

Scottish Statutory Instrument 2000 No. 391

The Dairy Produce Quotas Amendment (No. 2) (Scotland) Regulations 2000

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SCOTTISH STATUTORY INSTRUMENTS

2000 No. 391

FOOD

The Dairy Produce Quotas Amendment (No. 2) (Scotland) Regulations 2000

<i>Made</i>	<i>7th November 2000</i>
<i>Laid before the Scottish Parliament</i>	<i>8th November 2000</i>
<i>Coming into force</i>	<i>29th November 2000</i>

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972[1] and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and extent

1. - (1) These Regulations may be cited as the Dairy Produce Quotas (Amendment) (No. 2) (Scotland) Regulations 2000 and shall come into force on 29th November 2000.

(2) These Regulations extend to Scotland only.

Amendment of the Dairy Produce Quotas Regulations 1997

2. The Dairy Produce Quotas Regulations 1997[2] shall be amended in accordance with regulations 3 to 13 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[3] 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[4] laying down detailed rules for the application of Council Regulation (EC) No. 2330/98";

(b) in sub-paragraph (c) of the definition of "Scottish Islands area" the word "Islay," shall be omitted.

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) Where a direct seller or producer has a part of his dairy enterprise outside the Scottish Islands area, he shall be treated for the purposes of this regulation as a direct seller or producer within any Scottish Islands area if he has 50% or more of his dairy enterprise within the Scottish Islands area.

(3) Paragraph (1) shall not apply to the reallocation of quota undertaken in accordance with Schedule 5.

(4) For the purposes of this regulation "direct seller" and "producer" shall have the meaning as assigned to them by regulation 24(6)."

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 omitted;

(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 such 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 omitted;

(b) in paragraph (2)(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 omitted;

(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-

(i) the word "; and" following sub-paragraph (g); and

(ii) sub-paragraph (h),

shall be omitted.

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 omitted;

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

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. 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 omitted;
- (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".

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

11. 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[5], the Intervention Board may by notice in the Edinburgh 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."

12. In regulation 31 (penalties), in paragraph (1)-

- (a) 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";
- (b) after sub-paragraph (c) there shall be inserted the following sub-paragraph:-
 - " or
 - (d) fails to comply with a requirement imposed on him by a notice published under regulation 30A,".

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

ROSS FINNIE

A member of the Scottish Executive

St Andrew's House, Edinburgh

7th November 2000

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 29th November 2000, further amend the Dairy Produce Quotas Regulations 1997 (S.I. 1997/733) ("the principal Regulations").

The principal changes made by these Regulations-

(a) extend the definition of "Community compensation scheme" to include that instituted by Council Regulation (EC) No. 2330/98 providing for an offer of compensation to certain producers of milk and milk products temporarily restricted in carrying out their trade (O.J. No. L 291, 30.10.98, p.4) (regulation 3(a));

(b) remove Islay from the particular milk-quota arrangements applying in the Scottish Islands (regulation 3(b)) and clarify the extent and application of those arrangements (regulation 4);

(c) extend 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) by way of new regulation 6(4A) to the principal Regulations make 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) remove the requirement (previously at regulation 11(5) of the principal Regulations) which applied in the case of a transfer of quota made without there being a transfer of land that, after the transfer has been approved by the Intervention Board, the transferee furnishes the Board with a statement of used and unused quota available to both him and the transferor on the date of transfer;

(f) by way of an amended regulation 11(7) to the principal Regulations, extend 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) by way of an amended regulation 14(1) of the principal Regulations clarify the basis on which temporary allocations of surplus quota may be made (regulation 7(a));

(h) remove from the category of producers eligible to receive a temporary

reallocation of surplus quota producers who are affected by a formal acknowledgement of an error in their levy calculation (regulation 7(b) and (c));

(i) enable 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);

(j) permit the Intervention Board to require relevant persons to keep and retain records (regulation 11) and make it an offence to fail to observe such a requirement (regulation 12(b));

(k) extend the offence described in regulation 31(1)(b) of the principal Regulations to include the causing of the elements of that offence (regulation 12(a)).

Notes:

[1] 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 devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.back

[2] S.I. 1997/733; relevant amending instruments are S.I. 1997/1093, and S.S.I. 2000/52.back

[3] O.J. No. L 291, 30.10.98, p.4.back

[4] O.J. No. L 335, 10.12.98, p.33.back

[5] S.I. 1992/314.back

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