



STATUTORY INSTRUMENTS.

S.I. No. 507 of 2011



EUROPEAN COMMUNITIES (MILK QUOTA) (AMENDMENT)
REGULATIONS 2011

(Prn. A11/1808)

EUROPEAN COMMUNITIES (MILK QUOTA) (AMENDMENT)
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I, SIMON COVENEY, Minister for Agriculture, Fisheries and Food, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), for the purpose of giving full effect to Commission Regulation (EC) No. 228/2008 of 13 March 2008¹, Commission Regulation (EC) No. 258/2009 of 26 March 2009² and Commission Regulation (EC) No. 793/2009 of 31 August 2009³, hereby make the following regulations:

1. These Regulations may be cited as the European Communities (Milk Quota) (Amendment) Regulations 2011.

2. The European Communities (Milk Quota) Regulations 2008 (S.I. No. 227 of 2008) are amended—

(a) in Regulation 2(1) by substituting for the definition of “Commission Regulation”, the following—

“‘Commission Regulation’ means Commission Regulation (EC) No. 595/2004 of 30 March 2004⁴ as amended by Commission Regulation (EC) No. 1468/2006 of 4 October 2006⁵, Commission Regulation (EC) No. 1913/2006 of 20 December 2006⁶, Commission Regulation (EC) No. 228/2008 of 13 March 2008⁷, Commission Regulation (EC) No. 258/2009 of 26 March 2009⁸ and Commission Regulation (EC) No. 793/2009 of 31 August 2009⁹,”

(b) by the insertion, in Regulation 2(1), after the definition of “land used for milk production”, of the following—

“‘lease’ for the purpose of these Regulations means a lease for a period of not less than 12 months and does not include an interest acquired by way of assignment or sub-lease or a licence;”

¹O.J. L70, 14.3.2008, p. 7

²O.J. L81, 27.3.2009, p. 19

³O.J. L228, 1.9.2009, p. 7

⁴O.J. No. L 94, 31.3.2004, p.22

⁵O.J. No. L 274, 5.10.2006, p.6

⁶O.J. No. L 365, 21.12.2006, p.52

⁷O.J. No. L 70, 14.3.2008, p.7

⁸O.J. No. L 81, 27.3.2009, p.19

⁹O.J. No. L 228, 1.9.2009, p.7

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 7th October, 2011.*

(c) by substituting for Regulation 5, the following—

“5. (1) A producer shall allot the milk quota allocated to him or her to one or more milk purchasers.

(2) Subject to paragraph (3), a milk purchaser who accepts deliveries from a person who does not have a milk quota allotted to that milk purchaser commits an offence.

(3) A milk purchaser may accept deliveries from a producer in respect of whom they do not have quota allotted where the purchaser has received the documentation referred to in Regulation 26 from that producer and the deliveries are made in compliance with the notice period provided for in Regulation 26.”,

(d) by substituting for Regulation 7, the following—

“7. (1) Subject to Article 74 of the Council Regulation and paragraphs (2) and (3) a milk quota attaches to land used for milk production by a producer.

(2) If a producer sells or otherwise disposes of all or part of the land used for milk production by him or her, the milk quota may be retained by him or her.

(3) If a milk quota is sold prior to the transfer of land, it no longer attaches to that land.

(4) Where a milk quota is transferred with the land to which it attaches, the quota shall remain attached to that land until 31 March 2015, unless otherwise provided for by the Minister on foot of an application by the transferee citing force majeure or other duly justified reasons.”,

(e) by substituting for Regulation 9, the following:

“9. (1) A person may only lease land with milk quota attached to—

(a) a qualified relative,

(b) a company, in which he or she holds a majority shareholding, or

(c) a company in which milk producers hold a majority shareholding.

(2) A person who inherits land with milk quota attached may lease it to a qualified relative of the deceased person.

(3) Subject to paragraphs (1) and (2), a person shall not assign a lease of land with milk quota attached and any such purported assignment is null and of no effect.

(4) A lease to which paragraph (1) or (2) refers does not have effect until the lessee gives notice—

(a) to the lessee's and lessor's milk purchaser, and

(b) if he or she intends to deliver milk to a different milk purchaser than the lessor, to that milk purchaser and to the Minister.

(5) If the milk purchaser does not receive notice under paragraph (4) by 31 January in the year of transfer, the milk purchaser shall not record that quota as being available to the lessee until the beginning of the quota year following that date.

(6) If a lease is determined on any date other than 31 March, the amount of quota reverting to the lessor for the remainder of that milk quota year is reduced by the percentage arrived at when the lessee's total milk deliveries in that milk quota year are expressed as a percentage of the lessee's total milk quota entitlement in that milk quota year",

(f) by substituting for Regulation 43, the following—

“43. (1) A person who, by act or omission, contravenes—

(a) Article 8(1), (2), 11(1), (2) or 24 of the Commission Regulation,

(b) Regulation 3, 5(1), 5(3), 8(1), 17, 24(1), 25(1), 27, 28, 32(1) or (16), 37 or 38 of these Regulations,

commits an offence and is liable on summary conviction to a class A fine or to a term of imprisonment not exceeding 6 months or to both.

(2) Summary proceedings of an offence under these Regulations may be prosecuted by the Minister.

(3) If an offence under any of these Regulations is committed by a body corporate and is proved to have been so committed with the consent, connivance of, or to be attributable to the wilful neglect on the part of any person being a director, manager, secretary or other officer of that body, or any person who was purporting to act in any such capacity, that person, as well as the body corporate, commits an offence and is liable to be proceeded against and punished as if he or she was guilty of an offence.

(4) If the affairs of a body corporate are managed by its members, paragraph (3) applies in relation to the acts and defaults of a member in connection with the functions of management as if the member were a director or manager of the body corporate.

(5) In any proceedings, evidence of an act of an institution of the European Union may be given by production of a copy of the act certified by an officer of the Minister to be a copy of the act, and it is not necessary to prove the signature of the officer or that he or she is an officer of the Minister.

(6) Paragraph (5) is in addition to and not in substitution for the European Communities (Judicial Notice and Documentary Evidence) Regulations 1972 (S.I. No. 341 of 1972).”.



GIVEN under my Official Seal,
5 October 2011.

SIMON COVENEY,
Minister for Agriculture, Fisheries and Food.

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