
STATUTORY INSTRUMENTS

2008 No. 438

FOOD

The Dairy Produce Quotas (General Provisions) (Amendment) Regulations 2008

<i>Made</i>	- - - -	<i>20th February 2008</i>
<i>Laid before Parliament</i>		<i>27th February 2008</i>
<i>Coming into force</i>	- -	<i>1st April 2008</i>

The Secretary of State is a Minister designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to the common agricultural policy of the European Community.

These Regulations make provision for a purpose mentioned in that section and it appears to the Secretary of State that it is expedient for—

- (a) the references in these Regulations to—
 - (i) Article 55(1)(a),
 - (ii) Article 55(2), in so far as it relates to milk and other milk products, and
 - (iii) the provisions of, or referred to in, Section III of Chapter III of Part II, of Council Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)⁽³⁾; and
- (b) the references in these Regulations to 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⁽⁴⁾,

to be construed as references to those Articles and provisions and to that Commission Regulation as amended from time to time.

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972⁽⁵⁾.

(1) S.I. 1972/1811.

(2) 1972 c.68.

(3) OJ L 299, 16.11.2007, p.1.

(4) OJ No L 94, 31.3.2004 p 22, as last amended by Commission Regulation (EC) No 1913/2006 (OJ No L365, 21.12.2006, p 52). Although Council Regulation (EC) No 1788/2003 (OJ No L 270, 21.10.2003, p 123) is repealed on 1st April 2008 by virtue of Article 201(1)(b) of Council Regulation (EC) No 1234/2007 (“the 2007 Regulation”), the reference to Council Regulation (EC) No 1788/2003 is to be read as a reference to the 2007 Regulation by virtue of Article 202 of the 2007 Regulation.

(5) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51).

Title and commencement

1. These Regulations—

- (a) may be cited as the Dairy Produce Quotas (General Provisions) (Amendment) Regulations 2008; and
- (b) come into force on 1st April 2008.

Amendments

2.—(1) For regulation 2 of the Dairy Produce Quotas (General Provisions) Regulations 2002(6), substitute—

“2.—(1) In these Regulations—

“apparatus” means any drum, barrel, tank, pump, hose or any other item adapted or used for the purpose 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 purpose of these Regulations, to act under these Regulations;

“the Commission Regulation” means [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;

“the Community legislation” means the Commission Regulation and—

- (a) Article 55(1)(a),
- (b) Article 55(2), in so far as it relates to milk and other milk products, and
- (c) the provisions of, or referred to in, Section III of Chapter III of Part II, of the Council Regulation;

“the competent authority” means—

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

“the Council Regulation” means [Council Regulation \(EC\) No. 1234/2007](#) establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation);

“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 65(f) of the Council Regulation, and “deliver” shall be construed accordingly;

“direct sale” has the same meaning as in Article 65(g) 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 by a producer in a quota year without that producer being liable to pay levy;

“holding” has the same meaning as in Article 65(d) of the Council Regulation;

(6) [S.I. 2002/458](#); relevant amending instruments are [S.I. 2005/466](#) and [S.I. 2007/477](#).

“levy” means the surplus levy payable under the Community legislation;
“milk” has the same meaning as in Article 65(a) of the Council Regulation;
“premises” includes any vehicle;
“producer” has the same meaning as in Article 65(c) of the Council Regulation;
“purchaser” means a purchaser within the meaning of Article 65(e) of the Council Regulation;
“quota” means direct sales quota or wholesale quota, as the case may be;
“quota year” means any of the periods of 12 months referred to in Article 66(1) of the Council Regulation;
“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, but does not include a consumer of milk or milk products;
“relevant proceedings” means any criminal proceedings relating to a relevant offence;
“territory” means England, Wales, Scotland or Northern Ireland, as the case may be; and
“wholesale quota” means the quantity of milk which may be delivered to a purchaser by a producer in a quota year without that producer being liable to pay levy.

(2) References in these Regulations to—

- (a) Article 55(1)(a);
- (b) Article 55(2), in so far as it relates to milk and other milk products; and
- (c) the provisions of, or referred to in, Section III of Chapter III of Part II,

of the Council Regulation, and to the Commission Regulation, are references to those Articles and provisions and to the Commission Regulation as amended from time to time.”.

(2) In regulation 4, after “national reserve” insert “, set up pursuant to Article 71 of the Council Regulation,”.

Consequential revocation and amendment

3.—(1) The Dairy Produce Quotas (General Provisions) (Amendment) Regulations 2005(7) are revoked.

(2) In regulation 3 of the Dairy Produce (Miscellaneous Provisions) Regulations 2007(8), omit paragraph (2).

(7) [S.I. 2005/466](#).

(8) [S.I. 2007/477](#).

20th February 2008

Jeff Rooker
Minister of State
Department for Environment, Food and Rural
Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st April 2008, amend the Dairy Produce Quotas (General Provisions) Regulations 2002, [S.I. 2002/458](#) (“the 2002 Regulations”). The 2002 Regulations contain provisions concerning dairy produce quotas relevant to England, Wales, Scotland and Northern Ireland.

Council Regulation [\(EC\) No 1788/2003](#), referred to in the 2002 Regulations, is repealed on 1st April 2008 and replaced by Articles 55(1)(a) and 55(2), in so far as it relates to milk and other milk products, and Section III of Chapter III of Part II (Articles 65 to 84) of Council Regulation [\(EC\) No. 1234/2007](#) establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (OJ No L299, 16.11.2007, p 1).

These Regulations re-enact the definitions in regulation 2 of the 2002 Regulations with amendments to replace the references in that regulation to the provisions of the Council Regulation [\(EC\) No 1788/2003](#) with the corresponding references to the provisions of Council Regulation [\(EC\) No. 1234/2007](#) and with some additional minor amendments. There is a consequential amendment to regulation 4 of the 2002 Regulations. These Regulations also add a new regulation 2(2) which provides that the references to certain provisions of Council Regulation [\(EC\) No. 1234/2007](#) and references to [Commission Regulation \(EC\) No 595/2004](#) are references to those provisions and to that Commission Regulation as amended from time to time.

Regulations containing the majority of provisions relating to dairy produce quotas are made separately on a territorial basis. The relevant Regulations for England are the Dairy Produce Quotas Regulations 2005 ([S.I. 2005/465](#), as amended by [S.I. 2006/120](#), [S.I. 2006/2805](#), [S.I. 2007/106](#) and [S.I. 2008/439](#)). The relevant Regulations for Scotland are the Dairy Produce Quotas (Scotland) Regulations 2005 ([S.S.I. 2005/91](#), as amended by [S.S.I. 2006/119](#) and [S.S.I. 2007/118](#)). The relevant Regulations for Wales are the Dairy Produce Quotas (Wales) Regulations 2005 ([S.I. 2005/537 \(W.47\)](#), as amended by [S.I. 2006/762 \(W.72\)](#) and [S.I. 2007/844 \(W.76\)](#)). The relevant Regulations for Northern Ireland are the Dairy Produce Quotas Regulations (Northern Ireland) 2005 ([S.R. 2005 No. 70](#), as amended by [S.R. 2006 No. 60](#) and [S.R. 2007 No. 33](#)).

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.