



Rural Payments
Agency

Application to register the permanent transfer
of Milk Quota in quota year 2014/2015
Explanatory Notes to form MQ/1

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31 March 2015

If you have any
specific queries or
problems, please
contact our Milk
Quotas team.

01392 315700
or 315775

Please read these notes carefully before completing form MQ/1

1. Quota Legislation

Milk quotas are regulated by the following legislation:

- Council Regulation (EC) No 1234/2007 (as amended);
- Commission Regulation (EC) No 595/2004 (as amended);
- The Dairy Produce Quotas Regulations 2005 (as amended).

Under the quotas legislation, the transfer of milk quota cannot take place between quota dealers.

The following notes are how we have interpreted the rules. The quota transfer rules are complex and you may want to seek legal or other professional advice.

The Courts are the final arbiters on the interpretation of the Regulations.

2. Definitions

- Holding - all the land and production units operated by a quota holder;
- Transferor - the seller of quota or outgoing occupier of the land (who is selling or otherwise giving up the quota);
- Transferee - the buyer or incoming occupier of the land (who is buying or otherwise taking over the quota);
- Areas used for milk production - land which is used for the support of a dairy herd (including dairy buildings, yards, forage areas for both dairy and dry cows, dairy replacements and crops grown for consumption by the dairy herd etc);
- Milk purchaser - the person or firm approved by us to whom you sell your milk, and/or with whom your quota is registered;
- Operative date - the date the transfer of milk quota took place (for example, the date on which the land or quota changed hands):
 - if you are selling the land, it is the date of completion of the sale;
 - if you are selling quota on the basis of a land lease, it is the date the land lease started, as written in the agreement;
 - if you are a tenant transferring quota at the end of a tenancy, it will be the date the tenancy ended;
 - if you are a landlord transferring quota to a tenant at the start of a tenancy it is the date the tenancy started;
 - if you are buying quota without land, it is the date which the parties agree will be the transfer date;
- Quota year - the period starting on 1 April and finishing on the following 31 March.

3. Conditions - General

Milk quota will be transferred permanently by the following movements of land to which it is attached:

- a sale; **or**
- a lease or tenancy of not less than:
 - 8 months in Scotland;
 - 10 months in England and Wales;
 - 12 months in Northern Ireland; **or**
- the end of a lease or tenancy; **or**
- the transfer by inheritance, gift or statutory succession to a tenancy.

A permanent transfer of milk quota with land will not take place where the following circumstances apply to the land to which the quota attaches:

- if there is no change of occupation;
- if there is a transfer of the land by means of a licence;
- if there is a transfer of the land by means of a grant or end of a lease or tenancy of less than:
 - 8 months in Scotland;
 - 10 months in England and Wales; or
 - 12 months in Northern Ireland.

4. Additional conditions: The transferor

If you are transferring quota off your holding you must:

- be the registered holder of the quota to be transferred;
- be the owner-occupier of the land to which the quota is attached, **or** occupy the land under a current lease or tenancy agreement or with the consent of the owner;
- have a sole interest in the holding, **or** obtain the consent of everyone with an interest in the holding in Part B of the MQ/1 form (unless you are transferring the quota with land and they have already been listed in a prospective apportionment on form MQ/8. In this case, you must tell everyone of the operative date of the transfer before sending an MQ/1);

Note: it is your responsibility to get the consent of everyone with an interest in the holding. A holding is defined as all the agricultural land and agricultural production units operated by the quota holder which includes tenanted as well as owned lands. Everyone with an interest include landlords and mortgagees (for example, any bank which has a charge on your property).

- not have permanently converted quota to the type being transferred during this quota year, if you are transferring the quota without land. This means that if you permanently converted direct sales quota to wholesale quota earlier in the quota year, you cannot now lease out or transfer out any wholesale quota without land this year (the legislation allows exemptions from this restriction in certain circumstances);

If your holding is subject to a Herd Movement Restriction Order, an outward movement of unused quota may invalidate a later claim to a priority reallocation of quota.

Please make sure that you **sign and date** the form, or where an agent has signed on your behalf you should make sure that you have signed a letter giving the agent authority to sign on your behalf for each transfer form sent to us.

5. Additional conditions: The transferee

Please make sure that you **sign and date** the form, or where an agent has signed on your behalf you should make sure that you have signed a letter of authority.

If you are buying quota with land and you are not currently in milk production, you must be taking steps to start production in the **very** near future, or transfer the quota to a producer as soon as possible (by 31 March of the quota year in which you get the quota at the latest). If you don't do this we might reject the transfer notification. You may only get quota without land if you intend to start milk production in the very near future. If you are buying quota you will need to be registered with us. If you do not have a trader registration number you must contact our Customer Service Centre on 0845 603 7777 to register and get a trader registration number for milk quota purposes. This registration will be additional to any registration for Single Payment Scheme purposes.

If you are buying quota on the basis of a short-term land lease, and you do *not* intend to transfer the quota back to the landlord at the end of the lease, you must:

- use rights of occupation over the land transferred;
- not use this land for dairy production; and
- produce milk elsewhere on your holding before the end of the lease.

Written contracts or agreements should be drawn up to make sure that these rules are met. If they are *not* met, you might not be able to keep the quota in question.

You cannot sell quota bought on the basis of a land lease until the lease has ended.

6. Apportionment of quota

Where an entire holding is transferred, the transferee has an automatic right to all of the quota attached to it.

Where part of a holding is transferred, the quota must be apportioned taking into account the areas used for milk production.

The apportionment of quota must be agreed by the transferor and the transferee. This does not entitle the transferor and the transferee to agree that no quota is apportioned to land used for milk production.

The agreement of everyone with an interest in any part of the holding, for example, the landlord, must be obtained, to the apportionment either in Part B of the MQ/1 or under the prospective apportionment arrangements below.

If agreement cannot be reached, the case will be referred to arbitration.

7. Prospective apportionment of quota to land

Prospective apportionment of quota allows for the quota holder and all those with an interest in a holding to agree the allocation of quota to different parts of a holding, in a legally binding manner, before the transfer of the land takes place.

Any agreement reached and recorded on the "Prospective apportionment of quota" form (MQ/8) remains binding for a period of six months from the date of the agreement, unless it is cancelled in writing, by all signatories to the form.

The agreed apportionment must take account of the areas used for milk production.

8. Land transfer involving no quota (zero apportionment)

A zero apportionment occurs when the parties to a land transaction agree that no milk quota attaches to that land. In this case you do not have to inform us. However, if the land in question was previously used for milk production and had milk quota attached, you must be prepared to show that a change in the areas used for milk production has taken place.

9. Leased quota

Quota which has been leased in cannot be sub-leased out or permanently transferred by the lessee.

10. Scottish Islands Area

If you are in one of the Scottish Islands areas, you may only enter into a permanent transfer of milk quota with land with producers in the same Scottish Islands area. Please read Part 8 of the Guide to Milk Quotas.

11. Used and unused quota

The amounts of used and unused (clean) quota to be transferred must be agreed amongst the parties concerned.

In calculating the proportion of used and unused quota being transferred, **accurate** account must be taken of:

- the volume of direct sales made up to the operative date; and
- the volume of wholesale deliveries made up to the operative date (adjusted for butterfat content). Please check the used amount with your milk purchaser. It is important that the volume of used quota correctly reflects the deliveries made.

Note: You must retain, or transfer as used, enough quota to cover any deliveries you have made. This amount must be after adjustment for butterfat content. Please check the used amount with your milk purchaser before submitting an MQ/1.

If we discover that the used and unused volumes were incorrect, we may correct the transferor's and the transferee's quota register entries.

Please note that the transfer of **unused** quota may affect the transferor's ongoing butterfat base. If **used** quota is transferred, the transferee will be unable to produce against it during the quota year. The total amount of quota being transferred will be registered as permanent quota with the transferee as from the date of the transfer. Any used quota will be temporarily registered back to the transferor and his purchaser for the remainder of the current quota year.

12. Butterfat

Wholesale quota is transferred with its butterfat base. The butterfat rules do not apply to direct sales quota.

In the case of a permanent transfer, the **transferees'** permanent and ongoing butterfat bases will be adjusted as follows:

- **New permanent butterfat base:** This will be the weighted average of: the permanent butterfat base of the unused quota transferred and any existing permanent quota.
- **New ongoing butterfat base:** This will be the weighted average of: the permanent butterfat base of the unused quota transferred and any existing **net** quota. **Net:** is the permanent quota plus or minus any leased quota.

The **transferor's** permanent butterfat base is unaffected. However, the transferor's ongoing butterfat base will be adjusted as follows:

- **New ongoing butterfat base:** This will be the weighted average of the existing net quota minus the permanent butterfat base of the unused quota transferred. **Net:** is the permanent quota plus or minus any leased quota.

The following calculations can be used as approximate guides:

Transferor:			Transferee:		
Net quota	(A)	litres	Net quota	(A)	
x ongoing butterfat base	(B)	%	litres		
=	(C)		x ongoing butterfat base	(B)	%
			=	(C)	
Quota to be transferred out	(D)	litres	Quota to be transferred in	(D)	
x permanent butterfat base	(E)	%	litres		
=	(F)		x butterfat base	(E)	%
			=	(F)	
New ongoing butterfat base =	$\frac{(C - F) \times 100}{(A - D)}$		New ongoing butterfat base =	$\frac{(C + F) \times 100}{(A + D)}$	
For example: Transferor's net quota is 2,000 litres @ 4.200000% Quota to be transferred is 1,000 litres @ 4.000000% A is 2,000 D is 1,000 C = 2,000 x 4.200000% = 84 F = 1,000 x 4.000000% = 40 Final calculation reads: $\frac{(84 - 40) \times 100}{(2,000 - 1,000)} = \frac{44 \times 100}{1,000} = 4.400000\%$ b/f			For example: Transferee's net quota is 2,000 litres @ 5.000000% Quota to be transferred is 1,000 litres @ 4.000000% A is 2,000 D is 1,000 C = 2,000 x 5.000000% = 100 F = 1,000 x 4.000000% = 40 Final calculation reads: $\frac{(100 + 40) \times 100}{(2,000 + 1,000)} = \frac{140 \times 100}{1,000} = 4.666667\%$ b/f		

The calculation of the permanent and ongoing butterfat will be rounded to six decimal places.

We will send notification of any adjustment of butterfat base during the quota year.

13. Disputes and Arbitration

If a dispute arises about the apportionment of quota, the parties should do their best to resolve matters. However, if agreement cannot be reached, the case should be referred to arbitration. This can be a costly and time consuming procedure.

An application for the appointment of an arbitrator can be made at any time with the agreement of both parties, or by one or other of the parties. The application should be made:

- In England and Wales, to the Royal Institute of Chartered Surveyors;
- In Northern Ireland, to the President of the Law Society of Northern Ireland;
- In Scotland, to the Scottish Land Court.

If agreement has not been reached, and no arbitrator appointed by the parties to the dispute, then we may make such an application.

Where there are cases of dispute, or where an arbitrator has been appointed, the parties concerned must notify us.

Arbitrators make their awards based on the areas used for milk production during the last five year period in which milk production took place.

If a dispute arises following the submission of a valid transfer notification, the parties in dispute may want to refer the matter to the Courts.

14. Submission of MQ/1 forms to RPA

Applications for permanent transfer of milk quota must be made on form MQ/1.

The transferee or his agent must send us the completed form as soon as possible after the operative date of transfer and the form must be received by us no later than 31 March 2015. **Note:** it is in your interest to submit the forms promptly to make sure that the transferee has enough quota to cover deliveries being made.

When we receive your MQ/1 form we will send you an acknowledgement letter giving a batch reference number and a contact telephone number. If you submit the form through an agent we will send the acknowledgement to your agent.

15. Notification of Transfer to Milk Purchaser

When we receive the MQ/1 form, we will notify the transferor's milk purchaser of the details of the transfer.

We will then give the transferor's purchaser the chance to tell us if there is not enough unused quota to allow the transfer to proceed, before processing the transfer.

We reserve the right to amend the quota register in instances where it is found that quota has been transferred on the basis of an incorrect description of its true status.

16. Confirmation of transfer by RPA

After acknowledging receipt of your MQ/1 form, we need to carry out certain checks before authorising the transfer and updating the quota register. These checks are to make sure that the transfer of milk quota takes place in accordance with the law. However, we can take no responsibility for acting on the basis of false or inaccurate information provided by one or more of the parties to the transfer, or an agent acting on their behalf. That is a matter for the parties concerned.

If there are any problems with your form, we will contact you. If there are no problems we aim to update the quota register with the details of your transfer within 28 days of receiving your form. If you do not receive confirmation within this time, you or your agent can contact our Milk Quotas team on 01392 315700 or 315775.

We will send written confirmation that the quota register has been updated with details of the transfer to the transferor and transferee. We will also send confirmation of a wholesale quota transfer to the milk purchasers involved.

17. Completing an MQ/1 to change your address

If you move to a new holding and do not keep any land at your old holding, we will ask you to complete an MQ/1 form to transfer your quota to your new holding. You will complete the form as the transferor and transferee.

Part A will need to be filled in with your old address and Part C with your new address. Part B will need to be filled in by any other parties with an interest in the holding.

18. Further information

For further information on the transfer of quota, please read Part 8 of the Guide to Milk Quotas. If you do not have a copy of the Guide or if you find any difficulty in completing the MQ/1 form, please ring our Milk Quotas team on 01392 315700 or 315775.

Further copies of the Guide and MQ/1 can be found on our website at www.rpa.defra.gov.uk.

Data Protection

Defra is the data controller for personal data you give to us or we hold about you. We use it in line with the Data Protection Act. For more information visit our website at www.rpa.defra.gov.uk, then put 'Personal Data' into the search box.

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APPENDIX I

*Further assistance
can be obtained from:*

Rural Payments Agency
Milk Quotas
Sterling House
Dix's Field
Exeter
EX1 1QA
Tel: 01392 315 700
or 01392 315 775

Fax: 01392 315 701

AGRICULTURE DEPARTMENTS

ENGLAND

(Defra)
Department for Environment,
Food and Rural Affairs
Milk Branch
Whitehall Place (East Block)
London
SW1A 2HH

Tel: 020 7270 8246

NORTHERN IRELAND

(DARD)
Department of Agriculture and
Rural Development for Northern Ireland
Food Policy Division
Dundonald House
Upper Newtownards Road
Belfast
BT4 3SB

Tel: 0300 200 7852

WALES

(WAG)
Welsh Assembly Government
Department for Rural Affairs
Rural Payments Division
Cathays Park
Cardiff
CF10 3NQ

Tel: 0845 010 330

SCOTLAND

Scottish Government
Rural Directorate - Agriculture Division
Agricultural Commodities Branch
St Andrews House
Regent Road
Edinburgh
EH1 3DG

Tel: 08457 741 741

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specific queries or
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01392 315700
or 315775