
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 91

The Dairy Produce Quotas (Scotland) Regulations 2005

PART 7

PENALTIES AND MISCELLANEOUS PROVISIONS

Administrative penalties

36.—(1) Subject to the provisions of Article 23(4) of the Commission Regulation (which authorises member States not to impose penalties in certain circumstances) and paragraph (5), purchasers are subject to the administrative penalties specified in paragraphs (2) and (3).

(2) Where a purchaser fails to provide or submit to the Scottish Ministers—

- (a) an application, statement or declaration concerning the adjustment of purchaser quota in accordance with regulation 23(2) to (4);
- (b) information in accordance with regulation 33(2) to (4); or
- (c) a confirmation or amendments relating to a revised version of a summary in accordance with regulation 35(2),

the purchaser shall be liable to pay to the Scottish Ministers a penalty equivalent to the theoretical amount of levy that would be due on 0.01% of the quantity by volume of milk covered by that application, statement, declaration or revised version, or that information, for each day of the period of delay in the submission reaching the Scottish Ministers.

(3) Where a purchaser fails to maintain accurate and updated records pursuant to Article 24(2) of the Commission Regulation and regulation 34, the purchaser shall be liable to pay to the Scottish Ministers a penalty equivalent to the theoretical amount of the levy that would be due on 0.5% of the quantity by volume of milk concerned.

(4) For the purposes of the third sub-paragraph of Article 11(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 11(5) of that Regulation (which authorises member States not to impose penalties in certain circumstances) and to paragraph (5), 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, the direct seller shall be liable to pay to the Scottish Ministers—

- (a) in the case of an overstatement, a penalty equivalent to the theoretical amount of levy that would be due on 0.5% of the quantity by volume of the milk which comprises the overstatement; or
- (b) in the case of an understatement, a penalty equivalent to the theoretical amount of levy that would be due on 0.5% of the quantity by volume of the milk which comprises the understatement,

except in any case where, for the quota year covered by the declaration, the direct seller is liable to pay to the Scottish Ministers levy which exceeds that amount.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Dairy Produce Quotas (Scotland) Regulations 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

(5) Notwithstanding anything in paragraphs (2) to (4), the penalties referred to in those paragraphs—

- (a) in the case of purchasers and direct sellers, are not to be less than £60;
- (b) in the case of purchasers, are not to exceed £60,000; and
- (c) in the case of direct sellers, are not to exceed £600.

(6) Subject to paragraph (7), if a purchaser fails to submit a summary required to be submitted under Article 8(2) of the Commission Regulation before 1st July in the year in which it is required to be submitted, the purchaser shall be liable to pay to the Scottish Ministers a penalty equivalent to the theoretical amount of levy that would be due on 0.01% of the quantity by volume of milk covered by that declaration for each day of the period of the delay in the submission reaching the Scottish Ministers.

(7) A purchaser shall not be liable to pay a penalty under paragraph (6) if, in the opinion of the Scottish Ministers, the failure—

- (a) was neither deliberate nor the result of serious negligence;
- (b) is negligible in terms of the functioning of the scheme or the effectiveness of the checks; or
- (c) is attributable to force majeure.

Commencement Information

II [Reg. 36](#) in force at 31.3.2005, see [reg. 1\(2\)](#)

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Changes and effects yet to be applied to :

- Regulations revoked by [S.S.I. 2018/391 sch. Pt. 2](#)
- reg 36 am by [S.S.I. 2007/118 reg 7](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 2(1)(1A) substituted for reg. 2(1) by [S.S.I. 2011/83 Sch. para. 1](#)