

OFFERYNNAU STATUDOL CYMRU

2004 Rhif 911 (Cy.94)

BWYD, CYMRU

Rheoliadau Cwotâu Cynnyrch Llaeth (Cymru) (Diwygio) 2004

Wedi'u gwneud - - 24 Mawrth 2004

Yn dod i rym - - 1 Ebrill 2004

Mae Cynulliad Cenedlaethol Cymru, ac yntau wedi'i ddynodi(1) at ddibenion adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972(2) mewn perthynas â pholisi amaethyddol cyffredin y Gymuned Ewropeaidd, drwy arfer y pwerau a roddwyd iddo yn rhinwedd yr adran 2(2) a enwyd, drwy hyn yn gwneud y Rheoliadau canlynol —

**Enwi a chychwyn**

1. Enw'r Rheoliadau hyn yw Rheoliadau Cwotâu Cynnyrch Llaeth (Cymru) (Diwygio) 2004, a deuant i rym ar 1 Ebrill 2004.

**Cymhwysiad**

2.—(1) Mae'r Rheoliadau hyn yn gymwys o ran cynhyrchwyr, prynwyr a phersonau perthnasol eraill y mae Cynulliad Cenedlaethol Cymru yn awdurdod cymwys perthnasol iddynt.

(2) Yn y rheoliad hwn, mae i “awdurdod cymwys perthnasol” yr ystyr a roddir i “*the relevant competent authority*” yn Rheoliadau Cwotâu Cynnyrch Llaeth (Darpariaethau Cyffredinol) 2002(3).

**Dehongli**

3. Yn y Rheoliadau hyn, ystyr “y prif Reoliadau” yw Rheoliadau Cwotâu Cynnyrch Llaeth (Cymru) 2004(4).

**Diwygio'r Prif Reoliadau**

4. Diwygir y prif Reoliadau yn unol â rheoliadau 5 i 15 isod.

(1) Yn rhinwedd Gorchymyn y Cymunedau Ewropeaidd (Dynodi) (Rhif 3) Gorchymyn 1999 (O.S. 1999/2788) (“y Gorchymyn”). Mae pŵer y Cynulliad Cenedlaethol, fel corff sydd wedi'i ddynodi mewn perthynas â pholisi amaethyddol cyffredin y Gymuned Ewropeaidd, i wneud rheoliadau sy'n gymwys i ddaliadau amaethyddol sy'n cynnwys tir sydd wedi'i leoli o fewn y Deyrnas Unedig ond sydd y tu allan i Gymru wedi'i gadarnhau gan baragraff 2(b) o Atodlen 2 i'r Gorchymyn.

(2) 1972 p.68.

(3) O.S. 2002/458.

(4) O.S. 2002/897 (Cy. 103).

## 5. Yn rheoliad 3 (dehongli) —

- (a) yn lle'r diffiniad o “the Council Regulation” rhodder y diffiniad canlynol —

““the Council Regulation” means Council Regulation (EC) No. 1788/2003 establishing a levy in the milk and milk products sector(5);”;

- (b) yn lle'r diffiniad o “Scottish Islands area” rhodder y diffiniad canlynol—

““Scottish Islands area” means either one of—

- (a) the islands of Orkney except for the island of Stronsay; or
- (b) the islands of Jura, Gigha, Arran, Bute, Great Cumbrae and Little Cumbrae, the Kintyre peninsula south of Tarbert and the areas of land comprising those parts of the parishes of Dunoon and Kilmun and of Inverchaolain in the Argyll and Bute District shown bounded by a red line on a map marked “Map referred to in sub paragraph (b) of the definition of Scottish Islands area in regulation 3 of the Dairy Produce Quotas (Wales) Regulations 2002, as amended by regulation 5(b) of the Dairy Produce Quotas (Wales) (Amendment) Regulations 2004”, dated 2nd February 2004, signed on behalf of the National Assembly and deposited at the offices of National Assembly’s Department for Environment, Planning and Countryside, at Crown Buildings, Cathays Park, Cardiff, CF10 3NQ.”.

## 6. Yn lle rheoliad 4 (ardaloedd Ynysoedd yr Alban) rhodder y rheoliad canlynol —

**“Scottish Islands areas**

4.—(1) Quota registered to direct sales quota holders and wholesale quota holders within a Scottish Islands area may be used by producers and purchasers only against direct sales or wholesale deliveries of milk produced within that Scottish Islands area.

(2) Where a direct sales quota holder or wholesale quota holder has a part of his or her dairy enterprise outside the Scottish Islands area, he or she shall be treated for the purposes of this regulation as a direct sales quota holder or wholesale quota holder within a Scottish Islands area if he or she has 50 per cent or more of his or her dairy enterprise within that area.

(3) Paragraph (1) shall not apply to the reallocation of quota undertaken in accordance with Schedule 2.

- (4) In this regulation —

- (a) “direct sales quota holder” means a person in whose name direct sales quota is registered;
- (b) “wholesale quota holder” means a person in whose name wholesale quota is registered.”.

## 7. Yn lle rheoliad 12 (trosglwyddo cwota heb drosglwyddo tir) rhodder y rheoliad canlynol—

**“Transfer of quota without transfer of land**

12.—(1) This regulation applies where the competent authorities in Wales, in England in Scotland and in Northern Ireland have jointly determined in accordance with paragraphs (1)(e) and (2) of Article 18 of the Council Regulation, that within each United Kingdom quota region transfer of quota without transfer of the corresponding land is authorised.

(2) A transferee of quota for whom the National Assembly is the relevant competent authority shall submit a notice of any such transfer within the general quota region in such

---

(5) OJ Rhif L270, 21.10.2003, t.123.

form as the National Assembly may reasonably require to reach the National Assembly no later than 31st March in the quota year in which the transfer takes place.

(3) The notice referred to in paragraph (2) shall include —

- (a) statements by the transferor and transferee that they have agreed to the transfer of quota, stating the amounts of used and unused quota transferred;
- (b) a consent or sole interest notice given by the transferor in respect of the entirety of the holding from which the quota is to be transferred; and
- (c) a statement from the transferee that he or she is a producer.

(4) Where the National Assembly has received a notice pursuant to paragraph (2), it may require that the transferor or transferee shall produce such other information relating to the transfer, and within such time, as the National Assembly may reasonably determine.

(5) In this regulation —

- (a) “competent authority” has the meaning given to it by regulation 2 of the Dairy Produce Quotas (General Provisions) Regulations 2002;
- (b) “general quota region” means the United Kingdom other than the Scottish Islands;
- (c) “United Kingdom quota region” means a Scottish Islands area or the general quota region.”.

**8.** Yn lle rheoliad 23(6) (gwerthwyr uniongyrchol a chynhyrchwyr at ddibenion cofrestrau a baratoir ac a gynhelir gan y Cynulliad Cenedlaethol) rhodder y paragraff canlynol —

“(6) Notwithstanding that a person no longer produces and markets milk and for that reason is not a direct seller or producer, he or she shall remain registered under paragraph (1) or (2) and, for the purposes of this regulation and regulations 24(a), 26 and 28(1), continue to be regarded as a direct seller or producer, as the case may be, until the quota allocated or issued to him or her has been transferred or has been withdrawn under Article 15 of the Council Regulation.”.

**9.** Yn rheoliad 26(2) (rhwymedigaeth i gofrestru gan gynhyrchwyr sy'n dal cwota cyfanwerthol dileer y geiriau “within the extended meaning conferred by regulation 23(6)”).

**10.** Yn lle rheoliad 31(3) (cosbau gweinyddol am fethu cyflwyno crynodebau cywir neu grynodebau diwygiedig) rhodder y paragraff canlynol —

“(3) Where a purchaser fails to submit to the National Assembly pursuant to regulation 22(1) or (2) a summary or revised summary, as the case may be, of producers' statements which is accurate, and thereby causes an overstatement or an understatement by him or her of deliveries made to him or her, he or she shall be liable to pay to the National Assembly a penalty equivalent to the theoretical amount of levy due on 0.5 per cent of the quantity by volume of milk which comprises the overstatement or understatement.”.

**11.** Yn lle rheoliad 31(5) (cosbau gweinyddol am gyflwyno datganiadau anghywir gan werthwyr uniongyrchol) rhodder y paragraff canlynol —

“(5) For the purposes of the third sub-paragraph of Article 6(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 6(5) of that Regulation (which confers a discretion on Member States not to impose penalties in certain circumstances) and paragraph (6), 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, he or she shall be liable to pay to the National Assembly —

- (a) in the case of an overstatement, a penalty equivalent to the theoretical amount of levy due on 0.5 per cent of the quantity by volume of milk which comprises the overstatement;
- (b) in the case of an understatement, a penalty equivalent to the theoretical amount of levy due on 0.5 per cent of the quantity by volume of milk which comprises the understatement, except in any case where, for the quota year covered by the declaration, her or she is liable to pay to the National Assembly levy which exceeds that amount.”.

**12. Yn lle rheoliad 33 (atafaelw ac adfer cwota) rhodder y rheoliad canlynol —**

**“Confiscation and restoration of quota**

**33.—**(1) On or before 14th May following the end of each quota year, each purchaser shall supply to the National Assembly a list of those wholesale quota holders registered with that purchaser (whether for the whole or part of the quota year) who have not made deliveries to that purchaser during that year.

(2) Pursuant to Article 15 of the Council Regulation (which concerns the confiscation and restoration of quota), the National Assembly shall notify —

- (a) any wholesale quota holder or direct sales quota holder who, from information available to the National Assembly, appears to have made neither deliveries nor direct sales during the previous quota year, or
- (b) any direct sales quota holder who, in contravention of Article 6 of the Commission Regulation, has failed to submit to National Assembly a declaration within 30 days of service of a notice by the National Assembly in accordance with Article 6(4) of that Regulation,

that his or her quota has been taken into the national reserve.

(3) Any quota withdrawn pursuant to Article 15 of the Council Regulation shall be placed in the national reserve with effect from the beginning of the quota year following —

- (a) the quota year for which the list referred to in paragraph (1) was supplied,
- (b) the quota year to which the declaration indicating no direct sales were made relates, or
- (c) the quota year for which no declaration was submitted,

as the case may be.

(4) A wholesale quota holder or direct sales quota holder who receives a notification of confiscation under paragraph (2) shall within 28 days of receipt of that notification notify any person with an interest in the land comprised in the holding of the content of that notification.

(5) Subject to the second sub-paragraph of Article 15(1) of the Council Regulation (which specifies the time limit for quota restoration) and to paragraphs (6) and (7), a person whose quota has, pursuant to Article 15(1), been taken into the national reserve may request the National Assembly to restore to him or her the quota in respect of the holding from which it was confiscated or in respect of part of that holding provided that —

- (a) he or she is a producer;
- (b) the National Assembly receives the request by the end of the quota year to which the request relates; and

(c) in the case of confiscation of quota notified by virtue of paragraph (2)(b), the National Assembly has received the required declaration from him or her by the end of the quota year preceding the quota year in which the quota is to be restored.

(6) Where there is a change of occupation of all or part of the holding to which the quota relates, the new occupier may, in accordance with paragraph (5), request the National Assembly to restore to him or her the quota relating to that holding or part holding, provided that the request is received by the National Assembly before expiry of the time limit for quota restoration specified by the second sub-paragraph of Article 15(1) of the Council Regulation.

(7) A request for restoration of quota to part of a holding made under paragraph (5) or, following a change of occupation of part of a holding, under paragraph (6) shall include —

(a) a statement of the agreed apportionment of quota taking account of the areas used for milk production, signed by every person with an interest in the land comprised in the holding; or

(b) a statement requesting apportionment of the quota in accordance with an arbitration under paragraphs 1(5), 3(2), 4 and 6 to 34 of Schedule 1.

(8) Where quota is restored to part of a holding in accordance with a request made under paragraph (5), or following a change of occupation of part of a holding pursuant to paragraph (6), the amount of quota to be restored to that part shall be determined in accordance with the apportionment referred to in paragraph (7)(a) or (b).

(9) In this regulation —

(a) “direct sales quota holder” means a person in whose name direct sales quota is registered;

(b) “wholesale quota holder” means a person in whose name wholesale quota is registered.”

### 13. Yn Atodlen 1 —

(a) ym mharagraff 1(5), yn lle'r geiriau “regulation 33(5)(iii)” rhodder y geiriau “regulation 33(7)(b)”;

(b) ym mharagraff 12(2), yn lle'r geiriau “regulation 33(5)(b)(iii)” rhodder y geiriau “under regulation 33(7)(b)”;

(c) ym mharagraff 12(2), yn lle'r geiriau “regulation 33(5)(b)(ii)” rhodder y geiriau “regulation 33(7)(a)”.

14. Yn lle'r cyfeiriadau yn y prif Reoliadau at ddarpariaethau Rheoliad y Cyngor (EEC) Rhif 3950/92(6) a bennir yng ngholofn 1 o Atodlen 1 i'r Rheoliadau hyn, rhodder y cyfeiriadau at ddarpariaethau Rheoliad y Cyngor (EC) Rhif. 1788/2003 a bennir mewn perthynas â hwy yng ngholofn 2.

15. Diwygir darpariaethau'r prif Reoliadau a bennir yng ngholofn 1 o Atodlen 2 i'r Rheoliadau hyn fel a bennir mewn perthynas â hwy yng ngholofn 2.

Llofnodwyd ar ran Cynulliad Cenedlaethol Cymru o dan adran 66(1) o Ddeddf Llywodraeth Cymru 1998(7)

24 Mawrth 2004

*John Marek*  
Dirprwy Lywydd y Cynulliad Cenedlaethol

## ATODLEN 1

Rheoliad 14

## Diwygio'r cyfeiriadau at Reoliad y Cyngor

<i>Colofn 1</i> <b>Cyfeiriadau at Reoliad y Cyngor 3950/92</b>	<i>Colofn 2</i> <b>Y cyfeiriadau newydd at Reoliad y Cyngor 1788/2003</b>
Erthygl 9(g), yn y diffiniad o “delivery” yn rheoliad 3	Erthygl 5(f)
Erthygl 9(h), yn y diffiniad o “direct sale” yn rheoliad 3	Erthygl 5(g)
Erthygl 9(d), yn y diffiniad o “holding” yn rheoliad 3	Erthygl 5(d)
Erthygl 9(c), yn y diffiniad o “producer” yn rheoliad 3	Erthygl 5(c)
Erthygl 9(e), yn y diffiniad o “purchaser” yn rheoliad 3	Erthygl 5(e)
Erthygl 1, yn y diffiniad o “quota year” yn rheoliad 3	Erthygl 1(1)
Erthygl 2(1), yn rheoliad 5	Erthygl 10(3)
Ail is-baragraff Erthygl 2(2), yn rheoliad 7(2)	Erthygl 11(2)
Erthygl 7, yn rheoliad 8(1)	Erthygl 17
Erthygl 6, yn rheoliad 14(1)	Erthygl 16
Erthygl 2(1), yn rheoliad 15(1)	Erthygl 10(3)
Erthygl 4(2), yn rheoliad 17(1)	Erthygl 6(2) a (5)
Ail is-baragraff Erthygl 2(2), yn rheoliad 17(1)	Erthygl 11(2)
Erthygl 4(2), yn rheoliad 17(2)(b)	Erthygl 6(2) a (5)
Erthygl 2(1), yn rheoliad 19	Erthygl 10(3)
Erthygl 2(3), yn rheoliad 21(2)	Erthygl 12(4)
Erthygl 2(2), yn rheoliad 21(2)	Erthygl 11(1)
Trydydd is-baragraff Erthygl 2(2), yn rheoliad 21(4)	Erthygl 11(3)
Erthygl 3(2), yn rheoliad 28(2)	Erthygl 1(3) ac Atodiad I
Erthygl 1, yn Atodlen 2 paragraffau 9, 17 a 19	Ym mhob achos, Erthygl 2

## ATODLEN 2

Rheoliad 15

## Mân ddiwygiadau

<i>Colofn 1</i> <b>Darpariaethau'r prif Reoliadau</b>	<i>Colofn 2</i> <b>Diwygiadau</b>
Y diffiniad o “interest” rheoliad 3	Yn lle'r geiriau “except yn where used in regulation 21(2)” rhodder y geiriau “except where used in regulation 21(3)”
Rheoliad 8(1)(a)(i)	Yn lle'r geiriau “in the case of a transfer made by lease before 1st March” rhodder y geiriau “in the case of a transfer made by lease”
Rheoliad 8(1)(a)(ii)	Dileer y geiriau “made by lease on any date during March or”
Rheoliad 17(3)(b)	Yn lle'r geiriau “14th May in any year” rhodder y geiriau “14th May in the year”
Rheoliad 21(4)	Yn lle'r geiriau “following adjustment of that quota” rhodder y geiriau “following adjustment of the quantity delivered”
Rheoliad 23(1)(b)(ii) (2)(b)(ii)	Ym mhob achos, dileer y a geiriau “or, where there is more than one such address, each such address and his or her principal trading address”
Rheoliad 31(4)	Yn lle'r geiriau “and regulation 31” rhodder y geiriau “and regulation 30”

**EXPLANATORY NOTE***(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)*

Mae'r Rheoliadau hyn, sy'n dod i rym ar 1 Ebrill 2004, yn diwygio Rheoliadau Cwotâu Cynnyrch Llaeth (Cymru) 2002 ([O.S. 2002/897 \(Cy.103\)](#)). Maent yn gymwys o ran cynhyrchwyr, prynwyr a phersonau perthnasol eraill y mae Cynulliad Cenedlaethol Cymru yn awdurdod cymwys perthnasol mewn perthynas â hwy sef fel y diffinnir “the relevant competent authority” gan Reoliadau Cwotâu Cynnyrch Llaeth (Darpariaethau Cyffredinol) 2002 ([O.S. 2002/458](#)). Gall y daliadau y mae'r Rheoliadau hyn yn gymwys iddynt gynnwys tir mewn rhannau eraill o'r Deyrnas Unedig y tu allan i Gymru.

Mae'r Rheoliadau'n gweithredu Rheoliad y Cyngor ([EC](#)) [Rhif 1788/2003](#) sy'n sefydlu ardoll yn y sector llaeth a chynhyrchion llaeth (OJ Rhif L270, 21.10.2003, t.123) a hefyd ddyfarniad Llys Cyfiawnder Ewrop yn achos C-401/99 *Peter Heinrich Thomsen v Amt für ländliche Räume Husum* [2002] ECR I-5775. Cadarnhaodd dyfarniad Thomsen, mewn perthynas â lesydd pan ddaw les i ben, yn gyffredinol dim ond “cynhyrchydd” a gaiff ddal y cwota llaeth hwnnw sef “producer” o fewn ystyr yr hyn sydd bellach yn Erthygl 5(c) o Reoliad y Cyngor ([EC](#)) [Rhif 1788/2003](#).

Mae'r Rheoliadau —

- (a) yn disodli'r diffiniadau o “Council Regulation” a “Scottish Islands area” (rheoliad 5);
- (b) yn parhau i gyfyngu ar y cwota sy'n cael ei ddal yn ardaloedd Ynysoedd yr Alban i'w ddefnyddio yn yr ardaloedd hynny (rheoliad 6);
- (c) yn gwneud darpariaeth gyffredinol ar gyfer trosglwyddo cwota, o fewn pob ardal gwota yn y Deyrnas Unedig, heb drosglwyddo tir (rheoliad 7);
- (ch) yn cynnal rhwymedigaethau cofrestru ar gyfer y rhai nad ydynt yn cynhyrchu a marchnata llaeth nes bod eu cwota wedi cael ei drosglwyddo neu ei dynnu'n ôl (rheoliadau 8 a 9);
- (d) yn estyn i danddywediadau, y cosbau gweinyddol am grynodedau anghywir oddi wrth brynwyr a datganiadau anghywir gan werthwyr uniongyrchol sydd ar hyn o bryd yn gymwys i orddywediadau yn unig (rheoliadau 10 a 11);
- (dd) yn adolygu'r darpariaethau ar atafaelu ac adfer cwota drwy gymhwyso'r terfyn amser a ragnodwyd ar gyfer adfer gan Reoliad y Cyngor (EC) Rhif 1788/2003, drwy gyfyngu ar ddal cwota i gynhyrchwyr, drwy ddiweddarau'r cyfeiriadau at Reoliad y Cyngor, a thrwy gwneud newidiadau gweinyddol (rheoliadau 12 a 13);
- (e) yn diweddarau gweddill y cyfeiriadau at Reoliad y Cyngor (rheoliad 14 ac Atodlen 1);
- (f) yn gwneud mân ddiwygiadau pellach (rheoliad 15 ac Atodlen 2).

Mae copi o'r map y cyfeirir ato yn y diffiniad o “Scottish Islands area” ar gael i'w archwilio yn swyddfeydd Cynulliad Cenedlaethol Cymru, Adran yr Amgylchedd, Cynllunio a Chefn Gwlad, Adeiladau'r Goron, Parc Cathays, Caerdydd ac yn swyddfeydd Adran Materion Amgylcheddol a Gwledig Gweithrediaeth yr Alban, Pentland House, 47 Robb's Loan, Caeredin, EH4 1TY.

Mae arfarniad rheoliadol wedi'i baratoi ac mae ar gael i'w archwilio yn swyddfeydd y Cynulliad Cenedlaethol yn y cyfeiriad a nodir uchod.