

## SCHEDULES

### SCHEDULE 2

#### PROVISIONS RELATING TO CARRYING OUT OF APPROVED SCHEME OF REORGANISATION

##### *Restraints on alienation etc.*

**6.—**(1) No right of pre-emption or other like right affecting any property or rights of the Board, or of a subsidiary of the Board, shall be exercisable by virtue of the making of any application under Article 5 or 8.

(2) Sub-paragraph (1) shall not apply where the making of such an application is specifically identified by the right of pre-emption or other like right as a circumstance in which the right is exercisable.

**7.—**(1) Any provision which imposes a prohibition (whether absolute or qualified) on the transfer of any property or rights of the Board, or of a subsidiary of the Board, shall be treated as not applying in the case of a transfer under Article 14.

(2) Sub-paragraph (1) shall not apply in the case of a provision which is formulated specifically with reference to the possibility of the undertaking of the Board being transferred otherwise than to a board constituted by a scheme under Part II of the Agricultural Marketing (Northern Ireland) Order 1982(1).

(3) For the purposes of this paragraph, any provision which has the effect of penalising a transfer, shall be treated as prohibiting it.

**8.—**(1) Any provision which imposes a prohibition (whether absolute or qualified) on the transfer of any property or rights of the Board, or of a subsidiary of the Board, shall, unless the prohibition is imposed for public purposes, be treated as not applying in the case of a transfer under an approved scheme otherwise than under Article 14.

(2) Sub-paragraph (1) shall not apply in the case of a provision which is formulated specifically with reference to the possibility of the undertaking of the Board being transferred otherwise than to a board constituted by a scheme under Part II of the Agricultural Marketing (Northern Ireland) Order 1982(2).

(3) For the purposes of this paragraph, any provision which has the effect of penalising a transfer shall be treated as prohibiting it.

**9.—**(1) This paragraph applies to any provision which imposes a qualified prohibition on the effecting of any description of transaction, other than a transfer, with respect to any property or rights of the Board or of a subsidiary of the Board.

(2) Where the prohibition imposed by a provision to which this paragraph applies is imposed for purposes other than public purposes, it shall, subject to sub-paragraph (3), be treated as not applying in the case of a transaction effected under an approved scheme.

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(1) 1982 NI 12

(2) 1982 NI 12

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(3) Sub-paragraph (2) shall not apply in the case of a provision which is formulated specifically with reference to the possibility of the undertaking of the Board being transferred otherwise than to a board constituted by a scheme under Part II of the Agricultural Marketing (Northern Ireland) Order 1982.

(4) For the purposes of this paragraph, any provision which has the effect of penalising the effecting of any description of transaction shall be treated as prohibiting it.

**10.**—(1) If any person suffers a diminution in the value of any property or interest in consequence of the operation of paragraph 8 or 9 or, where sub-paragraph (2) applies, paragraph 7, such compensation as may be just shall be paid to that person by one or more of the parties to the transfer or other transaction.

(2) This sub-paragraph applies where the effect of the transfer is to sever the ownership of the property or rights to which the provision concerned relates.

(3) Any dispute as to whether, and if so how much, compensation is payable under this paragraph, or as to the person by whom it shall be paid, shall be referred to and determined by an arbitrator appointed in accordance with regulations made by the Department.

**11.**—(1) For the purposes of this paragraph, a provision is a qualifying provision if—

- (a) it imposes an absolute prohibition on the effecting of any description of transaction, other than a transfer, with respect to any property or rights of the Board, or of a subsidiary of the Board;
- (b) the prohibition which it imposes is imposed for purposes other than public purposes.

(2) Where an approved scheme—

- (a) identifies a qualifying provision as one to which this paragraph applies; and
- (b) specifies one of the relevant bodies as the body against which any claim under paragraph 12 in relation to the identified provision is to be made,

that provision shall, subject to any provision of regulations under sub-paragraph (3)(c), be treated as not applying in the case of a transaction effected under the scheme.

(3) The Department may make regulations—

- (a) with respect to the giving of notice of a provision of an approved scheme which identifies a qualifying provision as one to which this paragraph applies;
- (b) with respect to the giving by the Department of a certificate of compliance in relation to the giving of notice under paragraph (a); and
- (c) excluding sub-paragraph (2) where no certificate of compliance under paragraph (b) has been given at the time that a transaction is effected.

(4) Sub-paragraph (2) shall not apply in the case of a provision which is formulated specifically with reference to the possibility of the undertaking of the Board being transferred otherwise than to a board constituted by a scheme under Part II of the Agricultural Marketing (Northern Ireland) Order 1982(3).

(5) In sub-paragraph (2)(b), the reference to the relevant bodies is to—

- (a) the Board; and
- (b) the body or bodies to which property, rights or liabilities of the Board are, under the scheme, to be transferred under Article 14.

(6) For the purposes of this paragraph, any provision which has the effect of penalising the effecting of a description of transaction shall be treated as prohibiting it.

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(3) [1982 NI 12](#)

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**12.—**(1) If any person suffers a diminution in the value of any property or interest in consequence of the operation of paragraph 11 in relation to any provision, such compensation as may be just shall be paid to him by the nominated body.

(2) Any dispute as to whether, and, if so, how much, compensation is payable under this paragraph shall be referred to and determined by an arbitrator appointed in accordance with regulations made by the Department.

(3) In sub-paragraph (1), the reference to the nominated body is to the body specified by the approved scheme as the body against which any claim for compensation under this paragraph in relation to the provision concerned is to be made.