

1986 No. 299

AGRICULTURE

**The Milk (Community Outgoers Scheme) Regulations
(Northern Ireland) 1986**

Made 17th September 1986
Coming into operation 19th September 1986

The Department of Agriculture, being a Department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) 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 powers enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These regulations may be cited as the Milk (Community Outgoers Scheme) Regulations (Northern Ireland) 1986 and shall come into operation on 19th September 1986.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(c) shall apply to these regulations as it applies to a measure of the Northern Ireland Assembly.

(2) In these regulations:—

“authorised officer” means an officer of the Department authorised in writing by the Department;

“Commission Regulation” means the Commission Regulation (EEC) No. 2321/86(d) laying down detailed rules for the application of the Council Regulation;

“Community legislation” means the Council Regulation and the Commission Regulation;

“Council Regulation” means the Council Regulation (EEC) No. 1336/86(e) fixing compensation for the definitive discontinuation of milk production;

“Department” means the Department of Agriculture for Northern Ireland;

“eligible quota” means quota allocated otherwise than in accordance with Article 3(1) or 4(1)(c) of Council Regulation (EEC) No. 857/84(f);

“farming press” means any newspaper, journal or similar publication considered by the Department to be likely to be read by interested parties;

“Gazette” means the Belfast Gazette;

“holding” has the same meaning as in the 1986 Regulations;

“landlord” includes a superior landlord and a licensor;

(a) S.I. 1972/1811

(b) 1972 c. 68, section 2 is subject to Schedule 2 to that Act and is to be read with Article 4(6) and (8) of the Fines and Penalties (Northern Ireland) Order 1984 (S.I. 1984/703 (N.I. 3)) and S.R. 1984 No. 253

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

(d) O.J. No. L202, 25.7.1986, p. 13

(e) O.J. No. L119, 8.5.1986, p. 21

(f) O.J. No. L90, 1.4.1984, p. 13

- “milk” means cows’ milk;
- “Ministers” means the Minister of Agriculture, Fisheries and Food, the Secretaries of State for Scotland and Wales and the Department;
- “quota” has the same meaning as in the 1986 Regulations;
- “registered” in the context of milk quota refers to quota registered in the direct sales register or in the wholesale register maintained under the 1986 Regulations;
- “tenant” means a person who occupies a holding or part of a holding by virtue of a tenancy or a licence to occupy and “tenancy” shall be construed accordingly;
- “the 1986 Regulations” means the Dairy Produce Quotas Regulations 1986(a).

Appointment of competent authority

3. For the purposes of the Commission Regulation the competent authority shall be the Department of Agriculture.

Amount of compensation

4.—(1) For the purposes of Article 1 of the Commission Regulation (which obliges member states to fix the maximum amount of compensation payable to producers who undertake to discontinue milk production definitively) the amount shall be 2·618p per year per litre of milk for the first year of application.

(2) A person may claim compensation under these regulations in respect of either—

- (a) loss of profits in the seven years immediately following the date on which he ceases to produce milk for sale or for processing into cream, butter or cheese for sale by reference to the amount of eligible quota he surrenders; or
- (b) the value of the amount of eligible quota he surrenders.

(3) Payments made by the Department under these regulations shall be calculated—

- (a) in a case falling within paragraph (2)(a), at the rate of 2·618 pence per litre on a quantity equal to the amount of eligible quota surrendered for each of the seven years immediately following the date on which the applicant ceases to produce milk for sale or for processing into cream, butter or cheese for sale in relation to the amount of quota surrendered; and
- (b) in a case falling within paragraph (2)(b), at the rate of 18·326 pence per litre, payable in seven equal instalments.

Rules for acceptance of applications

5. For the purposes of Articles 1 and 3(2) of the Commission Regulation (member states to make rules for the acceptance of applications), where the sum of valid applications for compensation throughout the United Kingdom together relate to a quantity of eligible quota which exceeds 305,429,820 litres, applications representing the excess quantity shall be refused according to the following rules:—

firstly,

- (a) where in the opinion of the Ministers circumstances exist in which the acceptance of certain applications could hamper the restructuring of milk production, then applications which, in the opinion of the Ministers, could cause those difficulties shall be refused in preference to those applications which, in their opinion, would not; and secondly,

- (b) applications from applicants with a greater quantity of quota registered in their name should, where possible, be refused in preference to those from applicants with a smaller quantity of quota so registered.

Application for compensation

6.—(1) The Department shall by advertisement published in the Gazette and the farming press announce the opening and closing dates of the period and the procedural requirements, in respect of applications.

(2) An applicant may withdraw his application within 14 days beginning on the date of service by the Department of a notice of acceptance of the application but in any event not later than 31st January 1987.

(3) An application under these regulations by a person part of whose holding is in a part of the United Kingdom other than Northern Ireland shall not be valid unless he makes an application in respect of the part of the holding in that other part of the United Kingdom in accordance with the regulations (if any) corresponding with these regulations which apply to that part.

Landlord's consent

7.—(1) A person who occupies a holding or part of a holding as a tenant shall not make an application for compensation unless the consent in writing of the landlord to that application has been obtained.

(2) The consent referred to in paragraph (1) shall be produced to the Department at the time of making the application.

Temporarily reallocated quota

8. For the purposes of these regulations quota which has been temporarily reallocated from one holding to another under regulation 11(2) of the 1986 Regulations shall be treated as if it had not been temporarily reallocated.

Cancelled quota

9. Where by virtue of an application for compensation, whether or not made in compliance with these regulations and the Community legislation, any quota is cancelled under the Community legislation, that quota shall not be recoverable by any person.

Powers of inspection

10. Where any person has made an application for compensation, an authorised officer may, at all reasonable times and on production of his authority on demand, enter on any land occupied, or otherwise used, by that person and may—

- (a) inspect and count any cows kept on that land, and
- (b) require that person to furnish for inspection any bill, account, voucher or record in his possession or under his control relating to any cows kept or formerly kept by him.

Recovery of compensation

11.—(1) Where any person with a view to obtaining the payment of compensation to himself or any other person—

- (a) makes any statement which is untrue or misleading in a material respect, or
- (b) furnishes to the Department any inaccurate information,

the Department shall be entitled to recover on demand as a civil debt the whole or any part of any compensation paid to him or to such other person.

(2) Where any person having undertaken pursuant to Article 1 of the Council Regulation to discontinue milk production, fails in any way to comply with that undertaking, the Department shall be entitled to recover from him on demand as a civil debt the whole or any part of any compensation paid to him or to any other person in respect of quota registered in that person's name.

(3) Where any person—

(a) intentionally obstructs an authorised officer in the exercise of the powers conferred on him by regulation 10, or

(b) fails without reasonable excuse to comply with a requirement under these regulations or the Community legislation,

the Department shall be entitled to recover on demand as a civil debt the whole or any part of any compensation paid to that person.

Offences

12. Any person who—

(a) in connection with these regulations makes a statement or uses a document which he knows to be false in a material respect or recklessly makes a statement or uses a document which is false in a material respect, or

(b) intentionally obstructs an authorised officer in the exercise of the powers conferred by regulation 10,

shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

Crown land

13.—(1) These regulations shall apply to any holding or part of a holding which belongs to Her Majesty in right of the Crown or a Government department or which is held in trust for Her Majesty for the purposes of a Government department.

(2) For the purposes of these regulations as respects land belonging to Her Majesty in right of the Crown, the Crown Estate Commissioners or the proper officer or body having charge of the land for the time being, or, if there is no such officer or body, such person as Her Majesty may appoint in writing under the Royal Sign Manual, shall represent Her Majesty and shall be deemed to be the landlord or the tenant as the case may be.

14.—(1) No authorised officer shall exercise any powers under regulation 10—

(a) in relation to land in which there is no interest other than a Crown interest; or

(b) in relation to land which is exclusively in Crown occupation.

(2) In this regulation—

“Crown Interest” means any interest belonging to Her Majesty or belonging to a Government department or held in trust for Her Majesty for the purposes of a Government department;

“Crown occupation” means occupation by Her Majesty or occupation by a Government department.

Sealed with the Official Seal of the Department of Agriculture for Northern Ireland on 17th September 1986.

(L.S.)

J. Murray

Under Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations implement Council Regulation (EEC) No. 1336/86 (O.J. No. L119, 8.5.1986, p. 21), which fixes compensation for the definitive discontinuation of milk production and Commission Regulation (EEC) No. 2321/86 (O.J. No. L202, 25.7.1986, p. 13) which lays down general rules for the application of the above Council Regulation. Under these regulations compensation is to be paid to any person who gives up the whole of the milk quota registered in his name and who undertakes to discontinue milk production definitively.

The present regulations make provision in Northern Ireland for those matters which the above regulations leave to member states and which are necessary for the proper implementation of the scheme for compensation. They identify the "competent authority" responsible for administering the scheme in Northern Ireland (regulation 3) and lay down the rules for the acceptance of applications in the event of too many applications being submitted (regulation 5). Regulation 6 states that the time limits and procedural requirements for applications for compensation shall be published in the Gazette.

Regulation 7 requires for the purposes of Article 3 of the Council Regulation that an applicant who does not own all the land he occupies shall have the landowner's written consent prior to making an application.

Authorised officers are given powers to inspect and count cows on land occupied or otherwise used by the producer and to examine relevant documents (regulation 10) and the Department may recover compensation paid under specified circumstances (regulation 11). By regulation 12 it is made an offence punishable on summary conviction by a fine not exceeding level 5 on the standard scale to make a materially false statement or use a materially false document or to intentionally obstruct an authorised officer.

These Regulations apply to Crown Land (regulation 13).