1988 No. 534

FOOD

The Dairy Produce Quotas (Amendment) Regulations 1988

Made - - - -	*17th March 1988*
Laid before Parliament	*18th March 1988*
Coming into force	
Regulations 4 and 7	*31st March 1988*
Remainder	*1st April 1988*

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.—(1) These Regulations may be cited as the Dairy Produce Quotas (Amendment) Regulations 1988.

(2) Regulations 4 and 7 of these regulations shall come into force on 31st March 1988 and all other regulations thereof shall come into force on 1st April 1988.

Interpretation

2. In these Regulations "the principal regulations" means the Dairy Produce Quotas Regulations 1986(c).

Amendment of the principal regulations

3. The principal regulations shall be amended in accordance with the following provisions.

Regions

4.—(1) After paragraph (3) of regulation 6 of the principal regulations there shall be inserted–

"(3A) Where in respect of a quota year the direct sales quota allocated within a region is reduced in relation to the preceding quota year, the quota so subtracted shall be satisfied from all persons with direct sales quota in that region in proportion to the direct sales quota of each at the beginning of the quota year."

(2) For paragraph (6) of regulation 6 of the principal regulations there shall be substituted–

"(6) The Minister may at any time reallocate the national wholesale quota among the regions, and where such reallocation is unable to be achieved by the transfer of

(a) S.I. 1972/1811.
(b) 1972 c.68; to which there are amendments not relevant to these Regulations.
(c) S.I. 1986/470.

wholesale quota between running regional reserves, may reduce the regional wholesale quota allocated for a region, the reduction being satisfied from all persons in that region with wholesale quota in proportion to the wholesale quota of each person at the start of the quota year and may pay compensation to persons whose entitlement to quota is so reduced and shall announce these arrangements by advertisement published in the Gazette.".

Transfer of quota

5. For regulation 8 of the principal regulations there shall be substituted–

"*Transfer of quota*

8.—(1) For the purposes of Article 7 of Council Regulation 857/84 and Article 5 of the Commission Regulation (transfer of quota when any holding is sold, leased or transferred by inheritance) on a transfer of any holding or part of a holding, other than an exempt transfer, the transferee shall within two months of the change of occupation of the holding or part of a holding notify in writing to the Minister–

(a) the date of the change of occupation;

(b) the holding or part of a holding transferred,

and shall submit such other evidence relating to the transfer, and within such time, as the Minister may reasonably require.

(2) Where there is a transfer of the entirety of a holding it shall be presumed that the transferee intends to deliver dairy produce from the holding by wholesale delivery to the purchasers named, and in the proportions listed, in the transferor's entry in the wholesale register.

(3) Where there is a transfer of part of a holding–

(a) an apportionment of the quota relating to the holding shall be carried out in accordance with Parts I and III of Schedule 4, and

(b) dairy produce previously sold by direct sale or delivered by wholesale delivery from the holding in the quota year in which the change of occupation takes place shall be deemed, for the purpose of any levy or Formula B contribution, to have been sold or delivered from each part of the holding proportionally in accordance with that apportionment.

(4) Subject to paragraph (5), this regulation shall not apply to the following–

(a) a licence to occupy land,

(b) the tenancy of any land under which a holding, or part of a holding, in England or Wales is occupied for a period of less than ten months,

(c) the lease of any land under which a holding, or part of a holding, in Scotland is occupied for a period of less than eight months,

(d) the tenancy of any land under which a holding, or part of a holding, in Northern Ireland is occupied for a period of less than twelve months,

(e) the tenancy or lease of any land under which part of a holding is occupied for a term of less than one year, where the area occupation of which changes–

(i) in respect of a holding in Northern Ireland, is no larger than 40 hectares and is less than three quarters of the area of the holding as previously constituted; or

(ii) in respect of a holding other than in Northern Ireland, is no larger than 5 hectares and is less than one quarter of the area of the remainder of the holding,

(f) the termination of a tenancy or a lease to which sub-paragraph (b), (c), (d) or (e) applies.

(5) Where a person, occupying land under an agreement to which paragraph (4)(e) applies, lawfully continues in occupation at a date one month after the termination of his interest in the land so occupied, this regulation shall apply.

(6) Part II of Schedule 4, which makes provision as to the prospective apportionment of quota, shall have effect.

(7) The Minister may provide such forms as he reasonably considers to be necessary for the purposes of this regulation.

(8) For the purposes of this regulation "exempt transfer" means an agreement to which paragraph (4) applies."

Management of Quota

6. For regulation 11 of the principal regulations there shall be substituted–

"*Management of Quota*

11.—(1) For the purposes of article 5c(1a) of Council Regulation 804/68 (temporary transfers of quotas) and subject to paragraph (2) a producer may make a temporary transfer within one region of part of the wholesale quota registered as his to another producer for a period of one quota year.

(2) Where there is an agreement to make a temporary transfer of quota pursuant to paragraph (1) the transferee shall before 31st July in the quota year in question give notification to the Minister of the agreement and of such particulars as the Minister may reasonably require.

(3) For the purposes of article 8 of Council Regulation 857/84 (Management of wholesale quotas by purchasers) a purchaser and a producer may agree a change, within one region, in the identification of that producer's holding, and if the Minister receives–

(a) a notification that an agreement has been made, such notification being signed by or on behalf of both parties to the agreement,

(b) a consent or sole interest notice, signed by or on behalf of the producer above referred to, in respect of such a change, and

(c) such other particulars as the Minister may reasonably require–

that change shall have effect in relation to that producer's wholesale quota."

Temporary reallocation of quota

7. After regulation 11 of the principal regulations there shall be inserted–

"*Temporary reallocation of quota*

11A.—(1) For the purposes of Formula B, where a producer has quota registered as his in relation to a holding which is in whole or in part subject to a notice prohibiting or regulating the movement of dairy cows pursuant to an Order made under the Animal Health Act 1981**(a)** or the Diseases of Animals (Northern Ireland) Order 1981**(b)** the provisions of this regulation shall apply.

(2) Subject to paragraph (3) a producer to whom this regulation applies may be awarded a temporary reallocation of unused quota for any quota year in which the notice has effect, either calculated at a rate of 15 litres per qualifying cow per qualifying day in any quota year, or equal to the amount by which in the quota year in question his production exceeds his quota entitlement, whichever sum is less.

(3) Any award of a temporary reallocation of unused quota is subject to the following conditions:–

(a) the total amount of quota temporarily reallocated to producers under paragraph (2) above from the purchaser quota of any purchaser shall not exceed 15 per cent of the total amount of unused quota available to that purchaser in any quota year and the Minister shall, to the extent that it is necessary so to do, abate in whole or in part each such temporary reallocation accordingly;

(b) a producer who transfers quota under regulation 8, or who makes a temporary transfer of quota under regulation 11(1), or purchases cows or in-calf heifers for dairy purposes, shall not be entitled to receive in the same quota year an award under paragraph (2) above unless the Minister is satisfied

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(a) 1981 c.22.
(b) S.I. 1981/1115 (N.I. 22).

the agreeement to transfer, temporarily transfer or purchase, was entered into before service of the notice to which paragraph (1) above refers.

(4) for the purposes of this regulation–

"cow" includes a heifer that has calved;

"eligible heifer" means any heifer, which, at the date of service of the notice to which paragraph (1) refers, was on land subject to the notice and which calves for the first time on a day when the notice has effect;

"qualifying cow" means any eligible heifer which calves at a time when the number of eligible heifers exceeds the replacement number;

"qualifying day" means, in respect of any qualifying cow, the day it calves and each day or part of a day thereafter during which the notice has effect;

"replacement number" means the nearest integer to 22 per cent of the total number of dairy cows on the land subject to the notice as at the date of service of the notice."

Reallocation of unused quota

8. In regulation 14 of the principal regulations (reallocation of unused quota) the words "in respect of the quota year ending 31 March 1986" shall be omitted.

Amendment of Schedules

9.—(1) For Schedules 1, 2 and 3 to the principal regulations there shall be substituted the Schedules set out in the Schedule to these Regulations.

(2) In paragraph 1(a) of Schedule 4 to the principal regulations for the words "21 days" there shall be substituted the words "two months" and in paragraph 9(2)(a) there shall be substituted for the figure "7" the figure "8".

(3) In paragraph 1(2) of Schedule 17 to the principal regulations the words "70 per cent of" shall be omitted.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 17th March 1988.

(L.S.)

John Selwyn Gummer
Minister of State,
Ministry of Agriculture, Fisheries and Food

Sanderson of Bowden
Minister of State, Scottish Office

15th March 1988

SCHEDULE

Regulation 8(1)

SCHEDULES TO BE SUBSTITUTED FOR SCHEDULES 1, 2 AND 3 OF THE PRINCIPAL REGULATIONS

"SCHEDULE 1

Regulation 2

RELEVANT AMENDMENTS TO COUNCIL REGULATION 804/68

Council Regulation	*Official Journal Reference*
856/84	L90, 1.4.84, p.10
1557/84	L150, 6.6.84, p.6
591/85	L68, 8.3.85, p.5
1298/85	L137, 27.5.85, p.5
2033/85	L192, 24.7.85, p.9
2893/85	L278, 18.10.85, p.9
3275/85	L314, 23.11.85, p.7
3571/85	L341, 19.12.85, p.11
1335/86	L119, 8.5.86, p.19
773/87	L78, 20.3.87, p.1
1105/87	L106, 22.4.87, p.33
2188/87	L203, 24.7.87, p.24
2998/87	L285, 8.10.87, p.1
487/88	L50, 24.2.88, p.12

SCHEDULE 2

Regulation 2

AMENDMENTS TO COUNCIL REGULATION 857/84

Council Regulation	*Official Journal Reference*	*Article amended or added*
1557/84	L150, 6.6.84, p.6	Annex
590/85	L68, 8.3.85, p.1	4a 6 6a 7 12(e)
591/85	L68, 8.3.85, p.5	Annex
1305/85	L137, 27.5.85, p.12	1 3(3) 4a(1) 6(2) 8 9 10 12(c)
2033/85	L192, 24.7.85, p.9	Annex
2893/85	L278, 18.10.85, p.9	Annex
3275/85	L314, 23.11.85, p.7	Annex
3571/85	L341, 19.12.85, p.11	Annex
1343/86	L119, 8.5.86, p.34	2(3) 4(1)(a) 4a(1) 6 9(1) 9(4) Annex
1911/86	L165, 21.6.86, p.6	2 6(1)
2316/86	L202, 25.7.86, p.3	2(1), 2(2) 3 6(1)
774/87	L78, 203.87, p.3	1(1) 4a 9(4) 10
1105/87	L106, 22.4.87, p.33	Annex
1899/87	L182, 3.7.87, p.39	4(1), 4(2)
2188/87	L203, 24.7.87, p.24	Annex
487/88	L50, 24.2.88, p.12	Annex

SCHEDULE 3

Regulation 2

AMENDMENTS TO COMMISSION REGULATION 1371/84

Commission Regulation	*Official Journal Reference*	*Article amended or added*
1955/84	L182, 10.7.84, p.10	4(1), 4(6), 4(7) 8 11(1) 13 14 15(1)
2988/84	L282, 26.10.84, p.44	9(2) 15(1)(a)
3010/84	L283, 27.10.84, p.34	15(1)(c)
3201/84	L299, 17.11.84, p.25	15(1)(c)
3291/84	L307, 24.11.84, p.38	15(1)(c)
3372/84	L313, 1.12.84, p.47	4(1)
402/85	L48, 16.2.85, p.29	15(1)(d)
562/85	L64, 5.3.85, p.9	15(1)(c), 15(1)(d)
1043/85	L112, 25.4.85, p.18	2(2), 2(3) 4(1), 4(4)(a) 5 16(3)
3005/85	L288, 30.10.85, p.10	1 4a 9(2) 10 11(1) 12 13(3) 14 15 16(3)
2133/86	L187, 9.7.86, p.21	3(a) 12(4), 12(5) 16(1)(b), 16(2)
2737/86	L252, 4.9.86, p.16	2(1)(d) 4(1), 4(2), 4(4) 11(1)(c), 11(1)(d) 15
2969/86	L276, 27.9.86, p.28	9
439/87	L43, 13.2.87, p.25	4(1) 9(1), 9(2), 9(3)
1211/87	L115, 1.5.87, p.30	1 5 9(1) 10 16(3)
1681/87	L157, 17.6.87, p.11	5
2404/87	L219, 8.8.87, p.11	9(2)
3331/87	L316, 6.11.87, p.18	1 5a
430/88	L44, 17.2.88, p.5	9(1) 10 "

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Dairy Produce Quotas Regulations 1986 ("the principal regulations").

The arrangements dealing with the regions (regulation 6 of the principal regulations) are modified. Where the direct sale quota threshold imposed by the Community provisions is reduced, the necessary reductions will be made to the direct sale quota available in each region and a cutback will be applied proportionately to all direct sale producers within the region in question (regulation 4(1)). Where the Minister is obliged to reallocate wholesale quota among the regions and there is insufficient quota available in the running regional reserves, the necessary quota will be compulsorily acquired from producers pro rata and compensation may be paid (regulation 4(2)).

The arrangements for transfers of quota when a holding is sold, leased or transferred by inheritance are amended. The period of notification is extended to two months, and it is made clear that certain agreements ("exempt transfers") will not transfer quota. Exempt transfers are a licence, a tenancy for less than ten months (in Scotland less than eight months and in Northern Ireland less than twelve months) and what was formerly described in the principal regulations as a "minor change of occupation" (regulation 5).

Arrangements are introduced to deal specifically with temporary transfers of quotas by producers with unused quota (quota leasing) in accordance with the amendment to Council Regulation 804/68 introduced by Council Regulation (EEC) No. 2998/87 (O.J. No. L285, 8.10.87, p.1). Such agreements must be notified to the Minister before 31st July in the quota year in question (regulation 6).

Provisions are introduced to allow a temporary reallocation of unused quota to be made to producers whose land is subject to a herd movement restriction notice and who therefore cannot reduce their herd numbers by sales of in-calf heifers (regulation 7).

Updating, consequential and drafting amendments are made to regulation 14, and Schedules 1, 2, 3, 4 and 17 (regulations 8 and 9).

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