

2002 No. 228

FOOD

The Dairy Produce Quotas (Scotland) Amendment Regulations 2002

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| <i>Made</i> | <i>13th May 2002</i> |
| <i>Laid before the Scottish Parliament</i> | <i>14th May 2002</i> |
| <i>Coming into force</i> | <i>5th June 2002</i> |

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972^(a) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Dairy Produce Quotas (Scotland) Amendment Regulations 2002 and shall come into force on 5th June 2002.

Amendment of the Dairy Produce Quotas (Scotland) Regulations 2002

2.—(1) The Dairy Produce Quotas (Scotland) Regulations 2002^(b) are amended as follows.

(2) In regulation 1(3) (extent), for “regulation 2”, substitute “regulation 3”.

(3) In regulation 8(1)(a)(ii) (notice of transfer of quota with transfer of land), for “made otherwise than by lease”, substitute “otherwise made”.

(4) In regulation 30(1) (administrative penalties), after “purchasers shall”, insert “where so decided by the Scottish Ministers”.

(5) In regulation 32(2)(a) (notification to producers of the taking of quota into the national reserve), for “regulation 14”, substitute “regulation 13”.

(6) After regulation 33 insert—

“Representations before the making of certain decisions of the Scottish Ministers

33A. Before making a decision pursuant to regulations 7(4)(a) and (d), 14(1), 20(2), 28 or 33 or paragraph 11 of Schedule 3, the Scottish Ministers shall—

- (a) give to the affected producer or purchaser, as the case may be, written notification of the step proposed to be taken and—
 - (i) the proposed amount of the increase and corresponding reduction of purchaser quota, in the case of a decision pursuant to regulation 7(4)(a) and (d);
 - (ii) the proposed amount of the temporary reallocation of surplus quota, in the case of a decision pursuant to regulation 14(1);

^(a) 1972 c.68; section 2(2) was amended by the Scotland Act 1998 (c.46), Schedule 8, paragraph 15(3). The function conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within developed competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

^(b) S.S.I. 2001/110.

- (iii) the proposed amount of the levy outstanding, in the case of a decision pursuant to regulation 20(2);
 - (iv) the proposed amount of the compensation to be withheld or recovered, in the case of a decision pursuant to regulation 28;
 - (v) the proposed amount of the special quota to be withdrawn, in the case of a decision pursuant to regulation 33; or
 - (vi) the proposed proportions of levy to be paid, in the case of a decision pursuant to paragraph 11 of Schedule 3;
- (b) give the affected producer or purchaser, as the case may be, an opportunity to make representations about the step proposed to be taken by them within such time and in such form as they think fit; and
 - (c) consider any such representations.”.

(7) In Schedule 3 (reallocation of quota and calculation of levy liability)–

- (a) in paragraph 13, for “regulation 15”, substitute “regulation 14”; and
- (b) in each of paragraphs 14 and 15, for “regulation 17”, substitute “regulation 16”.

(8) In regulation 7(4) after “paragraph (5)” insert “and regulation 33A” and at the beginning of each of regulations 14(1), 20(2), 28 and 33 and paragraph 11 of Schedule 3 insert “Subject to regulation 33A,”.

Amendment of the Agricultural Subsidies (Appeals) (Scotland) Regulations 2000

3. The Agricultural Subsidies (Appeals) (Scotland) Regulations 2000(a) shall be amended by inserting after paragraph (l) of regulation 4–

- “(m) a decision by the Scottish Ministers under regulations 7(5), 12(4) or (5), 14(4), 16(5), 24 or 30 of or Schedule 3 (other than a decision under paragraphs 8, 10, 11, 19 or 20) to the Dairy Produce Quotas (Scotland) Regulations 2002”.

Pentland House,
Edinburgh
13th May 2002

ROSS FINNIE
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the Dairy Produce Quotas (Scotland) Regulations 2002 (“the 2002 Regulations”) and to the Agricultural Subsidies (Appeals) (Scotland) Regulations 2000, in consequence of the 2002 Regulations.

They principally make provision, as appropriate, for an opportunity to make representations to the Scottish Ministers before decisions are made by them involving matters of ministerial discretion (by amendment of the 2002 Regulations) and a right of representation and ultimately appeal through the Agricultural Subsidies (Appeals) (Scotland) Regulations 2000 against decisions made by the Scottish Ministers involving principally matters of fact (by amendment of those Regulations) (regulations 2(4), (6) and (8) and 3).

They also amend minor erroneous cross-references in the 2002 Regulations (regulation 2(2), (5) and (7)) and, in relation to regulation 8 of the 2002 Regulations, close a gap in relation to obligations to give notice of transfer where quota is transferred with a transfer of land (regulation 2(3)).

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