1981 No. 119

EUROPEAN COMMUNITIES

Milk Marketing (Amendment) Regulations (Northern Ireland) 1981

Made	*13th April 1981*
Coming into operation . . .	*1st June 1981*

The Department(**a**) of Agriculture, being a Department designated by the European Communities (Designation) Order 1972(**b**) for the purposes of section 2(2) of the European Communities Act 1972(**c**) in relation to the common agricultural policy of the European Community, in exercise of the powers conferred on it by that section 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 Milk Marketing (Amendment) Regulations (Northern Ireland) 1981, and shall come into operation on 1st June 1981.

Interpretation

2. The Interpretation Act (Northern Ireland) 1954(**d**) shall apply to these regulations as it applies to a Measure of the Northern Ireland Assembly.

Amendments to the Milk Marketing Scheme

3. The Milk Marketing Scheme (Northern Ireland), 1955(**e**) shall be amended as follows:

(a) In paragraph 2 immediately after the definition of "Buyer" there shall be inserted the following definition:

""Commercial Activities" in relation to the Board means the following activities of the Board:

(i) producing from milk any of the commodities specified in paragraph 34(3);

(ii) selling, grading, packing, storing, adapting for sale, insuring, advertising and promoting the sale of milk processed by the Board or commodities produced by the Board from milk;

(iii) transporting in vehicles owned, leased to or hired by the Board, milk or commodities produced therefrom by the Board;

(iv) other activities reasonably incidental to those specified above".

(b) Immediately after paragraph 18 there shall be inserted the following paragraph:

"18A. The Board to the intent that so far as practicable their commercial activities may be put on an equal footing with the activities of independent

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(**a**) Formerly Ministry: *see* 1973 c. 36 s. 40 & Sch. 5 para. 8(1)
(**b**) S.I. 1972/1811 (1972 III, p. 5216)
(**c**) 1972 c. 68
(**d**) 1954 c. 33 (N.I.)
(**e**) Approved by S.R. & O. (N.I.) 1955 No. 43 (p. 12) and amended by S.R. & O. (N.I.) 1956 No. 68 (p. 18), 1962 No. 162, 1963 No. 140, 1966 No. 48 and S.R. 1978 No. 366

commercial undertakings, shall place their commercial activities under a system of financial management and administration which is separately accountable from the system of financial management and administration for the Board's other activities''.

(c) Immediately after paragraph 29(3) there shall be inserted the following paragraph:

''(4) The Board shall not make money or other financial benefits available for use in their commercial activities except on the market terms then prevailing''.

(d) Paragraph 29(4) shall be renumbered 29(5).

(e) For paragraph 30 there shall be substituted:

''30.—(1) The Board shall keep proper and separate accounts and records in respect of:

(*a*) their commercial activities; and

(*b*) their other activities,

and in particular shall annually make out for each of those 2 groups of activities separate balance sheets and income and expenditure accounts, and if the Board trade for profit, separate profit and loss accounts. Such accounts shall be in such form as the Department may from time to time direct, being a form which shall conform to the best commercial standards.

(2) The Board shall charge to their commercial activities such proportion of the Board's general administrative expenses as is fairly attributable to their commercial activities.

(3) The Board shall cause all their accounts and balance sheets prepared pursuant to sub-paragraph (1) to be audited by a member of a body of accountants for the time being recognised by the Department of Commerce for the purposes of section 155(1)(*a*) of the Companies Act (Northern Ireland) 1960(**a**). As soon as may be after the auditor has reported thereon, and in any case within six months from the close of the period covered by any profit and loss account or income and expenditure account the Board shall send to the Department and to every registered producer a copy of the account and balance sheet and of the report of the auditor thereon, and also a report by the Board as to the working of this Scheme in the period covered by the profit and loss or income and expenditure account, which shall include a statement of the manner in which, in accordance with the provisions of paragraph 29(1), any monies are invested.

The Board shall, on the demand of any person and on payment by him of a fee of ten new pence, furnish to him a copy of their last published accounts.

(4) The Board shall furnish the Department with such information as the Department may from time to time require concerning the Board's commercial activities and shall permit any person duly authorised in writing by the Department on production of his authority, to inspect such of the Board's accounts and records as he may reasonably require to satisfy himself that the Board are complying with the requirements of paragraph 18A, of Council Regulation (EEC) No. 1422/78(**b**) and of Commission Regulation (EEC) No. 1565/79(**c**).

(5) If and so long as the Board are under any financial liability to the Department of Finance, the audited accounts of the Board, together with such information in relation thereto as the Department of Finance may require, shall be furnished to that Department.''

(**a**) 1960 c. 22 (N.I.)
(**b**) O.J. No. L171, 28.6.78, p. 14
(**c**) O.J. No. L188, 26.7.79, p. 29

(f) Immediately after paragraph 34(11) there shall be inserted the following paragraphs:

"34A.—(1) There shall be exempt from the operation of all the provisions of paragraphs 24, 34, 35, 36, 38, 40, 41, and 49 of this Scheme milk which a registered producer:

(*a*) withholds from the Board by agreement with the Board; or

(*b*) withholds from the Board for export, whether the milk be in unprocessed or processed form, outside the United Kingdom; or

(*c*) withholds from the Board for conversion into butter or skimmed milk powder to be sold to the intervention agency; or

(*d*) withholds from the Board and sells to an exempt producer within the meaning of paragraph 40A; or

(*e*) withholds from the Board for sale by the registered producer in his capacity as an exempt producer as aforesaid.

(2) A registered producer may act jointly with other registered producers or through intermediaries or with and through both for the purposes of sub-paragraph (1)(*b*) but a registered producer who withholds milk for those purposes shall give to the Department and to the Board not less than two months' prior notice in writing of:

(*a*) the precise or minimum period during which he intends to withhold milk;

(*b*) the quantity of milk which he intends to withhold where this is or may be less than the total production of the cows in his possession; and

(*c*) the form (that is, whether unprocessed or processed), in which the milk is to be marketed outside the United Kingdom.

Where the registered producer specifies in the notice referred to above the precise period during which he intends to withhold milk, the Board shall not be obliged to buy milk from him until the expiration of that period.

Where the registered producer specifies in the notice referred to above the minimum period during which he intends to withhold milk, the Board shall not be obliged to buy milk from him until the expiration of two months after the Board shall have received from him notice in writing of his intention to sell milk to the Board; but in any case the Board shall not be obliged to buy milk from him until the expiration of that minimum period.

(3) A registered producer may act jointly with other registered producers or through intermediaries or with and through both for the purposes of sub-paragraph (1)(*c*) but a registered producer who withholds milk for those purposes shall give to the Department and to the Board not less than one month's prior notice in writing of:

(*a*) the precise or likely period during which he intends to withhold milk; and

(*b*) the quantity of milk which he intends to withhold where this is or may be less than the total production of the cows in his possession.

Where the registered producer specifies in the notice referred to above the precise period during which he intends to withhold milk, the Board shall not be obliged to buy milk from him until the expiration of that period.

Where the registered producer specifies in the notice referred to above the likely period during which he intends to withhold milk, the Board shall not be obliged to buy milk from him until the expiration of two months after the Board shall have received from him notice in writing of his intention to sell milk to the Board.

A registered producer shall not be entitled to withhold milk under sub-paragraph (1)(*c*) unless:

(*a*) for a period of five consecutive months in the period of twelve consecutive months immediately preceding the date from which he intends to withhold milk the price paid by the Board to him each month shall have been less than either

(i) the intervention price equivalent of milk for that month calculated pursuant to Regulation 5 of the Milk Marketing Boards (Special Conditions) Regulations 1981(**a**); or

(ii) an intervention price equivalent of milk for that month calculated as aforesaid but by the registered producer using the margins and conversion factors applicable to the milk produced by him that month, provided that he is able to satisfy the qualified person specified in the said regulation 5 as to the validity of his calculation; or

(*b*) during the period of twelve consecutive months immediately preceding the date from which he intends to withhold milk the average price paid by the Board to registered producers shall have been less than the average intervention price equivalent of milk over the same period calculated as aforesaid.

A registered producer may give notice under this sub-paragraph of his intention to withhold milk under sub-paragraph(1)(*c*) upon receipt of payment for one month's supply of milk when the price paid by the Board shall have been less than the intervention price equivalent of milk for that month calculated as aforesaid.

A registered producer shall not be entitled to withhold milk under sub-paragraph (1)(*c*) for more than a period of six consecutive months beyond the period of three consecutive months during which the average price paid by the Board to registered producers shall have exceeded the intervention price equivalent of milk calculated as aforesaid.

(4) A registered producer who withholds milk for the purposes of sub-paragraph (1)(*d*) shall give to the Department and to the Board not less than 60 days prior notice in writing of his intention to withhold milk.

Every such registered producer shall keep such books and records relating to the milk as the Board shall reasonably require and shall make such returns and give such information to the Board as the Board shall reasonably require to enable the Board and, if it so desires, the Department to be satisfied that the milk has been sold to an exempt producer within the meaning of paragraph 40A and shall produce such books and records to any person authorised in writing by the Department or the Board to inspect them.

34B. The Board shall not recall for sale for liquid consumption milk which has been allocated to buyers if such milk is intended by the buyers for export, whether in unprocessed or processed form, outside the United Kingdom."

(g) For Part IX thereof there shall be substituted:

"PART IX

Negotiation with Purchasers' Representatives

36.—(1) There shall be established a Committee (hereinafter called "the Joint Committee") which shall consist of members appointed by the Board and members appointed by the body established by buyers of milk and known as the Northern Ireland Dairy Trade Federation, but if, in the opinion of the Department, that body has ceased to exist or has ceased to represent the views of buyers of

(**a**) S.I. 1981/322

milk, such last mentioned members shall be appointed by such other body or bodies as appear to the Department to represent for the time being the views of buyers of milk otherwise than by retail.

(2) The Joint Committee may appoint a Chairman who need not be one of their members.

(3) The Joint Committee may appoint sub-committees consisting of one or more of their members and such other persons as the Joint Committee may appoint. Any such sub-committee may be empowered by the Joint Committee to consider any matters referred to it by the Joint Committee.

(4) All questions to be decided by the Joint Committee shall be decided by resolution upon which the members appointed by the Board and the members appointed by the Northern Ireland Dairy Trade Federation or other bodies aforesaid shall each collectively have one vote. The Committee shall not be taken to have agreed unless both such votes have been cast in the same direction.

(5)(*a*) The Joint Committee shall negotiate and endeavour to agree upon the following matters:

(i) the description of milk to be sold by the Board;

(ii) the delivery of milk to be sold by the Board;

(iii) the terms on which milk is to be sold by the Board;

(iv) subject to sub-paragraphs (7), (8), (10) and (11), the prices of milk to be sold by the Board;

(v) the amounts of any allowances to be made to buyers;

(vi) the classes of persons and premises to whom or in respect of which such allowances are to be made;

(vii) the conditions on which such allowances are to be made;

(viii) the arrangements for making milk available to buyers including the Board's processing and manufacturing enterprises, proposals for which shall be submitted to the Joint Committee by a sub-committee set up under the terms of paragraph 36(3).

(*b*) If the Joint Committee reach agreement and make a decision on any of the above matters such decision shall be final.

(6) The Joint Committee may also discuss any other matters agreed by both parties to the Joint Committee to be of mutual interest to the Board and the Northern Ireland Dairy Trade Federation, or any other bodies aforesaid, and arising out of the Community obligations of the United Kingdom.

(7) Subject to the provisions of sub-paragraph (8), the price of milk sold by the Board shall be set at the same level as the standard price negotiated by the Joint Committee for milk sold for human consumption as liquid whole milk, except that the Joint Committee may negotiate different prices for milk sold by the Board for use in production of the following commodities:

(*a*) cheese, with prices differentiated according to the variety of the cheese;

(*b*) butter, with prices differentiated according to the type and fat content of the butter;

(*c*) cream, with prices differentiated according to the type and fat content of the cream;

(*d*) evaporated milk;

(*e*) condensed milk;

(*f*) milk powder;

(*g*) milk chocolate crumb;

(*h*) milk puddings;