
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 91

The Dairy Produce Quotas (Scotland) Regulations 2005

PART 4

ALLOCATIONS AND ADJUSTMENTS OF QUOTA

Conversion of quota: restriction on transfers of converted quota in conversion year

22.—(1) This regulation does not apply to permanently converted quota which is transferred with a holding pursuant to Article 17 of the Council Regulation.

(2) Subject to paragraphs (3) and (6), where a producer has permanently converted quota in any quota year, that producer shall not transfer later in that quota year quota of the type to which the producer has converted, whether temporarily or otherwise.

(3) Where a producer who has permanently converted quota in any quota year applies to the Scottish Ministers for a release from the restriction in paragraph (2), the Scottish Ministers, being satisfied as to the matters set out in paragraph (5), may release that producer from that restriction.

(4) A release from the restriction in paragraph (2) shall be to the extent necessary to allow the transfer of the amount of quota that the Scottish Ministers consider has remained unused in the particular case.

(5) The matters referred to in paragraph (3) are—

- (a) that, as regards the producer, exceptional circumstances have resulted in a significant fall in milk production or a significant failure to achieve a planned increase in milk production; and
- (b) those circumstances could not reasonably have been foreseen or avoided by the producer at the time of the permanent conversion of quota by the producer.

(6) The restriction in paragraph (2) does not apply if—

- (a) in a case where the permanent conversion is from direct sales quota to wholesale quota, the producer temporarily converted direct sales quota to wholesale quota in the immediately preceding quota year; or
- (b) in a case where the permanent conversion is from wholesale quota to direct sales quota, the producer temporarily converted wholesale quota to direct sales quota in the immediately preceding quota year.

(7) The following are examples of circumstances which shall be recognised as exceptional for the purposes of paragraph (5)—

- (a) the death of the producer or the inability of the producer to conduct the business of the producer for a prolonged period as a result of the onset of ill-health, injury or disability;
- (b) a natural disaster seriously affecting the holding;
- (c) the accidental destruction of buildings used for the purposes of milk production;
- (d) an outbreak of illness or disease seriously affecting the dairy herd;

- (e) the serving of a notice or the making of a declaration under an order made pursuant to section 17(1) of the Animal Health Act 1981 or the making of an order pursuant to section 1 of the Food and Environment Protection Act 1985;
- (f) the loss of a significant proportion of the forage area as a result of the compulsory purchase of the holding or a part of the holding; and
- (g) where the transferee is a tenant, the serving of a notice to quit coming within any case specified in section 22(2) of the Agricultural Holdings (Scotland) Act 1991⁽¹⁾.

⁽¹⁾ 1991 c. 55 as amended by 2003 asp 11, section 67.