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SCOTTISH STATUTORY INSTRUMENTS

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**2005 No. 91**

**The Dairy Produce Quotas (Scotland) Regulations 2005**

**PART 5**

**THE LEVY**

**Payment and recovery of levy**

**31.**—(1) In respect of the collection of levy, the Scottish Ministers are the competent authority for the purposes of the Community legislation.

(2) For the purposes of—

- (a) Article 11(1) of the Council Regulation (which concerns payment of levy by purchasers in respect of deliveries);
- (b) Article 12(4) of the Council Regulation (which concerns payment of levy by direct sellers);
- (c) Article 8 of the Commission Regulation (which concerns statements by purchasers of deliveries by producers); and
- (d) Article 11 of the Commission Regulation (which concerns declarations of direct sales by producers),

the levy and penalties referred to in those provisions shall be paid to the Scottish Ministers.

(3) Paragraph (4) applies for the purposes of Article 11(3) of the Council Regulation (which concerns deduction of levy liability) where a wholesale producer making deliveries to a purchaser exceeds the wholesale quota of that wholesale producer.

(4) Following any adjustment of the quantity delivered in accordance with Article 10(1) of the Commission Regulation, the purchaser may immediately deduct from the sums owed to the wholesale producer in respect of the deliveries an amount corresponding to the amount of levy that would otherwise be payable by that wholesale producer in respect of the excess.

(5) Where any part of the levy remains unpaid after 1st September in any year, the Scottish Ministers may recover the amount of the levy outstanding at that date together with interest in respect of each day after that date until that amount is recovered—

- (a) from the direct seller or, as the case may be, the purchaser; or
- (b) from the wholesale producer, in a case within paragraph (4) where—
  - (i) the purchaser has not paid the levy; and
  - (ii) the wholesale producer has not paid the purchaser the levy either directly or by deduction and the purchaser is not taking steps to recover it from the wholesale producer.

(6) Interest under paragraph (5) is payable at the rate of one percentage point above the sterling three month London interbank offered rate.

(7) If—

- (a) a purchaser has not been approved pursuant to regulation 5; or

- (b) a purchaser has had their approval withdrawn by the Scottish Ministers pursuant to Article 23(3) of the Commission Regulation,
- subject to paragraph (8), the Scottish Ministers may require any levy payable by the purchaser that has not been paid by the purchaser to be paid in such proportions as they may reasonably require by any wholesale producers whose deliveries to that purchaser have given rise to the liability for levy.
- (8) Paragraph (7) does not apply in respect of a wholesale producer who has paid the purchaser in question either directly or by deduction the levy payable by that wholesale producer.