

Explanatory Memorandum to the Dairy Produce Quotas (Wales) (Amendment) Regulations 2008

This Explanatory Memorandum has been prepared by the Department for Rural Affairs and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

- (i) **Description** - These Regulations, which apply from 1 April 2008, amend the Dairy Produce Quotas (Wales) Regulations 2005 to update references to accommodate changes made to the European Community legislation governing the milk quotas regime.
- (ii) **Matters of special interest to the Subordinate Legislation Committee** – None.
- (iii) **Legislative Background** – The power enabling this Instrument to be made is contained in section 2(2) of the European Communities Act 1972. The National Assembly for Wales was designated for the purposes of implementing EC legislation in relation to the common agricultural policy by The European Communities (Designation) (No3) Order 2005 (SI 2005/2766). By virtue of sections 59(1) and 162 of and paragraphs 28 and 30 of Schedule 11 to the Government of Wales Act 2006, functions conferred on the National Assembly for Wales by the above designation are exercisable by the Welsh Ministers. This Instrument will follow the negative procedure
- (iv) **Purpose and intended effect of the legislation** - The milk quotas regime is governed in all EU Member States by European Community (EU) legislation, which must be referenced correctly in domestic legislation through the Dairy Produce Quotas Regulations (DPQR) for each of the four UK Administrations. Throughout the UK, the Milk Quota system is administered by The Rural Payments Agency (RPA). European Council Regulation 1234/2007 (OJ L299, 16.11.2007, p1), known as the Single CMO Regulation, brings together and repeals a number of commodity specific Regulations. This is part of the drive to simplify the operation of the CAP. One of those regulations relates to the milk quota system - Council Regulation 1788/2003 (OJ L270, 21.10.2003, p123) as amended. These Regulations amend the Dairy Produce Quotas (Wales) Regulations 2005 to update references made to the European Community legislation governing the milk quotas regime. They apply from 1 April 2008.

As a result of the repeal of Regulation 1788/2003 by Regulation 1234/2007, the Statutory Instruments below will require amendment by 1 April 2008 (the date the requirements relating to milk quotas come into force).

- The Dairy Produce Quota Regulations (Wales) Regulations 2005 (SI 2005/537 (W.47) as amended by:

- The Dairy Produce Quotas (Wales) (Amendment) Regulations 2007 (S.I. 2007 No 844 (W.76)) and;
- The Dairy Produce Quotas (Wales) (Amendment) Regulations 2006 (S.I. 2006 No 762 (W.72)).

The Regulations will need to reflect the repeal of Council Regulation 1788/2003 by Regulation 1234/2007. As Regulation 1234/2007 is likely to be amended regularly, it would be useful to have an ambulatory reference to that legislation in the Regulations, limited to Chapter III, Section III, and Annex IX of Regulation 1234/2007.

It is expected that the introduction of the Single CMO Regulation will require further changes to Commission Regulation 595/2004 (OJ L 94, 31.3.2004, p22) as amended. Including an ambulatory reference would be useful as the Regulations may be amended from time to time.

In the Single CMO Regulation the following terms have changed:

- "levy" is now referred to as "surplus levy";
- "individual reference quantity" is now "individual quota";
- "national reference quantity" is now "national quota"; and
- "available reference quantity" is now "available quota".

All 4 UK administrations expressed a preference to amend the Regulations rather than remake them. The Commission has included a review of the quota system in the review of the CAP due to conclude in late 2008, the Health Check, and stated that quotas will not continue beyond 2015. Abolishing the system will need legislation then.

In summary, the amendment(s) required by 1 April 2008 are to reflect the repeal of Council Regulation 1788/2003 by Council Regulation 1234/2007, and the expected amendment or repeal of Commission Regulation 595/2004. The definitions and terms used in the domestic legislation also need to be brought into line with the Community legislation.

- (v) **Implementation** - Failure to implement the legislation will mean that Wales will not be compliant with the requirements and limitations of the relevant European legislation and will be at risk of infraction proceedings. Parallel legislation is being introduced in England to the same timescale.
- (vi) **Consultation** – There was no consultation on the proposed Regulations, because the changes are needed to update references to European legislation. These Regulations were notified to the Subordinate Legislation Committee, via the list of forthcoming legislation, on [date to be inserted]. CALM has been informed of the difficulties in timing and has been consulted on procedure.
- (vii) **Regulatory Impact Assessment** – A partial RIA has been carried out.

- (a) **Options (for achieving the policy objective – as set out in paragraph (iv) above)** - There is no option other than to update references by introducing this legislation. If the references are not updated it would ultimately lead to infraction proceedings against the Welsh Assembly Government by the European Commission.
- (b) **Benefits** - implementing the legislation will clarify references to the changed European Regulation.
- (c) **Costs** - There are no additional financial implications to the Industry or the Welsh Assembly Government as a result of implementing these Regulations. There are no detrimental costs to the producer/purchaser.
- (d) **Competition Assessment** – Not applicable.
- (e) **Consultation** - As the updating of the references is obligatory for Wales to remain in compliance with European legislation no consultation was undertaken.
- (f) **Post implementation review** - The operation of the milk quota system is administered by The Rural Payments Agency (RPA) (as agent in Wales for the Welsh Assembly Government) which undertakes regular evaluation and review activities.
- (g) **Summary** - These Regulations amend the Dairy Produce Quotas (Wales) Regulations 2005 in order to ensure the references to EU legislation are correctly updated. There are no additional financial implications to the Industry or the Assembly as a result of implementing the Regulations.