

L. N. 284 of 2015

**SUPPLIES AND SERVICES ACT
(CAP. 117)**

**Contractual Relations in the Milk and Milk Products Sector
Regulations, 2015**

IN exercise of the powers conferred by article 3 of the Supplies and Services Act, the Minister for the Economy, Investment and Small Business, in consultation with the Minister for Sustainable Development, the Environment and Climate Change, has made the following regulations:-

1. (1) The title of these regulations is the Contractual Relations in the Milk and Milk Products Sector Regulations, 2015. Citation and scope.

(2) These regulations implement, as regards contractual relations in the milk and milk products sector, the relevant provisions of Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December, 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007.

2. For the purpose of these regulations and unless the context otherwise requires: Interpretation.

"collector" means an undertaking which transports raw milk from a milk producer or another collector to a processor of raw milk or another collector, where the ownership of the raw milk is transferred in each case;

"contract" means a written agreement between the first purchaser of raw milk and a milk producer, drawn up according to regulation 4:

Provided that where raw milk is delivered by a milk producer to a co-operative, of which he is a member, whose statute governing such membership contains provisions having the same effects as the provisions set out in regulation 4(1)(a), (b) and (c), such statute shall be deemed to cover the requirements of a "contract" wherever these are set out in the provisions of these regulations;

"first purchaser" means an undertaking or group which buys milk from producers in order to:

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(a) subject it to collecting, packing, storing, chilling or processing, including under a contract;

(b) sell it to one or more undertakings treating or processing milk or other milk products.

Competent authority.

3. The competent authority for the purposes of these regulations shall be the Director of Agriculture.

Written contract.

4. (1) Every delivery of raw milk by a milk producer to a processor of raw milk whether delivered directly or through a collector shall be covered by a written contract between the parties, which contract shall:

(a) be made in advance of the delivery;

(b) be made in writing; and

(c) include, in particular, the following elements:

(i) the price payable for the delivery, which shall:

- be static and be set out in the contract, and, or,

- be calculated by combining various factors set out in the contract, which may include market indicators reflecting changes in market conditions, the volume delivered and the quality or composition of the raw milk delivered;

(ii) the volume of raw milk which may and, or must be delivered and the timing of such deliveries;

(iii) the duration of the contract, which may include either a definite or an indefinite duration with termination clauses;

(iv) details regarding payment periods and procedures;

(v) arrangements for collecting or delivering raw milk; and

(vi) rules applicable in the event of *force majeure*.

(2) The contract shall stipulate the number of heads of productive bovines (milking cows) authorised by the dairy to be

present on-farm at any one time plus or minus a certain percentage, in view of some drying off bovines (milking cows) and others just starting, within the maximum capacity approved by the Veterinary Regulation Department.

(3) The contract shall bind the dairy to accept all the milk produced on the particular farm:

Provided that where heads of productive bovines (milking cows) are found to be on-farm in excess of the number authorised in the contract in accordance with sub-regulation (2), the dairy shall not remain so bound. In such cases the destination, which shall not be another dairy, of the extra milk shall be declared by the milk producer.

(4) The contract shall bind the milk producer to seek the written approval of the dairy as an amendment to the contract prior to increasing the number of heads of productive bovines (milking cows) on-farm.

(5) Contracts and, or their amendments, if any, shall be notified by the dairy to the Veterinary Regulation Department and the Agriculture Directorate within five (5) working days.

(6) Contracts shall be based on exclusivity, that is the milk producer shall bind himself to deliver all his milk to the dairy under such contract.

(7) If the delivery of raw milk is made through one or more collectors, all the stages of the delivery including the stage when the raw milk is transferred from the milk producer to the collector and the stage when the milk is ultimately transferred to the processor of raw milk shall be covered by the contract referred to in sub-regulation (1).

5. (1) A system of audited milk recording shall be established in such manner as may be set out by the Veterinary Regulation Department. Technical parameters.

(2) Dairies shall be required to supply true plate count (Total bacterial count) at 30 degrees centigrade and somatic cell count on a monthly basis directly to the Veterinary Regulation Department and the Agriculture Directorate.

(3) Dairies shall be required to supply fat content on a monthly basis to the Veterinary Regulation Department and the Agriculture Directorate.

(4) The first purchasers of raw milk shall declare to the

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Agriculture Directorate the individual and cumulative quantity of raw milk that has been delivered to them each month, which declarations are to be submitted before the end of the following fortnight.

(5) The first purchasers of raw milk shall declare to the Agriculture Directorate the average farm gate price of raw milk that has been paid by them to the milk producers, which declarations are to be submitted on a monthly basis and before the end of the following fortnight.

Duration of
contract.

6. Where a written contract for the delivery of raw milk has been entered into between a milk producer and a first purchaser of raw milk, such contract shall be for a duration of not less than three years. Such contract shall at any given time cover at least a period spanning the current calendar year, and the successive two calendar years.
