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STATUTORY INSTRUMENTS

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**2002 No. 458**

**FOOD**

**The Dairy Produce Quotas (General Provisions) Regulations 2002**

<i>Made</i>	- - - -	<i>1st March 2002</i>
<i>Laid before Parliament</i>		<i>4th March 2002</i>
<i>Coming into force</i>	- -	<i>31st March 2002</i>

<sup>F1F2</sup>The Secretary of State, being designated(1) for the purposes of section 2(2) of the European Communities Act 1972(2) in relation to the common agricultural policy of the European Community, acting in exercise of the powers conferred on her by virtue of the said section 2(2), and of all other powers enabling her in that behalf, hereby makes the following Regulations:

**Textual Amendments**

- F1** Regulations revoked (S.) (28.2.2019) by [The Environment, Food and Rural Affairs \(Miscellaneous Amendments and Revocations\) \(Scotland\) Regulations 2018 \(S.S.I. 2018/391\)](#), reg. 1(1), **sch. Pt. 2**
- F2** Regulations revoked (E.W.) (31.3.2019) by [The Food and Rural Affairs \(Miscellaneous Revocations\) Regulations 2018 \(S.I. 2018/908\)](#), **regs. 1(2), 3(a)**

**Title and commencement**

1. These Regulations may be cited as the Dairy Produce Quotas (General Provisions) Regulations 2002 and shall come into force on 31st March 2002.

**Interpretation**

[<sup>F3</sup>2.—(1) In these Regulations—

“apparatus” means any drum, barrel, tank, pump, hose or any other item adapted or used for the purpose of producing or transporting milk or milk products;

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- (1) S.I. 1972/1811. The power of the Secretary of State for Environment, Food and Rural Affairs, as a Minister designated in relation to the common agricultural policy of the European Community, to make Regulations which extend to Scotland remains exercisable by virtue of section 57(1) of the Scotland Act 1998 (1998 c. 46). The Secretary of State’s power to make, as a Minister so designated, regulations which extend to Wales is confirmed by Article 3(4) of the European Communities (Designation) (No. 3) Order 1999 (S.I. 1999/2788).
- (2) 1972 c. 68.

“authorised officer” means a person (whether or not an officer of the relevant competent authority) who is authorised by the relevant competent authority, either generally or specifically for the purpose of these Regulations, to act under these Regulations;

“the Commission Regulation” means [Commission 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;

“the Community legislation” means the Commission Regulation and—

- (a) Article 55(1)(a),
- (b) Article 55(2), in so far as it relates to milk and other milk products, and
- (c) the provisions of, or referred to in, Section III of Chapter III of Part II, of the Council Regulation;

“the competent authority” means—

- (a) in England, the Secretary of State for Environment, Food and Rural Affairs,
- (b) in Wales, the Welsh Ministers,
- (c) in Scotland, the Scottish Ministers, and
- (d) in Northern Ireland, the Department of Agriculture and Rural Development;

“the Council Regulation” means Council Regulation (EC) No. 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation);

“dairy produce” means produce, expressed in kilograms or litres (one kilogram being 0.971 litres), in respect of which levy is payable;

“delivery” has the same meaning as in Article 65(f) of the Council Regulation, and “deliver” shall be construed accordingly;

“direct sale” has the same meaning as in Article 65(g) of the Council Regulation;

“direct sales quota” means the quantity of dairy produce which may be sold or transferred free of charge by direct sale by a producer in a quota year without that producer being liable to pay levy;

“holding” has the same meaning as in Article 65(d) of the Council Regulation;

“levy” means the surplus levy payable under the Community legislation;

“milk” has the same meaning as in Article 65(a) of the Council Regulation;

“premises” includes any vehicle;

“producer” has the same meaning as in Article 65(c) of the Council Regulation;

“purchaser” means a purchaser within the meaning of Article 65(e) of the Council Regulation;

“quota” means direct sales quota or wholesale quota, as the case may be;

“quota year” means any of the periods of 12 months referred to in Article 66(1) of the Council Regulation;

“relevant date”, in relation to a producer, purchaser or any other person, and for the purposes of any given quota year, means the beginning of that quota year;

“relevant offence” means an offence relating to—

- (a) any failure to comply with a requirement imposed by, or in implementation of, the Community legislation,
- (b) the making of any statement or use of any document which is false in a material particular, or

(c) any disposal of incorrectly registered quota;

“relevant person” means a producer, a purchaser, any employee or agent of a producer or of a purchaser, any milk haulier, any person undertaking butterfat testing for purchasers in a laboratory, a processor of milk or milk products, or any other person involved in the buying, selling or supply of milk or milk products obtained directly from a producer or purchaser, but does not include a consumer of milk or milk products;

“relevant proceedings” means any criminal proceedings relating to a relevant offence;

“territory” means England, Wales, Scotland or Northern Ireland, as the case may be; and

“wholesale quota” means the quantity of milk which may be delivered to a purchaser by a producer in a quota year without that producer being liable to pay levy.

(2) References in these Regulations to—

(a) Article 55(1)(a);

(b) Article 55(2), in so far as it relates to milk and other milk products; and

(c) the provisions of, or referred to in, Section III of Chapter III of Part II,

of the Council Regulation, and to the Commission Regulation, are references to those Articles and provisions and to the Commission Regulation as amended from time to time.]

#### **Textual Amendments**

**F3** Reg. 2 substituted (1.4.2008) by [The Dairy Produce Quotas \(General Provisions\) \(Amendment\) Regulations 2008 \(S.I. 2008/438\)](#), regs. 1(b), **2(1)**

#### **Relevant competent authority**

**3.** In relation to a producer, a purchaser or any other relevant person, the relevant competent authority shall be the competent authority in the territory in which the trading address, or where there is more than one such address, the principal trading address, of that producer, purchaser or other relevant person is situated at the relevant date.

#### **National reserve**

**4.** There shall continue to be a national reserve<sup>[F4]</sup>, set up pursuant to Article 71 of the Council Regulation,] comprising such wholesale and direct sales quota as is not for the time being allocated to any person, including any quota withdrawn from any producer.

#### **Textual Amendments**

**F4** Words in reg. 4 inserted (1.4.2008) by [The Dairy Produce Quotas \(General Provisions\) \(Amendment\) Regulations 2008 \(S.I. 2008/438\)](#), regs. 1(b), **2(2)**

#### **Powers of authorised officers**

**5.—(1)** An authorised officer may, at all reasonable hours and on producing some duly authenticated document showing his authority, exercise the powers specified in this regulation for the purposes of ascertaining whether—

(a) a relevant person has acted, or is acting, in accordance with the Community legislation; or

(b) a relevant offence has been, or is being, committed.

(2) For the purposes of this regulation, an authorised officer may enter upon a holding or any other premises of a relevant person.

(3) An authorised officer who has entered upon a holding or any other premises of a relevant person by virtue of this regulation may—

- (a) inspect any—
  - (i) land, other than land used only as a dwelling;
  - (ii) apparatus; or
  - (iii) record or document, including any document kept by means of a computer, which relates to the allocation or transfer of quota or the trade in, or production of milk or milk products,
 and
- (b) seize and retain any such apparatus or record or document which he has reason to believe may be required as evidence in any relevant proceedings.

(4) A relevant person shall render all reasonable assistance to the authorised officer in relation to the matters mentioned in paragraph (1) above and in particular shall produce any such record or document and supply such additional information relating to the allocation to him of quota, the transfer to or from him of quota and the trade in, or production of, milk or milk products, as the authorised officer may reasonably require.

(5) In the case of a record or document kept by means of a computer, a relevant person shall, if so required, provide any such record or document in a form in which it may be taken away.

**Offences and penalties**

- 6. Any person who—
  - (a) intentionally obstructs an authorised officer acting in exercise of the powers conferred on him by regulation 5(1), (2) or (3) of these Regulations; or
  - (b) fails without reasonable excuse to comply with a requirement of an authorised officer made pursuant to regulation 5(4) or (5) thereof,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

**Dairy Produce Quota Tribunals**

<sup>F5</sup>7. ....

**Textual Amendments**

**F5** Reg. 7 omitted (6.4.2007) by virtue of [The Dairy Produce \(Miscellaneous Provisions\) Regulations 2007 \(S.I. 2007/477\)](#), regs. 1, **3(3)**

*Whitty*  
Parliamentary Under-Secretary,  
Department for Environment, Food and Rural  
Affairs

F6 SCHEDULE

regulation 7

**Textual Amendments**

- F6** Sch. omitted (6.4.2007) by virtue of [The Dairy Produce \(Miscellaneous Provisions\) Regulations 2007 \(S.I. 2007/477\)](#), regs. 1, **3(4)**

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations, which come into force on 31st March 2002, contain provisions concerning dairy produce quotas which, for which separate territorial enactments extending to England, Wales, Scotland and Northern Ireland respectively would not be apt. Such enactments containing the majority of provisions in relation to daily produce quotas are the Dairy Produce Quotas Regulations 2002 (S.I.2002/457), the Dairy Produce Quotas (Wales) Regulations 2002 (S.I. 2002/766 (W. 83)), the Dairy Produce Quotas (Scotland) Regulations 2002 (S.S.I. 2002/110), and the Dairy Produce Quotas Regulations (Northern Ireland) 2002 (S.R. 2002/88).

The Regulations provide for the meaning of the relevant competent authority in relation to producers, purchasers and other persons (regulation 3), maintain in existence the national reserve of milk quotas (regulation 4), specify the powers of authorised officers (regulation 5), provide offences of obstructing an authorised officer and of failing to comply with the requirements of any such authorised officer (regulation 6) and re-constitute, and set out the procedures of, the Dairy Produce Quota Tribunals (regulation 7 and Schedule).

No Regulatory Impact Assessment has been prepared in respect of these Regulations.

**Changes to legislation:**

There are currently no known outstanding effects for the The Dairy Produce Quotas (General Provisions) Regulations 2002.