

**S.I. No. 177 of 2005**

**EUROPEAN COMMUNITIES (MILK QUOTA)(AMENDMENT)**  
**REGULATIONS 2005**

I, Mary Coughlan, Minister for Agriculture and Food, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving further effect to Council Regulation (EC) No. 1788/2003 of the 29 September 2003<sup>1</sup> and Commission Regulation (EC) No. 595/2004 of the 30 March 2004<sup>2</sup>, hereby make the following Regulations:

1. These Regulations may be cited as the European Communities (Milk Quota) (Amendment) Regulations 2005 and shall come into operation on 1 April 2005.
2. In these Regulations “Principal Regulations” means the European Communities (Milk Quota) Regulations 2000 (S.I. No. 94 of 2000).
3. Regulation 5 of the Principal Regulations is amended by substituting for paragraph (3) the following:

“(3) Where lands to which milk quota attaches are transferred and such quota is also transferred on foot thereof under and in accordance with Regulation 6, 7 or 11, the quota in question shall remain attached to those lands,

(a) until 31 March 2008, where the land transfer took place prior to 1 April 2005, or

(b) otherwise, until 31<sup>st</sup> March 2009.”.
4. Regulation 8 of the Principal Regulations (as amended by the European Communities (Milk Quota) (Amendment) Regulations 2004 (S.I. No. 208 of 2004) is amended by –
  - (1) substituting in all places where the expression “Certificate of Compliance” is used the expression “Certificate of Registration”,
  - (2) substituting for paragraph (13) the following:

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<sup>1</sup> OJ No. L270, 21.10.2003, p.123.

<sup>2</sup> OJ No. L94, 31.3.2004, p.22.

“(13) (a) A milk production partnership may be formed only where, as regards the proposed partners, deliveries of milk to a purchaser or sales of milk or milk products, or both, have been made, so that at least 70 per cent of their respective delivery quotas or direct sales quotas, or both, have been utilised during each of the 2 milk quota years immediately prior to the milk quota year in which the partnership agreement is executed.

(b) in circumstances where an existing producer has commenced milk production following a transfer of land and milk quota under the provisions of Regulation 6, the deliveries or sales by such existing producer and the producer or producers from whom he or she has acquired the milk quota are to be used for the purposes of assessing the existing producer’s compliance with subparagraph (a),

(c) notwithstanding subparagraph (b), the deliveries or sales of milk or milk products by a producer cannot be used to satisfy the requirements of subparagraph (a) for more than one of the existing producers proposing to form the partnership.”,

(3) substituting in paragraph 17(a)(i) (as amended by the European Communities (Milk Quota) (Amendment) Regulations 2004 (S.I. No. 208 of 2004)) “€27,000” for “€24,000”,

(4) substituting for paragraph 17(a)(ii) (as amended by the European Communities (Milk Quota) (Amendment) Regulations 2004 (S.I. No. 208 of 2004)) the following:

“17 (a) (ii) in the case of a New Entrant Parent MPP, in the tax year immediately before the tax year in which the partnership agreement is executed the off farm income of the parent shall not exceed €27,000 and during each tax year that the partnership exists the off farm income of the New Entrant shall not exceed €24,000 and the off farm income of the parent shall not exceed €27,000.”,

(5) deleting paragraph (20).

5. The Principal Regulations are amended by inserting after Regulation 9 the following Regulation –

“ PERMANENT TRANSFER OF MILK QUOTA WITHOUT LAND

9 A. (1) Where a producer obtains by transfer the entire milk quota of a person, who is a relative as defined in Regulation 6(2), by way of sale or inter-vivos gift, such transfer shall be notified by the

transferor, or the transferee, by sending a form of Notification of Family Transfer, (in a form to be prescribed by the Minister) to the Milk Purchaser where the quota is attached. The Notification of Family Transfer shall be furnished to the Milk Purchaser within 30 days of a quota transfer being completed by the parties.

- (2) On receipt of the Notification of Family Transfer under paragraph (1), the Milk Purchaser shall record the transfer, provided that each of the following requirements are satisfied -
  - (a) that the transferor and transferee in the previous milk quota year, prior to the milk quota year in which the transfer takes place have produced milk and sales or deliveries of such milk have been recorded against their quotas, and
  - (b) that the transferee provides satisfactory evidence that he or she is a relative as defined in Regulation 6(2) of the transferor, and
  - (c) in the event that the lands of the transferor to which the milk quota is attached are situated in a Less Favoured Area then the distance between -
    - (i) any part of the boundary of those lands, and
    - (ii) any part of the boundary of the lands of the transferee where those lands comprise of contiguous lands, or any part of the boundary of the largest part of such lands, where those lands do not consist of contiguous lands,does not exceed 48 kilometres.
- (3) On receipt of a written application from a transferee, the Minister may decide that paragraph (2)(a) shall not apply where he or she is satisfied that failure to comply with those provisions is due to some reasonable cause. An application under this provision shall not be considered where the milk quota is currently, or has been subject to a land and quota lease in the previous quota year.
- (4) Any Certificate issued under Regulation 7, 19 or 21 to the transferor shall be invalid, immediately upon the transfer of the quota under paragraph (1) having been effected.
- (5) Where quota is transferred in accordance with this Regulation the amount available to the transferee shall, in the year in which the transfer is effected, be reduced so as to take account of the amount of deliveries made by the transferor in that year.

(6) Where the Notification of Family Transfer is not furnished to the Milk Purchaser within 30 days of the completion of the transfer or in any event before the 31 January of that milk quota year, then the transfer shall not be recorded by the Milk Purchaser and the quota available to each of the parties in respect of the milk quota year in question will not be changed to reflect their transaction . ”.

6. Regulation 23 of the Principal Regulations (as amended by the European Communities (Milk Quota) (Amendment) Regulations 2004 (S.I. No. 208 of 2004)) is amended by substituting for paragraphs (1), (2) and (3) the following -

- “ 23. (1) Every purchaser shall on or before 15 April of each year give to the Minister in writing the name, address and details of the quota of every person who has a quota attached to the said purchaser and who did not make deliveries of milk to him or her in the previous quota year and indicate the amount of deliveries made by each such person in the milk quota year immediately prior to the previous year.
- (2) Where a person who has a direct sales milk quota did not sell or offer for sale milk or milk products during a milk quota year the said person shall on or before 15 May of the following milk quota year notify the Minister in writing of this information.
- (3) In the case of a person referred to in paragraphs (1) or (2) or in a case where a direct sales producer fails to send the declaration referred to in Article 11.1 of Commission Regulation No. 595/2004 before 15 May in any year or in any other case where the Minister has reason to suspect that a person who has a direct sales quota or a delivery quota has not marketed or delivered milk produced on his or her holding in a milk quota year, the Minister may serve a notice on the person stating that he or she is considering adding the milk quota of that person to the national reserve and informing him or her that if he or she wishes to make any observations he or she may do so within 21 days of the date of the issue of the notice.”.

7. Regulation 24 of the Principal Regulations (as amended by the European Communities (Milk Quota) (Amendment) Regulations 2004 (S.I. No. 208 of 2004)) is amended by substituting for paragraphs (1), (2) and (3) the following –

- “ 24. (1) Every purchaser shall on or before 15 April each year give to the Minister in writing the name, address and details of the quota of every person who has made deliveries but delivered less than 70 per cent of his or her quota to the said purchaser in the previous milk quota year and state the amount of deliveries made by each such person in each of the two previous milk quota years

- (2) Where a person who has a direct sales milk quota did not sell or offer for sale milk or milk products equivalent to at least 70 per cent of same in the previous milk quota year the said person shall on or before May 15 of the following milk quota year notify the Minister in writing of this information.
- (3) In the case of a person referred to in paragraphs (1) or (2) or in any other case where the Minister has reason to suspect that a person who has a quota has not marketed milk products or delivered milk produced on his or her holding in a milk quota year equivalent to 70% of his or her quota, the Minister may serve a notice stating that he or she is considering adding part of the milk quota of that person to the national reserve and informing him or her that if he or she wishes to make any observations he or she may do so within 21 days of the date of the issue of the notice.”.

8. The Principal Regulations are amended by substituting for Regulation 26 the following -

- “ 26. (1) The Minister may introduce a scheme, referred to in these Regulations as the “Milk Quota Restructuring Scheme”, under Article 18(b) of Council Regulation No. 1788/2003 for the surrender of milk quota at the end of each milk quota year and the reallocation of the surrendered quota at the beginning of the subsequent milk quota year.
- (2) The Milk Quota Restructuring Scheme shall be operated at collection area level in the case of delivery quota and at a national level in the case of direct sales quota, other than where specified by the Minister.
  - (3) Each designated Milk Purchaser shall be responsible for the operation of the Milk Quota Restructuring Scheme in its collection area in the case of delivery quota.
  - (4) The Minister shall be responsible for the operation of the Milk Quota Restructuring Scheme in the case of direct sales quota.
  - (5) The payment for quota surrendered and reallocation price shall be set by the Minister.
  - (6) A person who surrenders all or part of his or her milk quota pursuant to a Milk Quota Restructuring Scheme will not be entitled to benefit from a reallocation of quota under a subsequent Milk Quota Restructuring Scheme.
  - (7) The Minister may determine in accordance with Article 18(b) of Council Regulation No. 1788/2003 the categories of producers who

may obtain quota available for reallocation under a Milk Quota Restructuring Scheme.

- (8) Milk quota purchased under the provisions of this Regulation shall not be transferred in the case of a transfer of land and milk quota by way of sale under Regulation 7.
- (9) Where a new entrant purchases quota under the Milk Quota Restructuring Scheme that person shall be required to commence milk production within one year and 3 months of the purchase of such quota.
- (10) Where a new entrant intends to commence milk production he or she must notify the Minister in writing at least 30 days prior to the date of such commencement.
- (11) Where paragraph (9) has not been complied with, the milk quota in question shall be added to the national reserve. On application made in writing to the Minister, by the quota holder, the period specified in paragraph (9) may be extended, as considered appropriate in the circumstances. Any such application shall be made within one calendar month after the expiry of the period specified in paragraph 9.
- (12) A person who fails to comply with the provisions of paragraph (10) shall be guilty of an offence.
- (13) Where a new entrant commences milk production his holding must be registered under Regulation 7 of the European Communities (Hygienic Production and Placing on the Market of Raw Milk, Heat-Treated Milk and Milk-based Products) Regulations, 1996 (S.I. No. 9 of 1996), prior to such commencement.
- (14) The documents relating to the surrender and reallocation of milk quota under this Regulation and Regulation 35 of the European Communities (Milk Quota) Regulations 1995 (S.I. No. 266 of 1995) shall be kept until 31 March 2009, by the registered purchaser or the Minister, as appropriate.
- (15) The financial details set by the Minister in accordance with paragraph (5) and the determination made under paragraph (7) shall be published in a newspaper published and circulating in the State.”.

- 9. Regulation 49 of the Principal Regulations (as amended by the European Communities (Milk Quota) (Amendment) Regulations 2004 (S.I. No. 208 of 2004)) is amended by substituting for paragraph (8)(b) the following -

“(b) A milk purchaser may accept deliveries from a producer in respect of whom they do not have quota attached where –

- (i) the purchaser has received the documentation referred to at Regulation 38 (5)(b) from that producer and the deliveries are made in compliance with the notice period provided for in Regulation 38(4), or
- (ii) the producer is resuming deliveries to the milk purchaser with whom his or her quota was attached prior to the addition of the entire quota to the national reserve under Regulation 23.”.

Given under my Official Seal  
March 2005

Mary Coughlan  
Minister for Agriculture and Food

### Explanatory Note

*(This note is not part of the instrument and does not purport to be a legal interpretation)*

These Regulations further amend the European Communities (Milk Quota) Regulations 2000, by introducing a provision allowing for the transfer of quota without land between family members in certain situations, and by amending the provisions concerning the attachment of quota to purchased lands, dormancy, the Restructuring Scheme, milk production partnerships and the recording of milk deliveries.