

Council Regulation (EC) No 1788/2003 of 29 September 2003
establishing a levy in the milk and milk products sector (repealed)

CHAPTER 4

ADMINISTERING THE LEVY

Article 13

Amounts paid in excess or unpaid

1 Where, in the case of deliveries or direct sales, the levy is found to be payable and the contribution collected from producers is greater than that levy, the Member State may:

- a use partially or totally the excess to finance the measures referred to in Article 18(1) (a), and/or
- b redistribute it partially or totally to producers who fall within priority categories established by the Member State on the basis of objective criteria and within the period to be laid down in accordance with the procedure laid down in Article 23(2) or who are affected by an exceptional situation resulting from a national rule unconnected with the present scheme.

2 Where it is established that no levy is payable, any advances collected by purchasers or the Member State shall be reimbursed no later than the end of the following twelve-month period.

3 Where a purchaser does not meet the obligation to collect the producers' contribution to the levy in accordance with Article 11, the Member State may collect unpaid amounts directly from the producer, without prejudice to any penalties it may impose upon the defaulting purchaser.

4 Where a producer or a purchaser fails to comply with the time limit for payment, interest on arrears to be fixed in accordance with the procedure laid down in Article 23(2) shall be paid to the Member State.

Article 14

National reserve

1 Each Member State shall set up a national reserve as part of the quantities fixed in Annex I, in particular with a view to making the allocations provided for in Article 7. The national reserve shall be replenished, as appropriate, by taking back some quantities as provided for in Article 15, retaining part of transfers as provided for in Article 19, or by making an across-the-board reduction in all individual reference quantities. The quantities in question shall retain their original purpose, i.e. deliveries or direct sales.

2 Any additional reference quantity allocated to a Member State shall automatically be placed in the national reserve and divided into deliveries and direct sales according to foreseeable needs.

3 The quantities placed in the national reserve shall not have a reference fat content.

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Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1788/2003 (repealed), CHAPTER 4. (See end of Document for details)

Article 15

Cases of inactivity

1 When a natural or legal person holding individual reference quantities no longer meets the conditions referred to in Article 5(c) during a twelve-month period, these quantities shall revert to the national reserve no later than 1 April of the following calendar year, except where he once again becomes a producer as defined in Article 5(c) no later than that date.

Where the person or entity concerned once again becomes a producer no later than the end of the second twelve-month period following withdrawal, all or part of the individual reference quantity which had been withdrawn from that person or entity shall revert to him or it no later than 1 April following the date of application.

2 Where producers do not market a quantity equal to at least 70 % of their individual reference quantity during at least one twelve-month period, Member States may decide whether and on what conditions all or part of the unused reference quantity shall revert to the national reserve.

Member States may determine on what conditions a reference quantity shall be re-allocated to the producer concerned should he resume marketing.

3 However, paragraphs 1 and 2 shall not apply in cases of force majeure and in duly justified cases temporarily affecting the production capacity of the producers concerned and recognised by the competent authority.

Article 16

Temporary transfers

1 By the end of each twelve-month period, Member States shall authorise, for the period concerned, any temporary transfers of part of individual reference quantities which the producers who are entitled thereto do not intend to use.

Member States may regulate transfer operations according to the categories of producers or milk production structures concerned, may limit them to the level of the purchaser or within regions, authorise complete transfers in the cases provided for in Article 15(3) and determine to what extent the transferor can repeat transfer operations.

2 Any Member State may decide not to implement paragraph 1 on the basis of one or both of the following criteria:

- a the need to facilitate structural changes and adjustments,
- b overriding administrative needs.

Article 17

Transfers of reference quantities together with land

1 The individual reference quantities shall be transferred with the holding to the producers taking it over when it is sold, leased, transferred by actual or anticipated inheritance or any other means involving comparable legal effects for the producers, in accordance with detailed rules to be determined by the Member States, taking account of the areas used for

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dairy production or other objective criteria and, where applicable, of any agreement between the parties. The part of the reference quantity which, where applicable, has not been transferred with the holding shall be added to the national reserve.

2 Where reference quantities have been or are transferred in accordance with paragraph 1 by means of rural leases or by other means involving comparable legal effects, Member States may decide, on the basis of objective criteria and with the aim of ensuring that reference quantities are solely attributed to producers, that the reference quantity shall not be transferred with the holding.

3 Where land is transferred to the public authorities and/or for use in the public interest, or where the transfer is carried out for non-agricultural purposes, Member States shall ensure that the necessary measures are taken to protect the legitimate interests of the parties, and in particular that producers giving up such land are in a position to continue milk production if they so wish.

4 Where there is no agreement between the parties, in the case of tenancies due to expire without any possibility of renewal on similar terms, or in situations involving comparable legal effects, the individual reference quantities in question shall be transferred in whole or in part to the producer taking them over, in accordance with provisions adopted or to be adopted by the Member States, taking account of the legitimate interests of the parties.

Article 18

Special transfer measures

1 With a view to successfully restructuring milk production or improving the environment, Member States may, in accordance with detailed rules which they shall lay down taking account of the legitimate interests of the parties concerned:

- a grant compensation in one or more annual instalments to producers who undertake to abandon permanently all or part of their milk production and place the individual reference quantities thus released in the national reserve;
- b determine on the basis of objective criteria the conditions on which producers may obtain, in return for payment, at the beginning of a twelve-month period, the re-allocation by the competent authority or a body designated by that authority of individual reference quantities released definitively at the end of the preceding twelve-month period by other producers in return for compensation in one or more annual instalments equal to the abovementioned payment;
- c centralise and supervise transfers of reference quantities without land;
- d provide, in the case of land transferred with a view to improving the environment, for the individual reference quantity concerned to be allocated to a producer giving up the land but wishing to continue milk production;
- e determine, on the basis of objective criteria, the regions or collection areas within which the permanent transfer of reference quantities without transfer of the corresponding land is authorised, with the aim of improving the structure of milk production;
- f authorise, upon application by a producer to the competent authority or a body designated by that authority, the definitive transfer of reference quantities without transfer of the corresponding land, or vice versa, with the aim of improving the structure of milk production at the level of the holding or to allow for extensification of production.

2 The provisions of paragraph 1 may be implemented at national level, at the appropriate territorial level or in specified collection areas.

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Article 19

Retaining part of transfers

1 In the case of transfers as referred to in Articles 17 and 18 Member States may, on the basis of objective criteria, retain part of the individual reference quantity for their national reserve.

2 Where reference quantities have been or are transferred in accordance with Articles 17 and 18 with or without the corresponding land by means of rural leases or by other means involving comparable legal effects, Member States may decide, on the basis of objective criteria and with the aim of ensuring that reference quantities are solely attributed to producers, whether and under which conditions all or part of the transferred reference quantity shall revert to the national reserve.

Article 20

Aid for the acquisition of reference quantities

No financial assistance linked directly to the acquisition of quotas may be granted by any public authority for the sale, transfer or allocation of reference quantities under this Regulation.

Article 21

Approval

Purchaser status shall be subject to prior approval by the Member State in accordance with criteria to be laid down in accordance with Article 23(2).

Conditions to be fulfilled and information to be provided by producers in the case of direct sales shall be fixed in accordance with the procedure in Article 23(2).

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