

The bases and procedure for assignment, adjustment and declaration of invalidity of the production quota for raw milk for the agricultural producer and the bases and procedure for formation and distribution of the reserve¹

Government of the Republic Regulation No. 341 of 12 November 2002.

The regulation shall be laid down on the basis of article 2 of § 109¹ of the Rural Development and Agricultural Market Regulation Act (RT I 2000, 82, 526; 2001, 42, 235; 88, 531; 2002, 16, 93; 56, 352).

Chapter 1

GENERAL PROVISIONS

§ 1. Scope of application

The regulation shall lay down the bases and procedure for assignment, adjustment and declaration of invalidity of the production quota (*hereinafter the agricultural producer's quota*) for raw milk produced for marketing by the agricultural producers, who wish to apply for income support for dairy cow breeding and the bases and procedure for formation and distribution of the reserve.

§ 2. Agricultural producer's quota

- (1) The agricultural producer's quota shall determine the quantity of raw milk allowed to produce for marketing during the quota year by the agricultural producer mentioned in § 1.
- (2) The agricultural producer, who markets directly to the final consumer milk or dairy products made of raw milk produced by him or who markets them directly to the final consumer in addition to the raw milk must also apply for the assignment of the agricultural producer's quota. On the basis of the procedure laid down in article 4 of § 109¹ of Rural Development and Agricultural Market Regulation Act, in such case the quantity of milk and dairy products shall be included in the quantity of raw milk.
- (3) The length of the quota year is 12 months. The quota year shall begin on 1 April and end on 31 March.
- (4) The agricultural producer's quota shall, on the assumption of the way of marketing of the raw milk, be divided in to the quota for marketing raw milk to raw milk processor by the agricultural producer (*hereinafter delivery reference quota*) and quota for marketing raw milk directly to the final consumer (*hereinafter direct marketing quota*).

§ 3. Quota supervisory board

For the purpose of making proposals for assignment of agricultural producers' quotas the Minister of Agriculture shall summon an advisory quota supervisory board and shall invite the representatives of non-profit associations to participate in it.

Chapter 2

ASSIGNMENT OF THE AGRICULTURAL PRODUCER'S QUOTA

§ 4. Formation of the reserve

(1) A 5% reserve shall be formed of the national production quota of raw milk, which shall be divided pro rata, by the distribution of the national production quota for raw milk into the reserve of direct marketing of raw milk to the final consumer and the reserve of marketing raw milk to raw milk processor.

(2) The reserve mentioned in article 1 can only be used for assigning the quota for new agricultural producers during the quota year and increasing the agricultural producer's quota during the next quota year.

(3) The Agricultural Registers and Information Board (hereinafter *the Board*) shall publish the quantity of the production quota in reserve in the official publication Official Announcements at least 10 days before the beginning of the new quota year.

§ 5. The calculation method for agricultural producer's quota

(1) The Board shall calculate the quantity of the agricultural producer's quota by multiplying the number of the dairy cows, which belong to the agricultural producer and have been registered in the register of farm animals according to the status of 15 December 2002, with the average production quantity per cow of the dairy cows under performance testing during the reference period.

(2) The reference period for the quota year, which begins on 1 April 2003, shall be the period between 1 April 2001 and 31 March 2002.

(3) If according to the calculations described in article 1 the total quantity of the agricultural producers' quotas exceeds the quantity of the national production quota, the quantity of the production quotas for all the agricultural producers shall be decreased pro rata, following the principle of equal treatment.

(4) The data necessary for the calculation of agricultural producer's quota and the average fat content of the raw milk during the reference period shall be forwarded to the Board by the Animal Recording Center by 20 November 2002.

§ 6. Application for the agricultural producer's quota

(1) The Board shall forward the application form brought in annex 1 on which the quantity of the agricultural producer's quota calculated on the basis of § 5 has been stated, to the person whose dairy cows have been entered into the register of farm animals by the date mentioned in article 1 of § 5, by post or by registered letter with the notice of delivery (hereinafter *by post*) no later than by 31 December 2002.

(2) The agricultural producer who agrees with the quantity of the quota mentioned in article 1 shall mark the usage of the quantity of the quota as the quantity of delivery reference or direct marketing quota or as distributed between them and shall return the signed application to the Board no later than by 15 January 2003.

(3) The agricultural producer who wishes to apply for a quota in a different quantity than that stated in the application form mentioned in article 1 shall fill in and sign a supplementary blank of the application on which he shall mark the quantity of the quota applied for and its distribution into delivery reference quota and direct marketing quota and shall send the supplementary blank together with the application form to the Board no later than by 15 January 2003.

(4) The agricultural producer shall have the right to apply for the increase of the quota stated in the application form mentioned in article 1 by marking the basis for the increase of the quota on the supplementary blank of the application. The basis for the increase of the quota shall be the following circumstances:

1) The average annual milk production per cow of the dairy cows, which belong to the agricultural producer and are under performance testing during the reference period is higher than the average milk production mentioned in article 1 of the § 5; or

2) the in-calf heifers belonging to the agricultural producer and for whom there are supplementary suitable animal places.

§ 7. Revision of the application for the agricultural producer's quota

(1) The Board shall review the duly returned application and shall carry out on-the-spot check at the agricultural producer's for making the decision of increasing the quota on the basis of section 2 of article 4 of § 6.

(2) In case the agricultural producer's application for quota is not returned in time, the Board shall inform the agricultural producer by post, by sending the agricultural producer the previously filled-in application form mentioned in the article 1 of § 6 and determining the new date for submitting the application.

(3) The Board shall determine a term for the liquidation of shortages, which have appeared on the agricultural producer's duly returned application or its supplementary blank by informing the agricultural producer by post.

(4) If the agricultural producer does not return the application during the term mentioned in article 2 or does not liquidate the shortages during the term mentioned in article 3, the application shall not be reviewed.

§ 8. Assignment of the agricultural producer's quota

(1) Upon the assignment of the agricultural producer's quota and the quantity of the quota the Board shall base on the following:

1) for the agricultural producer, who has agreed with the quota quantity set by the Board, the quantity of the agricultural producer's quota shall be the quantity stated in the application;

2) for the agricultural producer, who has stated on the supplementary blank a quota quantity smaller than that on the application, the quantity of the agricultural producer's quota shall be the quantity stated on the supplementary blank;

3) for the agricultural producer, who has stated on the supplementary blank a quota quantity bigger than that stated on the application and has returned the supplementary blank by the date mentioned in article 3 of § 6, the agricultural producer's quota shall be the quantity stated on the supplementary blank and proved during the check, including in the case when the quantity proved during the check is bigger than that stated on the additional blank;

4) for the agricultural producer, who has stated on the supplementary blank a quota quantity bigger than that stated on the application and has returned the supplementary blank by the date mentioned in article 3 of § 6, but the quantity proven during the check is smaller than the stated one, the quantity of the agricultural producer's quota shall be the quantity proven during the check by proportionally decreasing the quantities of delivery reference and direct marketing quotas;

5) for the agricultural producer, who has stated on the supplementary blank a quota quantity bigger than that stated on the application and has returned the supplementary blank after the date mentioned in article 3 of § 6, however during the term mentioned in articles 2 and 3 of § 7, the quantity of the agricultural producer's quota shall be the quantity stated in the application.

(2) If the person mentioned in article 1 of § 6 does not, according to the status of 15 January 2003, meet the requirements set for an agricultural producer in § 5 of the Rural Development and Agricultural Market Regulation Act no quota shall be assigned for him.

(3) If the total quantity of the quotas assigned for the agricultural producers on the basis of article 1 exceeds the quantity of the national production quota for raw milk, the quantity of the quotas of all of the agricultural producers shall be decreased pro rata by following the principle of equal treatment.

(4) If the total quantity of the quotas assigned for the agricultural producers on the basis of article 1 is smaller than the quantity of the national production quota for raw milk, the Board shall include the quantity of the undistributed quota in the reserve. The reserve can be used during the

quota year only for assignment of quota for the new agricultural producers and during the next quota year for increasing the quota for agricultural producers.

§ 9. Arrangements for assignment of the agricultural producer's quota

(1) The director general of the Board or a person authorized by him shall decide the assignment or non-assignment of the agricultural producer's quota during 30 days from the date of returning the application to the Board. The quantity of the delivery reference quota and direct marketing quota shall be determined separately in the decision.

(2) The Board shall inform the agricultural producer of the quantity of the quota assigned for the agricultural producer and its distribution by post during 10 working days since the making of the decision.

§ 10. Assignment of quota for new agricultural producer

(1) If an agricultural producer that starts production of raw milk for marketing after 31 March 2003 wishes also to apply for dairy cow premium, he must submit the Board the application for assignment of agricultural producer's quota brought in Annex 2. This agricultural producer must meet the requirements set in § 5 of the Rural Development and Agricultural Market Regulation Act or as a natural person he must start marketing of raw milk after the assignment of the production quota on the year of submitting the application.

(2) The Board shall review the application submitted by the agricultural producer and the director general of the Board or person authorized by him shall, during 30 working days, decide the assigning or not assigning of the agricultural producer's quota in the order of receiving the applications, on the basis of:

1) the size of the reserve;

2) the existence of land allowing milk production, suitable buildings and equipment, and animal places and dairy cows, which belong to the applicant.

(3) To assign the quota for new agricultural producer the Board shall carry out on-the-spot check at the applicant's.

(4) The Board shall calculate the increased agricultural producer's quota mentioned in the article 1 by multiplying the number of the dairy cows, which belong to the agricultural producer and have been registered in the register of farm animals with the average production quantity per cow of the dairy cows under performance testing during past quota year.

(4¹) The Board shall assign a date for the agricultural producer for eliminating the omissions that have appeared in the application submitted by the agricultural producer by informing the agricultural producer by post. If the agricultural producer does not eliminate the omissions during the date assigned to him, the application shall not be reviewed.

(5) The Board shall inform the agricultural producer of the quantity of the quota assigned for the new agricultural producer by post during 10 days since the making of the decision.

(6) In the case of applying for the quota the agricultural producer who according to the status of 15 December 2002 does not own any dairy cows, which have been entered into the register of farm animals, shall be considered as new agricultural producer.

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Chapter 3

ADJUSTMENT AND DECLARATION OF INVALIDITY OF THE AGRICULTURAL PRODUCER'S QUOTA

§ 11. Adjustment of the quota assigned for agricultural producer for new quota year

(1) The agricultural producer shall have the right to apply for the adjustment of the quota assigned to him by submitting a suitable application to the Board by no later than on the 60th day before the beginning of the new quota year.

(2) The Board shall review the applications for increasing the agricultural producer's quota, which have been submitted duly and shall decide the increasing or not increasing the quota for this quota year no later than on the 30th day before the beginning of the new quota year on the basis of:

1) the quantity of the reserve;

2) the increase of the number of dairy cows of the agricultural producer registered in the farm animal register as compared to the status of the date of submitting the application for production quota of raw milk and the existence of animal places for dairy cows, which met the requirements or the increased average milk production per cow of the dairy cows belonging to the agricultural producer.

(3) For the purpose of making the decision of increasing the quota the Board shall carry out on-the-spot check at the agricultural producer's.

(4) The Board shall, on the basis of section 2 of article 2, calculate the increasing of the agricultural producer's quota by multiplying the number of the dairy cows, which belong to the agricultural producer and have been registered in the register of farm animals with the average milk production quantity of the dairy cows per cow during the previous quota year.

(5) If the quantity of the part to be added with the increasing of the assigned quotas proved in the applications for increasing the agricultural producer's quotas and during the check exceeds the quantity of the reserve, the increased part of all the agricultural producer's quotas shall be decreased pro rata by following the principle of equal treatment.

(6) If the agricultural producer's quota is not fulfilled the Board shall, on the basis of article 4 of § 109¹ of the Rural Development and Agricultural Market Regulation Act, on the grounds of the data received for carrying out the check decrease the quantity of the agricultural producer's quota as follows:

1) 50% of the quantity of the quota unused by the agricultural producer if the agricultural producer fulfilled 80% to 90% of the quota assigned to him by the end of the quota year;

2) 75% of the quantity of the quota unused by the agricultural producer, if the agricultural producer fulfilled 70% to 79% of the quota assigned to him by the end of the quota year;

3) the entire quantity of the quota unused by the agricultural producer, if the agricultural producer fulfilled below 70% of the quota assigned to him by the end of the quota year.

(6¹) The decrease of the agricultural producer quota mentioned in article 6 shall be applied by the Board only to these agricultural producers to whom the agricultural producer's quota has been assigned before the beginning of the previous quota year.

(7) The decreasing of the quota assigned to agricultural producer according to the article 6 shall enter into force from the beginning of the quota year, which follows the quota year during which the quota was not fulfilled. The Board shall not decrease the quota assigned to new agricultural producer if the agricultural producer has not marketed raw milk to the processor or final consumer due to force majeure or any other circumstance, which is not dependant on his will. The agricultural producer shall promptly inform the Board of such circumstances.

(8) The Board shall include quantity of the agricultural producer's quota decreased on the basis of article 6 in the reserve.

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§ 12. Decreasing the agricultural producer's quota in the case of decreasing the national production quota for raw milk

(1) If on the basis of article 1 of § 109¹ of the Rural Development and Agricultural Market Regulation Act the Government of the Republic enforces a national production quota for raw milk for the new quota year smaller than the one enforced on the previous year, the quantity of all of the agricultural producers' quotas shall, if necessary, be decreased pro rata by following the principle of equal treatment.

(2) The director general of the Board or a person authorized by him shall decide the decreasing of the agricultural producers' quota during 30 days since the entry into force of the act mentioned in article 1, however no later than on the 90th day before the end of the quota year.

(3) The agricultural producer's quota decreased on the basis of article 1 shall enter into force on the quota year following the year on which the decision to decrease the national quota for raw milk was made.

(4) The Board shall inform the agricultural producer of making the decision to decrease, mentioned in article 2, by post during 10 working days from the day of making the decision.

§ 13. Adjustment of agricultural producer's delivery reference quota or its part into agricultural producer's direct marketing quota or vice versa

(1) The agricultural producer shall have the right to adjust, within the limits of the quota assigned to him, the distribution of the quota into delivery reference quota and direct marketing quota once during the quota year, but no later than on the 90th day before the end of the quota year. The adjustment shall enter into force from the day of the arrival of the respective application of the agricultural producer to the Board.

(2) The Board shall inform the agricultural producer of the adjustment mentioned in article 1 by post during 10 working days since the day of entry into force of the adjustment.

§ 14. Adjustment of the quota assigned for agricultural producer by transferring the quota

(1) In the case of transferring agricultural producer's milk production enterprise or its unit, which is organizationally its integral part (hereinafter *milk production unit*), if it involves decrease in the production of raw milk for marketing, the transferor can surrender the part of the quota corresponding to the milk production unit to the acquirer if the latter meets the requirements set for agricultural producer in § 5 of the Rural Development and Agricultural Market Regulation Act.

(1¹) The transferor of the part of the quota mentioned in article 1 must have been producing raw milk for marketing at least 12 months before transferring the respective part of the quota.

(2) On the transfer of the part of the quota mentioned in article 1, the transferor and the acquirer shall submit the Board a joint application during 10 working days from the day of the transfer. In this application the acquirer shall confirm the will to continue milk production in the milk production unit and shall present data on the amount of raw milk marketed during the current quota year. The transfer shall enter into force from the day of arrival of the joint application to the Board.

(3) Of the quantity of the quota transferred on the basis of article 1, the acquirer shall have the right to use only the part of the quota unused by the moment of transfer. The acquirer can start using the total quantity of the transferred quota from the beginning of the next quota year.

(4) The director general of the Board or person authorized by him shall promptly assign, adjust or declare invalid, on the basis of the application mentioned in article 2, the production quota assigned to the transferor or acquirer from the day of the arrival of the application to the Board. The Board shall inform the transferor and acquirer of the named decisions by post during 10 working days from the day of entry into force of the decision.

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§ 15. Declaration of invalidity of the quota assigned to agricultural producer

(1) In the case of decreasing or termination of the production of raw milk for marketing the director general of the Board or person authorized by him shall promptly declare, on the basis of the application submitted by the agricultural producer, the quota assigned to the agricultural producer partly or entirely invalid. The decision of declaring the quota partly or entirely invalid shall enter into force from the day the Board receives respective application from the agricultural producer. The Board shall include the quantity of the quota declared invalid in the reserve.

(2) The Board shall declare the quota assigned to agricultural producer invalid if the agricultural producer has not, according to the data presented on the basis of article 4 of § 109¹ of the Rural Development and Agricultural Market Regulation Act for carrying out checks, marketed raw milk neither to the milk processor nor directly to the final consumer during the quota year. The agricultural producer's quota shall be declared invalid from the beginning of the quota year, subsequent to the quota year during which the raw milk was not marketed to neither milk processors nor final consumer. The Board shall include the quantity of the quota declared invalid in the reserve.

(3) The Board shall not declare the agricultural producer's quota invalid if the agricultural producer has not marketed raw milk to neither the processor nor final consumer due to force majeure or any other circumstance, which is not dependant on his will. The agricultural producer shall promptly inform the Board of such circumstances.

(4) The Board shall inform the agricultural producer of the decision of declaration of invalidity of the quota assigned to him by post during 10 working days since the day of making the decision.

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§ 16. Account of production quota

The Board shall keep record of the fulfillment of the national quota for raw milk separately for the quota of direct marketing of raw milk to the end consumer and the quota of marketing of raw milk to the processor, also for the fulfillment of delivery reference quota and direct marketing quota by every agricultural producer and the reserve.

§ 17. Reference fat content

((1) In the case of assigning the agricultural producer's quota the fat content of the raw milk shall be taken into account in addition to the quantity of milk production of the dairy cows owned by the agricultural producer during the quota year. To receive data on the fat content of the raw milk the data collected on the basis of § 109¹ article 4 of the Rural Development and Agricultural Market Regulation Act shall be used.

(2) On the basis of data mentioned in article 1 the average fat content of the raw milk produced for marketing by the agricultural producer during the previous quota year (hereinafter *reference*

fat content), that shall be the basis for the correction of the quantities of raw milk marketed by the agricultural producer during all the following quota years, shall be calculated.

(3) In the case of the new agricultural producer the reference fat content shall be the average weighed fat content of the raw milk marketed to the milk processor during the 12 months following the month of the assignment of quota.

(4) In the case of agricultural producer to whom the direct marketing quota has been assigned and who changes it to delivery reference quota according to the arrangements prescribed in § 13, the Board shall consider 3,8% as the reference fat content for the part of the adjusted quantity. In the case of agricultural producer to whom both delivery reference quota as well as direct marketing quota had been assigned and who adjusts the latter to delivery reference quota according to the arrangements prescribed in § 13, the Board shall consider the reference fat content of the initial delivery reference quota as the reference fat content of the new delivery reference quota and for the changed part the fat content of 3,8%, the weighed average.

(5) On the transfer of the part of the quota mentioned in article 1 of paragraph 14 the reference fat content of the agricultural producer's quota shall not be changed if the milk production unit is continually used independently. If the milk production unit is not continually used independently the Board shall calculate the reference fat content of the initial quota and the weighed average of the reference fat content of the transferred quota as the new reference fat content of the agricultural producer's quota.

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Chapter 4

IMPLEMENTING PROVISIONS

§ 18. Implementation of the regulation

((1) The provisions stated in the paragraphs 5–9 shall be applied for the quota year, which begins on 1 April 2003 and ends on 31 March 2004.

(2) The provisions stated in article 4 of paragraph 10 shall not be applied for the quota year mentioned in article 1. During this quota year the Board shall calculate the quantity of the agricultural producer's quota mentioned in article 1 of the § 10 by multiplying the number of the dairy cows, which belong to the agricultural producer and have been registered in the register of farm animals with the average production quantity per cow of the dairy cows under performance testing during the reference period.

(3) The provisions in the articles 1-3 of the § 17 of the regulation shall not be applied for the quota year stated in article 1. During the stated quota year the reference fat content for all the agricultural producer's quotas shall be the average fat content of the raw milk determined during performance testing by the Animal Recording Center during the reference period.

(4) The provisions of the article 4 of § 11 shall not be applied for the quota year mentioned in article 4. On the mentioned quota year, the Board shall calculate the agricultural producer's increased quota on the basis of section 2 of article 2 of § 11 by multiplying the number of dairy cows belonging to the agricultural producer and registered in the farm animal register with the average milk production per cow of the dairy cows under performance testing, which belong to him during the period of 1 April 2002 – 31 March 2003.

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¹ 3950/92/EEC (ECM L 405, 31.12.1992, p.1–5) and 1392/2001/EC (ECM L 187, 10.07.2001, p 19–28)