

Commission Regulation (EC) No 595/2004 of 30 March 2004  
laying down detailed rules for applying Council Regulation (EC) No  
1788/2003 establishing a levy in the milk and milk products sector

## CHAPTER IV

### **CONTROLS BY THE MEMBER STATES AND OBLIGATIONS OF PURCHASERS AND PRODUCERS**

#### SECTION 1

#### **Controls**

##### *Article 18*

#### **National control measures**

Member States shall take all the control measures in order to ensure that this Regulation is complied with and in particular the measures referred to in Articles 19 to 22.

##### *Article 19*

#### **Control plan**

1 Member States shall draw up a general control plan for each 12-month period on the basis of risk analysis. This control plan shall include at least:

- a the criteria adopted for drawing up the plan;
- b the purchasers and producers selected;
- c on-the-spot checks to be executed regarding the 12-month period;
- d the controls of transport between producers and purchasers;
- e the controls of the yearly declarations of producers or purchasers.

Member States may decide to update the general control plan by more detailed periodic plans.

The representativeness of the operators active in the milk sector shall be taken into consideration as regards the risk analysis as well as seasonality of production for the timing of the controls.

2 Controls shall be carried out partly during the 12-month period in question, partly after the 12-month period on the basis of the yearly declarations.

[<sup>F13</sup> Controls shall be deemed to be completed once an inspection report of the controls is available.

All inspection reports shall be completed no later than 18 months after the end of the 12-month period concerned.

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[<sup>F2</sup>By way of derogation from the second subparagraph, Member States that apply the instalment scheme provided for in Article 15(1) shall complete the inspection report no later than 42 months after the end of the 12-month period concerned.]

However, where the controls provided for in Article 20 are combined with other controls, the time limits laid down for other controls and the establishment of the respective inspection reports shall be respected.]

#### Textual Amendments

- F1** Substituted by Commission Implementing Regulation (EU) No 760/2012 of 21 August 2012 amending Regulation (EC) No 595/2004 as regards the intensity of controls carried out by Member States in the framework of the milk quota system.
- F2** Inserted by Commission Implementing Regulation (EU) 2015/517 of 26 March 2015 amending Regulation (EC) No 595/2004 laying down detailed rules for applying Council Regulation (EC) No 1788/2003 establishing a levy in the milk and milk products sector.

### Article 20

#### On-the-spot checks

On-the-spot checks shall be unannounced. However, provided that the purpose of the control is not jeopardised, advance notice limited to the strict minimum necessary may be given.

Where appropriate, on-the-spot checks provided for in this Regulation, as well as any other checks provided for in Community rules, shall be carried out at the same time.

### Article 21

#### Controls on deliveries and direct sales

1 As regards deliveries, controls shall be executed at farm level, during transport of the milk and at purchaser level. At all stages Member States shall physically check by means of on-the-spot checks the accuracy of registration and accounting of the milk marketed and in particular:

- a at farm level, the status of producer within the meaning of Article 5(c) of Regulation (EC) No 1788/2003 as well as the compatibility between deliveries and production capacity;
- b at transport level, the document referred to in Article 24(4) of this Regulation, the accuracy of the instruments for measuring milk volume and quality, the accuracy of the collection method, including possible intermediate collection points, the accuracy of quantity of collected milk at unloading;
- c at purchaser level, the accuracy of declarations referred to in Article 8 of this Regulation, in particular by cross-checks to documents referred to in Article 24(2) to (5) of this Regulation as well as the credibility of the records of stocks and deliveries referred to in Article 24(2) and (3) of this Regulation in the light of the commercial documents and other documents showing how the milk collected has been used.

2 As regards direct sales, controls shall cover in particular:

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- a at farm level, the status of producer within the meaning of Article 5(c) of Regulation (EC) No 1788/2003 as well as the compatibility between direct sales and production capacity;
- b the accuracy of the declaration referred to in Article 11(1) of this Regulation, in particular by means of documents referred to in Article 24(6) of this Regulation.

#### Article 22

#### Intensity of controls

[<sup>F1</sup> The controls referred to in Article 21(1) shall cover at least:

- a 1 % of the producers for each 12-month period;
- b 20 % of the quantity of milk declared after adjustment for the period concerned; and
- c a representative sample of transport of milk between selected producers and purchasers.

The transport controls referred to in point (c) shall be carried out in particular at unloading at the dairies.]

[<sup>F3</sup> Controls referred to in Article 21(2) shall cover at least:

- a 5 % of producers; or
- b the following two groups:
  - (i) 1 % of producers whose individual reference quantity for direct sales is less than 5 000 kg and whose declared direct sales for the 12-month period concerned is less than 5 000 kg of milk or milk equivalent;
  - (ii) 5 % of producers who do not satisfy the conditions set out in point (i).]

3 Each purchaser shall be controlled at least once in five years.

[<sup>F4</sup> If a control reveals significant irregularities or discrepancies in a region or part of a region, the competent authority shall double the number of controls during the 12-month period concerned and the following 12-month period in that region or part of that region.]

#### Textual Amendments

- F1** Substituted by [Commission Implementing Regulation \(EU\) No 760/2012 of 21 August 2012 amending Regulation \(EC\) No 595/2004 as regards the intensity of controls carried out by Member States in the framework of the milk quota system.](#)
- F3** Substituted by [Commission Regulation \(EC\) No 228/2008 of 13 March 2008 amending Regulation \(EC\) No 595/2004 with regard to intensity of controls on deliveries and direct sales of milk.](#)
- F4** Inserted by [Commission Implementing Regulation \(EU\) No 760/2012 of 21 August 2012 amending Regulation \(EC\) No 595/2004 as regards the intensity of controls carried out by Member States in the framework of the milk quota system.](#)

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## SECTION 2

### Obligations

#### Article 23

#### Approval of purchasers

1 To be able to buy milk from producers and to operate in the territory of a Member State, purchasers must be approved by that Member State.

2 Without prejudice to stricter rules laid down by the Member State concerned, purchasers shall be approved only where they:

- a provide proof of their status as dealers under national provisions;
- b have premises in the Member State concerned where the stock records, registers and other documents referred to in Article 24(2) may be consulted by the competent authority;
- c undertake to keep up to date the stock records, registers and other documents referred to in Article 24(2);
- d undertake to forward the statements and declarations provided for in Article 8(2) to the competent authority of the Member State concerned at least once a year.

3 Without prejudice to the penalties laid down by the Member State concerned, approval shall be withdrawn where the conditions laid down in paragraph 2(a) and (b) are no longer met.

Where it is found that a purchaser has forwarded an incorrect statement or declaration, or has failed to comply with the undertaking referred to in paragraph 2(c) or has repeatedly failed to comply with any other obligation imposed under Regulation (EC) No 1788/2003, this Regulation or the relevant national rules, the Member State shall either withdraw approval or require payment of an amount in proportion to the volume of milk involved and the seriousness of the irregularity.

4 Approval may be reinstated at the request of the purchaser after a period of at least six months, provided that a further thorough inspection gives satisfactory results.

The penalties referred to in paragraph 3 shall not be imposed where the Member State recognises a case of *force majeure* or establishes that the irregularity was not committed deliberately or as a result of serious negligence, or where the irregularity is negligible in terms of the functioning of the scheme or the effectiveness of the checks.

#### Article 24

#### Obligations of purchasers and producers

1 Producers shall ensure that purchasers to whom they deliver are approved. The Member States shall lay down penalties where deliveries are made to non-approved purchasers.

2 Purchasers shall keep available for the competent authority of the Member State, for at least three years from the end of the year in which the documents are drawn up, stock records per 12-month period with details of the name and address of each producer, the information referred to in Article 8(2), entered every month or four-week period in the case of quantities delivered and annually in the case of the other data, together with the commercial documents,

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correspondence and other information referred to in Council Regulation (EEC) No 4045/89<sup>(1)</sup>, permitting such stock records to be verified.

3 Purchasers shall be responsible for recording all quantities of milk delivered to them. To that end, they shall keep available for the competent authority, for at least three years from the end of the year in which the documents are drawn up, the list of purchasers and undertakings treating or processing milk supplying them with milk and, for each month, the quantities delivered by each supplier.

4 On collection at holdings, milk shall be accompanied by a document identifying the delivery. In addition, purchasers shall keep a record of each individual delivery for at least three years from the end of the year in which the record is drawn up.

5 Producers making deliveries shall keep available for the competent authority of the Member State, for at least three years from the end of the year in which the documents are drawn up, the documents regarding the quantities of milk delivered to the purchasers. The producer in question shall also keep available for the competent authority the registers of livestock held on holdings and used for milk production, in accordance with Article 7 of Regulation (EC) No 1760/2000 of the European Parliament and of the Council<sup>(2)</sup>.

6 <sup>[F5]</sup>Producers making direct sales shall keep available for the competent authority of the Member State, for at least three years from the end of the year in which the documents are drawn up, stock records drawn up by 12-month period giving details, per month and per product, of any sale or transfer of milk or milk products.

Producers whose individual reference quantity of direct sales is 5 000 kg or more shall also keep records of milk and milk products which have been produced but not sold or transferred.

Member States may lay down more detailed rules.]

They shall also keep available for the competent authority the registers of livestock held on holdings and used for milk production, in accordance with Article 7 of Regulation (EC) No 1760/2000, and supporting documents enabling such stock records to be verified.

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#### Textual Amendments

- F5** Substituted by [Commission Regulation \(EC\) No 1468/2006 of 4 October 2006 amending Regulation \(EC\) No 595/2004 laying down detailed rules for applying Council Regulation \(EC\) No 1788/2003 establishing a levy in the milk and milk products sector.](#)

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- (1) OJ L 388, 30.12.1989, p. 18.
- (2) OJ L 204, 11.8.2000, p. 1.

**Changes to legislation:**

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