

Executive Note

The Quality Meat Scotland Order 2008 (S.S.I. 2008/77)

The above instrument was made in exercise of the powers conferred by **sections 87, 88, 89, 90, 96(a) and 97, paragraphs 5 to 11 of Schedule 8 and Schedules 9 and 10** of the **Natural Environment and Rural Communities Act 2006**. The instrument is subject to affirmative resolution procedure.

Policy Objectives

The purpose of the instrument is to establish Quality Meat Scotland (QMS) as a public body from 1 April 2008.

Background

QMS is currently a private company limited by guarantee and jointly owned by the Meat and Livestock Commission (a public body), NFU Scotland and the Scottish Association of Meat Wholesalers (organisations that represent farmers and meat processing companies in Scotland).

The Agriculture Act 1967 gives statutory responsibility to the Meat and Livestock Commission (MLC) for the promotion and development of the red meat (i.e. beef, lamb and pork) sector in GB. Funding comes from parafiscal levy collected from producers and processors at the time of slaughter or export of cattle, sheep and pigs under the terms of the Agriculture Act 1967. Since 2003, responsibility for MLC functions in Scotland has been delegated, through ministerial direction, to QMS. The Scottish levy is collected by the MLC and transferred to QMS. QMS is accountable to Scottish Ministers for use of the levy.

The MLC is one of 5 agricultural and horticultural levy bodies in the UK, the others being the Milk Development Council, British Potato Council, Horticultural Development Council and Home Grown Cereals Authority. All 5 levy bodies were subject to a review by Rosemary Radcliffe in 2005, at which time the structure of QMS was also examined. Ms Radcliffe concluded that a statutory levy should be maintained across the sectors in order to protect against market failure. She also proposed a new levy board model which involved the winding up of the existing bodies and their replacement with a new, overarching public body (the Agricultural and Horticultural Development Board) for collection of the levy and oversight of corporate bodies (Sector Companies) representing the various industry sectors. The Sector Companies would be responsible for expenditure of the levy.

Ms Radcliffe recognised that her new model would not provide for similar accountability arrangements to those currently in place for QMS. In order to ensure accountability to Scottish Ministers, a separate public body would be required for the red meat sector in Scotland.

Ministers across the UK accepted the Radcliffe model. Given the distinctiveness of the red meat sector in Scotland, Scottish Ministers decided to retain a separate red meat promotion body accountable to them. The new structure is to be established on 1 April 2008.

Detailed Points

Scope and interpretation (Article 2)

This includes a definition of “export” and “levy payer”, in response to comments received on the consultation paper regarding the need for clarity.

The definition of “levy payer” is “a producer, slaughterer or exporter of cattle, sheep or pigs **or the owner of any of these animals at the time of slaughter**”. The element of the definition in bold is particularly important to the butchers since it means that butchers who buy cattle for slaughter are for the first time clearly recognised as levy payers. As such, they will be able to participate in any ballot on the future of levy.

Establishment of Quality Meat Scotland (Article 3)

The purposes of QMS, as set out in Article 3, are taken from the primary legislation, i.e. section 88 of the Natural Environment and Rural Communities Act 2006 (the NERC Act).

The functions of QMS are set out in Schedule 1. Respondents to the consultation suggested various changes to the wording of Schedule 1, most of which could not be taken on board because the list of functions is set by section 89(1) and Schedule 9 to the NERC Act. The drafting changes suggested by respondents would not have altered the range and basic nature of activities in Schedule 1.

For reasons of flexibility, Schedule 1 includes all of the functions provided for in the NERC Act. This does not mean that QMS must carry out of all the functions listed at any given time.

Constitution etc of Quality Meat Scotland (Article 4)

The detail of the constitution is set out in Schedule 2. The provisions, e.g. for procedure, appointments and remuneration, are fairly standard. As suggested in the consultation, the board will consist of not more than 12 members, not less than 50% of whom will be levy payers.

Several consultees including the Scottish Association of Meat Wholesalers, NFU Scotland and the Scottish Beef Cattle Association suggested that there should be a specified number of, for example, processors and producers on the Board. The more flexible approach is to stipulate the percentage of levy payers to be included on the Board and leave it to the selection panel and Ministers to select the most able applicants and ensure a balanced Board. The Order provides for this flexibility.

Schedule 2 allows QMS to establish a reserve fund for the purposes of its functions.

Acting through subsidiaries (Article 5)

Article 5 allows QMS to establish and delegate functions to a subsidiary company. There is a requirement for Scottish Ministers to approve such a delegation.

Levies (Article 6)

Details of the levy are set out in Schedule 3. The provisions essentially allow the levy to continue to be collected in the same way as now (it is currently collected from the red meat sector by the Meat and Livestock Commission). One key addition is that levy must be held in trust, in a separate bank account, by slaughterers and exporters. This will make the levy easily identifiable in cases where it has not been passed at the appropriate time to QMS. It will be an offence not to hold the levy in trust.

As recommended by Radcliffe, there will be no distinction between general and promotional levies.

QMS are permitted to contract out the collection of levy. This would allow them, for example, to contract with the Agriculture and Horticulture Development Board for the collection of levy.

The rates of levy must be approved annually by Scottish Ministers and fall at or under the maximum rates set out in Schedule 3. There is not currently a requirement for Ministers to approve levies annually in the red meat sector but the requirement exists for other levies and seems good practice.

Ballots (Articles 9-11)

The inclusion of a provision for a ballot on the future of levy flows from a recommendation in the Radcliffe report on the levy boards. Ballots may be held no more than once every 5 years and not before QMS has been in place for 5 years.

A ballot must be held if directed by Ministers or if QMS receives within a 3 month period one or more requests for a ballot signed by at least 5% of persons entitled to vote. The percentage of 5% is consistent with company law in relation to the percentage of shareholders required to achieve a resolution at an AGM.

The consultation paper suggested that the qualification for voting (i.e. the requirement to be a levy payer) must be satisfied in the calendar year in which the ballot is held. Since this could be limiting if a ballot were held early in the year, the Order has been drafted to say that the qualification to vote is payment of levy in the twelve months preceding the ballot.

Ministers are not bound by the result of any ballot.

Report and accounts (Article 12)

The provisions here are standard.

Offences and penalties (Article 15)

Offences and penalties are specified for breaches of various aspects of the Order. The penalty is a fine not exceeding level 5 on the standard scale (currently £5,000).

Consultation

The bodies listed at Annex A have been consulted during the preparation of the instrument.

Financial Effects

The instrument has no financial effects on the Scottish Government, local government or on business. The Regulatory Impact Assessment is attached.

Scottish Government Rural Directorate
December 2007

CONSULTATION LIST

Aberdeen Angus Cattle Society
Ayrshire Cattle Society
Belted Galloway Cattle Society
Biodynamic Agricultural Association
Blackface Sheep Breeders Association
Bluefaced Leicester Sheep Breeders Association
British Pig Executive
British Romagnola Cattle Society
Cheviot Breed Society
Convention of Scottish Local Authorities
Crofters Commission
Department of Agriculture and Rural Development Northern Ireland
Department for Environment, Food and Rural Affairs, England
English Beef and Lamb Executive
Faculty of Advocates
Family Farmers' Association
Food Standards Agency (Scotland)
Galloway Society of Great Britain & Ireland
Grampian Country Pork
Grampian Pig Producers
Highland Cattle Society
Highlands & Islands Enterprise
Highlands and Islands Livestock Ltd
Hybu Cig Cymru, Wales
Independent Farming Group
Institute of Auctioneers & Appraisers Scotland
Livestock Meat Commission, Northern Ireland
Meat and Livestock Commission
NFU England
NFU Scotland
NFU Wales
National Assembly for Wales Agriculture Department
National Beef Association (Scotland)
National Pig Association (Scotland)
National Sheep Association (Scotland)
Quality Meat Scotland
Royal Highland & Agricultural Society of Scotland
Royal Environmental Health Institute of Scotland
Rural Payments Agency, Newcastle
Scottish Agricultural College
Scottish Agricultural Organisation Society
Scottish Association of Meat Wholesalers
Scottish Association of Young Farmers Clubs
Scottish Beef Cattle Association
Scottish Beef Council
Scottish Consumer Council
Scottish Co-operative Food Trade Association

Scottish Council for Development & Industry
Scottish Crofting Foundation
Scottish Enterprise
Scottish Federation of Meat Traders' Associations
Scottish Food Quality Certification Ltd
Scottish Grocers' Federation
Scottish Natural Heritage
Scottish Organic Producers Association
Scottish Parliament Information Centre
Scottish Retail Consortium
Scottish Rural Property & Business Association
Scottish Tenant Farmers' Association
Scottish Wholesale Association
Scottish Women's Rural Institute
Shetland Cattle Herd Book Society
Society of Border Leicester Sheep Breeders
Soil Association Scotland
Ulster Farmers' Union
Women's Farming Union

Scottish Conservative & Unionist Party
Scottish Green Party
Scottish Labour Party
Scottish Liberal Democrats
Scottish National Party
Scottish Socialist Party

Action of Churches Together in Scotland
Catholic Parliamentary Office
Church of Scotland
Evangelical Alliance (Scotland)
Scottish Inter Faith Council
St Columba's Episcopal Church