
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 91

The Dairy Produce Quotas (Scotland) Regulations 2005

PART 7

PENALTIES AND MISCELLANEOUS PROVISIONS

Offences and criminal penalties

40.—(1) A person is guilty of an offence if—

- (a) being a relevant person, that person fails without reasonable excuse to comply with a requirement imposed on that person by or under these Regulations or the Community legislation; or
- (b) in connection with these Regulations or the Community legislation, that person—
 - (i) makes or causes to be made a statement, or uses or causes to be used a document, which that person knows to be false in a material particular, or
 - (ii) 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
- (c) disposes of quota which that person knows or might reasonably be expected to know is incorrectly registered in the name of that person.

(2) A person guilty of an offence under paragraph (1) is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum, or to imprisonment for a term not exceeding three months; or to both, or
- (b) on conviction on indictment, to a fine, or to imprisonment for a term not exceeding two years, or to both.

(3) The Scottish Ministers may, following any conviction under paragraph (1)(b) against which there is no subsisting right of appeal or further appeal, by notice served on the person to whose quota that conviction relates withdraw from that person such quota as may reasonably be regarded by the Scottish Ministers as obtained by that person by reason of the falsehood upon which the conviction was founded.

(4) A notice under paragraph (3) may not be served after the expiry of the period of twelve months beginning with the first day on which the notice may be served.

(5) Where an offence under this regulation which has been committed by a body corporate or a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or similar officer of the body corporate, or any person who was purporting to act in any such capacity (or in the case of a partnership, a partner or person who was purporting to act as such), that person as well as the body corporate or partnership shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(6) Where the affairs of a body corporate are managed by its members, the provisions of paragraphs (1) and (2) shall apply in relation to the acts and defaults of a member in connection with the functions of management of the members as if the member was a director of the body corporate.

Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Dairy Produce Quotas (Scotland) Regulations 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(7) In this regulation, “requirement” does not include any restriction or obligation in or under regulations 11(1) and (3), 14(3), 15(4) and (5), 16, 19(6) and (7), 21(2) and (3), 22(2), 23(2), (4), (12) and (13), and 39(2) and (4).

Commencement Information

II [Reg. 40](#) in force at 31.3.2005, see [reg. 1\(2\)](#)

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Changes and effects yet to be applied to :

- Regulations revoked by [S.S.I. 2018/391 sch. Pt. 2](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 2(1)(1A) substituted for reg. 2(1) by [S.S.I. 2011/83 Sch. para. 1](#)