STATUTORY INSTRUMENTS

1990 No. 664

FOOD

The Dairy Produce Quotas (Amendment) (No. 2) Regulations 1990

Made - - - -	*19th March 1990*
Laid before Parliament	*20th March 1990*
Coming into force -	*21st March 1990*

The Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the common agricultural policy of the European Economic Community, acting jointly in exercise of the powers conferred on them by that section and of all other powers enabling them in that behalf, hereby make the following Regulations:–

Title and commencement

1. These Regulations may be cited as the Dairy Produce Quotas (Amendment) (No. 2) Regulations 1990 and shall come into force on 21st March 1990.

Interpretation

2. In these Regulations "the principal Regulations" means the Dairy Produce Quotas Regulations 1989(c).

Amendment of the principal Regulations

3. The principal Regulations shall be amended in accordance with the following provisions of these Regulations.

Definitions

4. In regulation 2(1) of the principal Regulations–

(a) after the definition of "agricultural area" there shall be inserted the definition:

""appropriate date" means for the purposes of Schedule 9B 1st April 1989, or, in the case of a producer to whom special quota was allocated as wholesale quota, the date of such allocation;";

(b) after the definition of "Council Regulation 804/68" there shall be inserted the definition:

""Council Regulation 856/84" means Council Regulation (EEC) No. 856/84(d) amending Council Regulation 804/68 on the common organization of the market in milk and milk products;";

(a) S.I. 1972/1811.
(b) 1972 c.68.
(c) S.I. 1989/380, amended by S.I. 1990/132.
(d) OJ No. L90, 1.4.84, p. 10.

(c) after the definition "Council Regulation 857/84" there shall be inserted the definition:

""Council Regulation 1335/86" means Council Regulation (EEC) No. 1335/86(a) amending Council Regulation 804/68;";

(d) after the definition of "Council Regulation 775/87" there shall be inserted the definition:

""Council Regulation 3880/89" means Council Regulation (EEC) No. 3880/89(b) amending Council Regulation 857/84;";

(e) in the definition of "eligible heifer" the word "which" in the second place it occurs shall be omitted, and there shall be added at the end of that definition the following:

"or which at the date of making of the order referred to in regulation 16(2)(c), was on land designated by the order and calves for the first time on a day when the order is in force";

(f) at the end of the definition of "qualifying day" there shall be added the following:

"or during which the order referred to in regulation 16(2)(c) is in force";

(g) for the definition of "replacement number" there shall be substituted the definition:

""replacement number" means the nearest integer to 22 per cent of the total number of dairy cows on the land subject to the notice referred to in regulation 16(2)(b), or designated by the order referred to in regulation 16(2)(c), as at the date of service of the notice or (as the case may be) the coming into force of the order, and where 22 per cent of the total number is halfway between two integers the nearest even integer shall be deemed to be the nearest integer;";

(h) after the definition of "special quota" there shall be inserted the following definitions:

""subsequent permanent cuts in quota" means any reduction in quota applied in pursuance of Council Regulation 856/84 and Council Regulation 1335/86;

"suspended quota" means quota which is the subject of a compensation payment under Article 2 of Council Regulation 775/87;";

(i) after the definition of "wholesale development award" there shall be inserted the definition:

""wholesale development quota" means wholesale quota allocated pursuant to paragraph 12(5) or paragraph 17A(2) of Schedule 2 to the 1984 Regulations, read with Council Regulation 856/84 and Council Regulation 1335/86; paragraph 2 of Schedule 9, paragraph 2 of Schedule 10 or paragraph 2 of Schedule 13 to the 1986 Regulations, read with Council Regulation 1335/86; or paragraph 5 of Schedule 9 to the principal Regulations;".

Temporary reallocation of quota

5. In regulation 16 of the principal Regulations–

(a) after paragraph (2)(b) there shall be inserted the following provision–

"(c) a producer who has quota registered as his in relation to a holding which is situated wholly or partly within an area which at any time during that quota year has been designated by an emergency order under section 1 and section 24(1) and (3) of the Food and Environment Protection Act 1985(c)";

(b) in paragraph (5)–

(i) after "paragraph 2(b)" there shall be added "or (c)",

(a) OJ No. L119, 8.5.86, p. 19.
(b) OJ No. L378, 27.12.89, p. 3.
(c) 1985 c.48.

(ii) after "notice" there shall be inserted "or (as the case may be) the order", and

(iii) for "that paragraph" there shall be substituted "paragraph 2(b) or the order referred to in paragraph 2(c)";

(c) in paragraph (6), after "paragraph 2(b)" there shall be added "or the order referred to in paragraph 2(c)";

(d) at the end of paragraph (7)(b), there shall be inserted "or (as the case may be) before the coming into force of the order to which paragraph (2)(c) above refers";

(e) in paragraph (8), after "applies" there shall be added "and then priority to the producers referred to in paragraph (2)(b) above before making any award to the producers to whom paragraph (2)(c) above applies.".

Supplementary development provision

6. After regulation 20 of the principal Regulations there shall be inserted the following regulations–

"**Development provision**

20A. The Minister shall award quota, allocated to the United Kingdom as a reference quantity pursuant to Council Regulation 3880/89, to producers in accordance with Schedule 8A.

Scotland and Northern Ireland small producer supplementary development provision

20B. The Minister shall award quota, allocated to the United Kingdom as a reference quantity pursuant to Council Regulation 3880/89, to producers in accordance with Schedule 8B.".

Northern Ireland exceptional hardship provision

7. For regulation 21 of the principal Regulations the following regulation shall be substituted–

"**Northern Ireland exceptional hardship provision**

21. The Minister shall award quota, allocated to the United Kingdom as a reference quantity pursuant to Council Regulation 3880/89, to producers in accordance with Schedule 9.".

Family-type holding provision and remote areas provision

8. After regulation 21 of the principal Regulations the following regulations shall be inserted–

"**Family-type holding provision**

21A. The Minister shall award quota, allocated to the United Kingdom as a reference quantity pursuant to Council Regulation 3880/89, to producers in accordance with Schedule 9A.

Remote areas provision

21B. The Minister shall award quota, allocated to the United Kingdom as a reference quantity pursuant to Council Regulation 3880/89, to producers in accordance with Schedule 9B.".

Amendment of Schedules

9.—(1) After Schedule 8 to the principal Regulations the provisions of Schedule 1 to these Regulations shall be inserted.

(2) The Schedule set out in Schedule 2 to these Regulations shall be substituted for Schedule 9 to the principal Regulations.

(3) After Schedule 9 to the principal Regulations the provisions of Schedule 3 to these Regulations shall be inserted.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 19th March 1990.

L.S.

John Selwyn Gummer
Minister of Agriculture, Fisheries and Food

19th March 1990

Sanderson of Bowden
Minister of State, Scottish Office

SCHEDULE 1 — Regulation 9(1)

"SCHEDULE 8A — Regulation 20A

DEVELOPMENT PROVISION

1. Subject to paragraphs 2, 3 and 4, awards under regulation 20A shall be made by the Minister to producers who–

(a) received a wholesale development award, and

(b) held wholesale quota on 1st April 1989 in respect of which they made deliveries of milk or milk products between 1st April 1989 and 28th February 1990,

so that each such producer has his wholesale development quota increased to the same percentage of the amount on 1st April 1989, inclusive of suspended quota, determined in respect of that producer by the further examination body, or by the Tribunal, in accordance with paragraphs 9(3) and 10(1) respectively, of Schedule 2 to the 1984 Regulations, less the subsequent permanent cuts in quota.

2. A producer whose wholesale development quota is at least the percentage referred to in paragraph 1 of the amount on 1st April 1989, inclusive of suspended quota, determined in respect of that producer by the further examination body, or by the Tribunal, in accordance with paragraphs 9(3) and 10(1) respectively, of Schedule 2 to the 1984 Regulations, less the subsequent permanent cuts in quota, shall not be awarded any increase to his wholesale development quota under regulation 20A.

3.—(1) Where the occupation of all or part of a producer's holding has been transferred in any way to which sub-paragraph (3) below refers to another person or persons on or after 1st April 1989, any award of quota in respect of that producer by virtue of paragraph 1 shall be divided by the Minister between that producer and the transferee or transferees in the proportion that the wholesale quota relating to the holding was apportioned.

(2) A producer who satisfies the conditions in paragraph 1(b) but who did not receive wholesale development quota, and to whom the occupation of a holding was transferred in any way to which sub-paragraph (3) below refers before 1st April 1989 by a producer who received a wholesale development award, shall be entitled to an award of a proportion of the quota which would have been due to the transferor under paragraph 1 above (had the transfer not occurred), that proportion being the same as that which the wholesale quota apportioned to the transferee bore to the transferor's total wholesale quota.

(3) Sub-paragraphs (1) and (2) shall only apply where occupation of all or part of the holding was transferred–

(a) on inheritance,

(b) by gift for which no consideration is given, or

(c) in England and Wales:

(i) by the granting of a tenancy following a direction under section 39 or section 53

of the Agricultural Holdings Act 1986(a) (direction for grant of tenancy to successor on death or retirement of previous tenant),

(ii) by the granting of a tenancy (following a direction under section 39 of that Act) in circumstances within section 45(6) of that Act (new tenancy granted by agreement to persons entitled to tenancy under direction),

(iii) by the granting of such a tenancy as is referred to in section 37(1)(b) or (2) of that Act (tenancy granted by agreement to close relatives), or

(iv) by the granting of a tenancy other than under paragraphs (i), (ii) or (iii) of this sub-paragraph by the landlord to a successor of a tenant who has died or retired.

4. In England and Wales and Northern Ireland, in the case of a partnership which received a wholesale development award and which has since been dissolved–

(a) where the date of dissolution was before 1st April 1989, and a former partner satisfies the conditions in paragraph 1(b), or

(b) where the date of dissolution was on or after 1 April 1989, and the partnership satisfied the conditions in paragraph 1,

in the case of (a), that partner, or in the case of (b), each of the former partners shall be entitled to a share of the award which would have been due to the partnership in the same proportion that the wholesale quota relating to the partnership's holding was apportioned to him or them.

5. Any person who is eligible for an award of quota by virtue of paragraphs 3 or 4 shall, if he wishes to claim quota, apply by 31st May 1990 for such an award, in the form prescribed by the Minister.

6. The Minister shall, by advertisement published in the Gazette, announce the aggregate amount of quota to be awarded under regulation 20A.

SCHEDULE 8B

Regulation 20B

SCOTLAND AND NORTHERN IRELAND SMALL PRODUCER SUPPLEMENTARY DEVELOPMENT PROVISION

1. Subject to paragraphs 2 and 3, awards under regulation 20B shall be made by the Minister to producers who–

(a) received a wholesale development award,

(b) had an aggregate direct sales quota and wholesale quota on 1st April 1985 for producers in Scotland or on 13th March 1986 for producers in Northern Ireland, of less than 200,000 litres, and

(c) held wholesale quota on 1st April 1989 in respect of which they made deliveries of milk or milk products between 1st April 1989 and 28th February 1990.

2.—(1) Where the occupation of all or part of a producer's holding has been transferred in either way to which sub-paragraph (3) below refers to another person or persons on or after 1st April 1989, any award of quota in respect of that producer by virtue of paragraph 1 shall be divided by the Minister between that producer and the transferee or transferees in the proportion that the wholesale quota relating to the holding was apportioned.

(2) A producer who satisfies the conditions in paragraph 1(c) but did not receive a wholesale development award, and to whom the occupation of a holding was transferred in either way to which sub-paragraph (3) below refers before 1st April 1989 by a producer who satisfied the conditions in paragraph 1(a) and (b), shall be entitled to an award of a proportion of the quota which would have been due to the transferor under paragraph 1 (had the transfer not occurred), that proportion being the same as that which the wholesale quota apportioned to the transferee bore to the transferor's total wholesale quota.

(3) Sub-paragraphs (1) and (2) shall only apply where occupation of all or part of the holding was transferred–

(a) on inheritance, or

(b) by gift for which no consideration has been given.

(a) 1986 c.5.

3. In Northern Ireland, in the case of a partnership which received a wholesale development award and which has since been dissolved–

(a) where the date of dissolution was before 1st April 1989, the partnership satisfied the condition in paragraph 1(b) and a former partner satisfies the conditions in paragraph 1(c), or

(b) where the date of dissolution was on or after 1st April 1989, and the partnership satisfied the conditions in paragraph 1,

in the case of (a), that partner, or in the case of (b), each of the former partners shall be entitled to a share of the award which would have been due to the partnership in the same proportion that the wholesale quota relating to the partnership's holding was apportioned to him or them.

4. The amount of quota which may be awarded to a producer under paragraph 1 shall be limited to–

(a) the amount by which his wholesale development quota fell short of the amount determined in respect of that producer by the further examination body, or by the Tribunal, in accordance with paragraphs 9(3) and 10(1), respectively, of Schedule 2 to the 1984 Regulations, less the subsequent permanent cuts in quota, or

(b) the amount which would increase such producer's aggregate of wholesale quota and direct sales quota to 200,000 litres on the relevant date referred to in paragraph 1(b), less the subsequent permanent cuts in quota,

whichever amount is less.

5. Any person who is eligible for an award of quota by virtue of paragraphs 2 or 3 shall, if he wishes to claim quota, apply by 31st May 1990 for such an award, in the form prescribed by the Minister.

6. The Minister shall, by advertisement published in the Gazette, announce the aggregate amount of quota to be awarded under regulation 20B.

7. If, after the making of the awards in accordance with this Schedule, not all the quota advertised under paragraph 6 has been allocated to producers, the amount which remains unallocated shall be made available for award under regulation 20A."

SCHEDULE 2 — Regulation 9(2)

"SCHEDULE 9 — Regulation 21

NORTHERN IRELAND EXCEPTIONAL HARDSHIP PROVISION

1. Subject to paragraphs 3 and 4 awards under regulation 21 shall be made by the Minister to producers who–

(a) received an exceptional hardship award, and

(b) held wholesale quota on 1st April 1989 in respect of which they made deliveries of milk or milk products between 1st April 1989 and 28th February 1990.

2. The amount of quota awarded under paragraph 1 shall be limited to the amount by which the producer's exceptional hardship quota fell short of the amount of his exceptional hardship award, less the subsequent permanent cuts in quota.

3.—(1) Where the occupation of all or part of a producer's holding has been transferred in either way to which sub-paragraph (3) below refers to another person or persons on or after 1st April 1989, any award of quota in respect of that producer by virtue of paragraph 1 shall be divided by the Minister between that producer and the transferee or transferees in the proportion that the wholesale quota relating to the holding was apportioned.

(2) A producer who satisfies the conditions in paragraph 1(b) but did not receive an exceptional hardship award, and to whom the occupation of a holding was transferred in either way to which sub-paragraph (3) below refers before 1st April 1989 by a producer who received an exceptional hardship award shall be entitled to an award of a proportion of the quota which would have been due to the transferor under paragraph 1 (had the transfer not occurred), that proportion being the same as that which the wholesale quota allocated to the transferee bore to the transferor's total wholesale quota.

(3) Sub-paragraphs (1) and (2) shall only apply where occupation of all or part of the holding was transferred–

(a) on inheritance, or

(b) by gift for which no consideration was given.

4. In the case of a partnership which received an exceptional hardship award and which has since been dissolved–

(a) where the date of dissolution was before 1st April 1989, and a former partner satisfies the conditions in paragraph 1(b), or

(b) where the date of dissolution was on or after 1st April 1989, and the partnership satisfied the conditions in paragraph 1,

in the case of (a), that partner, or in the case of (b), each of the former partners shall be entitled to a share of the award which would have been due to the partnership in the same proportion that the wholesale quota relating to the partnership's holding was apportioned to him or them.

5. Any person who is eligible for an award of quota by virtue of paragraphs 3 and 4 shall, if he wishes to claim quota, apply by 31st May 1990 for such an award, in the form prescribed by the Minister.

6. For the purposes of this Schedule–

(a) "exceptional hardship award" means an award made by the Tribunal in accordance with paragraph 17 of Schedule 2 to the 1984 Regulations;

(b) "exceptional hardship quota" means wholesale quota received pursuant to an exceptional hardship award, less the subsequent permanent cuts in quota.

7. The Minister shall, by advertisement published in the Gazette, announce the aggregate amount of quota to be awarded under regulation 21.

8. If, after the making of the awards in accordance with this Schedule, not all the quota advertised under paragraph 7 has been allocated to producers, the amount which remains unallocated shall be made available for award under regulation 20A."

SCHEDULE 3 — Regulation 9(3)

"SCHEDULE 9A — Regulation 21A

FAMILY-TYPE HOLDING PROVISION

1. Awards under regulation 21A shall be made to producers who occupy a family-type holding, for whom milk production is a significant activity and who made deliveries of milk or milk products between 1st April 1989 and 28th February 1990.

2. For the purposes of this Schedule a family-type holding is one in respect of which less than 200,000 litres of quota was identified on the registers prepared and maintained under regulation 25(1) and (2) on 1st April 1989 or, in the case of a producer to whom special quota was awarded as wholesale quota, on the date on which such quota was awarded to him.

3. A producer who occupies a holding in respect of which less than 20,000 litres of quota was shown on the registers prepared and maintained under regulation 25(1) and (2) on the relevant date referred to in paragraph 2 shall not be considered to be a producer for whom milk production is a significant activity.

4. The amount of quota which may be awarded to a producer under paragraph 1 shall be an amount–

(a) such that each producer has his wholesale quota increased by the same percentage with effect from the date of the award,

(b) but does not exceed the difference between the aggregate of the producer's wholesale quota and direct sales quota, excluding quota temporarily transferred to his holding by virtue of regulation 15, but including quota temporarily transferred from his holding by virtue of that regulation and suspended quota, and 200,000 litres, on the approriate date.

5. For the purposes of this Schedule references to a specified number of litres of quota in

paragraphs 2, 3 and 4 shall be to quantities excluding any quota temporarily transferred to the producer's holding by virtue of regulation 15, but including quota temporarily transferred from his holding by virtue of that regulation and suspended quota.

6. The Minister shall, by advertisement published in the Gazette, announce the aggregate amount of quota to be awarded under regulation 21A.

7. If, after the making of the awards in accordance with this Schedule, not all the quota advertised under paragraph 6 has been allocated to producers, the amount which remains unallocated shall be made available for award under regulation 20A.

SCHEDULE 9B

Regulation 21B

REMOTE AREAS PROVISION

1. Awards under regulation 21B shall be made by the Minister to producers who held wholesale quota on 1st April 1989 or were allocated special quota, and whose holdings are situated within the islands of Arran, Bute, Coll, Gigha, Great Cumbrae, Little Cumbrae, Islay, Orkney and Shetland, the Isles of Scilly and Kintyre, south of Tarbert.

2. The amout of quota awarded under paragraph 1 shall be limited to an amount such that each producer has his wholesale quota increased by the same percentage with effect from the appropriate date.

3. In paragraph 2 the reference to wholesale quota is to such quota excluding any quota temporarily transferred to the producer's holding by virtue of regulation 15, but including quota temporarily transferred from his holding by virtue of that regulation and suspended quota.

4. The Minister shall, by advertisement published in the Gazette, announce the aggregate amount of quota to be awarded under regulation 21B.

5. If, after the making of the awards in accordance with this Schedule, not all the quota advertised under paragraph 4 has been allocated to producers, the amount which remains unallocated shall be made available for award under regulation 20A.".

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Dairy Produce Quotas Regulations 1989 ("the principal Regulations"). The Regulations provide for the detailed implementation in the United Kingdom of Council Regulation (EEC) No. 3880/89 which allows Member States, with the approval of the European Commission, to grant additional quota to (*inter alia*) certain existing categories of producer.

The main amendments to the principal Regulations are as follows–

(a) varying amounts of wholesale quota are to be allocated to producers with wholesale quota, who were in receipt of a development award which was not allocated in full, and who made deliveries of milk between 1st April 1989 and 28th February 1990, so that all such producers in the UK will have their development awards made up to the same percentage of the amount originally awarded by the Dairy Produce Quota Tribunal (regulations 6 and 9);

(b) wholesale quota is to be allocated to producers in Scotland and Northern Ireland with less than 200,000 litres of quota in total at 1st April 1985 (for producers in Scotland) or 13th March 1986 (for producers in Northern Ireland),

who were in receipt of a development award which was not allocated in full, and who made deliveries of milk between 1st April 1989 and 28th February 1990. The allocation will put those producers in the same position which they would have been in had their original Tribunal award been allocated in full, which is already the case in relation to producers in England and Wales. No one will receive an amount of quota which would take his total (calculated at the relevant date referred to above) to more than 200,000 litres (regulations 6 and 9);

(c) wholesale quota is to be allocated to producers in Northern Ireland with wholesale quota who received an exceptional hardship award, which was not allocated in full, and who made deliveries of milk between 1st April 1989 and 28th February 1990, so that their exceptional hardship awards are made up in full. This provision only affects producers in Northern Ireland and brings their position into line with that which already exists in England, Wales and Scotland (regulations 7 and 9);

(d) special conditions will apply to producers who have inherited development quota or exceptional hardship quota or had it given to them;

(e) wholesale quota is to be allocated to producers who made deliveries of milk between 1st April 1989 and 28th February 1990 and who occupy holdings with less than 200,000, but more than 20,000 litres of quota, so that all will have their wholesale quota increased by the same percentage, except that no one will receive an amount of quota which would increase his total above 200,000 litres (regulations 8 and 9);

(f) wholesale quota is to be allocated to producers in certain remote areas of Scotland, and on the Isles of Scilly, who hold wholesale quota, so that all will have their wholesale quota increased by the same percentage (regulations 8 and 9).

In addition to the amendments consequent upon Council Regulation (EEC) No. 3880/89, provision is made by the Regulations to enable the temporary reallocation of unused quota to producers whose holdings are situated wholly or partly in an area designated by an emergency order under sections 1 and 24(1) and (3) of the Food and Environment Protection Act 1985 (regulation 5).