EXECUTIVE NOTE

THE DAIRY PRODUCE QUOTAS (SCOTLAND) AMENDMENT REGULATIONS 2011

SSI 2011/83

Introduction

1. This instrument was made in exercise of powers conferred upon Scottish Ministers by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972. It is subject to negative resolution procedure.

Purpose of the instrument

2. This instrument will amend the Dairy Produce Quotas (Scotland) Regulations 2005 (SSI 2005/91) (the principal Regulations) by updating references to EU law in order to refer to Council Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation). The Regulations will also make specific references to EU law in the principal Regulations ambulatory.

Legislative Context

3.1 This instrument amends the principal Regulations. The principal Regulations make provision for the registration, transfer, allocation and adjustment of quotas for milk and milk products, and for the payment of a levy where a producer exceeds quota. They also make provision about information and recording keeping, and for associated penalties and offences. They implement Council Regulation (EC) No. 1788/2003 establishing a levy in the milk and milk products sector and Commission Regulation (EC) No. 595/2004 laying down detailed rules for applying Council Regulation (EC) No. 1788/2003. Council Regulation (EC) No. 1788/2003 was repealed and replaced by Article 55(1)(a) and (2), in so far as it relates to milk and other milk products, and Section III of Chapter III of Part II (Articles 65 to 84) of the Single CMO Regulation.

3.2 The Regulations also amend the principal Regulations to provide that any references to the relevant provisions of the Single CMO Regulation or to Commission Regulation (EC) No. 595/2004 are to be construed as references to those provisions as amended from time to time. Should further amendments be made to the Single CMO Regulation or to the Commission Regulation, the Scottish Government will publish relevant information on its website and send updates to interested parties where considered appropriate. Any amendments to these provisions will also be published on the Europa website, (http://europa.eu/documentation/legislation/index_en.htm).

Territory Extent and Application

4 This instrument applies to Scotland only.

Policy Background

5.1 The milk quotas system is subject to EU law. Under the system all Member States are allocated a national milk and milk products quota. If in a quota year production exceeds the quota, then all over-quota producers have to pay a levy on their over-production.

5.2 The quota system is implemented in Scotland by the principal Regulations, and by the Dairy Produce Quotas (General Provisions) Regulations 2002 (SI 2002/458) (the General Provisions Regulations). The General Provisions Regulations contain provisions concerning dairy produce quotas which are more appropriately dealt with on a UK basis. These include establishing the relevant competent authority in relation to a producer, purchaser or other relevant person, providing for the national reserve of dairy quota, and providing for the enforcement of the EU law.

5.3 The objective of the Regulations is to amend the principal Regulations by replacing the references to Council Regulation (EC) No 1788/2003 with corresponding references to the Single CMO Regulation.

5.4 There is one substantive change to the principal Regulations as a result of these EU amendments. The Single CMO Regulation was amended by Council Regulation (EC) No. 72/2009 to provide that where a levy is payable at national level in a case of over-production, the levy is determined on the basis of the total quantity of deliveries by producers as adjusted to reflect any difference between the real fat content of those deliveries and the reference fat content. Previously the levy payable was determined on the basis of whichever was the greater of the actual total quantity of deliveries or the adjusted total quantity of deliveries. The principal Regulations are amended to provide that any levy payable by producers is payable on the basis of their total volume of deliveries as adjusted.

Consultation Outcome

6. The bodies listed in Annex A have been consulted during the preparation of the instrument. The consultation was also published on the SG website. We have received no responses.

Impact

7. The changes to the principal Regulations should have no cost implications for the milk industry. For this reason a Business Regulatory Impact Assessment has not been prepared.

Contact

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The Scottish Government Rural and Environment Directorate
February 2011

Annex A

Arla Foods
Association of Public Service excellence
NFU Scotland
Convention of Scottish Local Authorities
Dairy UK Scotland
Dairy Farmers of Scotland
Scottish Dairy Cattle Association
First Milk
Food Standards Agency Scotland
Graham's Family Dairy
Orkney Milk
Robert Wiseman Dairies
Scottish Consumer Council
Scottish Grocers Federation
Scottish Retail Consortium