

2007 No. 118

FOOD

**The Dairy Produce Quotas (Scotland) Amendment Regulations
2007**

<i>Made</i>	- - - -	<i>27th February 2007</i>
<i>Laid before the Scottish Parliament</i>		<i>28th February 2007</i>
<i>Coming into force</i>	- -	<i>31st March 2007</i>

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a), 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 2007 and shall come into force on 31st March 2007.

Amendment of the Dairy Produce Quotas (Scotland) Regulations 2005

2. The Dairy Produce Quotas (Scotland) Regulations 2005(b) are amended in accordance with regulations 3 to 10.

3. In regulation 2(1) (interpretation) –

- (a) in the definition of “the Commission Regulation”, after “sector” insert “, as last amended by Commission Regulation (EC) No. 1913/2006(c)”;
- (b) omit the definition of “Commission Regulation 1756/93”;
- (c) in the definition of “the Community legislation”, for “, the Commission Regulation, and Commission Regulation 1756/93” substitute “and the Commission Regulation”; and
- (d) in the definition of “the Council Regulation”, for “as amended by Council Regulation (EC) No. 2217/2004” substitute “as last amended by Council Regulation (EC) No. 1406/2006(d)”.

4. In regulation 7(a) (inspection of entries in the Scottish Ministers’ registers), omit sub-paragraph (iii).

5. In regulation 9 (transfer of quota with transfer of land: general), for paragraph (3) substitute–

“(3) The notice of transfer must reach the Scottish Ministers no later than 31st March in the quota year in which the transfer takes place.”.

(a) 1972 c. 68; section 2(2) was amended by the Scotland Act 1998 (c.46), Schedule 8, paragraph 15(3). The function conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, in so far as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(b) S.S.I. 2005/91 as amended by S.S.I. 2006/119.

(c) O.J. No. L 365, 21.12.2006, p.52.

(d) O.J. No. L 265, 26.9.2006, p.8.

6. In regulation 31(5) (payment and recovery of levy), for “1st September” substitute “30th September”.

7. In regulation 36 (administrative penalties)–

- (a) in paragraph (1), for “(2) to (3)” substitute “(2A) and (3)”;
- (b) omit paragraph (2);
- (c) in paragraph (5), for “paragraphs (2) to (4)” substitute “paragraphs (2A), (3), (4) and (6A)”;

(d) for paragraph (6), substitute–

“(6) Subject to Article 8(5) of the Commission Regulation, if a purchaser fails to submit a summary required to be submitted under Article 8(2) of the Commission Regulation, by the end of the period specified in Article 8(4), that 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.”;

(e) after paragraph 6, insert–

“(6A) Subject to paragraphs (5) and (7), 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) 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.”; and

(f) in paragraph (7), for “(6)” substitute “(6A)”.

8. In regulation 38 (confiscation of quota), omit paragraph (2).

9. In regulation 39(2)(a)(ii) (restoration of quota), for “by virtue of regulation 38(2)” substitute “under Article 11(4) of the Commission Regulation”.

10. In paragraph 2(1) of Schedule 2 (Keeping and retention of records: records to be kept by producers), at the beginning of both sub-paragraph (h) and (i), insert “if the direct seller holds 4,855 or more litres of direct sales quota,”.

ROSS FINNIE

A member of the Scottish Executive

St Andrew’s House,
Edinburgh
27th February 2007

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 31st March 2007, 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, 21.10.2003, p.123) (as amended) 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, 31.3.2004, p.22) (“the Commission Regulation”).

These Regulations–

- (i) update the references to Community legislation (regulation 3);
- (ii) remove the reference to the agent of a quota holder in respect of inspection of registers (regulation 4);
- (iii) amend the requirement to submit a notice to the Scottish Ministers, on the transfer of quota with the transfer of land, by lease and otherwise, on two different dates, to require submission by a single date, the 31st March, in both cases (regulation 5);
- (iv) amend the date from when unpaid levy may be recovered (regulation 6);
- (v) amend the administrative penalty procedure on late submission of summaries of deliveries by milk purchasers in accordance with changes to the Commission Regulation (made by Commission Regulation (EC) 1468/2006 (O.J. L274, 5.10.2006, p.6)) and correct the drafting of the 2005 Regulations (regulation 7);
- (vi) amend the administrative penalty procedure on late submission of declarations of direct sales to remove the provision on confiscation of quota since this is now fully set out in the Commission Regulation (as amended by Commission Regulation (EC) 1468/2006 (regulations 8 and 9)); and
- (vii) amend the record keeping requirements for direct sellers of milk and milk products (regulation 10).

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.

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£3.00

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