

These notes refer to the Natural Environment and Rural Communities Act 2006 (c.16) which received Royal Assent on 30 March 2006

NATURAL ENVIRONMENT AND RURAL COMMUNITIES ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 8: Flexible administrative arrangements

Chapter 2: Powers to reform agricultural etc. bodies

Power to create boards

215. This Chapter gives the Secretary of State the powers to establish new bodies for agricultural and related industries and to dissolve both existing levy bodies and any bodies created using the provisions in this Chapter. This Chapter also allows for property, rights, liabilities and any surplus to be transferred from the dissolved body or board.

Section 87: Power to establish boards

216. This section confers power on the appropriate authority to make an order establishing a board. The order will specify the purpose for which the board is established and assign certain functions to it. The permissible purposes are set out in section 88; the permissible functions are set out in section 89. An order under this section must specify the geographical area in relation to which assigned functions are to be exercised.

217. “The appropriate authority” is defined in section 96 #

- in relation to matters concerning England only, the appropriate authority is the Secretary of State;
- in relation to matters concerning Wales only, the appropriate authority is the National Assembly for Wales;
- in relation to matters concerning Scotland only, the appropriate authority is the Scottish Ministers;
- in relation to matters concerning Northern Ireland only, the appropriate authority is the Department of Agriculture and Rural Development in Northern Ireland;
- in relation to certain other specified matters (broadly speaking cross-border matters), the appropriate authority is the Secretary of State acting with the approval of the National Assembly for Wales, the Scottish Ministers (where a draft of the order has been approved by a resolution of the Scottish Parliament) or the Department of Agriculture and Rural Development in Northern Ireland.

218. An order under this section is referred to in the Act (and in these notes) as a “section 87 order”.

219. The procedure for making a section 87 order is provided for in section 97.

Section 88: Permissible purposes of boards

220. *Subsection (1)* lists the purposes for which a board may be established. *Subsection (2)* requires a section 87 order to specify the purposes for which the board is established and to define the industry to which the order relates.

Section 89: Permissible function of boards

221. This section sets out the variety of functions which may be assigned to a board under a section 87 order. The section introduces Schedule 9, which contains a list of functions that is based on those available for development councils set up under the Industrial Organisation and Development Act 1947. The functions include promoting and undertaking scientific research, and promoting marketing, product certification, development of export trade, education and training. The other permissible functions that may be assigned to a board are functions of the five main existing levy bodies. Three of them, those dealing with horticulture, potatoes and milk, are set up as development councils under the 1947 Act. There is a separate Act, the Cereals Marketing Act 1965, that set up the levy board in the cereals sector (Home Grown Cereals Association), and Part 1 of the Agriculture Act 1967 that set up the Meat and Livestock Commission. These bodies will remain in place unless and until the appropriate authority decides to dissolve them (see section 91).

Section 90: Ancillary provisions

222. This section introduces Schedule 10, which contains further provisions about the contents of a section 87 order. These include provisions relating to acting through subsidiaries, registers, returns and other information, investigative powers, levies, reserve funds, power to charge for services, incidental powers, approval of appropriate authority, consultation and offences.
223. In particular the board of a new body will be able to demand sight of records and other documents so as to enable it to verify that the correct levy is raised from people. It will also take note of the views of the different sectors.

Power to dissolve existing levy bodies and boards

Section 91: Power to dissolve existing levy bodies

224. This section confers power on the appropriate authority to dissolve the existing levy bodies (as defined by section 89(2)). The section ensures that where an existing levy body is dissolved the primary or secondary legislation which established the body is repealed or revoked.

Section 92: Power to dissolve board

225. This section confers power on the appropriate authority to dissolve any board established under this Chapter.

Section 93: Dissolution: supplementary

226. This section provides that, in the event of an order for the dissolution of an existing levy body or a board created under this Chapter, the order may deal with the transfer of any property, rights or liabilities of the existing body or board. Also, where an existing levy body or a board has collected levies, any surplus assets can be applied elsewhere by the order (for example, for the benefit of the industry that has paid the levies in past years).

Powers of appropriate authority

Section 94: Grants

227. Under this section the appropriate authority may make grants to a board under such conditions as the authority sees fit.

Section 95: Directions

228. Under this section the appropriate authority may give a board directions as to the exercise of its functions, and revoke or amend such directions (which have to be in published).