



Cereals Marketing Act 1965

1965 CHAPTER 14

PART III

FINANCIAL AND SUPPLEMENTARY PROVISIONS

Financial

12 Contributions by Minister of Agriculture, Fisheries and Food

- (1) The Minister of Agriculture, Fisheries and Food (in this section referred to as "the Minister ") may, with the consent of the Treasury, make contributions out of moneys provided by Parliament towards expenditure incurred or to be incurred by the Authority in the performance of their functions under Part I of this Act (including Schedule 1 to this Act) except so much of any such expenditure as consists or is to consist of bonus payments or loans made by the Authority, or of sums required for fulfilling guarantees given by the Authority, under that Part of this Act.
- (2) Any contributions under this section may be made subject to any conditions regulating or restricting the functions of the Authority, imposing requirements as to the inspection of accounts and records, or relating to other matters, which the Minister may specify; and the Minister may recover the whole or any part of a contribution which is made subject to a condition, if that condition is not complied with.
- (3) Any sums recovered by the Minister under the last preceding subsection shall be paid into the Exchequer.

13 Orders prescribing rates of levy

- (1) Before the beginning of each year the Authority shall prepare and submit to the Ministers either—
 - (a) an estimate of the amount required to be raised by levy for that year for the purposes of the Authority's functions under Part I of this Act, or

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- (b) such an estimate as is mentioned in the preceding paragraph and also an estimate of the amount required to be raised by levy for that year for the purposes of the Authority's functions under Part II of this Act.
- (2) Together with any estimate submitted under this section, the Authority shall submit to the Ministers proposals as to—
 - (a) the kinds of home-grown cereals in respect of which a levy should be imposed, and
 - (b) the apportionment of the amount specified in the estimate as between those kinds of home-grown cereals.
- (3) As soon as practicable after the submission to the Ministers of one or more estimates for any year under this section, the Ministers shall—
 - (a) determine the amount to be raised by levy for that year for the purposes of the Authority's functions under Part I of this Act, and (where applicable) the amount to be so raised for the purposes of their functions under Part II of this Act, and the kinds of home-grown cereals in respect of which a levy is to be imposed for that year, and
 - (b) apportion the amount (or, as the case may be, each of the amounts) so determined as between those kinds of home-grown cereals, and
 - (c) make an order for that year specifying, in respect of each of those kinds of home-grown cereals, such rate of levy as appears to the Ministers to be sufficient (but not more than sufficient) to meet the amount (or, as the case may be, the aggregate amount) apportioned to that kind of home-grown cereals under this subsection.
- (4) The rates of levy specified in an order under this section may be expressed either by reference to quantity of home-grown cereals delivered or to acreage of land used for the growing of home-grown cereals or partly in the one way and partly in the other; and the order shall include provision as to the way in which any such quantity or acreage is to be determined for the purposes of the levy.
- (5) The provisions of Schedule 3 to this Act shall have effect with respect to estimates and orders under this section, and otherwise with respect to levies under this Part of this Act.

14 Alternative methods of raising levy

- (1) In addition to the preparation of an estimate or estimates in accordance with the last preceding section, the Authority shall, before the beginning of each year, consider, in respect of each kind of home-grown cereals, whether it is their intention that any levy to be imposed for that year under this Part of this Act shall be imposed in accordance with section 15 of this Act or shall be imposed in pursuance of a scheme under section 16 of this Act; and—
 - (a) if, in the case of any kind of home-grown cereals, they intend that a levy for that year shall be imposed in pursuance of a scheme under section 16 of this Act which is then in force, they shall pass a resolution to that effect and shall publish notice of that resolution in the London, Edinburgh and Belfast Gazettes, or
 - (b) if, in the case of any kind of home-grown cereals, they intend that a levy for that year shall be imposed in pursuance of such a scheme, but no such scheme is then in force, they shall submit such a scheme to the Ministers before the

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beginning of that year and shall publish in the London, Edinburgh and Belfast Gazettes notice of the submission of the scheme.

- (2) Where for any year the Ministers have made an order under the last preceding section specifying a rate of levy for that year in respect of any kind of home-grown cereals, the following provisions of this section shall have effect.
- (3) If in that year a scheme under section 16 of this Act is in force in respect of that kind of home-grown cereals, and the Authority have published in respect of that kind of home-grown cereals such a notice as is mentioned in paragraph (a) or paragraph (b) of subsection (1) of this section, a levy for that year shall be imposed in respect of that kind of home-grown cereals as mentioned in section 16(6) of this Act.
- (4) In any case not falling within the last preceding subsection, a levy for that year shall be imposed in respect of that kind of home-grown cereals as mentioned in section 15(1) of this Act.

15 Levy recovered wholly or mainly by deduction

- (1) Where, in respect of any year (in this section referred to as "the relevant year"), a levy is, by virtue of subsection (4) of the last preceding section, to be imposed in accordance with this section in respect of any kind of home-grown cereals (in this section referred to as "the relevant kind of cereals"), a levy for that year shall be imposed on registered growers of the relevant kind of cereals, at the rate specified in relation thereto in the order for that year made under section 13 of this Act and in accordance with such provisions as to quantity or acreage as are contained in that order.
- (2) If one or more deficiency payments would, apart from this section, be paid to or in respect of a registered grower of the relevant kind of cereals in respect of the relevant year, the amount of the levy which by virtue of this section is imposed on him for that year shall, so far as it appears to the appropriate Minister or Ministers to be practicable to do so, be deducted from that payment or (if more than one) from the aggregate of those payments, and the payment or payments shall be reduced accordingly.
- (3) In so far as the amount, or any part of the amount, of the levy imposed on a registered grower by virtue of this section cannot be deducted as mentioned in the last preceding subsection, the Authority may recover it in either of the ways mentioned in subsections (4) and (5) of this section, or partly in the one way and partly in the other; and for the purposes of this subsection a certificate issued by the appropriate Minister or Ministers, stating that the amount of a levy, or such part of that amount as may be specified in the certificate, cannot be so deducted, shall be conclusive evidence of the fact so stated.
- (4) If one or more bonus payments are payable to or in respect of that registered grower under Part I of this Act in respect of forward contracts made by him in the relevant year which relate to the relevant kind of cereals, or in respect of any of that kind of cereals delivered in that year, the amount of the levy, or the part of it in question, as the case may be, may be deducted by the Authority from that bonus payment or (if more than one) from the aggregate of those bonus payments, and the payment or payments shall be reduced accordingly.
- (5) The amount of the levy, or the part of it in question, may be recovered by the Authority as a simple contract debt in any court of competent jurisdiction.

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- (6) The appropriate Minister or Ministers shall pay to the Authority any amounts deducted in pursuance of subsection (2) of this section.
- (7) Any reference in this section to deducting an amount from a payment shall, where the amount in question is equal to or greater than the payment, be construed as including a reference to setting off the amount, or part of it, against the payment so as to extinguish any claim to the payment, and any reference to reducing a payment shall be construed accordingly.
- (8) Any reference in this section to a deficiency payment includes a reference to a payment in advance on account of a deficiency payment; and any reference to a deficiency payment or bonus payment which, apart from this section, would be paid in respect of a registered grower is a reference to a deficiency payment or bonus payment which, apart from this section, would be paid to a person other than the registered grower as being a person to whom the interest of the registered grower in the payment has passed.

16 Scheme for raising levy otherwise than by deduction

- (1) The Authority may prepare and submit to the Ministers a scheme for imposing (otherwise than in accordance with section 15 of this Act) a levy on growers of home-grown cereals of any kind specified in this scheme.
- (2) So far as is necessary for determining the liability of persons to a levy imposed in accordance with a scheme under this section, such a scheme may confer on the Authority power to require any persons who are growers of, or dealers in, home-grown cereals, or who process home-grown cereals.—
 - (a) to be registered in a register kept for the purpose by the Authority;
 - (b) to furnish returns and other information, and to produce for examination on behalf of the Authority books and other documents in their custody or under their control; and
 - (c) to keep records and to produce them for examination on behalf of the Authority.
- (3) Any scheme under this section may be varied or revoked by a subsequent scheme thereunder.
- (4) A scheme under this section shall not have effect unless it is approved by the Ministers by order; and any such order may approve the scheme with or without modifications, and may be revoked by a subsequent order, whether the subsequent order is made for the purpose of approving another scheme under this section or not.
- (5) An order under the last preceding subsection shall be of no effect unless it is approved by a resolution of each House of Parliament.
- (6) Where for any year a levy is, by virtue of section 14(3) of this Act, to be imposed in respect of any kind of home-grown cereals in pursuance of a scheme under this section, a levy for that year shall be imposed on growers of home-grown cereals of that kind—
 - (a) at the rate specified in relation thereto in the order for that year made under section 13 of this Act, and in accordance with such provisions as to quantity or acreage as are contained in that order, and
 - (b) in other respects, in accordance with the provisions of any scheme relating to that kind of home-grown cereals which is for the time being in force by virtue of this section.

17 Offences in relation to scheme under s. 16

- (1) Any person who fails to comply with a requirement imposed by or under a scheme in accordance with subsection (2) of the last preceding section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100 or to imprisonment for a term not exceeding three months or both.
- (2) Returns or other information furnished to or obtained by any person in pursuance of such a requirement shall not be disclosed except—
 - (a) with the written consent of the person by whom the information was furnished, or
 - (b) to a member, officer or servant of the Authority, or
 - (c) to any of the three Ministers mentioned in section 24(1) of this Act or an officer or servant appointed by one of those Ministers, or
 - (d) in the form of a summary of similar returns or information furnished by or obtained from a number of persons, being a summary so framed as not to enable particulars relating to any one person or business to be ascertained from it, or
 - (e) for the purposes of any proceedings pursuant to this Act or of any criminal proceedings which may be taken, whether pursuant to this Act or otherwise, or for the purposes of a report of any such proceedings.
- (3) Any person who—
 - (a) in furnishing any information for the purposes of a scheme under the last preceding section, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular, or
 - (b) wilfully makes a false entry in any document which is required to be produced in pursuance of any such scheme, or
 - (c) discloses any information in contravention of subsection (2) of this section,shall be liable on summary conviction to a fine not exceeding £100 or to imprisonment for a term not exceeding three months or both, or on conviction on indictment to a fine or to imprisonment for a term not exceeding two years or both.

18 Reserve funds

- (1) The Authority may establish and thereafter maintain a reserve fund for the purposes of their functions under Part I of this Act, and may establish and thereafter maintain a reserve fund for the purposes of any functions of the Authority under Part II of this Act.
- (2) Any moneys for the time being comprised in a reserve fund maintained under this section, and any other moneys of the Authority which are not for the time being required for any other purpose, may be invested in accordance with the next following subsection.
- (3) Sections 1, 2, 5, 6, 12 and 13 of the Trustee Investments Act 1961 (which relate to the investment powers of trustees) shall have effect in relation to any such moneys, and in relation to any investments or other property for the time being representing any such moneys, as if they constituted a trust fund and the Authority were the trustees of that trust fund.

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19 Borrowing powers

- (1) Subject to the following provisions of this section, the Authority may borrow money and may pledge, mortgage or charge any of their property, including the proceeds of any levy under this Part of this Act.
- (2) The Ministers may, by order made with the consent of the Treasury, direct that the aggregate amount outstanding in respect of the principal of any moneys borrowed by the Authority for the purposes of their functions under Part II of this Act shall not at any time exceed such sum as may be specified in the order; and, at any time while such an order is in force, that aggregate amount shall not exceed the sum so specified.
- (3) Any order under this section may be revoked by a subsequent order thereunder.
- (4) An order under this section shall not have effect unless it is approved by a resolution of each House of Parliament.

Supplementary

20 Powers of Ministers

- (1) The Ministers, after consultation with the Authority, may give to the Authority such directions of a general character with respect to the performance of any functions of the Authority as appear to the Ministers to be requisite in the public interest; and it shall be the duty of the Authority to comply with any such directions.
- (2) Any information obtained by a government department in the administration of any cereals (guarantee payments) order may, for the purpose of assisting the Authority in the performance of their functions under Part I of this Act, or under this Part of this Act, be disclosed to the Authority; and any such disclosure shall not be treated as a breach of contract, trust or confidence.

21 Report and accounts of Authority

- (1) As soon as may be after the end of each accounting period the Authority shall prepare and submit to the Ministers a report on the discharge of their functions under this Act during that period, and the Ministers shall lay a copy of the report before each House of Parliament.
- (2) The Authority shall keep proper accounts and shall prepare in respect of each of their accounting periods statements of account in such form as the Ministers, with the approval of the Treasury, may direct; and the accounts of the Authority for each accounting period shall be audited by auditors who are qualified accountants appointed for the purpose by the Authority.
- (3) As soon as may be after the accounts of the Authority have been audited, the auditors shall transmit to the Ministers copies of the statements of account together with their report thereon, and the Ministers shall lay a copy of the statements and report before each House of Parliament.
- (4) Copies of reports and statements of account prepared by the Authority under this section shall be made available to the public at a reasonable price.
- (5) In this section—

- (a) " accounting period " means the period beginning with the establishment of the Authority and ending with such date falling not more than twelve months later as the Authority may determine, or any subsequent period of not more than fifteen months, beginning with the end of a previous accounting period, which the Authority may appoint, and
- (b) " qualified accountant" means a person who is a member, or a firm all of the partners wherein are members, of one or more of the following bodies, that is to say—
 - The Institute of Chartered Accountants in England and Wales;
 - The Institute of Chartered Accountants of Scotland;
 - The Association of Certified and Corporate Accountants;
 - The Institute of Chartered Accountants in Ireland;
 - Any other body of accountants established in the United Kingdom and for the time being recognised for the purposes of section 161(1)(a) of the Companies Act 1948 by the Board of Trade.

22 Prosecution of offences

- (1) No proceedings for an offence under this Act shall be instituted in England or Wales except—
 - (a) by the Authority, or
 - (b) by, or with the consent of, the Director of Public Prosecutions.
- (2) No proceedings for an offence under this Act shall be instituted in Northern Ireland except—
 - (a) by the Authority, or
 - (b) by, or with the consent of, the Attorney General for Northern Ireland.
- (3) Where a body corporate is guilty of an offence under this Act, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (4) In this section " director ", in relation to a body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by its members, means a member of that body corporate.

23 Provisions as to schemes, orders and regulations

- (1) Any scheme, order or regulations made under this Act may make different provision as to different kinds of home-grown cereals, or in relation to different parts of the United Kingdom, and may in any other respect make different provision in relation to different cases.
- (2) Any power to make an order or regulations under this Act shall be exercisable by statutory instrument.

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- (3) Subject to the next following subsection, any statutory instrument containing an order or regulations under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) The last preceding subsection shall not apply to any order under section 7 of this Act of which, by virtue of subsection (3) of that section, a draft is required to be laid before Parliament, and shall not apply to any order under section 8, section 16 or section 19 of this Act.

24 Interpretation

- (1) In this Act " the Ministers " means the Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with agriculture in Scotland and Northern Ireland, and, in the case of anything falling to be done by the Ministers, means those three Ministers acting jointly, and " the appropriate Minister or Ministers "—
- (a) in relation to the whole of the United Kingdom, means those three Ministers, and, in the case of anything falling to be done by the appropriate Minister or Ministers, means those Ministers acting jointly ;
 - (b) in relation to the whole of Great Britain, means the Minister of Agriculture, Fisheries and Food and the Secretary of State concerned with agriculture in Scotland, and, in the case of anything falling to be done by the appropriate Minister or Ministers, means those two Ministers acting jointly;
 - (c) in relation to England and Wales separately, means the Minister of Agriculture, Fisheries and Food;
 - (d) in relation to Scotland separately, means the Secretary of State concerned with agriculture in Scotland; and
 - (e) in relation to Northern Ireland separately, means the Minister of Agriculture, Fisheries and Food and the Secretary of State concerned with agriculture in Northern Ireland, and, in the case of anything falling to be done by the appropriate Minister or Ministers, means those two Ministers acting jointly.
- (2) In this Act, except in so far as the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—
- " cereals (guarantee payments) order " means an order under section 1 of the Agriculture Act 1957 which provides for payments to growers of home-grown cereals;
- " deficiency payment " means a payment made in pursuance of any cereals (guarantee payments) order ;
- " forward contract " means a contract of sale under which the date on which the cereals to which the contract relates are required to be delivered cannot fall within the month in which the contract is made or within the month immediately following that month;
- " functions " includes powers and duties, and any reference to the performance of functions shall be construed accordingly;
- " home-grown cereals " means cereals grown in the United Kingdom and being either wheat, barley, oats or rye;
- " registered grower " means a person for the time being registered as a grower for the purposes of any cereals (guarantee payments) order;
- " related product " has the meaning assigned to it by section 1(10) of the Agriculture and Horticulture Act 1964;

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" year " means a period of twelve months beginning with the 1st July in any calendar year, except that, in relation to any time when a different period is defined as a year for the purposes of a cereals (guarantee payments) order which is for the time being in force, it shall mean the period so defined.

- (3) Any reference in this Act to a kind of cereals (whether home-grown cereals or not) is a reference to one of the following kinds, that is to say, wheat, barley, oats and rye.
- (4) In this Act any reference to delivery of cereals includes a reference to the despatch of cereals to the buyer under a contract of sale or on the instructions of such a buyer ; and—
 - (a) any scheme under Part I of this Act, and any order under section 13 of this Act, may include provision whereby, for the purposes of the scheme or order, home-grown cereals shall be treated as delivered in such circumstances (in addition to actual delivery or despatch) as may be specified in the scheme, and
 - (b) in relation to a scheme which includes such a provision, the reference in section 15(4) of this Act to cereals delivered in the relevant year shall be construed accordingly.
- (5) In this Act any reference to a dealer in home-grown cereals is a reference to a person trading as a wholesale buyer and seller of home-grown cereals, and any reference to a person who processes home-grown cereals is a reference to a person who applies an industrial process to home-grown cereals in the course of a business carried on by him.
- (6) In this Act any reference to a part of the United Kingdom is a reference to one, or any two, of the three following, that is to say—
 - (a) England and Wales;
 - (b) Scotland;
 - (c) Northern Ireland.
- (7) Except in so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment.

25 Short title and extent

- (1) This Act may be cited as the Cereals Marketing Act 1965.
- (2) This Act extends to Northern Ireland.