

Milk Quota System (MQS)

General

The Milk Quota System was introduced at European Union level in 1984 due to surplus milk production. The CAP Reform Agreement of 2003 has provided for the extension of the quota system to 2015.

Each EU member state is allocated a national quota and each producer has an individual quota for use on his holding. The quota specifies how much milk can be marketed in a quota year without becoming liable to a levy. The year runs from 1st April.

Where a producer markets more than the allocated quota, he may have to pay a milk "super levy" on the excess, if the UK itself is over the quota. Marketed milk includes all milk which leaves a holding, whether given away free or sold.

The quota attaches to a holding rather than the producer. When the holding changes hands, the new occupant of the holding is generally entitled to the quota. The quota system covers all milk and milk products which include liquid milk, butter, cheese, yogurt and ice-cream.

There are two types of quota: a wholesale quota which covers the delivery of the milk wholesale and direct sale quota which covers the marketing of milk or milk products to the public. Users who supply milk both wholesale and to the public will need a separate quota for each type of transaction. It is possible to convert one to the other.

In 1984, producers were allocated an original or primary quota for their holding. This was based on the amount of milk or milk products they produced in the reference year. The reference year was 1981 for direct sales quota and 1983 for wholesale quotas. Subsequently there were a number of additional awards and special quotas. There were three allocations of special quotas in 1989, 1991 and 1993. All special quotas have now been converted into ordinary quotas.

The EU or member states can make cuts in national quotas. It is proposed that there is a quota increase of 0.5% for each quota year up to 2009. The system includes arrangements to allow producers to adjust their quota to match the amount they are producing. They can convert between wholesale and direct sales quota and can increase or decrease their quota by leasing or transferring it.

There are penalties on producers who do not comply with the Milk Quota Regulations. Quotas can be confiscated if there is no production against the quota in a given year or if annual declarations are not made. Certain other legal implications apply.

Administration

The Rural Payments Agency (RPA) is responsible for administering milk quotas throughout the United Kingdom. The RPA keeps a register of milk quota holders, approves wholesale producers, deals with applications to register quota transfers, leases and conversions within the UK and confirms changes. It calculates levies that direct sellers and wholesale purchasers are liable for. It collects levies and pays them to the European Union. It confiscates and restricts quotas.

It is mandatory to register with the RPA, if one holds a milk quota. The registration is separate to the registration required for the Single Payment Scheme. The Quota Register lists the names and addresses of all holders of milk quota, the amount of quota they hold, the butter fat base of the wholesale quota and details of the purchaser with whom the wholesale quota is registered. A quota is attached to a holding and registered in the name of the person or business in occupation. If there is a change in occupation of a holding, the new occupier is usually entitled to the quota attached to it.

A holding is defined as the area of land occupied by the producer within the territory of the EU Member State. This means that if the quota holder farms more than one farm, the farms will constitute a single holding for the purpose of the Quota Regulation, even if they are in different places in the UK.

Wholesale quota holders must register their quota with one or more approved milk purchasers. The wholesaler purchaser must be approved by the RPA. It is possible to deliver to one or more purchasers and change purchasers during quota years. Where producers change purchasers, they must make sure they leave sufficient quota with their original purchaser to cover deliveries already made.

Producers must keep records to show how they have managed their quota and to show details of their production and sales. These must be open for inspection by the RPA.

If a producer does not comply with rules applicable to the quota allocation, the RPA may confiscate all or part of the quota. It then places it on the National Reserve. Quotas can be confiscated for fraud, failure to make returns, failure to produce against the quota during the quota year. It is possible to apply for the restoration of a quota after confiscation under certain circumstances.

Records must be kept of milk production on a daily basis. Up to date records of cows used for milk production must be kept. Records must be kept of stock joining or leaving a herd. It is necessary to record the quantities and type of milk and milk products which have been produced on the holding. Authorised officials are entitled to access premises to identify.

There is an obligation to furnish the RPA with details of changes to trading titles, addresses, status of details, bank details and VAT numbers. The RPA will supply in writing details of the quota register relating to a specific holding to individuals who are the quota holder or producer or otherwise prove that they have a legitimate interest in that holding.

Transfer of Quotas

Producers may transfer quotas to any other producer in the UK with the exception of certain Scottish Islands. Milk quotas both wholesale and direct sale, can change hands when there is a change in occupation of the land or where producers agree to transfer quota between them without lands. After a quota is transferred, it becomes attached to the land occupied by the transferee. Milk quotas can be transferred permanently

through a sale, through a lease of a minimum duration, through inheritance, through the termination of a lease or through succession.

Land to which quotas attach cannot be transferred by sale, lease, termination of lease or inheritance without the quota being transferred. However, the quota holder may transfer out the quota without the land subject to the agreement of everyone having an interest in it. Once transferred, the quota attaches to the holding of the transferee.

If a renewed tenancy is granted over land, the quota must be transferred to the new occupiers. The only exception is where the tenancy granted is less than a minimum duration, 10 months in England and Wales.

It is possible to apportion a quota to land before it is transferred. The allocation or apportionment must take into account the extent of milk production and must be agreed by everyone with an interest in the land. The apportionment should not normally exceed the guideline of 20,000 litres per hectare.

The RPA undertake audit and undertake surveillance of quota transfers. They will require evidence that there has been a genuine transfer of land and that the quota has been used and not transferred as unused. It is verified that other parties with interest in the holding have agreed to the transfer and will verify the transferee is in production.

Leasing of Quotas

Leasing the quota is an arrangement between producers to make a temporary transfer of unused quota without land. The temporary transfer lasts for the current quota year. It reverts to the original holder at the start of the next quota year.

Wholesale and direct sales quotas may be leased. Notification of leasing must be given to the RPA. Producers wishing to lease must comply with certain conditions. They can not lease out all their quota, used quota or quota which has been leased in.

A tenant will generally need the agreement of the freehold owner before it can lease out a quota. The lease must be noted on the quota register by the RPA.

This Guide is intended as an overview and broad outline of the matters covered in it. Its purpose is to inform and raise awareness. We are happy to offer specific legal advice on particular circumstances.

This Guide should not be relied on as a substitute for comprehensive legal advice with reference to the particular circumstances.

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