

2001 No. 27

FOOD

Dairy Produce Quotas (Amendment) Regulations (Northern Ireland) 2001

Made 24th January 2001

Coming into operation 23rd February 2001

The Department of Agriculture and Rural Development, being a Department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the common agricultural policy of the European Community, in exercise of the powers conferred on it by the said section 2(2) and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Dairy Produce Quotas (Amendment) Regulations (Northern Ireland) 2001 and shall come into operation on 23rd February 2001.

Amendment of the Dairy Produce Quotas Regulations 1997

2. The Dairy Produce Quotas Regulations 1997(c) shall be amended in accordance with regulations 3 to 16 of these Regulations.

3. In regulation 2 (interpretation), in paragraph (1)—

(a) in the definition of “the Community compensation scheme”, at the end of that definition there shall be inserted the words—

“or the scheme instituted by Council Regulation (EC) No. 2330/98(d) providing for an offer of compensation to certain producers of milk and milk products temporarily restricted in carrying out their trade and Commission Regulation (EC) No. 2647/98(e) laying down detailed rules for the application of Council Regulation (EC) No. 2330/98, or both those schemes”;

(b) in paragraph (c) of the definition of “Scottish Islands area” the word “Islay” shall be deleted.

(a) S.I. 1972/1811

(b) 1972 c. 68

(c) S.I. 1997/733 as amended by S.I. 1997/1093 and S.R. 2000 No. 83

(d) OJ No. L291, 30.10.98, p. 4

(e) OJ No. L335, 10.12.98, p. 33

4. After regulation 3 there shall be inserted the following regulation—

“Scottish Islands area

3A.—(1) Quota registered to direct sellers and producers within any Scottish Islands area can only be used by producers and purchasers against direct sales or wholesale deliveries of milk produced within that Scottish Islands area.

(2) The requirement in paragraph (1) does not apply to the reallocation of quota undertaken in accordance with Schedule 5.

(3) In this regulation—

(a) “direct seller” and “producer” include a person who occupies land with quota whether or not that person is engaged in the sale or delivery of dairy produce; and

(b) a direct seller or producer within a Scottish Islands area means a direct seller or producer who has 50% or more of his dairy enterprise within that Scottish Islands area.”.

5. In regulation 6 (adjustment of purchaser quota)—

(a) in paragraph (2)—

(i) the words “or on any permanent conversion of quota under regulation 16,” and the words “or such a conversion of quota” shall be deleted;

(ii) for sub-paragraph (a) there shall be substituted the following sub-paragraph—

“(a) within 56 days of the date of such transaction and in any case on or before 14th May in the quota year immediately following the quota year in which that transaction took place, a statement setting out particulars of the transaction; and”

(b) in paragraph (4)—

(i) for the word “Where” at the beginning of that paragraph there shall be substituted the words “Subject to paragraph (4A), where”;

(ii) in sub-paragraph (a), for the words “have his purchaser quota” there shall be substituted the words “request of the Intervention Board (in such form as the latter may reasonably require) that his purchaser quota be”;

(c) after paragraph (4) there shall be inserted the following paragraphs—

“(4A) Where the amount of quota necessary to cover the deliveries made to an original purchaser and referred to in paragraph (4)(b) is affected by an adjustment of the quantity delivered by the producer (being an adjustment in accordance with the second sub-paragraph of Article 2(2) of the Commission Regulation)—

(a) in the event that an increase in the original purchaser’s quota is necessary to cover the deliveries made to him by the producer, the original purchaser may apply to the Intervention Board (in such form as the latter may reasonably require) to assess and make such increase, and make a corresponding

reduction in the purchaser quota of the purchaser (or purchasers) with whom the producer is newly registered, and

- (b) in the event that a reduction is capable of being made to the quota of an original purchaser who has more than is necessary to cover the deliveries made to him by the producer, any purchaser with whom the producer is newly registered and who requires an increase in purchaser quota to cover the deliveries made by the producer to him may apply to the Intervention Board (in such form as the latter may reasonably require) to assess and make the appropriate reduction, and make a corresponding increase in the purchaser quota of the said purchaser with whom the producer is newly registered,

and in each case upon such application the Intervention Board shall make the assessment requested and the appropriate adjustment.

(4B) An application under paragraph (4A)(a) or (b) shall be made no later than 15th June in the quota year immediately following the quota year during which the producer changed from being registered with the original purchaser to being registered with the other purchaser in question.”

6. In regulation 11 (transfer of quota without transfer of land)—

- (a) in paragraph (1), the words “8th May 1997 or” and “(whichever is the later)” shall be deleted;
- (b) in paragraph (2), in sub-paragraph (a), after the word “quota” there shall be inserted the words “, stating the amounts of used and unused quota transferred”;
- (c) paragraphs (5) and (6) shall be deleted;
- (d) for paragraph (7) there shall be substituted the following paragraph—

“(7) Where an application to transfer quota without transfer of land has been approved by the Intervention Board, the Intervention Board may wholly or partly release a transferee from the undertaking referred to in paragraph (2)(d)(i) where it is satisfied that the release is justified in the light of exceptional circumstances resulting in a significant fall in milk production or a significant failure to achieve a planned increase in milk production which, in either case, could not have been avoided or foreseen by the transferee at the time of the submission of the application under paragraph (1), and such release shall be to the extent that is required so as to permit the transfer of the amount of quota that the Intervention Board considers has remained unused in the particular case.”;

- (e) in paragraph (8), sub-paragraph (h) and the word “; and” immediately following sub-paragraph (g) shall be deleted.

7. In regulation 14 (temporary reallocation of quota)—

- (a) for paragraph (1) there shall be substituted the following paragraph—

“(1) For the purposes of the reallocation of quota referred to in Article 2(1) of the Council Regulation, in so far as that reallocation relates to certain priority categories of producer who (under Article 2(4) of that Regulation and Article 5 of the Commission Regulation) may be determined as entitled to a redistribution of levy in the event of any levy being collected in excess of the levy actually due, the Intervention Board may, for any quota year, award to a producer referred to in paragraph (2) a temporary reallocation of an amount of any surplus quota, in accordance with the provisions of this regulation.”;

(b) in paragraph (2), sub-paragraph (a) shall be deleted; and

(c) paragraphs (6) and (7) shall be deleted.

8. In regulation 16 (conversion of quota)—

(a) in paragraph (4), for the words “paragraph (5)” there shall be substituted the words “paragraphs (5) and (6)”;

(b) for paragraph (5) there shall be substituted the following paragraphs—

“(5) Where, upon application to the Intervention Board by a producer who has permanently converted quota in any quota year, the Intervention Board is satisfied that exceptional circumstances of a type described in regulation 11(8) have resulted in a significant fall in milk production or a significant failure to achieve a planned increase in milk production and it is of the opinion that such could have been neither foreseen nor avoided by the producer at the time of his permanent conversion, it may, in the same quota year in which the permanent conversion occurred, release that producer from the restriction in paragraph (4), and such release shall be to the extent that is required so as to allow the transfer of the amount of quota that the Intervention Board considers has remained unused in the particular case.

(6) The restriction in paragraph (4) shall not apply to any producer who, in the immediately preceding quota year, has temporarily converted quota.”.

9. After regulation 20 there shall be inserted the following regulation—

“Northern Ireland wholesale quota provision

20A. The Department of Agriculture and Rural Development shall award wholesale quota, being the specific quota increases for allocation to Northern Ireland pursuant to the Council Regulation, to producers in accordance with Schedule 5A.”.

10. In regulation 25 (inspection of entries in the Intervention Board’s registers)—

(a) the words “in writing”, in the first place that they occur, shall be deleted;

(b) in sub-paragraph (a), after the word “entry” in the second place that it occurs, there shall be inserted the words “, or by anyone being the agent of such a person”.

11. In regulation 30 (powers of authorised officers), in paragraph (6), after the word “regulation” there shall be inserted the words “and in regulation 30A”.

12. After regulation 30 there shall be inserted the following regulation—

“Keeping and retention of records

30A. Without prejudice to regulation 3 of the Common Agricultural Policy (Protection of Community Arrangements) Regulations 1992(a) the Intervention Board may by notice in the Belfast Gazette require any relevant person to keep and retain, in respect of any matter governed by these Regulations, such records and for such a period as may be specified in that notice.”.

13. In regulation 31 (penalties), in paragraph (1), for sub-paragraph (b) there shall be substituted the following sub-paragraph—

“(b) in connection with these Regulations or the Community legislation, makes or causes to be made a statement or uses or causes to be used a document which he knows to be false in a material particular or recklessly makes or causes to be made a statement or recklessly uses or causes to be used a document which is false in a material particular; or”.

14. In regulation 34(1) for the words “For the purpose of completing the discharge of any functions exercisable by it under the Regulations revoked by these Regulations, the” there shall be substituted the word “The”.

15. In Schedule 5 (reallocation of quota and calculation of levy liability), in paragraphs 8 and 18, for the words “within 45 days of” there shall be substituted the words “on or before 14th May immediately following”.

16. After Schedule 5 there shall be inserted the following Schedule—

“SCHEDULE 5A Regulation 20A
Northern Ireland Wholesale Quota Provision

1.—(1) Subject to sub-paragraphs (2) and (3) and the provisions of this Schedule, awards of wholesale quota under regulation 20A shall be made by the Department of Agriculture and Rural Development (in this Schedule referred to as “the Department”) to producers in Northern Ireland, other than producers to whom sub-paragraph (4) applies, who—

- (a) had an aggregate of direct sales quota and wholesale quota on 1st April 1999 of less than 250,000 litres; and
- (b) the aggregate of whose direct sales and wholesale deliveries in the quota year ending on 31st March 1999 was not less than 70% of the aggregate of their direct sales quota and wholesale quota on 1st April 1998,

so that each producer has his wholesale quota as at 1st April 1999 increased by the same percentage with effect from the date of the award.

(2) Sub-paragraph (1)(b) shall not apply where the Department is satisfied that exceptional circumstances resulting in a significant fall in a producer's milk production or a significant failure to achieve a planned increase in a producer's milk production in the quota year ending on 31st March 1999 have occurred.

(3) The exceptional circumstances referred to in sub-paragraph (2) are—

- (a) the inability of the producer to conduct his business over 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) without prejudice to sub-paragraph (e), an outbreak of illness or disease seriously affecting the dairy herd;
- (e) the making of a declaration under an order made under Article 12(1) of the Diseases of Animals (Northern Ireland) Order 1981(a) or the adoption of an emergency order under section 1 of the Food and the Environment Protection Act 1985(b);
- (f) the loss of a significant proportion of the forage area as a result of the compulsory purchase of the holding or part of the holding.

(4) This sub-paragraph applies to a producer who between 1st April 1999 and the date of the award transferred all of his direct sales quota and wholesale quota other than—

- (a) on inheritance;
- (b) by gift for which no consideration was given; or
- (c) on a temporary basis under regulation 13.

2. The amount of wholesale quota which may be awarded to a producer under paragraph 1 shall be limited to the amount which would have increased such a producer's aggregate of direct sales quota and wholesale quota to 250,000 litres on 1st April 1999.

(a) S.I. 1981/1115 (N.I. 22); Article 12(1) was amended by Articles 23(2) and 24 of, and the Schedule to, the Agriculture (Miscellaneous Provisions) (Northern Ireland) Order 1994, S.I. 1994/1891 (N.I. 6)

(b) 1985 c. 48

3.—(1) Where the occupation of all of a producer's holding has been transferred in a way prescribed in sub-paragraph (3) to another person or persons between 1st April 1999 and the date of the award, any award of quota in respect of that producer by virtue of paragraph 1 shall—

- (a) in the case of a single transferee, be allocated by the Department to that transferee;
- (b) in the case of more than one transferee, be divided by the Department between each transferee in the proportion that the wholesale quota relating to that holding was apportioned.

(2) Where the occupation of all of a producer's holding has been transferred between 1st April 1999 and the date of the award but only part of it has been transferred in a way prescribed in sub-paragraph (3), any award of quota in respect of that producer by virtue of paragraph 1 shall—

- (a) in the case where the part transferred in a way prescribed in sub-paragraph (3) was transferred to a single transferee, be allocated to that transferee;
- (b) in the case where the part transferred in a way prescribed in sub-paragraph (3) was transferred to more than one transferee, be divided by the Department between each transferee of that part in the same proportion as the wholesale quota relating to that part was apportioned.

(3) A transfer—

(a) on inheritance; or

(b) by gift for which no consideration has been given,

is prescribed for the purposes of sub-paragraphs (1) and (2).

4. The Department shall serve a notice in writing on each producer in Northern Ireland informing him whether the Department is minded to award him quota under this Schedule and, if so, the amount.

5. Any producer mentioned in paragraph 4 may, within 21 days of the service of a notice under paragraph 4, request a review of his case by the Department specifying the reasons why he considers that he should be awarded quota under this Schedule or, as the case may be, the reasons why he should be awarded an amount of quota under this Schedule other than that specified in the notice served under paragraph 4.

6. The Department shall serve a notice in writing on each producer who has requested a review under paragraph 5 informing him of the outcome of the review.

7. Any producer who is aggrieved by the outcome of a review under this Schedule may, within 21 days of service of a notice under paragraph 6, appeal to the Dairy Produce Quota Tribunal for Northern Ireland (in this Schedule referred to as "the Tribunal").

8. On an appeal under paragraph 7 the Tribunal shall determine whether the producer is entitled to an award of wholesale quota under this Schedule and, if so, the amount.

9. It shall be the duty of the Department to give effect to a determination of the Tribunal under paragraph 8.

10. For the purposes of this Schedule the aggregate of a producer's direct sales quota and wholesale quota shall not include any quota temporarily transferred to him under regulation 13 but shall include any quota temporarily transferred by him under that regulation."

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 24th January 2001.

(L.S.)

R. S. Johnston

A senior officer of the Department of
Agriculture and Rural Development

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations, which come into operation on 23rd February 2001, further amend the Dairy Produce Quotas Regulations 1997 (S.I. 1997/733) (“the principal Regulations”) in so far as they apply to Northern Ireland.

The principal change introduced by these Regulations is provision for the award of quota being the specific quota increases for allocation to Northern Ireland pursuant to Council Regulation (EEC) No. 3950/92 (OJ No. L405, 31.12.92, p. 1) as last amended by Council Regulation (EC) No. 1256/99 (OJ No. L160, 26.6.99, p. 73) (regulations 9 and 16). Awards shall be made to producers who had an aggregate of direct sales quota and wholesale quota on 1st April 1999 of less than 250,000 litres and the aggregate of whose direct sales and wholesale deliveries in the quota year ending on 31st March 1999 was not less than 70% of the aggregate of their direct sales quota and wholesale quota on 1st April 1998 so that each producer has his wholesale quota as at 1st April 1999 increased by the same percentage with effect from the date of the award.

The requirement for direct sales and wholesale deliveries in the quota year ending on 31st March 1999 of not less than 70% of the aggregate of direct sales and wholesale quota at 1st April 1998 will not apply where the Department of Agriculture and Rural Development (“the Department”) is satisfied that exceptional circumstances (as listed in regulation 16) resulting in a significant fall in a producer's milk production or a significant failure to achieve a planned increase in a producer's milk production have occurred in that quota year. Awards shall not be made to producers who between 1st April 1999 and the date of the award have transferred all of their direct sales and wholesale quota other than on inheritance, by gift or on a temporary basis. The amount of quota which may be awarded is limited to the amount which would have increased the producer's aggregate of direct sales and wholesale quota to 250,000 litres on 1st April 1999. In the case of the transfer of a holding by way of inheritance or gift between 1st April 1999 and the date of the award there is provision for the award to be allocated to those who inherited or received the gift.

The Department will serve a notice on each producer in Northern Ireland informing him whether it is minded to award him quota and, if so, the amount. A producer may, within 21 days of service of this notice, request a review of his case by the Department. If a producer is aggrieved by the outcome of a review, he may, within 21 days of service of a notice informing him of the outcome of the review, appeal to the Dairy Produce Quota Tribunal for Northern Ireland.

Apart from minor and drafting amendments the Regulations also amend the principal Regulations by—

- (a) extending the definition of “Community compensation scheme” to include that instituted by Council Regulation (EC) No. 2330/98 (OJ No. L291, 30.10.98, p. 4) providing for an offer of compensation to certain producers of milk and milk products temporarily restricted in carrying out their trade (regulation 3(a));
- (b) removing Islay from the particular milk quota arrangements applying in the Scottish Islands and clarifying the extent and application of those arrangements (regulations 3(b) and 4);
- (c) extending the period (from 28 to 56 days, subject to a final date of 14th May in the next following quota year) within which purchasers shall notify the Intervention Board of any producers newly registering with them (regulation 5(a)(ii));
- (d) way of new regulation 6(4A) of the principal Regulations, making clear who, as between an original purchaser and a new purchaser of a producer's milk, is permitted to apply for adjustments to his quota consequent upon subsequent changes to the representative fat content of that producer's milk (regulation 5(c));
- (e) removing the requirement (previously at regulation 11(5) of the principal Regulations) which applied in the case of a transfer of quota made without there also being a transfer of land that, after the transfer has been approved by the Intervention Board, the transferee furnish the Board with a statement of used and unused quota available both to him and to the transferor on the date of transfer (regulation 6(c));
- (f) way of an amended regulation 11(7) of the principal Regulations, extending the Intervention Board's ability to release a transferee from his undertaking, so that the power applies not only where exceptional circumstances result in a significant fall in milk production, but also where they result in a significant failure to achieve a planned increase in milk production (regulation 6(d));
- (g) clarifying the basis on which temporary reallocations of surplus quota may be made (regulation 7(a)) and removing from the category of producers eligible to receive such temporary reallocations those who are affected by a formal acknowledgement of an error in their levy calculation (regulation 7(b));
- (h) enabling the Intervention Board, in the context of a producer's permanent conversion of quota and in the event that exceptional circumstances have resulted in a significant fall in milk production or a significant failure to achieve a planned increase in milk production, to release that producer from the restriction that would otherwise prevent him from transferring out quota of the type to which he has converted in the same quota year as the one in which that conversion took place (regulation 8);
- (i) permitting the Intervention Board to require “relevant persons” (as defined in regulation 30(6) of the principal Regulations) to keep and retain records (regulation 12);

- (j) extending the offence described in regulation 31(1)(b) of the principal Regulations to include the causing of the elements of that offence (regulation 13).

£2.50

Published by The Stationery Office Limited

Printed in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office being the Government Printer for Northern Ireland and the Officer appointed to print the Acts of the Northern Ireland Assembly
Dd. 602427. C3. 1/01. Gp. 130. 14567.