EXECUTIVE NOTE

THE REPORTING OF PRICES OF MILK PRODUCTS (SCOTLAND) REGULATIONS 2005 SSI/2005/484

POWERS

1. The above Instrument was made in exercise of the powers conferred upon Scottish Ministers by section 2(2) of the European Communities Act 1972.

PARLIAMENTARY PROCEDURE

2. This SSI is subject to negative resolution procedure.

POLICY OBJECTIVE

3. The policy objective of these regulations is to make provision for the enforcement and execution in Scotland of relevant community legislation which requires Member States to provide ex-factory prices for certain milk and milk products. Once collated, this information is provided to the European Commission.

BACKGROUND

4. The common organisation of the market in milk and milk products includes a number of measures designed to manage the markets. The Commission uses price information to analyse the market situation and determine what measures are required to manage the market, particularly the setting of subsidy and refund levels. Commission Regulation (EC) No 1498/1999, required Member States to return price information on a range of milk products to the Commission, with the option to report ex-factory, wholesale or retail prices. The UK was the only Member State unable to obtain ex-factory prices from operators who felt that providing this information compromised market confidentiality. The UK provided wholesale prices which could not be compared with ex-factory prices as they included variable costs such as transport and loading.

5. In May 2004, the Commission presented proposals to repeal and replace Regulation (EC) Non 1498/1999. One of the elements was a change to the price reporting system. The Commission considered it essential to be able to compare price quotations. Commission Regulation (EC) No 562/2005 repeals Regulation (EC) No 1498/1999 and came into force on 1 July 2005. Article 6(1) of Regulation (EC) No 562/2005 requires Member States to provide the Commission with ex-factory prices for milk and milk products where national production represents 2% or more of Community production, and for cheese production representing 8% or more of total national cheese output.

6. Article 6(5) of the new regulation defines ex-factory price as “the price at which the product is purchased from the enterprise, excluding taxes (VAT) and any other costs”. Article 6(3) requires Member States to “take the necessary steps” to ensure the information

they provide is "representative, accurate and complete". During the early stages of negotiations, there was reluctance from the trade to the proposals, mainly about deadlines for providing the information and confidentiality.

CONSULTATION

7. Those affected by the new requirements are dairy processors and cheese-makers. SEERAD officials consulted their representative bodies, Dairy UK Scotland and the NFU Scotland, during the negotiations of the draft Commission Regulation (including the requirement for processors to provide price information). Both organisations gave positive responses to the proposals. The Commission also consulted the European trade associations.

8. On the basis that the subject matter was highly specialised, with only a limited number of stakeholders (all of whom had been directly involved in the policy development process), and that the Department is required to implement the EU Regulation; a formal written consultation was not undertaken.

FINANCIAL IMPLICATIONS

10. A small number of dairy processors will be affected by the legislation. In order to ensure the Commission is provided with prices that are easy and meaningful to compare, prices will be collected from dairy processors who are large-scale manufacturers of bulk commodity products. Small businesses will therefore be excluded from the price reporting system. At present there are no Scottish processors affected but the legislation is still required should the position change.

11. It is envisaged that returns will be collated by the trade organisation's headquarters, Dairy UK in London. Dairy processors have indicated that this would be their preference as it would give them greater confidentiality. Dairy UK would pass aggregated returns to the Department for Environment, Food and Rural Affairs (Defra). It has been estimated by Dairy UK that at most, the provision of price information by dairy processors would require one person in an administrative grade spending one hour per week collating and forwarding the information. Based on the average salary for a member of administrative staff, this would amount to a cost of between £728 - £832 per annum per participating processor. The participating processors are likely to be seven of the largest UK dairy processors. Since the price reporting requirements draw on information already held by processors and will require the transmission of the same either directly to Defra or via a trade association, the Regulation is not likely to lead to new costs or have significant economic impact on existing processors.

12. A Regulatory Impact Assessment has been prepared.

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