
STATUTORY INSTRUMENTS

1994 No. 672

The Dairy Produce Quotas Regulations 1994

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“agricultural area” includes areas used for horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, areas of land used as grazing land, meadow land, osier land, market gardens and nursery grounds and areas of land used for woodlands where that use is ancillary to the farming of land for other agricultural purposes;

“Commission Regulation” means Commission Regulation (EEC) No. 536/93(1), laying down detailed rules on the application of the levy on milk and milk products, as amended by Commission Regulation (EEC) No. 1756/93(2) fixing the operative events for the agricultural conversion rate applicable to milk and milk products and Commission Regulation (EEC) No. 470/94(3) amending Commission Regulation (EEC) No. 536/93 laying down detailed rules on the application of the additional levy on milk and milk products;

“Community compensation scheme” means the scheme instituted by Council Regulation (EEC) No. 2187/93(4) providing for an offer of compensation to certain producers of milk and milk products temporarily prevented from carrying on their trade and Commission Regulation (EEC) No. 2648/93(5) laying down detailed rules for the application of Council Regulation (EEC) No. 2187/93;

“Community legislation” means the legislation listed in Schedule 1;

“consent or sole interest notice” means a notice, in relation to a holding or part of a holding, provided by the person required under these Regulations to provide the notice, and certifying—

- (a) either that he is the occupier of that holding or part of a holding and that no other person has an interest in that holding or part of the holding, or
- (b) that all persons having an interest in the holding or part of the holding the value of which interest might be reduced by the apportionment or prospective apportionment to which the notice relates agree to that apportionment or proposed prospective apportionment;

“Council Regulation” means Council Regulation (EEC) No. 3950/92(6) establishing an additional levy in the milk and milk products sector, as amended by Council Regulation (EEC) No. 748/93(7) amending Regulation (EEC) No. 3950/92 establishing an additional levy in the milk and milk products sector, and Council Regulation (EEC) No. 1560/93(8) amending Regulation (EEC) No. 3950/92 establishing an additional levy in the milk and milk products sector;

(1) OJ No. L57, 10.3.93, p.12.
(2) OJ No. L161, 2.7.93, p.50.
(3) OJ No. L59, 3.3.94, p.5.
(4) OJ No. L196, 5.8.93, p.6.
(5) OJ No. L243, 29.9.93, p.1.
(6) OJ No. L405, 31.12.92, p.1.
(7) OJ No. L77, 31.3.93, p.16.
(8) OJ No. L154, 25.6.93, p.30.

“Council Regulation 2055/93” means Council Regulation (EEC) No. 2055/93(9) allocating a special reference quantity to certain producers of milk and milk products;

“cow” includes a heifer that has calved;

“dairy enterprise” means an area stated by the occupier of that area to be run as a self-contained dairy produce business;

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

“Dairy Produce Quota Tribunal” has the meaning assigned to it by regulation 35;

“delivery” has the meaning assigned to it by Article 9(g) of the Council Regulation (which sets out definitions) and “deliver” shall be construed accordingly;

“direct sale” has the meaning assigned to it by Article 9(h) of the Council Regulation;

“direct sales quota” means the quantity of dairy produce which may be sold 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 producer selling dairy produce by direct sale;

“eligible heifer” means any heifer, which, at the date of service of the notice referred to in regulation 16(2)(b)(i), was on land subject to the notice and calves for the first time on a day when the notice has effect, or which at the date of making the order referred to in regulation 16(2)(b)(ii) was on land designated by the order and calves for the first time on a day when the order is in force;

“holding” has the meaning assigned to it by Article 9(d) of the Council Regulation;

“interest” includes the interest of a mortgagee or heritable creditor and a trustee, but does not include the interest of a beneficiary under a trust or settlement or, in Scotland, the estate of a superior;

“Intervention Board” means the Intervention Board for Agricultural Produce established under section 6(1) of the European Communities Act 1972;

“levy” means the levy, payable under the Community legislation to the competent authority referred to therein, described in Article 1 of the Council Regulation (which deals with the fixing of the levy);

“Minister”, as regards anything in these Regulations relating to:

- (a) England and Wales, means the Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales acting jointly;
- (b) Scotland, means the Secretary of State for Scotland;
- (c) Northern Ireland, shall be construed in accordance with paragraph (3); and
- (d) the United Kingdom, means the Ministers;

“Ministers” means all those to whom the definition of “the Minister” relates, acting jointly;

“national reserve” means the reserve described in regulation 14, constituted pursuant to Article 5 of the Council Regulation (which deals with confiscation and distribution of quota);

“occupier” includes, in relation to land in respect of which there is no occupier, the person entitled to grant occupation of that land to another person;

“producer” has the meaning assigned to it by Article 9(c) of the Council Regulation;

“prospective apportionment” in relation to quota on a holding means apportionment of quota ascertained under regulation 11 which will take place if there is a change of occupation of a

part of the holding to which the prospective apportionment relates within six months of that prospective apportionment;

“purchaser” has the meaning assigned to it by Article 9(e) of the Council Regulation;

“purchaser quota” means the quantity of dairy produce which may be delivered by wholesale delivery to a purchaser during a quota year without that purchaser being liable to pay levy;

“purchaser special quota” means the quantity of dairy produce which may be delivered by wholesale deliveries against producers' special quotas to a purchaser during a quota year without that purchaser being liable to pay levy;

“qualifying cow” means any eligible heifer which calves at a time when the number of eligible heifers exceeds the replacement number;

“qualifying day” means, in respect of any qualifying cow, the day it calves and each day or part of a day thereafter during which the notice referred to in regulation 16(2)(b)(i) has effect or during which the order referred to in regulation 16(2)(b)(ii) is in force;

“quota” means direct sales quota or wholesale quota, as the case may be;

“quota year” means any of the periods of 12 months described in Article 1 of the Council Regulation (which deals with the fixing of the levy);

“registered wholesale quota” means quota registered in accordance with regulation 25(2)(a);

“replacement number” means the nearest integer to 22 per cent of the total number of dairy cows on the land subject to the notice referred to in regulation 16(2)(b)(i), or designated by the order referred to in regulation 16(2)(b)(ii), as at the date of service of the notice or (as the case may be) the coming into force of the order, and where 22 per cent of the total number is half way between two integers the nearest even integer shall be deemed to be the nearest integer;

“requirements in relation to special quota” means—

- (a) the conditions for the award of special quota set out in—
 - (i) Article 4(3) of the Council Regulation;
 - (ii) Article 3a(1) and (2) of Council Regulation (EEC) No. 857/84⁽¹⁰⁾ adopting general rules for the application of the levy referred to in Article 5c of Regulation (EEC) 804/68 in the milk and milk products sector, as amended by Council Regulation No. 764/89⁽¹¹⁾ amending Regulation (EEC) No. 857/84 adopting general rules for the application of the levy referred to in Article 5c of Regulation (EEC) No. 804/68 in the milk and milk products sector and Council Regulation (EEC) No. 1639/91⁽¹²⁾ amending Regulation (EEC) No. 857/84 adopting general rules for the application of the levy referred to in Article 5c of Regulation (EEC) No. 804/68 in the milk and milk products sector; and
 - (iii) Article 1(1) of Council Regulation 2055/93; and
- (b) the restrictions on special quota set out in Articles 6(1) and 7(1)(a) of the Council Regulation, Articles 3a(4) of Council Regulation (EEC) No. 857/84 and Article 4 of Council Regulation 2055/93;

“Scottish Islands area” means any one of—

- (a) the islands of Shetland;
- (b) the islands of Orkney;
- (c) the islands of Islay, Jura, Gigha, Arran, Bute, Great Cumbrae and Little Cumbrae and the Kintyre peninsula south of Tarbert; or

⁽¹⁰⁾ OJ No. L90, 1.4.84, p.13.

⁽¹¹⁾ OJ No. L84, 29.3.89, p.2.

⁽¹²⁾ OJ No. L150, 15.6.91, p.35.

(d) the islands in the Outer Hebrides and the Inner Hebrides other than those listed in (c);
“special quota” means the quota referred to in Article 4(3) of the Council Regulation and in Article 1(1) of Council Regulation 2055/93;

“the 1984 Regulations” means the Dairy Produce Quotas Regulations 1984(13);

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

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

“transferee”, means—

- (a) where quota is transferred with land, a person who replaces another person as occupier of a holding or part of a holding; and
- (b) in any other case, the transferee of quota;

“transferor”, means—

- (a) where quota is transferred with land, a person who is replaced by another person as occupier of a holding or part of a holding; and
- (b) in any other case, the transferor of quota;

“unused quota” means quota remaining unused after any direct sales or wholesale deliveries have been taken into account, adjusted in accordance with Article 2(2) of the Commission Regulation (which deals with the fat content of milk);

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

“wholesale quota” means the quantity of dairy produce which may be delivered by wholesale delivery to a purchaser (to the extent specified in relation to that purchaser under these Regulations), from a holding in a quota year without the producer in occupation of that holding being liable to pay levy.

(2) In these Regulations, unless the context otherwise requires—

- (a) any reference to a numbered regulation or Schedule shall be construed as a reference to the regulation or Schedule so numbered in these Regulations;
- (b) any reference in a regulation or Schedule to a numbered paragraph shall be construed as a reference to the paragraph so numbered in that regulation or Schedule; and
- (c) any reference in a paragraph to a numbered or lettered subparagraph shall be construed as a reference to the subparagraph so numbered or lettered in that paragraph.

(3) In their application to Northern Ireland these Regulations shall have effect with the substitution, for references to the Minister, of references to the Department of Agriculture for Northern Ireland.