

## A Guide to Milk Quotas

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# A Guide to Milk Quotas

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# Part 1

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## Introduction

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This guide RPA(MQ)1 gives an outline of the milk quotas scheme and explains how it works.

It provides guidance on the milk quotas arrangements at the time of publication, and sets out the rules and regulations which apply to producers of milk and milk products for wholesale or for direct sale to the public.

It also gives brief details of the rules which apply to anyone who purchases milk or milk products from a producer to process or to sell on to the public.

The rules and obligations described in this guide arise from European Community and United Kingdom legislation, and are subject to alteration from time to time. Every effort is made to ensure that the information given is complete and accurate but delays can occur in the publication of, and amendments to leaflets. Where doubt arises on interpretation, legal advice should be sought; however it should be noted that the European Court of Justice has the ultimate authority on the interpretation and validity of EC legislation.

Time limits apply to many of the procedures that are described in this guide. If you do not meet them you may be in breach of the regulations and we may have to reject an application you have made, confiscate your quota, or you may have to pay additional levy.

### **For more information about milk quotas**

You can phone the Milk Quotas Helpline (Appendix 1 of this Guide refers) on 01392 266466 for more advice, email to [milk.quotas@rpa.gsi.gov.uk](mailto:milk.quotas@rpa.gsi.gov.uk) or write to Milk Quotas, RPA, PO Box 277, Exeter, EX5 1WB

## Part 2

### Introduction to the milk quotas system

#### Background to the system

The European Community uses the milk quotas system to control the production of milk and milk products within the EU. Quotas were introduced in 1984 because there was a surplus of milk production in the EU. The system was introduced in order to reduce the cost to EC taxpayers of intervention in the market for dairy produce.

The CAP reform agreement of September 2003 provided for the extension of the quota system until 2015. The milk quotas system is expected to end with the 2014/15 quota year..

#### How the quota system works

Each Member State is allocated a national quota and, from this, each producer has an individual quota for use on their holding. A producer's quota specifies how much milk they can market in a quota year without becoming liable for a levy. Quota years run from 1 April to 31 March. Quota can be transferred between producers and new producers must make their own arrangements to obtain quota as there is no reserve from which new allocations of quota can be made.

If a producer markets more than their allocated quota, they may have to pay a levy (called a 'milk supplementary levy') on the excess marketed if the UK itself is over quota.

The term "marketed" covers all milk which leaves a producer's holding, whether it is sold or given away free.

Quota is attached to the holding, rather than the producer so that when a holding, or part of a holding, changes hands, the new occupant of the holding is, in most cases, entitled to have the quota registered in their name.

#### The milk quotas regulations

The rules governing milk quotas and milk supplementary levy are set out in the following EC and United Kingdom regulations:

- Council Regulation (EEC) 1234/2007 (as amended) establishing an additional levy in the milk and milk products sector,
- Commission Regulation (EEC) No 595/2004 (as amended) laying down detailed rules on the application of the levy on milk and milk products, and
- the Dairy Produce Quotas Regulations 2005 (as amended)
- the Dairy Produce Quotas (General Provisions) Regulations 2005

There are four separate versions of the Dairy Produce Quotas Regulations 2005, one for each of the home countries. Milk Quota on Scottish holdings, for example, is governed by the Dairy Produce Quotas (Scotland) Regulations 2005.

You will see references to these regulations in the right hand column of each page. For further details see Appendix 4 of this Guide.

## What the quota system covers

The quota system covers all milk and milk products which a producer markets. This includes liquid milk, butter, cheese yoghurt and ice cream. It also includes colostrum.

## Types of quota

There are two types of quota:

- wholesale quota – which covers the delivery of milk to an approved milk purchaser, and
- direct sales quota – which covers the marketing of milk or milk products direct to the public.

Producers who supply milk both wholesale and direct to the public will need a separate quota for each type of transaction. There is facility to convert from one type to the other to cover their production if this is necessary.

## History of Allocation of Quota

In 1984, producers were allocated their original or 'primary' quota for use on their holding. The amount they were allocated was based on the amount of milk or milk products they produced during a 'reference year'. The reference year was:

1981 – for direct sales quota

1983 – for wholesale quota.

Subsequently there were a number of additional awards, some of which were allocations of special quota (see below).

There were three allocations of special quota, also known as SLOM quota. This was allocated to producers who did not get a quota allocation in 1984 because they, or the people who occupied their farms at the time, were involved in non-marketing or dairy herd-conversion schemes. The three allocations of SLOM quota were:

- |                                |                            |
|--------------------------------|----------------------------|
| • SLOM 1, awarded in 1989,     | Council Reg. (EEC) 764/89  |
| • SLOM 2, awarded in 1991, and | Council Reg. (EEC) 1639/91 |
| • SLOM 3, awarded in 1993.     | Council Reg. (EEC) 2055/93 |

All special quota has now been converted to ordinary wholesale quota.

## Quota cuts

The EC or Member States may make cuts to national quotas. When this happens, producers may be paid compensation for the cut in their quota. There are no plans for further quota cuts.

## Quota Increases

There will be quota increases of 1% for each quota year until 2013/14. Producers will receive an allocation equal to 1% of their net quota at the end of the previous quota year. A producer who transfers out used quota will not receive the 1% allocation on that quota; instead, the additional quota will be allocated to the transferee (if the quota was used because it had been produced against) or to the original lessee (if the quota was used because it had been leased out). Those who cease production before the end of the quota year will not receive an allocation in the new quota year. No quota increase is planned for 2014/15 as that will be the final year of the milk quotas system in the EU.

## Managing quota

The milk quotas 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
- increase or decrease their available quota by leasing or transferring quota.

## Penalties for breaking the rules of the system

There are penalties for producers who do not comply with the milk quota regulations.

We will confiscate quota from producers who:

- obtained their quota by fraud, DPQR, Reg. 40
- do not produce against any of their quota in a quota year, or Council Reg. 1234/07, Art. 72
- do not send in an annual declaration of direct sales. Comm. Reg. 595/04, Art. 11

We may take legal action against producers and purchasers who:

- make a false declaration,
- fail to pay levies,
- fail to keep records, or
- fail to submit an annual declaration of direct sales.

Penalties will be applied for the late submission or any under or over-declaration on forms MQ/15, MQ/13 and MQ13A and for the late submission of forms MQ/10 and MQ/12. DPQR, Reg. 36

There is a list of Regulations and Penalties at Appendix 4.

## Liability

Senior Managers will be liable for prosecution in the event of an offence by a corporate body. DPQR, Reg. 40

## Important Dates

April	1	Start of quota year
	30	Deadline for submission of form: <ul style="list-style-type: none"> <li>• MQ/16 <i>temporary reallocation of quota.</i></li> </ul>
May	14	Deadline for submission of form: <ul style="list-style-type: none"> <li>• MQ/15 <i>annual declaration of direct sales and temporary conversion.</i></li> <li>• MQ/13 <i>purchaser's annual return</i></li> </ul> Deadline for receipt of form: <ul style="list-style-type: none"> <li>• MQ/10 <i>movement of milk quota between purchasers</i></li> </ul>
June	15	Deadline for receipt of MQ/26 <i>temporary movement of milk quota between purchasers</i>
September	30	Levy payment deadline.
December	31	Deadline for submission of form: <ul style="list-style-type: none"> <li>• MQ/6 <i>application for permanent conversion of milk quota</i></li> </ul>
March	31	End of quota year. Deadline for receipt of form: <ul style="list-style-type: none"> <li>• MQ/1 <i>application to register the permanent transfer of milk quota.</i></li> <li>• MQ/3 <i>notification of temporary transfer (lease) of milk quota.</i></li> </ul>

## Part 3

### What the Rural Payments Agency does

Since 1 April 1994 the Rural Payments Agency (formerly the Intervention Board) has been responsible for administering milk quotas throughout the United Kingdom.

We are responsible for:

DPQR, Reg. 4

- maintaining the register of all milk quota holders,
- approving wholesale purchasers,
- dealing with applications to register all quota transfers, leases or conversions within the UK, and confirming changes to the producers and purchasers involved,
- calculating the levies that direct sellers and purchasers are liable to pay,
- sending invoices to direct sellers and purchasers for levies,
- collecting levies and paying them to the European Commission, and
- confiscating and restoring quota

The quota register lists the names and addresses of all holders of milk quota, the amounts of quota they hold, the butterfat base of wholesale quota, and details of the purchaser(s) with whom the wholesale quota is registered.

#### **Trader registration numbers**

In addition to your Single Business Identifier (SBI) each producer or quota holder has a trader registration number, which we will use on all the papers we send you.

If you are registered with the RPA for the Single Payment Scheme (SPS), you will have separate SBIs for SPS and for milk quotas.

Please use your trader registration number when you get in touch with us and on all milk quotas forms.

#### **Registration of new milk producers**

In order to register with the Rural Payments Agency, a producer or quota holder will need to complete a form CREG 01 *Customer Registration*. Copies of this form may be requested from our Customer Service Centre on 0845 603 7777.

#### **Wholesale production statistics**

The Rural Payments Agency issues monthly notices to traders containing information on UK wholesale deliveries.

These figures are compiled from returns submitted to the Rural Payments Agency by purchasers.

The monthly notices show a comparison of milk production against current and previous quota years.

The data is intended as a guide to trends in milk production and cannot be relied upon for the purpose of predicting the final levy position.

Anyone using the data contained in the notices will need to take full account of their limitations in reaching commercial decisions involving milk quota/milk production. These limitations are described in detail in the notices.

The monthly notices to traders are available on the Rural Payments Agency website at [rpa.defra.gov.uk](http://rpa.defra.gov.uk), or by calling our Helpline (Appendix 1 of this Guide refers).

## Part 4

### Producers' holdings and quota

This section sets out information relating to all those who produce milk and/or hold milk quota.

Quota is normally attached to a holding and registered in the name of the person or business in occupation of the holding. This means that if there is a change of occupation of a holding to which quota is attached, the new occupier of the holding is usually entitled to the quota attached to it.

A holding is defined in EC Regulations as all of the areas of land occupied by the producer within the territory of a Member State. This means that if your business farms more than one farm, the farms will constitute a single holding for the purposes of the quota regulations, even if they are in different parts of the UK.

Council Reg. 1782/03, Art.2(b)

#### Registration with the Rural Payments Agency

You must register with the Rural Payments Agency if you hold milk quota or produce milk to deliver to a purchaser or market as direct sales. You will be issued with a Single Business Identifier which will apply to your entire holding and will be used for most of your dealings with the Rural Payments Agency. In addition, you will be issued with a trader registration number which you should use when contacting the Milk Quotas Section.

DPQR, Reg. 6(1)

If you are registered with the RPA for the Single Payment Scheme (SPS), you will have separate SBIs for SPS and for milk quotas.

You may have more than one registration if your holding comprises more than one separate dairy enterprise, for example, if you have separate herds on different farms. Milk deliveries, etc. would have to be recorded separately by your milk purchaser, and the two registrations cannot be treated as one for levy purposes.

DPQR, Reg. 4(7)

You are not entitled to have more than one registration if your holding comprises a single dairy enterprise but includes both owned and tenanted land, or because you wish to keep two lots of quota separate for butterfat purposes.

Subject to certain conditions, you may transfer quota to other producers either temporarily (i.e. for the current quota year only) or permanently.

Producers may transfer quota to any other producer in the UK, with the exception of those in certain Scottish Islands Areas, who may only transfer quota either temporarily or permanently from within the same area.

Subject to certain conditions, you may also convert quota from direct sales to wholesale and vice versa, either permanently or temporarily, in order to match your quota more closely to your marketing patterns.

## **Milk production under share farming arrangements**

The application of milk quota rules to milk production under share farming arrangements can be complex in view of the variety of such arrangements. If you are intending to produce milk under a share farming agreement you are advised to discuss your particular circumstances with the Rural Payments Agency in advance of the commencement of the arrangement.

## Part 5

### Wholesale producers

This section sets out the rules which apply to those who:

- produce milk which is delivered wholesale,

#### Deliveries to a purchaser

The legislation requires that the butterfat content of whole milk be used to calculate levy liability. You are required to deliver whole milk to your purchaser. If you deliver skimmed or semi-skimmed milk, then you are required to complete a Direct Sales Annual Declaration (Form MQ/15) to ensure that the whole milk equivalent of this milk is included in the levy calculation. Please contact the Rural Payments Agency (Appendix 1 of this Guide refers) for further guidance.

You should be aware that you may be committing an offence if you are artificially lowering the butterfat content of deliveries to your purchaser.

#### Registering with milk purchasers

All wholesale quota holders must register their quota with one or more approved milk purchasers. You must make sure that that your chosen purchaser is approved by the RPA to deliver milk. DPQR, Reg. 6

You can check whether a particular purchaser is approved by calling our Helpline (Appendix 1 of this Guide refers).

You can decide which purchaser to use, if your chosen purchaser will accept you. You can also:

- deliver to more than one purchaser, and
- change purchasers during the quota year.

But you should check whether your contract allows you to use more than one purchaser or to change purchasers.

#### Changing from one purchaser to another during the quota year

Producers who change purchasers must make sure they **leave sufficient quota with their original purchaser** to cover butterfat adjusted deliveries already made. Council Reg. 1234/07, Art. 81  
DPQR, Reg. 23

If you then purchase additional quota, this may affect your ongoing butterfat base. Subsequent movements of quota may affect your ongoing butterfat base. In this case your registration of quota with both purchasers will be adjusted at the end of the quota year. DPQR, Reg. 23(7)

If the ongoing butterfat base increases, you may have left too much quota with the original purchaser to cover deliveries made. The surplus quota will be moved from the original purchaser to the new purchaser. DPQR, Reg. 23(9)

If the ongoing butterfat base decreases, you may not have adequate quota with your original purchaser to cover the deliveries made. In this case quota will be moved back to your original purchaser from the new purchaser. DPQR, Reg. 23(9)

If you do not have sufficient quota registered with your original purchaser to cover deliveries when you change purchasers, any additional quota you subsequently acquire (permanent or temporary) will be registered with your original purchaser until your butterfat adjusted deliveries are covered. DPQR, Reg. 23(7)

### **Supplying more than one purchaser**

Producers should ensure that adequate quota is registered with each of their milk purchasers to cover deliveries in order to avoid a levy.

If you have quota registered with more than one purchaser, you can apply to move it temporarily between them on a form MQ/26 *Adjustment of quota allocation between purchasers*. [If you have permanent quota with more than one purchaser, we will temporarily move any unused quota with one purchaser to cover over-quota deliveries to the other, as part of the annual levy calculation.] DPQR, Reg. 23(11)

### **Keeping records**

Like any other business, producers must keep records to show:

- how they have managed their quotas, and
- details of their production and sales.

We may need to inspect these records from time to time.

Further details of record-keeping requirements are given in Part 15 of this Guide.

### **Calculating the Levy**

Purchasers must adjust each of their suppliers' delivery figures to take account of their fat content. Part 10 of this guide sets out how the adjustment is calculated.

The butterfat adjusted delivery figures will be used to calculate the levy.

## Part 6

### Direct Sellers

This section sets out the rules which apply to those who:

- produce milk or milk products to market direct to the public, i.e. a direct seller,
- hold direct sales quota but deliver all of their milk to a wholesale purchaser.

All direct sellers are required to register their quota with the Rural Payments Agency. 'Direct sales' covers the production, processing and marketing of milk and/or milk products within a single legal entity. The term 'marketing' of milk and/or milk products includes milk which is given away for consumption off the holding whether by humans or animals. However, direct sales also covers milk or milk products which are sold on the holding, e.g. in a farm shop or café. If you have any doubts as to whether your milk production qualifies as direct sales you should contact our Helpline (Appendix 1 of this Guide refers).

Council Reg. 1234/07, Art. 65

Contract processing is not included within the definition of direct sales, neither is the delivery of bulk pasteurised whole milk for further processing. If a separate organisation is processing your milk, this is classed as a wholesale transaction. If you have created a separate business to conduct your processing, i.e. it is a separate financial entity with separate tax and VAT status, then this business will also be regarded as a separate organisation. In either case, the processing organisation must be approved by the Rural Payments Agency to act as a purchaser. You may leave yourself open to prosecution and increased levy charges if you deal with an unapproved purchaser.

Comm. Reg. 595/04, Art. 6

#### Annual declaration

If you make direct sales, or hold direct sales quota at any time during the quota year, you are obliged by law to submit an annual declaration (form MQ/15) to the Rural Payments Agency. At the end of the quota year, a direct sales package (which includes a form MQ/15) is issued to all those who held direct sales quota during the year. If you make direct sales, but do not hold direct sales quota, you will not automatically be sent a form. You must call our Helpline (Appendix 1 of this Guide refers) and ask for a form MQ/15 to be sent to you.

Comm. Reg. 595/04, Art. 11

It is your responsibility to ensure that the form is submitted to RPA before 15 May, i.e. by 14 May. If you hold direct sales quota but have not made any direct sales, you must still complete a form MQ/15 and submit a nil declaration. If your declaration is not received before the deadline, a penalty will be applied.

Comm. Reg. 595/04, Art. 11(2)

**If your declaration is late and your sales are in excess of your quota**, you may have to pay the full rate of levy on all sales that exceeded the quota you held at 31 March of the relevant quota year. Comm. Reg. 595/04, Art. 11(3)

**If your declaration is late but your sales are within your quota**, you will have to pay a penalty equal to the amount of levy due on a 0.01% excess, per calendar day of the delay, of your quota at 31 March of the relevant quota year. The minimum penalty is 100 euro; the maximum penalty is 1,000 euro. The penalty will be converted into Sterling at the rate applicable on the relevant 31 March. This means that if you held 100,000 litres of quota, you would be levied on 100 litres at the full rate of levy. At a levy rate of 24p per litre, this would mean a penalty of £24 per day. Comm. Reg. 595/04, Art. 11(3)

**If you do not submit your declaration by 15 June**, you will be given 15 days' written notice to submit your declaration and if you do not do so your direct sales quota will be confiscated and placed in the national reserve. Comm. Reg. 595/04, Art. 11(4)

**If you do not declare all your sales and the UK is in a levy position**, you will have to pay the full rate of levy on all your undeclared sales whether or not you have spare quota available. Comm. Reg. 595/04, Art. 11(3)

**If you submit a declaration which understates or overstates the volume sold** you will have to pay a penalty equal to the theoretical amount of levy due on 0.5% of the volume of the understatement or overstatement. This means that if you understated or overstated your direct sales by 20,000 litres you would receive a penalty on 100 litres at the full rate of levy. The minimum penalty to be applied would be £60 up to a maximum of £600. DPQR, Reg. 36(4)

In the case of an understatement in a levy year, a penalty will not be applied when the actual amount of levy due exceeds the amount of the penalty.

The annual declaration should be completed showing volumes of milk or milk products in litres. The conversion rates to be used are:

1 gallon = 4.54609 litres

1 pint = 0.56828 litres

1 pound (lb) = 0.45359 kg

## Leap-year adjustment

Quota was initially allocated based on the milk production in a 365-day year. In a leap year, additional milk will be produced but no additional quota is available to cover this. Comm. Reg. 595/04, Art. 11(1)

On your form MQ/15, you must declare the total amount of milk or milk products you have marketed in the quota year. We will make an adjustment downwards of 1/366<sup>th</sup> of your total annual production figure to take account of the extra day's production.

## What to declare on your MQ/15

The first product produced from any given batch of milk that leaves your holding will determine what is declared on your annual declaration. You must declare the whole milk equivalent of the first product to be marketed. For example:

**If you make cheese**, and any of the by-product whey leaves the holding before the cheese, it is the whole milk equivalent of the whey that should be declared. The cheese, when it is finally marketed, will not need to be declared. However, if the whey is fed to animals on your holding, it will be the whole milk equivalent of the cheese when it is marketed that is included on the annual declaration..

**If you separate your milk into skim and cream** you must declare the whole milk equivalent of the first product which leaves your holding. If you feed the skim to your stock or throw it away but sell the cream, you must declare the whole milk equivalent of the cream sold. This also applies if you sell the skim but throw the cream away. If the first product that leaves your holding is the skimmed milk, which you deliver to a purchaser, please contact the Milk Quotas Helpline (Appendix 1 of this Guide refers) to discuss your situation.

If you are in any doubt as to the implications for measuring your direct sales of milk products against your quota, please contact the Helpline (Appendix 1 of this Guide refers).

### **Milk used on the holding**

Whole milk which is used on your holding for feeding to stock, for domestic consumption or which is wasted or thrown away on the holding, is not counted against quota. Where only part of the milk is used on the holding, the whole milk equivalent of the product which is marketed must be declared.

Comm. Reg. 595/04, Art. 6

### **Colostrum**

In 2004 the RPA received confirmation from the EU Commission that colostrum comes within the definition of milk under the milk quotas regulations. As from 1 April 2005, all producers trading or selling colostrum for commercial use have had to declare this as a direct sale. Anyone who is involved in the trade, sale or purchase of colostrum should contact the Milk Quotas Helpline for advice.

### **Temporary conversion of quota**

The Direct Sales Annual Declaration (form MQ/15) includes an application for temporary conversion. Producers wishing to apply for temporary conversion of direct sales quota to wholesale or vice versa must complete the relevant section of the MQ/15 form. Detailed information on temporary conversion is provided at Section 11 of this Guide.

### **Temporary reallocation of quota following herd movement restrictions**

Direct sellers who qualify for a temporary reallocation of quota following a herd movement restriction should apply to the Rural Payments Agency in England, Scotland and Wales or to the Department of Agriculture and Rural Development in Northern Ireland. The award to qualifying producers will be made from unused quota available at national level. Further details on temporary reallocation of quota are given in Part 12 of this Guide.

## Direct sales levy

A direct sales levy is payable only when total direct sales for the UK as a whole exceed the total direct sales quota.

The total direct sales levy for the UK is calculated using the same rate of levy charged for wholesale deliveries. However, producers who are over quota are charged levy at a dilute rate. The amount by which the levy is diluted will depend upon the amount of spare quota available. The method used for calculating the dilute rate of levy is given in Part 13 of this Guide.

## Payment of levy

Once the levy has been calculated, any invoices issued for levy become due for payment before 1 October. Interest is charged on payments received on or after 1 October. DPQR, Reg. 31(5)

Where producers are subsequently found to have evaded the payment of levy by the incorrect completion of an annual declaration, interest will be backdated to 1 October of the year in which the levy was due.

## Record keeping requirements

Direct sellers are required by regulation to maintain records of their herd and the amount of milk produced and marketed. These records must be kept for three years, starting from the end of the quota year to which they relate. Full details of the records you must keep are given in Part 15 of this Guide.

If you have any queries about the type of records which you are required to keep, please telephone the Helpline (Appendix 1 of this Guide refers). A form MQ/25D is available for direct sellers to assist them in maintaining their records. Please telephone our Helpline if you would like a copy of this form. A form MQ/25D is included in the direct sales package which we send out at the end of the quota year.

## Part 7

### Purchasers

Producers who wish to deliver milk on a wholesale basis must use a purchaser approved by the Rural Payments Agency.

This section explains:

- the rules that apply to an approved purchaser, and
- how to apply for approval as a purchaser.

More detailed information on those areas of the milk quotas system most relevant to purchasers is provided in the Milk Quotas Purchaser's Handbook which is available on our website [rpa.defra.gov.uk](http://rpa.defra.gov.uk) by following the links to Milk Quotas. Copies are provided to all approved purchasers.

#### Approved purchasers

A "purchaser" is defined as a person or firm who buys milk wholesale from a producer to: Council Reg. 1234/07, Art. 65

- treat or process – including contract processing, or
- sell on to another person or firm to treat or process.

However, contract processing is also defined as a delivery and it is possible that milk is not purchased in these circumstances. It is still necessary for someone who contract processes on behalf of a third party to be approved as a purchaser.

Because they have an important role to play in the operation of the milk quotas system, all purchasers operating in a Member State must be approved by the relevant organisation in that Member State. In the UK, this is the Rural Payments Agency. Comm. Reg. 595/04, Art.23

Approval by the Rural Payments Agency does not imply any judgement about the commercial status of a particular purchaser. It means that they have: Comm. Reg. 595/04, Art.23

- registered with the Rural Payments Agency, and
- agreed to comply with the milk supplementary levy regulations.

A list of approved purchasers is available from the Rural Payments Agency.

#### A purchaser's obligations

All registered purchasers must: DPQR, Reg. 6

- keep records relating to producers and their deliveries, quotas and butterfat content,
- take regular samples of each product delivered by each producer, and
- have the samples analysed to establish their fat content.

They must also send to the Rural Payments Agency:

- regular statements of the deliveries they have received from producers; and DPQR, Reg. 33
- an annual statement of total deliveries and butterfat content by 14 May (form MQ/13); and Comm. Reg. 595/04, Art. 8(2)
- a list of producers who are registered with them but who have made no deliveries during a quota year; and Comm. Reg. 595/04, Art. 8(2)
- a list of producers who are registered with them who stopped making deliveries during a quota year; and Comm. Reg. 595/04, Art. 8(2)
- a form MQ/10 for a producer joining them from another purchaser group. DPQR, Reg. 23

They must calculate and collect the levy due from each producer within their group. To do so they must:

- calculate each producer's volume and butterfat-adjusted delivery figures,
- adjust each producer's delivery figures to take account of the fat content of their deliveries,
- send the details of each producer's deliveries to the Rural Payments Agency as part of their MQ/13 Annual Return,
- confirm their final levy position to the Rural Payments Agency,
- use the final levy statement supplied by the Rural Payments Agency to calculate and confirm each producer's individual levy bill, and
- collect any levy due and pay it to the Rural Payments Agency.

Purchasers must also agree to comply with the quota regulations and conditions which cover:

- keeping the Rural Payments Agency informed of changes affecting their business, premises and laboratories, and
- the retention of records and their availability for inspection by authorised officers

### **Changing your milk purchaser**

If you change milk purchaser, your new purchaser must send us form MQ/10, DPQR, Reg. 23  
(*adjustment of purchaser quota*), by 14 May following the end of the quota year.

### **Applying for approval**

You can apply for approval as a purchaser using a form MQ/11 *Application for approval as a purchaser*.

Approval is not automatic. Before it is granted, inspection visits will take place to your business premises and your laboratory to ensure that both can meet our standards.

Please contact our Helpline (Appendix 1 of this Guide refers) if you are considering applying for approval to act as a purchaser.

## **Withdrawal of approved status**

If a purchaser does not comply with the Dairy Produce Quotas Regulations, the RPA may withdraw their approved status. Purchasers are required to inform their producers if their approved status is withdrawn. Comm. Reg. 595/04 Art. 23(3)

## Part 8

### Transferring quota

Milk quota, both wholesale and direct sales, can change hands when:

- there is a change of occupation of the land to which it is attached, or Council Reg. 1234/07 Art. 74
- producers agree to transfer quota between them without land. After quota has DPQR, Reg. 13 been transferred without land, the quota becomes attached to the holding occupied by the transferee.

This section sets out how quota can be transferred from one producer to another:

- with land, and
- without land.

#### Taking your milk quota to a new farm

When land changes hands, the milk quota should, as a general rule, be transferred to the new legal occupier. Council Reg. 1234/07 Art. 74

If all those with an interest in the holding agree, a producer can take his quota - or part of his quota – with him to a new farm. The movement of the quota must be notified to the RPA on form MQ/1 as a transfer without land. If you are not going to produce milk at your new farm, you will not be able to take your milk quota.

#### Transferring quota

Milk quota may be transferred permanently: Council Reg. 1234/07 Art. 74

- through a sale of the land to which it is attached,
- through the granting of a lease or tenancy of a minimum duration over the land to which it is attached,
- through the termination of a lease or tenancy of a minimum duration,
- through inheritance or gift of the land, or
- through statutory succession to a tenancy.
- without land

#### Lease of land

If a new tenancy is granted over land to which quota is attached, the quota must be transferred to the new occupiers, even if they are not in milk production. This does not apply when a tenancy is granted is when the tenancy being granted is of less than the minimum duration laid down in the quota regulations: DPQR, Reg. 16(1)(b) for land in England

- in Scotland – 8 months, DPQ(Scotland)R, Reg. 16(1)(b)
- in England and Wales – 10 months, and DPQ(Wales)R, Reg. 16(1)(b)
- in Northern Ireland – 12 months. DPQR(NI), Reg. 16(1)(b)

## Operative date of a transfer

The 'operative date of transfer' for transfers with land is the date the right to occupy the land changes.

- if you are selling the land, it will be the date of completion of the sale,
- if you are selling the quota on the basis of a land lease, it will be the date the land lease commences, as specified in the agreement,
- if you are a landlord transferring quota to a tenant at the start of a tenancy it will be the date the tenancy commences , and
- if you are a tenant transferring quota at the end of a tenancy, it will be the date the tenancy terminates. If the incoming tenancy does not commence on the same day as the outgoing tenancy terminates, the quota should be returned to the landlord for the interim period.

## Registering a transfer with the RPA

The producer taking over the land and/or quota must apply to us to register the quota transfer using form MQ/1 *Application to register the permanent transfer of milk quota*. DPQR, Reg. 9(2)

You must submit your application as soon as possible after the operative date of transfer.

If the change happens at the end of the quota year your form MQ/1 must be received by 31 March. Forms received after this date will not be accepted.

Faxed forms will not be accepted.

## Apportioning quota to land before the transfer

### If an entire holding is transferred

The producer taking over the land has an automatic right to all the quota attached to the holding at the operative date of transfer. Council Reg. 1234/07, Art.74

### If part of a holding is being transferred

The producer transferring the land must decide how much of their total quota is attached to the part of their holding which they are selling or leasing. DPQR, Reg. 10

To do this, they must divide the quota attached to the entire holding between the different parts of the holding.

The allocation or 'apportionment' of quota must:

- take into account which areas are used for milk production, and
- be agreed by everyone with a legal interest in any part of the holding, e.g. a landlord or mortgagee.

The apportionment must be agreed by anyone with an interest in any part of the holding, even if they do not have an interest in the area of land being transferred. The resulting apportionment should not normally exceed the DEFRA guideline of 20,000 litres per hectare.

**Disputes over apportionment**

Schedule 1 of the English, Welsh and Northern Ireland Regulations, and Schedule 2 of the Scottish DPQR give details on the apportionment of milk quota by arbitration in England and Wales, Scotland and Northern Ireland. DPQR

If agreement on apportionment of quota cannot be reached, the matter should be referred to arbitration.

The transferor and transferee can jointly decide who they wish to arbitrate on the matter. You must notify the Rural Payments Agency of the appointment of an arbitrator.

Alternatively, in England and Wales, the transferor or transferee can make an application to the President of the Royal Institution of Chartered Surveyors (RICS) for the appointment of an arbitrator. The applicant must notify the Rural Payments Agency of the application to RICS.

Applications for the appointment of an arbitrator in Northern Ireland should be made to the President of the Law Society of Northern Ireland. In Scotland, applications should be made to the Scottish Land Court.

All arbitrations shall be conducted in accordance with the provisions of the relevant Schedule and the arbitrator shall base his award on findings made by him as to the areas used for milk production in the last five year period during which production took place before the change in occupation. An arbitrator will charge a fee for carrying out the apportionment.

**Prospective apportionment of Quota to Land**

'Prospective apportionment' is a legal agreement between the occupier of the land and others with an interest in it, which allocates quota to the different parts of a holding. This means that if you want to sell or lease part of the holding, the amount of quota apportioned to the land is already agreed. DPQR, Reg. 11

The 'prospective apportionment' must:

- take into account which areas are used for milk production, and
- be agreed by everyone with a legal interest in any part of the holding, e.g. a landlord or mortgagee.

The agreement you make must be recorded and sent to us on form MQ/8 *Prospective apportionment of quota*.

It then remains valid and binding for six months from the operative date on the form unless the producer who holds the quota, and all others with an interest in the holding, revoke it by writing to us. The prospective apportionment form does not cover transfers without land.

**Land transfers without quota**

Land to which quota is attached cannot be transferred by

- sale,
- the granting of a lease or tenancy,
- the termination of a lease or tenancy, or
- inheritance, gift or statutory succession to a tenancy

without the quota also being transferred – even if the incoming occupier does not want the quota.

Where the Rural Payments Agency identifies that a quota holder has transferred land by one of the above means without quota, it will take the necessary steps to rectify matters. This may involve the quota being automatically registered to the current occupier, or taken into the National Reserve.

### **Quota transfers without land**

Any quota holder may transfer out quota without land, subject to the agreement of everyone with an interest in the holding. Only a producer may transfer in quota without land, i.e. someone who is currently in production or who will be starting production in the very near future.

Once transferred, the quota attaches to the holding of the transferee. All of the rules about the apportionment and transfer of quota apply to the quota on the new holding from that point.

### **Used and unused quota**

You can transfer used or unused quota at any time during the quota year. When you calculate how much of your quota is used, you **must** take into account:

- direct sales you have already made, and/or
- wholesale deliveries you have already made, adjusted for butterfat.

If you transfer out used quota we will:

- register the permanent transfer of the quota to the new holder (the transferee),
- recalculate their future butterfat base to take account of the newly-acquired quota, and
- temporarily return the used quota to you for the rest of the current quota year, at your own ongoing butterfat base.

The producer taking over the used quota cannot produce against it until the beginning of the next quota year

The used quota will remain registered with your purchaser until the end of the current quota year for the purposes of the levy calculation.

If you transfer out wholesale quota we will notify your milk purchaser before we process the transaction, to allow them to check that used quota is not being transferred out as clean.

If the quota being transferred is not as described on the MQ/1 application form, the RPA will process the transfer for the lower available amount only.

### **Geographical restrictions on transfers**

You must not transfer quota to or from any of these groups of Scottish Islands, where that transfer would result in an increase or reduction in the total amount of quota available for use within the ring-fenced areas:

1. Orkney (except for the island of Stronsay)

DPQR, Reg. 16

2. The islands of Jura, Gigha, Arran, Bute, Great Cumbrae and Little Cumbrae, the Kintyre peninsula south of Tarbert and part of the Cowal peninsula.

There are no other restrictions on the transfer of quota between regions or purchaser groups.

### **Changes in butterfat base after a permanent transfer**

If the butterfat base of any wholesale quota you transfer in differs from your ongoing or permanent butterfat bases, your ongoing and permanent butterfat bases will be recalculated. In each case, your new base will be the average of the butterfat base of the quota transferred in and your existing butterfat base, taking account of the amounts of each.

Comm. Reg. 595/04, Art. 7

Details of the calculation are given in Part 10 of this Guide.

### **Verification and surveillance of transfers**

Throughout the year, we may carry out additional checks on quota transfer forms to ensure that the details given are accurate. The checks may include:

- asking for evidence that there has been a genuine transfer of the land in question,
- checking that quota which has been used has not been transferred as unused,
- checking that other parties with an interest in the producer's holding have agreed to the transfer, or
- checking that the transferee is in milk production.

The checks will normally be made before the quota register is amended but we reserve the right to correct the register if incorrect information is given on the notification of transfer.

### **Processing your transfer**

#### **Acknowledgement**

We will normally aim to acknowledge your transfer form within 5 working days of receipt. At exceptionally busy periods there may be some delay. The letter will be sent to you or to your agent, if you have used one.

The acknowledgement letter will give:

- a batch/document reference number - please use this if you need to contact us about the form, and
- a telephone number to contact us if you have any queries.

#### **Time taken to process forms**

At the start of each quota year, we have to ensure that all quota movements relating to the previous quota year have been completed before we can start to process the new intake of transfers. As a result, it will be mid June before we can confirm any of the new year movements.

At other times, we aim to confirm most transfers within four weeks of receipt if you have filled the form in correctly, unless:

- we need additional documentation,
- the transfer is selected for surveillance checks, or
- there are difficulties with the quota being transferred or the validity of the transfer.

## Enquiring about progress on a form

If you have not had your transfer confirmed within 4 weeks (except at the beginning of the quota year), please contact your agent in the first instance.

If you did not use an agent or need to contact us direct, please be prepared to quote:

- your form's batch/document reference number (obtainable from your agent, or shown on the acknowledgement letter), and
- your trader registration number.

We will ring you back as soon as possible with an explanation of any delay.

## Letters of authority

The form must be signed by both transferor and transferee. Where the form is signed by an agent on behalf of either party, we require a letter of authority authorising the agent to sign milk quota transfer forms on behalf of the business. The letter of authority must be signed by a partner, director or other authorised official (i.e. someone who is authorised to sign on behalf of the business).

The letter of authority must be signed before the quota transfer is entered into and will be accepted for a single transfer only, to which it must be attached.

You cannot restrict a letter of authority to a certain total amount transferred, as we do not check amounts given on letters of authority. The Rural Payments Agency will take no account of volumes, butterfat details or prices included in letters of authority.

If you wish to revoke a letter of authority, you must do so in writing to the Rural Payments Agency. You cannot revoke authority for transfers which have already been submitted to the Rural Payments Agency.

## Order of processing

The Agency normally processes transactions in order of receipt, **not** in operative date order. Having said that, there is no guarantee that a form that is received before another will be recorded first on the quota register. If it is important that transactions in which you are involved are processed in **operative date** order, e.g. so that the outcome in terms of butterfat is what you expected, you and/or your agent must ensure that:

- each transfer or lease which is part of a series is accompanied by a covering letter listing all forms in the series and the order in which they are to be processed, and
- the requested order of processing reflects the operative dates of the transactions involved.

We cannot undertake to process a series of transactions in operative date order unless these conditions are fulfilled. We will not reverse a series of transactions and re-process them in a different order if you have not met the instructions above.

### **Confirming the registration of the transfer**

We will write to you to confirm:

- that we have entered the transfer on the quota register,
- the changes to your quota and your permanent, ongoing and future butterfat bases (where applicable),
- the details of the producers and purchasers involved, and
- your quota position following the transfer.

Confirmation will be sent to you even if your form was submitted through an agent.

We will send a summary report of the change in quota to your milk purchaser. These reports are sent at weekly or fortnightly intervals. If your purchaser is waiting for you to transfer or lease in additional quota before releasing a withheld payment, they may not receive notification from us for up to two weeks. You should therefore take steps to inform them yourself when you receive your confirmation letter from us.

## Part 9

### Leasing quota

Leasing of quota is an agreement between producers to make a temporary transfer of unused quota without land.

Council Reg. 1234/07 Art. 73  
DPQR, Reg. 15

- The temporary transfer lasts for the current quota year.
- The leased quota reverts to its original holder at the start of the next quota year.

This section sets out the rules for leasing quota.

#### Leasing arrangements

- Both wholesale and direct sales quota may be leased.
- Wholesale quota may be leased between producers supplying the same or different purchasers.
- Quota holders who ceased production in the previous quota year cannot lease out their quota.
- Notification of leasing arrangements must be received by the Rural Payments Agency by 31 March each year.

Council Reg. 1234/07 Art. 73  
DPQR, Reg. 15(4)

#### Amount of quota available for leasing

Producers wishing to lease out quota must comply with the following conditions. You cannot lease out:

- all of your quota,
- **used** quota,
- quota which you have leased in, or
- following a permanent conversion, any quota of the type to which you have converted, in the same quota year (unless you did a temporary conversion of the same type in the previous year).

Council Reg. 1234/07 Art. 73  
Council Reg. 1234/07 Art. 73  
DPQR, Reg. 15(1)  
DPQR, Reg. 22

To work out how much wholesale quota you have left to lease out:

1. Identify the amount of quota potentially eligible for leasing, i.e. your start-of-year quota plus any unused quota transferred in. Do not include:
  - any used quota transferred in
  - any quota leased out.
2. Calculate your butterfat adjusted milk production by comparing the fat content of the milk you have delivered with your ongoing butterfat base. You should note that if you have previously leased in quota, your ongoing butterfat base might change if you lease out.
3. Subtract from the figure derived at paragraph 2 above, the amount of leased in quota. Then subtract the remaining figure from the amount identified at paragraph 1 above.

4. The quota left after this calculation will be the amount available for leasing out.
5. If the quota is not as described the RPA will process the lease for the amount of unused quota available only.

### **If you are a tenant**

If you rent your holding:

- you may need the agreement of the person who owns the land before you can lease out your quota (*This depends on your tenancy agreement or any other legal agreement with them*), and
- you must let them know you intend to lease your quota.

### **Geographical restrictions on leasing**

Wholesale producers or direct sellers within a Scottish Islands Area (i.e. those who have 50% or more of their dairy enterprise within the ring-fenced areas listed below) may not lease quota in or out, except to other wholesale producers or direct sellers within the same Scottish Islands Area. DPQR, Reg. 16(2)

The ring-fenced areas to which the restrictions apply are:

1. Orkney (except for the island of Stronsay)
2. The islands of Jura, Gigha, Arran, Bute, Great Cumbrae and Little Cumbrae, the Kintyre peninsula south of Tarbert and part of the Cowal peninsula.

### **Notifying the Rural Payments Agency**

You must tell us about leases of quota using:

- Form MQ/3 *Notification of temporary transfer (lease) of milk quota*,

The forms must be received by the Rural Payments Agency, with the administration fee stated on the form, by 31 March (the leasing deadline). Senders should therefore consider using a delivery service which provides guaranteed delivery of the item posted. Faxed forms will not be accepted. DPQR, Reg. 15(4)

### **Processing of leases**

#### **Acknowledgement**

We will normally aim to acknowledge your leasing form within 5 working days of receipt. At exceptionally busy periods there may be some delay. The letter will be sent to you or to your agent if you have used one.

The acknowledgement letter will give:

- a batch/document reference number – please use this if you need to contact us about the form, and
- the telephone number to contact us if you have any queries about your form

## Time taken to process forms

At the start of each quota year, we have to ensure that all quota movements relating to the previous quota year have been completed before we can start to process the new intake of leases. As a result, it will be mid June before we can confirm any of the new year movements.

At other times, we aim to confirm your leases within four weeks of receipt if you have filled the form in correctly, unless:

- we need additional documentation, or
- there are difficulties with the quota being leased.

## Letters of authority

The form must be signed by both lessor and lessee. Where the form is signed by an agent on behalf of either party, we require a letter of authority authorising the agent to sign milk quota leasing forms on behalf of the business. The letter of authority must be signed by a partner, director or other authorised official (i.e. someone who is authorised to sign on behalf of the business).

The letter of authority must be signed before the lease is entered into and will be accepted for a single lease only, to which it must be attached.

You cannot restrict a letter of authority to a certain total amount leased, as we do not check amounts given on letters of authority. The Rural Payments Agency will take no account of butterfat details or prices included in letters of authority.

If you wish to revoke a letter of authority, you must do so in writing to the Rural Payments Agency. You cannot revoke authority for leases which have already been submitted to the Rural Payments Agency.

## Order of processing

The Agency processes leases in order of receipt, **not** in operative date order. If it is important that transactions in which you are involved are processed in **operative date** order, e.g. so that the outcome in terms of butterfat is what you expected, you and/or your agent must ensure that::

- each transfer or lease which is part of a series is accompanied by a covering letter listing all forms in the series and the order in which they are to be processed, and
- the requested order of processing reflects the operative dates of the transactions involved.

We cannot undertake to process a series of transactions in operative date order unless these conditions are fulfilled.

## Butterfat

If you lease in wholesale quota with a different butterfat base from your existing quota, your new ongoing butterfat base will be the average of the butterfat base of the quota leased in and your existing quota, taking account of the amounts of each. When you lease out, the butterfat of the leased out quota will correspond to your permanent butterfat base. Further details on butterfat are given in Part 10 of this Guide.

## **Enquiring about progress**

If you have not had your lease confirmed within 4 weeks (except at the beginning of the quota year), please contact your agent in the first instance.

If you did not use an agent or need to contact us direct, please be prepared to quote:

- your form's batch/document reference number (obtainable from your agent, or shown on the acknowledgement letter), and
- your trader registration number.

We will ring you back as soon as possible with an explanation of any delay.

## **Confirming the registration of a lease**

We will write to you to confirm:

- that we have entered the lease on the quota register,
- the changes to your quota and your ongoing and butterfat base (where applicable),
- the details of the producers and purchasers involved, and
- your quota position following the lease.

Confirmation will be sent to you even if your form was submitted through an agent.

We will send a summary report of the change in quota to your milk purchaser. These reports are sent at weekly or fortnightly intervals. If your purchaser is waiting for you to lease in additional quota before releasing a withheld payment, they may not receive notification from us for up to two weeks. You may wish therefore to take steps to inform them yourself when you receive your confirmation letter from us.

## Part 10

# Butterfat

## Butterfat bases

Each producer who holds wholesale quota has a butterfat base for this quota. Council Reg. 1234/07 Art. 70(1)  
Butterfat bases were allocated to each wholesale producer in 1987/88, based on the average fat content of their milk in 1985/86 (in some cases 1984/85):

## Types of Butterfat base

The quota register shows three butterfat bases for each wholesale producer:

- the **permanent** butterfat base,
- the **ongoing** butterfat base, and
- the **future** butterfat base.

## Permanent butterfat base

A producer's permanent butterfat base applies to permanently held quota; it is attached to any wholesale quota that they transfer or lease out.

Your permanent butterfat base is calculated on the basis of current permanently held quota and may change if you:

- permanently transfer in unused wholesale quota with a different butterfat base, or
- permanently convert direct sales quota to wholesale.

**Current permanently held quota** is defined as the permanent quota held to date which the producer has available for the current quota year to produce against, transfer out or lease out, subject to any restrictions.

## Ongoing butterfat base

A producer's ongoing butterfat base is the base for a particular year.

Your ongoing base is calculated on the basis of your net quota and may change if you:

- permanently transfer in unused wholesale quota with a different butterfat base,
- permanently transfer out unused wholesale quota,
- permanently convert direct sales quota to wholesale,
- lease in wholesale quota with a different butterfat base,
- lease out wholesale quota having previously leased in, or
- temporarily convert direct sales quota to wholesale.

**Net quota is defined** as all of the quota registered in your name at any one time; this includes the effect of all leases in and out, conversions and used amounts, as well as your permanent quota.

### Future butterfat base

A producer's future butterfat base is the base that will currently apply to the following year's permanent quota. This is the base for permanently held quota, including quota which has been transferred in as used. At the start of each quota year your permanent and ongoing butterfat bases are set to your future butterfat base. Your future butterfat base will change if you:

- permanently transfer in wholesale quota (used or unused) with a different butterfat base, or
- permanently convert direct sales quota to wholesale.

**The following year's permanent quota** is defined as quota that will be available to the producer at the start of the new quota year. A record is kept if the producer buys or sells used quota in the current quota year. This is shown on the notification letter.

### Recording to 6 decimal places

The butterfat base of wholesale quota is recorded on the quota register to 6 decimal places. Butterfat bases are calculated to 6 decimal places when processing all quota transactions on the quota register, including:

- permanent transfers,
- temporary transfers (leases), and
- conversions of direct sales to wholesale quota.

The 6 decimal place future butterfat base held on the quota register at the end of the quota year will be carried over to the start of the next quota year.

### Effect of butterfat in calculating the Levy

Purchasers must adjust each of their suppliers' delivery figures to take account of their fat content. Each producer's delivery figure must be adjusted: Council Reg. 1234/07, Art. 80

- upwards, if the fat content of the producer's milk is higher than their ongoing butterfat base, or
- downwards, if it is lower.

The butterfat adjusted delivery figures will be used to calculate the levy.

### Calculation of butterfat adjusted deliveries

Your milk purchaser must calculate the average butterfat content of your wholesale deliveries by the following method:

1. The **monthly average fat content** is the simple average (to 2 decimal places) of the results obtained from all samples taken in a month and tested for butterfat.

2. The **annual average fat content** is the weighted average (to 2 decimal places) of the twelve monthly average fat contents, taking account of the quantity delivered each month.

At the end of the quota year, the weighted average butterfat content of your wholesale deliveries (expressed to 2 decimal places) will be compared to your final, ongoing butterfat base (rounded to 2 decimal places) to calculate your butterfat adjusted delivery figure:

Comm. Reg. 595/04, Art. 10

If the fat content of your deliveries is higher than your ongoing butterfat base, your purchaser will increase your delivery figure by 0.09% for every 0.01% that the fat content exceeds your ongoing butterfat base.

If the fat content of your deliveries is lower than your ongoing butterfat base, your purchaser will decrease your delivery figure by 0.18% for every 0.01% that the fat content falls short of your ongoing butterfat base (to a maximum reduction of 25% if your butterfat base is over 4.50%).

Because the fat content of your deliveries is compared to your ongoing butterfat base to 2 decimal places, we will tell your milk purchaser what your ongoing butterfat base is, expressed both to 6 and 2 decimal places.

Your butterfat adjusted delivery figure will be used in the levy calculation.

### **Butterfat base of transferred and leased quota**

Quota is transferred or leased out at the transferor's permanent butterfat base.

### **Effect of transfers and leases on butterfat base**

#### **Permanent butterfat base**

The permanent base of the transferor does not change when quota is transferred out.

The permanent base of the transferee will be re-weighted when unused quota is transferred in.

The permanent base of the transferee will not change when used quota is transferred in.

The permanent bases of the lessor and lessee do not change when quota is leased.

#### **Future butterfat base**

The future bases of transferor and transferee will be re-weighted when used or unused quota is permanently transferred.

The transferor's future base will be recalculated to take into account the quota which has been transferred out. The transferor's future base will only change if, prior to the transfer out, his permanent and future bases differ, i.e. if he has previously transferred in used quota during the quota year with a butterfat base that differs from that allocated to his permanent base.

The transferee's future base will be the weighted average of his existing future base and the base of the quota transferred in, taking account of the total amount of permanent quota held (including used quota previously transferred in during the quota year) and the amount of quota transferred in (including used quota).

The future bases of the lessor and lessee do not change when quota is leased.

### **Ongoing base**

The ongoing butterfat bases of transferor/lessor and transferee/lessee are recalculated when quota is transferred or leased.

Both parties' ongoing bases will be recalculated as the weighted average of their existing ongoing base and the base of the quota transferred/leased, taking account of their existing net quota and the amount of unused quota being transferred/leased.

Calculation sheets for all of these calculations are at Appendix 6 of this Guide.

### **Butterfat base of SLOM quota**

All restrictions which formerly applied to SLOM2 quota have now ended, and SLOM quota is no longer treated separately on the quota register.

## Part 11

### Conversion of quota

Producers can apply to the Rural Payments Agency to change (i.e. convert) from one type of quota to another. Council Reg. 1234/07, Art. 67(2)

Conversions may be permanent or temporary.

#### Permanent conversion of quota

##### Conditions for permanent conversion

If you are applying to convert quota permanently:

- you must use the converted quota on your own holding, and
- it must be needed because your marketing requirements have changed.

e.g. you have increased, or plan to increase, your direct sales or wholesale deliveries

##### Restrictions following a permanent conversion

You cannot lease out or transfer without land any quota of the type to which you have converted from the date of conversion until the start of the next quota year. DPQR, Reg. 22

##### When the restriction does not apply

The restriction does not apply to a milk producer who applies for a permanent conversion of quota in the quota year following the year in which he was allowed to temporarily convert quota of the same type. DPQR, Reg. 22(6)

##### Release from restrictions

A producer may exceptionally be released from the restrictions imposed following a permanent conversion if their business has been affected by a change, which could not have been avoided or foreseen at the time of the conversion, and which has significantly affected his milk production or his ability to achieve any planned increase in milk production. Examples of exceptional circumstances which might justify the release of a producer from the restrictions are: DPQR, Reg. 22(3)

- the death of a producer
- the inability of the producer to conduct his business over a prolonged period as a result of the onset of ill-health, injury or disability,
- a natural disaster seriously affecting the holding,
- the accidental destruction of buildings used for the purposes of milk production,
- an outbreak of illness or disease seriously affecting the dairy herd,

- the serving of a notice or the making of a declaration under an order made under section 17 of the Animal Health Act 1981 (in Great Britain),
- the making of a declaration under an order made under article 12(1) of the Diseases of Animals (Northern Ireland) Order 1981 (in Northern Ireland),
- the adoption of an emergency order under section 1 of the Food and Environment Protection Act 1985,
- the loss of a significant proportion of the forage area as a result of the compulsory purchase of the holding or part of the holding, or
- the serving of an incontestable notice to quit within any case specified in part I of Schedule 3 to the Agricultural Holdings Act 1986.

### **Butterfat base of permanently converted quota**

We will normally allocate a butterfat base of 3.8% when direct sales quota is permanently converted to wholesale quota. If you meet certain criteria you can to apply for your existing butterfat base for your converted quota. Details are given at the end of this section. Comm. Reg. 595/04 Art. 7(2)

Your new permanent butterfat base will be the average of:

- the base allocated to the converted quota, and
- your permanent butterfat base at the operative date of the conversion,

taking account of the amounts of each.

### **When to send in your application**

You must apply to us to convert wholesale or direct sales quota using form MQ/6

Your application must be submitted no later than 31 December of the quota year in question. DPQR, Reg. 21(3)(a)

### **Acknowledgement**

We will normally acknowledge your conversion form within 5 working days of receipt. At exceptionally busy periods there may be some delay. The letter will be sent to you or to your agent or solicitor if you have used one.

It will give you:

- a batch/document reference number - please use this if you need to contact us about the form, and
- the telephone number to contact if you have any queries about your conversion.

### **Maximum amount of quota which can be permanently converted**

The maximum amount you can permanently convert is your total unused permanent quota at the operative date of conversion.

You cannot permanently convert quota you have:

- leased in
- leased out
- already produced against.

## **Confirmation by the Rural Payments Agency**

We will write to you to tell you when your conversion application has been processed. We will also tell you what butterfat base has been allocated to the converted quota.

## **Keeping your existing (permanent) butterfat base**

You may apply on form MQ/6 to have your quota converted at your existing butterfat base. We may allocate your existing butterfat base to the converted quota if you meet the conditions listed below:

- you currently hold both wholesale and direct sales quota,
- you are an active wholesale producer or you are returning to wholesale production after trying and failing at direct sales,
- you have produced against both types of quota for at least 12 months (at least 80% produced if the quota you are applying to convert was transferred in rather than allocated by the Minister),
- you are converting direct sales quota that you held on 1 April 1994,
- you have produced against any direct sales quota that you are converting, which was transferred in since 1 April 1994, and
- you have not transferred quota in or out and/or converted quota so as to gain an undue advantage from the conversion rules.

Your application will be considered on the basis of these conditions and your individual circumstances, to decide whether the allocation of your existing butterfat base is justified.

If you are not happy with the butterfat base you are offered, you may withdraw the application.

## **Temporary conversion of quota**

### **Conditions for a temporary conversion**

- A temporary conversion applies for one quota year only.
- You can temporarily convert quota that you have leased in.
- You cannot temporarily convert quota that you have leased out or produced against.
- A temporary conversion must be needed because you have either made wholesale deliveries or direct sales in excess of quota.
- The amount of quota you can apply to temporarily convert is the amount you need to offset your excess deliveries or direct sales.

## How to apply for a temporary conversion of quota

- An application for a temporary conversion of quota must be made at the end of the quota year in which the temporary conversion is needed.
- We cannot automatically temporarily convert your quota for you. You must apply to us on form MQ/15 *Annual declaration of direct sales and application for temporary conversion*.
- If you are unsure whether you need to apply for a temporary conversion, we recommend that you make an application. We will assess your application and only process it if you have spare quota to temporarily convert and you need a temporary conversion.
- If you hold direct sales quota, a form MQ/15 will be sent to you in your direct sales package which we send out after the end of the quota year. If you wish to apply for a temporary conversion but do not hold direct sales quota, please telephone the Helpline (Appendix 1 of this Guide refers) and ask for a form to be sent to you.
- Your application must be submitted to us before 15 May i.e. by 14 May. If your application is submitted on or after 15 May, it will not be processed.
- If you have not received a form by the end of April, please telephone the Helpline (Appendix 1 of this Guide refers) and ask for a form to be sent to you.

## Butterfat base of temporarily converted quota

We will normally allocate a butterfat base of 3.8% when direct sales quota is temporarily converted to wholesale quota. If you meet certain criteria you may be able to apply for a higher butterfat base for your converted quota. Details are given below under "Keeping your existing (ongoing) butterfat base".

Comm. Reg. 595/04 Art. 7(2)

Your new ongoing butterfat base will be the average of:

- the base allocated to the converted quota, and
- your ongoing butterfat base after all quota movements for the year have been processed

taking account of the amounts of each.

## Keeping your existing (ongoing) butterfat base

You may apply to have your quota temporarily converted at your existing (ongoing) butterfat base. We may allocate your existing (ongoing) butterfat base to the temporarily converted quota if you meet the conditions listed below:

- You are an active wholesale producer.
- You hold both types of quota i.e. wholesale and direct sales.
- You have produced against both types of quota or you have stopped making direct sales and are reverting to wholesale deliveries.
- You are converting direct sales quota that you held on 1 April 1994.

- If you have transferred quota in since 1994, the butterfat base of any temporarily converted quota will depend upon how much of the transferred quota has been used to cover direct sales.
- You have not transferred quota in or out and/or converted quota to gain an unfair advantage from the rules.

### **Confirmation by the Rural Payments Agency**

If your application is processed, we will write to inform you of:

- The type of quota temporarily converted.
- The amount of quota temporarily converted.
- The butterfat base of the temporarily converted quota, if the conversion is to wholesale quota.

We will send a summary report of the change in quota to your milk purchaser.

If your application is not processed, we will write and inform you why the temporary conversion has not been processed.

## Part 12

### Temporary reallocation of quota following herd movement restrictions

Under the Animal Health Act 1981, the Diseases of Animals (Northern Ireland) Order 1981 and the Food and Environment Protection Act 1985, a formal notice may be served to prohibit the movement of livestock from a producer's holding.

If you have received a notice restricting herd movement you:

- can continue to deliver milk and market milk products,
- may only move livestock off the farm if the animals are going directly for slaughter, and
- must not move or sell on any livestock, except as specified above, including heifers in-calf.

As a result of these restrictions, affected producers may exceed their quota. In these circumstances, a producer can apply for priority treatment when unused quota is being reallocated at the end of the quota year.

As the amount of quota eventually awarded may not meet the full extent of an individual's shortfall, producers affected by a herd movement restriction are strongly advised to do everything they can during the quota year to avoid levy at the end of the quota year.

#### Eligibility for priority reallocation

You can apply for a priority reallocation of unused quota if you have exceeded your quota because your holding has been covered by: DPQR, Reg. 19

- a formal herd movement restriction, or
- an emergency order during the quota year.

To apply, you must also prove that:

- you have exceeded your quota, and
- you have retained first calving heifers in excess of 20% of the number of animals in your herd on the first day of the movement restriction.

However, you will not usually qualify for allocation if:

- you leased out quota between the start of the restriction and the end of the quota year,
- you transferred out unused quota between the start of the movement restriction and the end of the quota year, or
- you bought any cows or in-calf heifers between the start of the movement restriction and the end of the quota year,

*unless* you can provide satisfactory evidence that you already had a contract to do so before the restriction was imposed.

## How to apply for priority reallocation

You must use an application form MQ/16 *Application for temporary reallocation of quota: herd movement restrictions*, available from the Rural Payments Agency or, in the case of Northern Ireland, the Department of Agriculture and Rural Development (DARD). DPQR, Reg. 19(6)

Addresses are given in Appendix 2.

These forms can be requested from the RPA at anytime during the quota year, however, they will not be issued until after the end of the quota year to which the application relates. Your completed form MQ/16 must be submitted to the Rural Payments Agency, or DARD, to arrive by **30 April** after the end of the quota year to which the application relates. Late applications will be rejected. You will be informed whether your application has been successful. However, due to the complexities of the levy calculation, the eligibility for and allocation of quota can not be confirmed until the July following the quota year to which your application relates.

## Amount of quota available for reallocation

The amount you will be reallocated will depend on how much unused quota is left at the end of the quota year. You may not get enough quota to cover all of your excess production.

You may get no additional quota at all. If this happens, you may be liable to levy on every litre of excess production. We therefore strongly advise producers to do everything they can during the quota year to cover their over production.

The maximum we can reallocate to you is 16 litres per day for each eligible animal that the restriction applies to.

We cannot reallocate more than the excess you produced.

## How quota is made available for reallocation

For wholesale producers and direct sellers, unused quota available at the national level will be reallocated according to availability and need.

Should you require any further information regarding the priority reallocation of quota scheme, please contact the Milk Quotas Helpline on 01392 266466

## Part 13

### Levy calculation and payment

A wholesale levy will be payable **only** when total deliveries for the UK as a whole exceed the national Wholesale Quota.

A direct sales levy will be payable **only** when total direct sales for the UK as a whole exceed the national Direct Sales Quota.

The rate of levy is set in the EU regulations and converted into sterling at the euro/sterling conversion rate applicable on 31 March. Details of levy rates are given in appendix 4. Council Reg. 1234/07, Art. 78(1)

You can contact the Helpline (Appendix 1 of this Guide refers) for examples of the rates in recent years.

#### What the Rural Payments Agency does

We are responsible for:

DPQR, Regs. 25-31

- allocating unused wholesale quota to producers who are entitled to a temporary (priority) reallocation,
- allocating unused wholesale quota to producers whose deliveries to a purchaser exceed the quota the producer has registered with that purchaser,
- assessing whether a levy is due,
- calculating the levy,
- sending out bills to direct sellers and purchasers and, in certain circumstances, to wholesale producers,
- collecting the levy, and
- paying the levy to the European Commission.

#### Wholesale Levy

A producer may be liable to pay levy if the volume of milk delivered to his purchaser (adjusted for butterfat) exceeds the quota he has registered with that purchaser. The levy is calculated at producer level for each producer within a purchaser group and is based on the butterfat-adjusted volume of milk delivered. The total levy payable by the purchaser group is then calculated and the wholesale levy bill issued to the purchaser. They must then collect the levy from those producers who contributed to the overrun. Council Reg. 1234/07, Art. 79

#### Reallocating unused quota at national level

The reallocation of unused quota is no longer carried out at the level of the purchaser. Since the 2004/05 quota year, the reallocation has been carried out at national level, so all wholesale producers have the same percentage level of threshold.

## How the quota is shared out

We will compare each producer's deliveries to each of their purchasers with the quota they have registered with that purchaser. We will then:

- add any unused quota to the National Reserve,
- allocate quota to producers who qualify for a priority reallocation, and
- distribute the remaining unused quota to producers whose deliveries to a purchaser exceed the quota they have registered with that purchaser.

When we share out unused quota and quota from the National Reserve, we will divide it up among those producer/purchaser combinations which need extra quota in proportion to the amount of their net registered quota.

Once we have distributed unused quota in this way, the purchaser will have to pay a levy on any milk delivered which is still in excess of its total quota, and collect that levy from the producers concerned.

## Withholding payments to producers

If a producer has exceeded the quota they have registered with a purchaser, the purchaser can withhold payment for any further deliveries. Council Reg. Art. 11(3)

The amount a purchaser can withhold cannot be more than the maximum potential levy liability on the excess quantity.

## Collecting the levy

Comm. Reg. 595/04 Art. 13(1)

We will send an invoice to the purchaser for the total amount of levy it has to pay. DPQR, Reg. 29

Purchasers must make their own arrangements to collect the appropriate amount from each producer who has exceeded his quota.

If the purchaser does not collect the levy from the producers and fails to pay it to the RPA, we will take steps to recover the outstanding levy from the producers.

## Paying the levy

Purchasers must pay the levy before 1 October each year. We will charge interest if the payment is late. Comm. Reg. 595/04 Art. 15(1)

The rate of interest will be one per cent more than the sterling three-month London interbank offered rate (LIBOR). DPQR, Reg. 31(6)

## Direct Sales Levy

Producers who market a quantity of milk and/or other milk products directly for consumption in excess of their direct sales quota may be liable to pay levy. Council Reg. 1234/07, Art. 79

A direct sales levy is payable only when total direct sales for the UK as a whole exceed the total direct sales quota.

## The dilute rate of levy

The total direct sales levy for the UK is calculated using the same rate of levy as is charged for wholesale deliveries. However, in order to allow producers who are over quota to benefit from all available unused quota, they are charged levy at a 'dilute' rate. The amount by which the levy is diluted will therefore depend upon the amount of spare quota available. DPQR, Reg. 30

## Calculating direct sales levy

There are two rates of levy:

- a lower or 'dilute' rate for producers whose declarations are received on time and
- a full rate for anyone whose declaration is submitted after 14 May or for any direct sales that are not included in the declaration.

## Calculation of the dilute rate of levy

The dilute rate is calculated using the following method:

1. Direct sales declarations for the UK are collected by the deadline of 14 May.
2. The amounts of direct sales on the declarations are totalled.
3. The total of direct sales quota (including any temporary conversions) allocated to those producers who have returned their annual declarations by the deadline is calculated.
4. Any awards to producers qualifying for temporary reallocations following herd movement restrictions are made.
5. The level of direct sales at (2) is compared with the level of direct sales quota after (4) has been implemented.
6. If there is a surplus of quota over sales, there is no levy payable for any direct seller included in the calculation.
7. If direct sales exceed quota, a levy will be charged to all producers who are over quota.
8. The amount of direct sales by which the UK exceeds direct sales quota is multiplied by the full rate of levy to give a total UK direct sales levy bill.
9. The declarations of those producers who were over-quota are separated and their total over-production is calculated.
10. The level of over-production at (9) is divided into the total UK direct sales levy bill to give a dilute rate of levy.
11. The producers identified at (10) are levied at the dilute rate.
12. All producers whose declarations are not included in the levy calculation are levied on over-production at the full rate of levy, as are producers who have failed to declare all their sales on their annual declaration.

## Collecting the direct sales levy

If you have incurred a direct sales levy, we will send you an invoice.

## Paying the levy

Once the levy has been calculated, any invoices issued for levy become due for payment before 1 October. Interest is charged on payments received on or after 1 October. Comm. Reg. 595/04, Art. 15(1)

Where producers are subsequently found to have submitted an incorrect annual declaration and levy is due on direct sales which were not declared, interest will be backdated to 1 October of the year in which the levy was due.

The rate of interest will be one per cent more than the sterling three-month London interbank offered rate (LIBOR). DPQR, Reg. 31(6)

## Part 14

### Confiscation and restoration of quota

If a producer does not comply with the rules that apply to their quota allocation, we may confiscate all or part of that quota.

We will place the confiscated quota in the National Reserve and send you a Notice of Confiscation to inform you of our actions. Council Reg. 1234/07, Art.72

This includes cases where the producer:

- obtained the quota by fraud,
- did not send in his direct sales annual declaration of marketing form on time, Comm. Reg. 595/04, Art.11(4)  
or
- has not produced against his quota during a quota year Council Reg. 1234/07, Art.72(1)

This section sets out the rules for confiscation of quota.

#### Fraud

We may confiscate your quota if we find that you obtained it by fraudulent means. DPQR, Reg. 40(3)  
For example, if:

- a false statement was made in order to obtain it, or
- a document was used in support of an application which was found to contain false information or a false declaration.

#### Sending in declarations of direct sales

You must make a declaration of your direct sales and this must be submitted before 14 May each year. Comm. Reg. 595/04, Art.11(2)

#### If you do not send in an annual declaration

We will give you 15 days' notice of impending confiscation (if you do not submit your declaration by 15 June). Comm. Reg. 595/04, Art.11(4)

If we have then not received your declaration after the 15 days' notice, we will confiscate your direct sales quota with effect from the start of the quota year following the year for which the declaration should have been submitted. We will send you a Notice of Confiscation to advise you of our action. Comm. Reg. 595/04, Art.11(4)  
DPQR, Reg. 38(2)

## **Non-production against quota**

We will confiscate your entire quota if you fail to produce against any of your wholesale or direct sales quota during the previous quota year.

Council Reg. 1234/07, Art.72(1)  
DPQR, Reg. 38(1)

If you have permanently transferred or leased quota off your holding during the quota year, or have bought used quota, your quota will still be liable to confiscation if you have not yourself produced against it.

The confiscation will take effect on 1 April of the quota year following the year in which you failed to produce against quota. If you hold wholesale quota, as well as informing you, we will also inform your milk purchaser of the confiscation.

## **Restoration of quota**

If your quota has been confiscated because you did not produce against it, the quota that you had can be restored if you or a subsequent occupier of your holding resume milk production on the land to which the quota was attached. Requests for restoration must be made by a producer within 2 years of the start of the quota year in which the quota was confiscated and the quota will be restored to the producer returning the land to milk production. If your direct sales quota has been confiscated because you did not submit a declaration on time, it can be restored from the beginning of the quota year following the quota year in which the relevant declaration is received by us.

Council Reg. 1234/07, Art.72(1)  
DPQR, Reg. 39(2)

### **When to apply to have quota restored**

You, or a new occupier of the land, must let us know when you want the quota to be restored by completing form MQ/43.

We must receive your form within two years of the start of the quota year in which the quota was confiscated.

Council Reg. 1234/07, Art.72(1)

If your direct sales quota was confiscated because you did not return your annual declaration, you must complete and return form MQ/15 for the relevant quota year (and any subsequent year for which a declaration has not been submitted) before your quota can be restored.

DPQR, Reg. 39(2)(b)

Quota can only be restored to a producer and restoration is made in proportion to the land returned to milk production.

DPQR, Reg. 39(1)

## Part 15

### Record keeping

Producers, purchasers, processors, hauliers, laboratories and persons buying, selling or supplying milk or milk products obtained directly from a producer or purchaser must keep records on a daily, monthly and annual basis. This section lists the records to be kept by producers and direct sellers.

Your monthly records must cover a calendar month.

The requirement to maintain records is published in the Schedule 2 to the DPQR 2005, as amended. Failure to maintain the records listed will result in a penalty being raised under Regulation 36 of the DPQR (England, Wales, Scotland and Northern Ireland)

#### Why you must keep records

The Rural Payments Agency uses your records to confirm that the levy has been correctly calculated as required by EC Regulations.

If you cannot supply records of the milk or milk products produced, marketed or delivered in any year, we will make an estimate for that year using any available information, and calculate any levies using that estimate. DPQR, Reg. 30(4)

#### The records you must keep

DPQR, Schedule 2

##### Daily records

You must record how much milk your herd produces each day.

DPQR, Schedule 2

##### Herd records

You must keep up-to-date records of all the cows and calved heifers used for milk production. This must include: DPQR, Schedule 2

- their breed,
- how many are in milk,
- how many have run dry,
- the date of any births, and
- the details and dates of any deaths.

You must also keep records of stock joining or leaving your herd. This includes:

DPQR, Schedule 2

- their origin or destination,
- the date you moved them, and
- their identification marks.

You must also keep invoices for any feed purchased for the herd.

DPQR, Schedule 2

## Details of your quota

You must keep records of:

DPQR, Schedule 2

- quota you hold permanently,
- any leases of quota you have been involved in, and
- any transfers of quota you make.

### Other records you must keep

You must record the quantities and type of milk and milk products which have been produced on the holding that you have:

DPQR, Schedule 2

- transferred free
- had destroyed under licence from Defra or any other government body.
- fed to livestock on the farm,
- used for domestic consumption and/or,
- wasted on farm

(If you are a direct seller and hold less than 4,855 litres of direct sales quota then the final 3 bullet points above do not apply)

Comm. Reg. 595/04 Art. 24(6)

If appropriate, you may also be asked to record the quantities and type of milk and milk products produced on the holding which:

DPQR, Schedule 2

- are in stock on the holding, or
- you have bought, exchanged or otherwise received, with copies of sales invoices.

You must also keep details of milk you have sold to a wholesale purchaser, including:

DPQR, Schedule 2

- the quantity supplied,
- the purchaser's name and address,
- payment slips from the purchaser, and
- tanker receipts, where there are discrepancies between the original purchaser's payment slip and the tanker receipt.

### If you are a direct seller

If you are a direct seller, you must also record details of:

DPQR, Schedule 2

- quantities of milk processed,
- the method of processing,
- quantities and types of milk products produced,
- quantities of whole milk used in the production of milk products (i.e. the conversion rates), and
- milk and milk products marketed direct for consumption.

**All** milk that leaves a holding counts against quota, even if the producer does not receive a financial return for it. This includes milk contaminated with antibiotics. Contaminated milk disposed of on the holding does not count against quota.

Comm. Reg. 595/04, Art. 6

Milk taken off the holding for destruction under sanitary measures to protect human or animal health will not count against quota providing the movement is licensed by a duly authorised body.

Comm. Reg. 595/04, Art. 6

## **Powers of authorised officials**

An authorised officer will ask to access premises to ascertain whether activity governed by EU legislation in respect of milk quotas is being carried out in accordance with Community requirements. A relevant person is defined as a producer, a purchaser, any employee or agent of a purchaser, any milk haulier, or any person undertaking butterfat testing for a purchaser in a laboratory or any person involved in the buying, selling or trading of milk or milk products direct from a producer or milk purchaser (whether approved or unapproved). Visits for inspection purposes are usually made by appointment at a mutually convenient time.

Producers are required to render reasonable assistance to the officer and, in the case of records held on computer, to provide records in a form which may be taken away.

In some cases, visits may be made without prior announcement. Officers are also authorised to seize any record which they have reason to believe may be required as evidence.

## Part 16

### Keeping us up to date

The quota register holds details of:

- quota currently registered with each quota holder, and
- all former quota holders who have held quota or received compensation payments since 1994.

To make sure we keep the register up to date, you must let us know immediately of changes to:

- your trading title,
- your correspondence address,
- the status of your business (e.g. if you begin trading as a limited company),
- the members of a partnership (even if the trading title has not changed),
- your bank details (to enable you to receive payments by BACS), and
- your VAT number.

If you submit a quota transfer or leasing form showing your new trading title or new correspondence address, but have not informed us of the change separately, the processing of your transfer or lease will be delayed until the quota register has been amended.

#### Telling us about changes to business details

All requests for changes to a quota holder's business should be referred to our Customer Service Centre. Trading title and address changes will require further checks by the Milk Quotas section and we will contact you for more information. If you have not heard from us within a month of your initial contact with the Customer Service Centre, please call the Milk Quotas Helpline.

#### Changes of legal entity

If the information you give shows that a different business or legal entity is now in occupation of the land to which the quota is attached, you may need to apply for a separate registration for the new business (CREG 01 available from the Customer Service Centre Newcastle) and submit a form MQ/1 *Application to register the permanent transfer of milk quota with land* (Part 8 of this Guide refers) to transfer the quota.

#### On the death of a quota holder

When a quota holder dies, the quota register may need to be amended. The type of change will depend upon the quota holder's status i.e. whether the deceased was:

- a sole proprietor  
or
- a member of a partnership.

### **Sole proprietor trading in own name**

Initially, the Customer Register entry may need to be amended to allow the personal representatives of the deceased to sign Milk Quota documentation.

To enable us to identify the executors or administrators of the deceased, you will be asked to supply one of the following documents to the Customer Service Centre:

- **if the deceased left a will** – the Grant of Probate (original or certified copy),  
or
- **if the deceased died intestate** – the Grant of Letters of Administration (original or certified copy).

### **When the estate is settled**

The quota will need to be sold or transferred to the beneficiaries or successors of the deceased with any land it is attached to.

If the holding is to be split between beneficiaries, any apportionment of quota must take account of the areas of land used for milk production. The quota would then be registered in the names of the new occupiers of each part of the holding.

Quota cannot be detached from land in a will. You cannot leave land to one person and quota to another: the quota must be registered in the name of the person or business that takes over the holding. However, it is possible to transfer the quota without land if the beneficiary is a producer – see part 8 – Transferring Quota.

Beneficiaries must be registered with the Rural Payments Agency (Part 3 of this Guide refers) before the milk quota can be transferred to them via a form MQ/1 *Application to register the permanent transfer of milk quota*.

### **If the sole proprietor was a tenant**

The changes to be made to the quota register will depend upon the future occupation of the holding:

- if the entire holding reverts to the landlord – the quota will be transferred to the landlord,
- if the holding is transferred to a new tenant by statutory succession - the quota will be transferred to the new tenant, and
- if only part of the holding reverts to the landlord - the quota must be apportioned between the landlord and the new occupier.

The apportionment of quota must be agreed by all parties with an interest in the holding and should take account of the areas of land used for milk production.

### **If the deceased was a member of a partnership**

Any amendments to the customer register will depend upon the nature of the partnership and the decisions taken by the surviving partners and executors.

### **If the partnership is retaining the quota**

If the terms of the partnership state that the deceased partner's share in the business passes automatically to the survivors and the surviving partner or partners:

- wish to continue under the same trading name, they need to inform the Rural Payments Agency of the change of circumstances but need to take no further action.
- wish to change their trading title, a form MQ/33 along with documentation to support the change, e.g. a copy of the death certificate and partnership agreement, if relevant, should be submitted to us.

### **If the deceased's share of the partnership passes to the estate**

The personal representatives of the deceased will determine what happens to the milk quota. Account must be taken of the areas of land involved and the apportionment of quota.

We may need to see an original or certified copy of the Grant of Probate or Letters of Administration to identify the personal representatives.

## Part 17

### Requesting information

The Rural Payments Agency will supply, in writing, details on the quota register relating to a specific holding to anyone who: DPQR, Reg. 7

- is the quota holder or producer, or
- gives the Rural Payments Agency a statement in writing declaring that they have a legitimate interest in that holding.

#### The information provided

We will supply the following details:

DPQR, Reg. 7

- the quota holder's correspondence address,
- the amounts of wholesale and direct sales quota held, and
- the butterfat base of the wholesale quota.

This will be the information held on the quota register at the time the details are sent. The figures provided will relate to the quota holder's entire holding. We cannot provide a breakdown for individual farms.

We can also supply some details of past quota transactions. In most cases, this would include summary sheets covering the periods 1984 to 1994 and 1994 to date. For some producers, however, a complete history will not be available. We will let you know if we are unable to supply you with a complete quota history.

#### Enquiries from the quota holder or their agent

You can get a copy of your own register entry by contacting the Rural Payments Agency.

We can also supply some details of past quota transactions. In most cases, this would include summary sheets covering the periods 1984 to 1994 and 1994 to date. For some producers, however, a complete history will not be available. We will let you know if we are unable to supply you with a complete quota history.

We need your written authority to pass on any information to your agent or to send the information to any address other than the one on the quota register.

You may use a form MQ/42 *Authority to release information held on the quota register* to authorise us to release information to a third party.

We will normally post details within 3 working days of receipt of the request.

## Enquiries from someone with an interest in the holding

Anyone else who wants to see the information held on the register must:

- have a legitimate interest in that holding, such as a landlord or mortgagee, and
- give us a statement in writing declaring that interest.

They must request the information by submitting a form MQ/9 *Request for information held on the quota register* to the Rural Payments Agency. There is an administration charge for supplying quota details using form MQ/9. Details of the current charge may be obtained by contacting the Helpline (Appendix 1 of this Guide refers).

A separate form must be completed for each register entry.

### Checking that the enquiry is legitimate

We will examine the form and unless the form is made in confidence, we will send a copy to the quota holder.

We will ask them to check that the enquiry is from someone with a legal interest in the holding and let us know within 14 days if it is not.

We will send the details to the enquirer if the quota holder confirms that the enquirer has an interest in the holding or does not make a valid objection within 14 days.

The only valid grounds for an objection are that the enquiry is from someone who does not have a legitimate interest in the holding.

### Providing information in confidence

If the enquirer would prefer us **not** to contact the quota holder, they must:

- tell us in writing, and
- provide a statement from a solicitor, accountant or land agent declaring their legal interest in the holding.