STATUTORY RULES OF NORTHERN IRELAND

2002 No. 88

FOOD

Dairy Produce Quotas Regulations (Northern Ireland) 2002

Made - - - -	*8th March 2002*
Coming into operation	*31st March 2002*

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 Regulations (Northern Ireland) 2002 and shall come into operation on 31st March 2002.

Application

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

Interpretation

3.—(1) In these Regulations—

"agricultural area" includes areas used for the purposes of agriculture within the meaning of section 43(1) of the Agriculture Act (Northern Ireland) 1949(**3**);

"authorised officer" means a person (whether or not an officer of the Department) who is authorised by the Department, either generally or specifically, to act in matters arising under these Regulations and the Community legislation;

"the Commission Regulation" means Commission Regulation (EC) No. 1392/2001 laying down detailed rules for applying Council Regulation (EEC) No. 3950/92 establishing an additional levy on milk and milk products(**4**);

(**1**) S.I. 2000/2812
(**2**) 1972 c. 68
(**3**) 1949 c. 2 (N.I.)
(**4**) O.J. No. L187, 10.7.2001, p. 19

"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(**5**);

"Commission Regulation 2562/93" means Commission Regulation (EEC) No. 2562/93 laying down detailed rules for the application of Regulation (EEC) No. 2055/93 allocating a special reference quantity to certain producers of milk and milk products(**6**);

"Community compensation scheme" means—

(a) the scheme instituted by Council Regulation (EEC) No. 2187/93 providing for an offer of compensation to certain producers of milk and milk products temporarily prevented from carrying out their trade(**7**) and Commission Regulation (EEC) No. 2648/93 laying down detailed rules for the application of Council Regulation (EEC) No. 2187/93(**8**);

(b) the scheme instituted by Council Regulation (EC) No. 2330/98 providing for an offer of compensation to certain producers of milk and milk products temporarily restricted in carrying out their trade(**9**) and Commission Regulation (EC) No. 2647/98 laying down detailed rules for the application of Council Regulation (EC) No. 2330/98(**10**); or

(c) both those schemes;

"the Community legislation" means the Commission Regulation, the Council Regulation, Council Regulation 2055/93, Commission Regulation 1756/93 and Commission Regulation 2562/93;

"consent or sole interest notice" means a notice, in relation to a holding or part of a holding, which states that—

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

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

"the Council Regulation" means Council Regulation (EEC) No. 3950/92 establishing an additional levy in the milk and milk products sector(**11**), as last amended by Commission Regulation (EC) No. 603/2001 adapting the total quantities referred to in Article 3 of Council Regulation (EEC) No. 3950/92(**12**);

"Council Regulation 2055/93" means Council Regulation (EEC) No. 2055/93 allocating a special reference quantity to certain producers of milk and milk products(**13**);

"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 under the Community legislation;

"delivery" has the same meaning as in Article 9(*g*) of the Council Regulation;

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

(**5**) 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)
(**6**) O.J. No. L235, 18.9.93, p. 18
(**7**) O.J. No. L196, 5.8.93, p. 6
(**8**) O.J. No. L243, 29.9.93, p. 1
(**9**) O.J. No. L291, 30.10.98, p. 4
(**10**) O.J. No. L335, 10.12.98, p. 33
(**11**) O.J. No. L405, 31.12.92, p. 1
(**12**) O.J. No. L89, 29.3.2001, p. 18
(**13**) O.J. No. L187, 29.7.93, p. 8

"direct sale" means a sale within the terms of Article 9(*h*) 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 from a holding in a quota year without the direct seller in occupation of that holding being liable to pay levy;

"direct seller" means a person who produces milk and treats that milk or processes it to produce milk or milk products on his holding and subsequently sells or transfers that milk or those milk products free of charge without their having been further treated or processed by an undertaking which treats or processes milk or milk products;

"electronic communication" has the same meaning as in the Electronic Communications Act (Northern Ireland) 2001(**14**);

"eligible heifer" means any heifer which—

(a) at the date of service of a notice referred to in regulation 15(2)(*a*), was on land subject to that notice; or

(b) at the date of the coming into force of an order referred to in regulation 15(2)(*a*) or (*b*), was on land subject to that order,

and calves for the first time on a day which falls—

(i) where that notice or order has effect or is in force for a period which expires on or before the expiry of the quota year during which it is, respectively, served or made, within the period of twelve months immediately preceding the day after the date on which that notice or order ceases to have effect or be in force, as the case may be; and

(ii) in any other case, within the quota year during which that notice or order is served or made or at any time thereafter when that notice or order has effect or is in force;

"the General Provisions Regulations" means the Dairy Produce Quotas (General Provisions) Regulations 2002(**15**);

"holding" has the same meaning as in Article 9(*d*) of the Council Regulation;

"interest", except where used in regulation 21(3), 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;

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

"occupier" includes, in relation to land in respect of which there is no occupier, the person entitled to grant occupation of that land to another, and, during the currency of an interest referred to in regulation 8(5)(*a*), the person entitled to grant occupation when that interest terminates;

"producer" has the same meaning as in Article 9(*c*) of the Council Regulation;

"prospective apportionment" means, in relation to quota on a holding, apportionment of quota pursuant to regulation 10 which will take place if there is a change in occupation of part of a holding to which that prospective apportionment relates (other than a change in respect of which regulation 8(5) applies) within six months of that prospective apportionment;

"purchaser" means a purchaser within the meaning of Article 9(*e*) of the Council Regulation and, other than in regulation 25(1) and (2), and sub-paragraph (*a*) of paragraph 11 of Schedule 2, approved by the Department pursuant to regulation 25;

(**14**) 2001 c. 9 (N.I.)
(**15**) S.I. 2002/458

"purchaser quota" means the quantity of dairy produce which may be delivered by wholesale delivery to a purchaser during a quota year without that purchaser being liable to pay levy;

"purchaser special quota" means the quantity of dairy produce which may be delivered by wholesale deliveries against producers' special quota to a purchaser during a quota year without that purchaser being liable to pay levy;

"qualifying cow" means, for the purposes of any quota year, any eligible heifer which calves for the first time at a time when the number of eligible heifers exceeds the replacement number, whether or not the time of such calving falls during that quota year, but an eligible heifer which is a qualifying cow for the purposes of any quota year shall not be a qualifying cow for the purposes of any subsequent quota year;

"qualifying day" means, in respect of any qualifying cow, the day on which it calves and each day or part of a day thereafter during which a notice or order referred to in regulation 15(2) has effect or remains in force, as the case may be;

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

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

"registered wholesale quota" means wholesale quota registered pursuant to regulation 23(2);

"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;

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

"replacement number" means the nearest integer to 20 per cent of the total number of dairy cows on the land—

(a) subject to a notice referred to in regulation 15(2)(*a*) as at the date of service of that notice; or

(b) subject to an order referred to in regulation 15(2)(*a*) or (*b*) as at the date of the coming into force of that order,

and where 20 per cent of the total number is half way between two integers, the nearest even integer shall be deemed to be the nearest integer;

"Scottish Islands area" means any one of—

(a) the islands of Orkney; or

(b) the islands of Jura, Gigha, Arran, Bute, Great Cumbrae and Little Cumbrae, and the Kintyre peninsula south of Tarbert;

"special quota" means the quota referred to in Article 1(1) of Council Regulation 2055/93;

"statutory provision" has the meaning assigned to it by section 1(*f*) of the Interpretation Act (Northern Ireland) 1954(**16**);

"submit" means, in relation to a document or information submitted to the Department, the act of sending that document or information as evidenced by proof of posting or delivery to a courier service, or, if an electronic communication, a record of its dispatch;

"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

(**16**) 1954 c. 33 (N.I.)

(b) in any other case, the recipient of a transfer of quota;

"transferor" means—

(a) where quota is transferred with a holding or part of a holding, a person who is replaced by another as 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 wholesale deliveries have been taken into account, adjusted pursuant to Article 4(1) of the Commission Regulation (which concerns the fat content of milk), and "used quota" shall be construed accordingly;

"wholesale delivery" means delivery from a producer to a purchaser; and

"wholesale quota" means the quantity of dairy produce which may be delivered by wholesale delivery to a purchaser from a holding in a quota year without the producer in occupation of that holding being liable to pay levy.

(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) The Interpretation Act (Northern Ireland) 1954, except section 20(2)and (3), shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Scottish Islands areas

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

(2) Where a direct seller or producer has a part of his dairy enterprise outside the Scottish Islands area, he shall be treated for the purposes of this regulation as a direct seller or producer within any Scottish Islands area if he has 50% or more of his dairy enterprise within the Scottish Islands area.

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

(4) In this regulation "direct seller" and "producer" include a person who occupies land with quota whether or not that person is engaged in the sale or delivery of dairy produce.

Determination of levy

5. For the purposes of Article 2(1) of the Council Regulation (which concerns the calculation of levy), the contribution of producers who make wholesale deliveries towards the levy shall be established, in accordance with the provisions of that Article, at the level of the purchaser.

Milk equivalence of dairy produce

6.—(1) For the purposes of Article 2(3) of the Commission Regulation (which concerns milk equivalence of dairy produce) the milk equivalence of dairy produce shall be calculated on the basis that each kilogram of dairy produce shall equal such quantity of milk referred to in paragraph (2) as is required to make that kilogram of dairy produce.

(2) The milk to which paragraph (1) relates is milk the fat content of which has not been altered since milking.