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STATUTORY INSTRUMENTS

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**2002 No. 457**

**The Dairy Produce Quotas Regulations 2002**

**Transfer of quota without transfer of land**

**12.**—(1) For the purposes of sub-paragraph (e) of Article 8 of the Council Regulation (which permits the authorisation of a transfer of quota without transfer of the corresponding land with the aim of improving the structure of milk production at the level of the holding), an application for transfer of quota without transfer of land, other than an application for a transfer of a kind to which paragraph (7) refers, may be submitted by the transferee to the Secretary of State for approval, provided that it is submitted no later than ten working days before the intended date of the transfer and that application is in such form as the Secretary of State may reasonably require.

(2) The application referred to in paragraph (1) shall include—

- (a) statements from the transferor and transferee that they have agreed to the transfer of quota, stating the amounts of used and unused quota transferred and explaining how the transfer is necessary to improve the structure of the businesses of the transferor and transferee;
- (b) a consent or sole interest notice from the transferor in respect of the entirety of the holding from which the quota is to be transferred; and
- (c) a statement from the transferee that he is in milk production or intends to commence milk production on his holding within six months of the intended date of transfer, with an undertaking that he will continue to be, or will be, in milk production at the end of that six-month period.

(3) Where the Secretary of State has received an application pursuant to paragraph (1), she may require that the transferor or transferee shall produce such other information relating to the application, and within such time, as the Secretary of State may reasonably determine.

(4) Where an application submitted pursuant to paragraph (1) has been approved by the Secretary of State, she may subsequently withdraw from the transferee, for inclusion in the national reserve, the quota transferred, provided that she—

- (a) has reasonable grounds to believing that the undertaking provided by the transferee pursuant to paragraph (2)(c) has been breached;
- (b) is satisfied that there is no justification for releasing the transferee from that undertaking pursuant to paragraph (5);
- (c) serves on the transferee a notice to this effect;
- (d) gives the transferee an opportunity to make written representations within such time as the Secretary of State considers reasonable; and
- (e) considers any such representations;

and the Secretary of State shall transfer that quota to the national reserve until such time as the transferee resumes or commences milk production.

(5) Where an application submitted pursuant to paragraph (1) has been approved by the Secretary of State, she may release the transferee from the undertaking provided pursuant to paragraph (2) (c) where the Secretary of State is satisfied that the release is justified in the light of exceptional circumstances which have resulted in the transferee ceasing to be, or failing to become, a producer,

and which could not have been avoided or foreseen by the transferee at the time of the submission of the application.

- (6) The exceptional circumstances referred to in paragraph (5) are—
- (a) the inability of the transferee to conduct his business for 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 serving of a notice or the making of a declaration under an order made pursuant to section 17 of the Animal Health Act 1981<sup>(1)</sup> or the adoption of an order pursuant to section 1 of the Food and Environment Protection Act 1985<sup>(2)</sup>;
  - (f) the loss of a significant proportion of the forage area as a result of the compulsory purchase of the holding or part of a holding; and
  - (g) where the transferee is a tenant, the serving of an incontestable notice to quit pursuant to section 26 of, and Schedule 3 to, the Agricultural Holdings Act 1986<sup>(3)</sup>.

(7) In conformity with sub-paragraph (d) of Article 8 of the Council Regulation (which provides for the determination of regions within which such transfers may be authorized), no application submitted pursuant to paragraph (1) shall be approved by the Secretary of State where the transfer would result in an increase or reduction in the total direct sales quota or total wholesale quota available for use by dairy enterprises located within a Scottish Islands area.

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(1) 1981 c. 22.  
(2) 1985 c. 48.  
(3) 1986 c. 5.