration obligation of producers holding wholesale quota) there shall be deleted the words "(within the extended meaning conferred by regulation 23(6))".

14. For regulation 31(3) (administrative penalties for failure by purchasers to submit accurate summaries or revised summaries) there shall be substituted the following paragraph –

"(3) Where a purchaser fails to submit to the Department pursuant to regulation 22(1) or (2) a summary or revised summary, as the case may be, of producers' statements which is accurate, and thereby causes an overstatement or an understatement by him of deliveries made to him, he shall be liable to pay to the Department a penalty equivalent to the theoretical amount of levy due on 0.5 per cent of the quantity by volume of milk which comprises the overstatement or understatement.".

15. For regulation 31(5) (administrative penalties for submission by direct sellers of incorrect declarations) there shall be substituted the following paragraph –

"(5) For the purposes of the third sub-paragraph of Article 6(3) of the Commission Regulation (which requires Member States to impose proportionate penalties where producers submit incorrect declarations), and subject to the provisions of Article 6(5) of that Regulation (which confers a discretion on Member States not to impose penalties in certain circumstances) and paragraph (6), where a direct seller submits an annual declaration which overstates or understates the volume of direct sales for the quota year covered by that declaration, he shall be liable to pay to the Department –

(a) in the case of an overstatement, a penalty equivalent to the theoretical amount of levy due on 0.5 per cent of the quantity by volume of milk which comprises the overstatement;

(b) in the case of an understatement, a penalty equivalent to the theoretical amount of levy due on 0.5 per cent of the quantity by volume of milk which comprises the understatement, except in any case where, for the quota year covered by the declaration, he is liable to pay to the Department levy which exceeds that amount.".

16. For regulation 33 (confiscation and restoration of quota) there shall be substituted the following regulation –

"Confiscation and restoration of quota

33.—(1) On or before 14th May following the end of each quota year, each purchaser shall supply to the Department a list of those wholesale quota holders registered with that purchaser (whether for the whole or part of the quota year) who have not made deliveries to that purchaser during that year.

(2) Pursuant to Article 15 of the Council Regulation (which concerns the confiscation and restoration of quota), the Department shall notify –

(a) any wholesale quota holder or direct sales quota holder who, from information available to the Department, appears to have made neither deliveries nor direct sales during the previous quota year, or

(b) any direct sales quota holder who, in contravention of Article 6 of the Commission Regulation, has failed to submit to the Department a declaration within 30 days of service of a notice by the Department in accordance with Article 6(4) of that Regulation,

that his quota has been taken into the national reserve.