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SCOTTISH STATUTORY INSTRUMENTS

2006 No. 119

FOOD

**The Dairy Produce Quotas (Scotland)
Amendment Regulations 2006**

<i>Made</i>	- - - -	<i>7th March 2006</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>9th March 2006</i>
<i>Coming into force</i>	- -	<i>31st March 2006</i>

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972⁽¹⁾ and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as The Dairy Produce Quotas (Scotland) Amendment Regulations 2006 and shall come into force on 31st March 2006.

Amendment of the Dairy Produce Quotas (Scotland) Regulations 2005

2. The Dairy Produce Quotas (Scotland) Regulations 2005⁽²⁾ are amended in accordance with regulations 3 to 7.

3. In regulation 16(3) (restrictions on transfer of quota), before “quota” insert “, as unused,”.

4. In regulation 23(4)(a) (adjustment of purchaser quota),

(a) for “reach” substitute “be sent to”; and

(b) for “no later than” substitute “on or before the”.

5. In regulation 33 (information) for paragraph (5) substitute—

(1) 1972 c. 68. Section 2(2) was amended by the Scotland Act 1998 (c. 46), Schedule 8, paragraph 15(3). The functions conferred on a Minister of the Crown by section 2(2) were transferred, so far as within devolved competence, to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(2) S.S.I. 2005/91.

“(5) On or before the 14th May following the end of each quota year each purchaser shall send to the Scottish Ministers a list of wholesale quota holders registered with that purchaser at 31st March in each quota year (whether they have been so registered for the whole or part of that quota year) who–

- (a) hold wholesale quota in respect of that quota year that has not been acquired by temporary transfer for that quota year; and
- (b) have not made deliveries to that purchaser during that quota year.”.

6. In regulation 35 (annual declarations and summaries)–

- (a) in paragraph (1)(a)–
 - (i) for “submit” in each place where it appears substitute “send”;
 - (ii) omit “so that the declaration reaches the Scottish Ministers”;
- (b) in paragraph (1)(b)–
 - (i) for “submit” in each place where it appears substitute “send”;
 - (ii) omit “so that the summary reaches them”; and
- (c) in paragraph (2) for “submitted” substitute “sent”.

7. In regulation 36 (administrative penalties)–

- (a) in paragraph (1), for “and (3)” substitute “to (3)”;
 - (b) insert after paragraph (2)–
 - “(2A) Where a purchaser–
 - (a) sends to the Scottish Ministers a summary of producers' statements required to be submitted under Article 8(2) of the Commission Regulation which is inaccurate; and
 - (b) by doing so causes an overstatement or an understatement by the purchaser of deliveries made to the purchaser,
- the purchaser is liable to pay to the Scottish Ministers a penalty equivalent to the theoretical amount of levy that would be due on 0.5% of the quantity by volume of milk which comprises the overstatement or understatement.”; and
- (c) in paragraph (6)–
 - (i) after “liable to pay to the Scottish Ministers” insert “, if the Scottish Ministers serve notice to that effect.”; and
 - (ii) after “reaching the Scottish Ministers” insert “starting on the thirtieth day after service of the notice”.

St Andrew's House,
Edinburgh
7th March 2006

ROSS FINNIE
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 31st March 2006, amend the Dairy Produce Quotas (Scotland) Regulations 2005 ([S.S.I. 2005/91](#)) (“the 2005 Regulations”).

The 2005 Regulations implement Council Regulation ([EC](#)) No. 1788/2003 establishing a levy in the milk and milk products sector (O.J. No. L 270, 21.10.03, p.123) and Commission Regulation ([EC](#)) No. 595/2004 laying down detailed rules for applying Council Regulation ([EC](#)) No. 1788/2003 establishing a levy in the milk and milk products sector (O.J. No. L 94, 31.3.04, p.22) (“the Commission Regulation”).

These Regulations—

- (a) correct an error in regulation 16 of the 2005 Regulations which prevented the transfer of quota necessary to cover production before the date of transfer. The amendment provides that such quota may be transferred, but cannot be identified as unused quota (regulation 3);
- (b) amend certain provisions requiring dairy producers and purchasers to provide information to the Scottish Ministers by specified dates to make clear that these dates refer to the date the information is dispatched, not the date of receipt by the Scottish Ministers (regulations 4 to 6); and
- (c) amend the provisions on administrative penalties in regulation 36 of the 2005 Regulations to—
 - (i) insert a penalty for purchasers who send inaccurate summaries of production required to be submitted under Article 8(2) of the Commission Regulation; and
 - (ii) provide that the penalty for purchasers who fail to submit a summary as required by Article 8(4) of the Commission Regulation before 1st July in the year in which it is required applies 30 days after the service of a notice by the Scottish Ministers to this effect (regulation 7).

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business, charities or voluntary bodies.