STATUTORY RULES OF NORTHERN IRELAND

2001 No. 27

FOOD

Dairy Produce Quotas (Amendment) Regulations (Northern Ireland) 2001

Made - - - -	*24th January 2001*
Coming into operation	*23rd February 2001*

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 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) 2001 and shall come into operation on 23rd February 2001.

Amendment of the Dairy Produce Quotas Regulations 1997

2. The Dairy Produce Quotas Regulations 1997(**3**) shall be amended in accordance with regulations 3 to 16 of these Regulations.

3. In regulation 2 (interpretation), in paragraph (1)—

(a) in the definition of "the Community compensation scheme", at the end of that definition there shall be inserted the words—

"or the scheme instituted by Council Regulation (EC) No. 2330/98(**4**) providing for an offer of compensation to certain producers of milk and milk products temporarily restricted in carrying out their trade and Commission Regulation (EC) No. 2647/98(**5**) laying down detailed rules for the application of Council Regulation (EC) No. 2330/98, or both those schemes";

(b) in paragraph (*c*) of the definition of "Scottish Islands area" the word "Islay" shall be deleted.

(**1**) S.I. 1972/1811
(**2**) 1972 c. 68
(**3**) S.I. 1997/733 as amended by S.I. 1997/1093 and S.R. 2000 No. 83
(**4**) OJ No. L291, 30.10.98, p. 4
(**5**) OJ No. L335, 10.12.98, p. 33

4. After regulation 3 there shall be inserted the following regulation—

"**Scottish Islands area**

3A.—(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) The requirement in paragraph (1) does not apply to the reallocation of quota undertaken in accordance with Schedule 5.

(3) In this regulation—

(a) "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; and

(b) a direct seller or producer within a Scottish Islands area means a direct seller or producer who has 50% or more of his dairy enterprise within that Scottish Islands area.".

5. In regulation 6 (adjustment of purchaser quota)—

(a) in paragraph (2)—

(i) the words "or on any permanent conversion of quota under regulation 16," and the words "or such a conversion of quota" shall be deleted;

(ii) for sub-paragraph (*a*) there shall be substituted the following sub-paragraph—

"(a) within 56 days of the date of such transaction and in any case on or before 14th May in the quota year immediately following the quota year in which that transaction took place, a statement setting out particulars of the transaction; and"

(b) in paragraph (4)—

(i) for the word "Where" at the beginning of that paragraph there shall be substituted the words "Subject to paragraph (4A), where";

(ii) in sub-paragraph (*a*), for the words "have his purchaser quota" there shall be substituted the words "request of the Intervention Board (in such form as the latter may reasonably require) that his purchaser quota be";

(c) after paragraph (4) there shall be inserted the following paragraphs—

"(4A) Where the amount of quota necessary to cover the deliveries made to an original purchaser and referred to in paragraph (4)(*b*) is affected by an adjustment of the quantity delivered by the producer (being an adjustment in accordance with the second sub-paragraph of Article 2(2) of the Commission Regulation)—

(a) in the event that an increase in the original purchaser's quota is necessary to cover the deliveries made to him by the producer, the original purchaser may apply to the Intervention Board (in such form as the latter may reasonably require) to assess and make such increase, and make a corresponding reduction in the purchaser quota of the purchaser (or purchasers) with whom the producer is newly registered, and

(b) in the event that a reduction is capable of being made to the quota of an original purchaser who has more than is necessary to cover the deliveries made to him by the producer, any purchaser with whom the producer is newly registered and who requires an increase in purchaser quota to cover the deliveries made by the producer to him may apply to the Intervention Board (in such form as the latter may reasonably require) to assess and make the

appropriate reduction, and make a corresponding increase in the purchaser quota of the said purchaser with whom the producer is newly registered,

and in each case upon such application the Intervention Board shall make the assessment requested and the appropriate adjustment.

(4B) An application under paragraph (4A)(*a*) or (*b*) shall be made no later than 15th June in the quota year immediately following the quota year during which the producer changed from being registered with the original purchaser to being registered with the other purchaser in question.".

6. In regulation 11 (transfer of quota without transfer of land)—

(a) in paragraph (1), the words "8th May 1997 or" and "(whichever is the later)" shall be deleted;

(b) in paragraph (2), in sub-paragraph (*a*), after the word "quota" there shall be inserted the words ", stating the amounts of used and unused quota transferred";

(c) paragraphs (5) and (6) shall be deleted;

(d) for paragraph (7) there shall be substituted the following paragraph—

"(7) Where an application to transfer quota without transfer of land has been approved by the Intervention Board, the Intervention Board may wholly or partly release a transferee from the undertaking referred to in paragraph (2)(*d*)(i) where it is satisfied that the release is justified in the light of exceptional circumstances resulting in a significant fall in milk production or a significant failure to achieve a planned increase in milk production which, in either case, could not have been avoided or foreseen by the transferee at the time of the submission of the application under paragraph (1), and such release shall be to the extent that is required so as to permit the transfer of the amount of quota that the Intervention Board considers has remained unused in the particular case.";

(e) in paragraph (8), sub-paragraph (*h*) and the word "; and" immediately following sub-paragraph (*g*) shall be deleted.

7. In regulation 14 (temporary reallocation of quota)—

(a) for paragraph (1) there shall be substituted the following paragraph—

"(1) For the purposes of the reallocation of quota referred to in Article 2(1) of the Council Regulation, in so far as that reallocation relates to certain priority categories of producer who (under Article 2(4) of that Regulation and Article 5 of the Commission Regulation) may be determined as entitled to a redistribution of levy in the event of any levy being collected in excess of the levy actually due, the Intervention Board may, for any quota year, award to a producer referred to in paragraph (2) a temporary reallocation of an amount of any surplus quota, in accordance with the provisions of this regulation.";

(b) in paragraph (2), sub-paragraph (*a*) shall be deleted; and

(c) paragraphs (6) and (7) shall be deleted.

8. In regulation 16 (conversion of quota)—

(a) in paragraph (4), for the words "paragraph (5)" there shall be substituted the words "paragraphs (5) and (6)";

(b) for paragraph (5) there shall be substituted the following paragraphs—

"(5) Where, upon application to the Intervention Board by a producer who has permanently converted quota in any quota year, the Intervention Board is satisfied that exceptional circumstances of a type described in regulation 11(8) have resulted in a

significant fall in milk production or a significant failure to achieve a planned increase in milk production and it is of the opinion that such could have been neither foreseen nor avoided by the producer at the time of his permanent conversion, it may, in the same quota year in which the permanent conversion occurred, release that producer from the restriction in paragraph (4), and such release shall be to the extent that is required so as to allow the transfer of the amount of quota that the Intervention Board considers has remained unused in the particular case.

(6) The restriction in paragraph (4) shall not apply to any producer who, in the immediately preceding quota year, has temporarily converted quota.".

9. After regulation 20 there shall be inserted the following regulation—

"**Northern Ireland wholesale quota provision**

20A. The Department of Agriculture and Rural Development shall award wholesale quota, being the specific quota increases for allocation to Northern Ireland pursuant to the Council Regulation, to producers in accordance with Schedule 5A.".

10. In regulation 25 (inspection of entries in the Intervention Board's registers)—

(a) the words "in writing", in the first place that they occur, shall be deleted;

(b) in sub-paragraph (*a*), after the word "entry" in the second place that it occurs, there shall be inserted the words ", or by anyone being the agent of such a person".

11. In regulation 30 (powers of authorised officers), in paragraph (6), after the word "regulation" there shall be inserted the words "and in regulation 30A".

12. After regulation 30 there shall be inserted the following regulation—

"**Keeping and retention of records**

30A. Without prejudice to regulation 3 of the Common Agricultural Policy (Protection of Community Arrangements) Regulations 1992(**6**) the Intervention Board may by notice in the Belfast Gazette require any relevant person to keep and retain, in respect of any matter governed by these Regulations, such records and for such a period as may be specified in that notice.".

13. In regulation 31 (penalties), in paragraph (1), for sub-paragraph (*b*) there shall be substituted the following sub-paragraph—

"(b) in connection with these Regulations or the Community legislation, makes or causes to be made a statement or uses or causes to be used a document which he knows to be false in a material particular or recklessly makes or causes to be made a statement or recklessly uses or causes to be used a document which is false in a material particular; or".

14. In regulation 34(1) for the words "For the purpose of completing the discharge of any functions exercisable by it under the Regulations revoked by these Regulations, the" there shall be substituted the word "The".

15. In Schedule 5 (reallocation of quota and calculation of levy liability), in paragraphs 8 and 18, for the words "within 45 days of" there shall be substituted the words "on or before 14th May immediately following".

16. After Schedule 5 there shall be inserted the following Schedule—

(**6**) S.I. 1992/314