

**2002 No. 458**

**FOOD**

**The Dairy Produce Quotas (General Provisions)  
Regulations 2002**

<i>Made</i> - - - - -	<i>1st March 2002</i>
<i>Laid before Parliament</i>	<i>4th March 2002</i>
<i>Coming into force</i> - -	<i>31st March 2002</i>

The Secretary of State, being 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, acting in exercise of the powers conferred on her by virtue of the said section 2(2), and of all other powers enabling her in that behalf, hereby makes the following Regulations:

**Title and commencement**

1. These Regulations may be cited as the Dairy Produce Quotas (General Provisions) Regulations 2002 and shall come into force on 31st March 2002.

**Interpretation**

2. In these Regulations, unless the context otherwise requires—
- “apparatus” means any drum, barrel, tank, pump, hose or any other item adapted or used for the purposes of producing or transporting milk or milk products;
  - “authorised officer” means a person (whether or not an officer of the relevant competent authority) who is authorised by the relevant competent authority, either generally or specifically for the purposes of these Regulations, to act under these Regulations;
  - “the Commission Regulation” means Commission Regulation (EC) No. 1392/2001 laying down detailed rules for applying Council Regulation (EEC) No. 3950/92 establishing an additional levy on milk and milk products(c);
  - “Commission Regulation 1756/93” means Commission Regulation (EEC) No. 1756/93 fixing the operative events for the agricultural conversion rate applicable to milk and milk products(d);
  - “Commission Regulation 2562/93” means Commission Regulation (EEC) No 2562/93 laying down detailed rules for the application of Regulation (EEC) No 2055/93 allocating a special reference quantity to certain producers of milk and milk products(e);

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(a) S.I. 1972/1811. The power of the Secretary of State for Environment, Food and Rural Affairs, as a Minister designated in relation to the common agricultural policy of the European Community, to make Regulations which extend to Scotland remains exercisable by virtue of section 57(1) of the Scotland Act 1998 (1998 c. 46). The Secretary of State’s power to make, as a Minister so designated, regulations which extend to Wales is confirmed by Article 3(4) of the European Communities (Designation) (No. 3) Order 1999 (S.I. 1999/2788).

(b) 1972 c. 68.

(c) OJ No. L187, 10.7.2001, p. 19.

(d) OJ No. L161, 2.7.1993, p. 48, as last amended by Commission Regulation (EC) No. 569/1999 (OJ NO. L70, 17.3.1999, p. 12).

(e) OJ No. L235, 18.9.93, p. 18.

“the Community legislation” means the Commission Regulation, the Council Regulation, Council Regulation 2055/93, Commission Regulation 1756/93 and Commission Regulation 2562/93;

“the competent authority” means,—

- (a) in England, the Secretary of State for Environment, Food and Rural Affairs;
- (b) in Wales, the National Assembly for Wales;
- (c) in Scotland, the Scottish Ministers; and
- (d) in Northern Ireland, the Department of Agriculture and Rural Development;

“the Council Regulation” means Council Regulation (EEC) No. 3950/92 establishing an additional levy in the milk and milk products sector<sup>(a)</sup>, as last amended by Commission Regulation (EC) No. 603/2001 adapting the total quantities referred to in Article 3 of Council Regulation (EEC) No. 3950/92<sup>(b)</sup>;

“Council Regulation 2055/93” means Council Regulation (EEC) No. 2055/93 allocating a special reference quantity to certain producers of milk and milk products<sup>(c)</sup>;

“dairy produce” means produce, expressed in kilograms or litres (one kilogram being 0.971 litres), in respect of which levy is payable;

“delivery” has the same meaning as in Article 9(g) of the Council Regulation, and “deliver” shall be construed accordingly;

“direct sale” means a sale within the terms of Article 9(h) of the Council Regulation;

“direct sales quota” means the quantity of dairy produce which may be sold or transferred free of charge by direct sale from a holding in a quota year without the direct seller in occupation of that holding being liable to pay levy;

“direct seller” means a person who produces milk and treats that milk or processes it to produce milk or milk products on his holding and subsequently sells or transfers that milk or those milk products free of charge without their having been further treated or processed by an undertaking which treats or processes milk or milk products;

“holding” has the same meaning as in Article 9(d) of the Council Regulation;

“levy” means the levy payable under the Community legislation;

“national reserve” means the reserve described in regulation 4 of these Regulations constituted in accordance with Article 5 of the Council Regulation (which concerns the confiscation and distribution of quota);

“premises” includes any vehicle;

“producer” has the same meaning as in Article 9(c) of the Council Regulation;

“purchaser” means a purchaser within the meaning of Article 9(e) of the Council Regulation;

“quota” means direct sales quota or wholesale quota;

“quota year” means any of the periods of 12 months referred to in Article 1 of the Council Regulation (which concerns the fixing of the levy);

“relevant date”, in relation to a producer, purchaser or any other person, and for the purposes of any given quota year, means the beginning of that quota year;

“relevant offence” means an offence relating to—

- (a) any failure to comply with a requirement imposed by, or in implementation of, the Community legislation;
- (b) the making of any statement or use of any document which is false in a material particular; or
- (c) any disposal of incorrectly registered quota.

“relevant person” means a producer, a purchaser, any employee or agent of a producer or of a purchaser, any milk haulier, any person undertaking butterfat testing for purchasers in a laboratory, a processor of milk or milk products, or any other person involved in the buying, selling or supply of milk or milk products obtained directly from a producer or purchaser;

“relevant proceedings” mean any criminal proceedings relating to a relevant offence;

“territory” means England, Wales, Scotland or Northern Ireland, as the case may be;

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(a) OJ No. L405, 31.12.92, p. 1.  
(b) OJ No. L89, 29.3.2001, p. 18.  
(c) OJ No. L187, 29.7.93, p. 8.

“Tribunal” means a Dairy Produce Quota Tribunal constituted pursuant to regulation 7 of these Regulations;

“wholesale delivery” means delivery from a producer to a purchaser; and

“wholesale quota” means the quantity of dairy produce which may be delivered by wholesale delivery to a purchaser from a holding in a quota year without the producer in occupation of that holding being liable to pay levy.

### **Relevant competent authority**

3. In relation to a producer, a purchaser or any other relevant person, the relevant competent authority shall be the competent authority in the territory in which the trading address, or where there is more than one such address, the principal trading address, of that producer, purchaser or other relevant person is situated at the relevant date.

### **National reserve**

4. There shall continue to be a national reserve comprising such wholesale and direct sales quota as is not for the time being allocated to any person, including any quota withdrawn from any producer.

### **Powers of authorised officers**

5.—(1) An authorised officer may, at all reasonable hours and on producing some duly authenticated document showing his authority, exercise the powers specified in this regulation for the purposes of ascertaining whether—

- (a) a relevant person has acted, or is acting, in accordance with the Community legislation; or
- (b) a relevant offence has been, or is being, committed.

(2) For the purposes of this regulation, an authorised officer may enter upon a holding or any other premises of a relevant person.

(3) An authorised officer who has entered upon a holding or any other premises of a relevant person by virtue of this regulation may—

- (a) inspect any—
  - (i) land, other than land used only as a dwelling;
  - (ii) apparatus; or
  - (iii) record or document, including any document kept by means of a computer, which relates to the allocation or transfer of quota or the trade in, or production of milk or milk products,and
- (b) seize and retain any such apparatus or record or document which he has reason to believe may be required as evidence in any relevant proceedings.

(4) A relevant person shall render all reasonable assistance to the authorised officer in relation to the matters mentioned in paragraph (1) above and in particular shall produce any such record or document and supply such additional information relating to the allocation to him of quota, the transfer to or from him of quota and the trade in, or production of, milk or milk products, as the authorised officer may reasonably require.

(5) In the case of a record or document kept by means of a computer, a relevant person shall, if so required, provide any such record or document in a form in which it may be taken away.

### **Offences and penalties**

6. Any person who—

- (a) intentionally obstructs an authorised officer acting in exercise of the powers conferred on him by regulation 5(1), (2) or (3) of these Regulations; or
- (b) fails without reasonable excuse to comply with a requirement of an authorised officer made pursuant to regulation 5(4) or (5) thereof,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **Dairy Produce Quota Tribunals**

7.—(1) For the purpose of resolving any dispute between a producer and a relevant competent authority in relation to the allocation of quota, there shall be re-constituted—

- (a) a Dairy Produce Quota Tribunal for England and Wales, which shall have jurisdiction where that relevant competent authority is either the Secretary of State for Environment, Food and Rural Affairs or the National Assembly for Wales;
- (b) a Dairy Produce Quota Tribunal for Scotland, which shall have jurisdiction where that relevant competent authority is the Scottish Ministers; and
- (c) a Dairy Produce Quota Tribunal for Northern Ireland, which shall have jurisdiction where that relevant competent authority is the Department of Agriculture and Rural Development.

(2) The provisions of the Schedule to these Regulations shall apply in respect of the constitution, appointment of members, remuneration of members, staffing and procedure of each Tribunal.

1st March 2002

*Whitty*  
Parliamentary Under-Secretary,  
Department for Environment, Food and Rural Affairs

CONSTITUTION, STAFFING AND PROCEDURES OF DAIRY PRODUCE QUOTA  
TRIBUNALS

1. The relevant Tribunal shall consist of up to 90 members appointed by the competent authority. The competent authority shall designate one of the members of the relevant Tribunal as the Chairman of that Tribunal and may, if it thinks fit, designate another member as the Deputy Chairman.
2. The quorum for any determination by each Tribunal shall be three.
3. Any determination to be made by each Tribunal shall be made by a majority.
4. The relevant Tribunal may be serviced by a Secretary and such other staff as the competent authority may appoint.
5. Any document purporting to be signed by the Chairman or Deputy Chairman of, or the Secretary to, a Tribunal and purporting to state a determination (or guidance) of that Tribunal shall in any proceedings be evidence of such a determination (or such guidance).
6. The terms of appointment and the remuneration of the members, Secretary and other staff of the relevant Tribunal shall be determined by the competent authority.
7. Except as otherwise provided in this Schedule, the procedure of a Tribunal shall be such as its Chairman or, in the absence of its Chairman, its Deputy Chairman shall determine.
8. The Dairy Produce Quota Tribunals for England and Wales, Scotland and Northern Ireland shall, if so required by each competent authority, issue a joint written statement of general guidance in respect of the criteria to be used in reaching any determination and each Tribunal shall make its determinations in accordance with those criteria.
9. In this Schedule—
  - (a) any function specified in this Schedule as being exercisable by the competent authority shall, in relation to the Dairy Produce Quota Tribunal for England and Wales, be exercisable jointly by the Secretary of State for Environment, Food and Rural Affairs and the National Assembly for Wales; and
  - (b) “the relevant Tribunal”, for the purposes of any functions of a competent authority that are exercisable in relation to a Tribunal, shall be the Tribunal for the territory in which the competent authority concerned is the competent authority (and for this purpose the Dairy Produce Quota Tribunal for England and Wales shall be treated as the Tribunal for each of England and Wales separately).

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations, which come into force on 31st March 2002, contain provisions concerning dairy produce quotas which, for which separate territorial enactments extending to England, Wales, Scotland and Northern Ireland respectively would not be apt. Such enactments containing the majority of provisions in relation to dairy produce quotas are the Dairy Produce Quotas Regulations 2002 (S.I. 2002/457), the Dairy Produce Quotas (Wales) Regulations 2002 (S.I. 2002/766 (W. 83)), the Dairy Produce Quotas (Scotland) Regulations 2002 (S.S.I. 2002/110), and the Dairy Produce Quotas Regulations (Northern Ireland) 2002 (S.R. 2002/88).

The Regulations provide for the meaning of the relevant competent authority in relation to producers, purchasers and other persons (regulation 3), maintain in existence the national reserve of milk quotas (regulation 4), specify the powers of authorised officers (regulation 5), provide offences of obstructing an authorised officer and of failing to comply with the requirements of any such authorised officer (regulation 6) and re-constitute, and set out the procedures of, the Dairy Produce Quota Tribunals (regulation 7 and Schedule).

No Regulatory Impact Assessment has been prepared in respect of these Regulations.



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