
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 31st March 2005, revoke and replace the Dairy Produce Quotas (Scotland) Regulations 2002 (S.S.I. 2002/118) as amended by the Dairy Produce Quotas (Scotland) Amendment Regulations 2002 (S.S.I. 2002/228) and the Dairy Produce Quotas (Scotland) Amendment Regulations 2004 (S.S.I. 2004/118).

These Regulations implement Council Regulation (EC) No. 1788/2003 (O.J. No. L 270, 21.10.2003 p.123) establishing a levy in the milk and milk products sector, as amended (“the Council Regulation”) and Commission Regulation (EC) No. 595/2004 (O.J. No. L 94, 31.3.2004, p.22) laying down detailed rules for applying Council Regulation (EC) No. 1788/2003 establishing a levy in the milk and milk products sector (“the Commission Regulation”). The Council Regulation and the Commission Regulation revoke and replace earlier legislation relating to the levy.

Under the Community legislation, as defined in regulation 2(1), a levy continues to be payable on dairy produce sold by direct sale or transferred free of charge by a producer or delivered by a wholesale producer wholesale to a dairy business, unless the sales, transfers or deliveries are within a reference quantity described in that legislation. The Community legislation establishes this system of milk quotas and in these Regulations the term “quota”, which is defined in regulation 2(1), is used to refer to the reference quantity described in the Community legislation.

These Regulations apply to relevant persons, including producers and purchasers, in relation to whom the Scottish Ministers are the competent authority under the Dairy Produce Quotas (General Provisions) Regulations 2002 (S.I.2002/458). The terms “relevant person”, “producer” and “purchaser” are defined in regulation 2(1). The Scottish Ministers are the competent authority in relation to those relevant persons whose trading address or, where there is more than one such address, principal trading address is in Scotland. The holdings of producers to whom these Regulations apply may comprise land in parts of the United Kingdom outside Scotland. Amendments to the Dairy Produce Quotas (General Provisions) Regulations 2002 also come into force on 31st March 2005.

Apart from drafting changes and the revocation of spent provisions, the new provisions included in these Regulations are as follows:

- (a) before approving a purchaser, the Scottish Ministers may oblige the purchaser to lodge such security as the Scottish Ministers may reasonably require (regulation 5(4));
- (b) provisions relating to butterfat-adjusted deliveries and the liability of wholesale producers for levy on deliveries (regulations 25 and 27);
- (c) a direct seller who does not provide a declaration of the sales made by that direct seller in a quota year (as defined in regulation 2(1)) by 14th May immediately following the end of that quota year and who is liable to pay levy in respect of such sales will pay levy at the full rate (regulation 30(14));
- (d) unless a wholesale producer has already paid levy, in certain circumstances the wholesale producer will be liable for the payment of levy to the Scottish Ministers where the purchaser of that wholesale producer has failed to do so (regulation 31);
- (e) Article 21 of the Commission Regulation requires that checks be made on the compatibility between deliveries and direct sales of milk on the one hand and production capacity on the other; consequently, a producer is required to keep invoices of feed purchased by that producer (regulation 34(2) and paragraphs 2(1)(d) and 3(d) of Schedule 2);

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- (f) Article 6 of the Commission Regulation provides that milk which is destroyed off-farm for sanitary reasons will not be taken into account when calculating levy; consequently, a producer is required to keep records of such milk (regulation 34(2) and paragraphs 2(1) (j) and 3(k) of Schedule 2);
- (g) where a person has to submit a document to the Scottish Ministers in accordance with these Regulations, the operative date is the date by when the Scottish Ministers receive the document, not the date of despatch to the Scottish Ministers;
- (h) new provision is also made—
 - (i) enabling a tenant who buys quota to retain that quota at the end of the tenancy of that tenant in certain circumstances (regulation 14);
 - (ii) relating to the conversion of quota (regulation 22);
 - (iii) to prevent the avoidance of levy (regulation 32);
 - (iv) imposing a penalty for failure to submit a summary under Article 8(2) of the Commission Regulation by 1st July (regulation 36(6)); and
 - (v) for the confiscation of quota (regulation 38).

A Regulatory Impact Assessment of the effect which this instrument will have on the costs of business has been prepared and placed in the Scottish Parliament Reference Centre.

Copies of the map referred to in the definition of “Scottish Islands area” in regulation 2(1) and the Regulatory Impact Assessment are available from the offices of the Scottish Executive Environment and Rural Affairs Department at Pentland House, 47 Robb’s Loan, Edinburgh, EH14 1TY.

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Changes and effects yet to be applied to :

- sch 2 am by [S.S.I. 2007/118 reg 10](#)
- Regulations revoked by [S.S.I. 2018/391 sch. Pt. 2](#)
- reg 2 am by [S.S.I. 2007/118 reg 3](#)
- reg. 4(9) words substituted by [S.S.I. 2011/83 Sch. para. 2](#)
- reg 7 rev in pt by [S.S.I. 2007/118 reg 4](#)
- reg 9 am by [S.S.I. 2007/118 reg 5](#)
- reg. 9(1) words substituted by [S.S.I. 2011/83 Sch. para. 3](#)
- reg. 13(2) words substituted by [S.S.I. 2011/83 Sch. para. 4](#)
- reg. 15(1) words substituted by [S.S.I. 2011/83 Sch. para. 5](#)
- reg 16 am by [S.S.I. 2006/119 reg 2](#)
- reg. 19(2) words substituted by [S.S.I. 2011/83 Sch. para. 6](#)
- reg. 21(1)(a) words substituted by [S.S.I. 2011/83 Sch. para. 7\(a\)](#)
- reg. 21(1)(b) words substituted by [S.S.I. 2011/83 Sch. para. 7\(b\)](#)
- reg. 21(2)(b) words substituted by [S.S.I. 2011/83 Sch. para. 7\(a\)](#)
- reg. 22(1) words substituted by [S.S.I. 2011/83 Sch. para. 8](#)
- reg 23 am by [S.S.I. 2006/119 reg 2](#)
- reg. 23(2) words substituted by [S.S.I. 2011/83 Sch. para. 9](#)
- reg. 25(4)-(7) omitted by [S.S.I. 2011/83 Sch. para. 10](#)
- reg. 26(1) substituted by [S.S.I. 2011/83 Sch. para. 11\(a\)](#)
- reg. 26(3) substituted by [S.S.I. 2011/83 Sch. para. 11\(b\)](#)
- reg. 27(1) words substituted by [S.S.I. 2011/83 Sch. para. 12\(a\)](#)
- reg. 27(2) words omitted by [S.S.I. 2011/83 Sch. para. 12\(b\)](#)
- reg. 28(1) words substituted by [S.S.I. 2011/83 Sch. para. 13\(a\)](#)
- reg. 28(2)(b) words substituted by [S.S.I. 2011/83 Sch. para. 13\(b\)](#)
- reg. 30(1) words substituted by [S.S.I. 2011/83 Sch. para. 14\(a\)](#)
- reg. 30(11)(b) words substituted by [S.S.I. 2011/83 Sch. para. 14\(b\)](#)
- reg. 30(14) words substituted by [S.S.I. 2011/83 Sch. para. 14\(b\)](#)
- reg 31 am by [S.S.I. 2007/118 reg 6](#)
- reg. 31(2)(a) words substituted by [S.S.I. 2011/83 Sch. para. 15\(a\)\(i\)](#)
- reg. 31(2)(b) words substituted by [S.S.I. 2011/83 Sch. para. 15\(a\)\(ii\)](#)
- reg. 31(3) words substituted by [S.S.I. 2011/83 Sch. para. 15\(b\)](#)
- reg 33 subst by [S.S.I. 2006/119 reg 2](#)
- reg. 33(2) words substituted by [S.S.I. 2011/83 Sch. para. 16](#)
- regs 35 - 36 am by [S.S.I. 2006/119 reg 2](#)
- reg 36 am by [S.S.I. 2007/118 reg 7](#)
- reg 38 rev in pt by [S.S.I. 2007/118 reg 8](#)
- reg. 38(1) words substituted by [S.S.I. 2011/83 Sch. para. 17](#)
- reg. 38(3) words substituted by [S.S.I. 2011/83 Sch. para. 17](#)
- reg 39 am by [S.S.I. 2007/118 reg 9](#)
- reg. 39(1) words substituted by [S.S.I. 2011/83 Sch. para. 18](#)
- reg. 39(3) words substituted by [S.S.I. 2011/83 Sch. para. 18](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 2(1)(1A) substituted for reg. 2(1) by [S.S.I. 2011/83 Sch. para. 1](#)