



# Agriculture (Miscellaneous Provisions) Act 1968

## 1968 CHAPTER 34

### PART V

#### MISCELLANEOUS AND GENERAL

#### *Payments in respect of bacon, break crops and water supply*

#### **38 Stabilising and levy payments in respect of bacon**

- (1) If it appears to the Minister appropriate to make a scheme under this section for the purpose of avoiding undue fluctuations in income arising from carrying on the business of curing bacon in the United Kingdom or in any part of the United Kingdom mentioned in subsection (2) of this section, he may, with the approval of the Treasury, make a scheme providing for—
  - (a) the making by the Minister, in such circumstances as may be determined under the scheme, of payments to bacon curers in respect of bacon produced by them (hereafter in this section referred to as "stabilising payments"); and
  - (b) the making by bacon curers, in such circumstances as may be so determined, of payments to the Minister in respect of bacon produced by them (hereafter in this section referred to as "levy payments").
- (2) A scheme under this section may be made for England and Wales, for Scotland, for Northern Ireland or for any two or all of those parts of the United Kingdom jointly; and in relation to a scheme made jointly for Scotland and any other part or parts of the United Kingdom, references to the Minister in subsection (1) of this section, except paragraphs (a) and (b), and in subsection (3)(i) of this section shall be construed as references to the Ministers and any other references to the Minister in subsections (1) and (3) of this section shall, if the scheme so provides, be construed as references to the Minister of Agriculture, Fisheries and Food.
- (3) Any such scheme may—

- (a) specify the considerations to which regard is to be had in determining the circumstances in which any stabilising payments or levy payments are to be made;
  - (b) enable the Minister to determine the rates, or the method of calculating the rates, of any such payments ;
  - (c) enable the Minister to determine which bodies and persons are to be treated as bacon curers for the purposes of the scheme and what categories of pigmeat are to be treated as bacon for those purposes;
  - (d) provide for the registration of bacon curers for the purposes of the scheme ;
  - (e) provide for the keeping and inspection of records and the furnishing of information for the purposes of the scheme;
  - (f) specify conditions subject to which stabilising payments may be made;
  - (g) enable the Minister to determine the times at which levy payments are to be made, and provide for the recovery of arrears of levy payments;
  - (h) enable the Minister to estimate the amount of any levy payments payable by a bacon curer who, in the opinion of the Minister, has failed to furnish any information necessary to enable that amount to be properly determined, and to treat the estimated amount as the amount of those payments ;
  - (i) contain provisions generally for securing that payments in pursuance of the scheme are properly made, and such incidental and supplemental provisions as the Minister considers expedient for the purposes of the scheme.
- (4) Different provision may be made by or under such a scheme with respect to bacon curers and bacon of such different categories as may be specified in or under the scheme.
- (5) A scheme under this section shall, unless previously revoked, cease to have effect on such date as may be specified in the scheme, not being later than the expiration of the period of three years beginning with the date on which the scheme is made ; but any levy payments payable by virtue of such a scheme immediately before it ceases to have effect may be recovered as if the scheme were still in force.

### **39 Provisions supplementary to s.38**

- (1) For the purpose of obtaining any information required for the purposes of a scheme under section 38 of this Act, an authorised officer of the Minister or, in Northern Ireland, of the Ministry of Agriculture for Northern Ireland may, on producing if so required a duly authenticated document showing his authority, enter at any reasonable time any premises (other than premises used wholly or mainly as a dwelling) which he has reasonable cause to believe are used for the curing of bacon; and any person who wilfully obstructs any other person in the exercise of the powers conferred on that other person by this subsection shall be liable on summary conviction to a fine not exceeding twenty pounds.
- (2) Any person who wilfully fails to comply with any requirement imposed on him by virtue of section 38(3)(e) of this Act shall be liable on summary conviction to a fine not exceeding one hundred pounds.
- (3) Any person who knowingly or recklessly makes any false entry in any document or any other false statement—
- (a) in keeping any record or furnishing any information which he is required to keep or furnish in pursuance of the said section 38(3)(e); or

- (b) for the purpose of obtaining for himself or any other person a stabilising payment in pursuance of the said section 38 ; or
- (c) for the purpose of avoiding or assisting another person to avoid any levy payment in pursuance of that section,

shall be liable, on summary conviction, to a fine not exceeding four hundred pounds or, on conviction on indictment, to a fine or imprisonment for a term not exceeding two years or both.

#### **40 Grants for break crops**

- (1) The Minister may, in accordance with a scheme made with the approval of the Treasury, make payments in respect of break crops of such descriptions as may be specified in the scheme which are grown for harvesting in any period of twelve months so specified or for feeding to stock in any such period.
- (2) A scheme under this section may be made by the Minister for England and Wales, for Scotland, for Northern Ireland or for any two or all of those parts of the United Kingdom jointly; and in relation to a scheme made jointly for Scotland and any other part or parts of the United Kingdom, references to the Minister in this section, except subsection (1) and subsection (3)(d), shall be construed as references to the Ministers.
- (3) Any scheme under this section may—
  - (a) specify the rate of payments under the scheme for crops of any description and provide for different rates for crops of different descriptions and for crops of the same description in different circumstances ;
  - (b) provide for the making of payments under the scheme in respect of a single period of twelve months, or of consecutive periods of twelve months not exceeding five such periods;
  - (c) specify the minimum acreage or weight of crop in respect of which payments may be made to any person and provide for the manner in which acreages and weights are to be determined for the purposes of the scheme;
  - (d) make provision as to the persons to whom the payments may be made and for securing that no payment is made unless it is applied for at such time and in such manner as the Minister may direct;
  - (e) provide for the payments to be withheld, or for their amounts to be reduced to any extent determined by or under the scheme, in such circumstances as may be so determined; and
  - (f) contain provisions generally for securing that the payments are properly made, and such incidental and supplemental provisions as the Minister considers expedient for the purposes of the scheme.
- (4) Any person who knowingly or recklessly makes a false statement for the purpose of obtaining for himself or any other person a payment in pursuance of a scheme under this section, shall be liable as mentioned in section 39(3) of this Act.
- (5) In this section " break crops " means field beans and any other crops of a kind which, in the opinion of the Minister, it is appropriate to grow with a view to changing temporarily, for the benefit of future crops, the crops on land usually used for growing wheat or barley, but does not include wheat, barley, oats, rye, potatoes and sugar beet.

#### **41 Grants towards cost of water supply to agricultural buildings**

- (1) Section 15(1) of the Agriculture (Miscellaneous War Provisions) Act 1940 (which provides for grants towards, among other things, expenditure incurred in carrying out certain schemes for the supply of water to agricultural land in England and Wales) shall have effect as if after the words " the supply of water to any such land " there were inserted the words

“or to any building used in connection with any such land”.

- (2) Section 16 of the Agriculture Act 1937 (which provides for grants in respect of, among other things, expenditure on the supply of water to agricultural land in Scotland) shall have effect as if after the word " thereto " there were inserted the words

“or to any building used by them for the purposes of agriculture as defined in section 86(3) of the Agriculture (Scotland) Act 1948”.

#### *Miscellaneous*

#### **42 Compensation in connection with compulsory acquisition etc. of agricultural holdings**

- (1) Subject to the following provisions of this section, where in pursuance of any enactment providing for the acquisition or taking of possession of land compulsorily an acquiring authority acquire the interest in an agricultural holding or any part of it of the tenant of the holding or take possession of such a holding or any part of it, the compensation payable by the authority to the tenant in connection with the acquisition or taking of possession shall be assessed without regard to the tenant's prospects, if any, of remaining in possession of the holding after the relevant date.
- (2) In subsection (1) of this section " the relevant date " means the earliest date on which, apart from the acquisition or taking of possession, the landlord could obtain possession of the holding in pursuance of such a notice to quit as is mentioned in paragraph (c) below if—
- (a) the tenant exercised any tenant's option to extend or renew the tenancy in any case where, apart from this section, he would benefit from doing so; and
  - (b) the landlord disregarded any provision in the contract of tenancy or lease enabling him to resume possession of the holding or to determine the tenancy by notice before the date fixed for the expiration of its term or before the termination of the stipulated endurance of the lease ; and
  - (c) the landlord served a valid notice to quit on the tenant in respect of the holding on the date of service of notice to treat in respect of the acquisition or the date of the taking of possession, as the case may be, or as soon thereafter as he became entitled to serve such a notice to quit; and
  - (d) the provisions of section 24 of the principal Act or section 25 of the principal Scottish Act (which restrict the operation of notices to quit) did not apply to the said notice to quit;

and for the purposes of this subsection any such notice as is mentioned in section 3(1) of the principal Act (which refers to notices of intention to terminate the tenancy of an agricultural holding granted for a term of two years or upwards) shall be deemed to be a notice to quit.

- (3) Subsection (1) of this section shall not apply to such an acquisition or taking of possession as is there mentioned—
  - (a) in the case of such an acquisition, unless the date on which notice to treat in respect of the interest to be acquired is served or treated as served on the tenant by the acquiring authority is after the date of the passing of this Act;
  - (b) where in the case of such a taking of possession prior notice of the taking of possession is by virtue of any enactment required to be served on the tenant by the acquiring authority, unless the date on which the notice is so served is after the date of the passing of this Act.
- (4) Section 17 of this Act shall have effect as if any reference to Part II of this Act, other than the reference in subsection (4), included a reference to the foregoing provisions of this section.
- (5) Nothing in this section shall be construed as prejudicing the provisions of any other enactment under which, apart from this section, compensation in respect of any such compulsory acquisition or taking of possession as is mentioned in subsection (1) of this section falls to be assessed without regard to the prospects there mentioned.

#### **43 Amendments of Plant Varieties and Seeds Act 1964**

- (1) In Part I of the Plant Varieties and Seeds Act 1964, after section 5, there shall be inserted the following section:—

“Requirement to use registered names on sale of reproductive material.

- 5A** (1) Where a name is registered under section 5 of this Act for any plant variety, it shall be unlawful for any person to use, in selling or offering for sale material of that variety being—

- (a) reproductive material; or
- (b) material to which plant breeders' rights are extended under paragraph 1 of Schedule 3 to this Act,

any name which serves or is intended by him to serve to distinguish that material from material of other plant varieties within the same class but is not the name so registered.

- (2) Subsection (1) of this section shall not apply to a person who reasonably believes that the material is to be exported from Great Britain.
- (3) Subsection (1) of this section shall have effect in relation to any plant variety from the date on which the grant of plant breeders' rights in respect of that variety takes effect, and shall continue to apply after the period for which those rights are exercisable.
- (4) Subsection (1) of this section shall not preclude the use, in connection with the registered name of a plant variety, of any trade mark or trade name (whether registered under the Trade Marks Act 1938 or not) other than a mark or name which is used or intended to be used exclusively in connection with the first-mentioned name.
- (5) A person who contravenes this section shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both ; but it shall be a defence in proceedings under this section to prove—

- (a) that the accused took all reasonable precautions against committing an offence of the kind alleged and had not at the time of the alleged offence any reason to suspect that an offence was being committed by him; and
  - (b) where the accused obtained the reproductive material to which the alleged offence relates from some other person, that on demand by or on behalf of the prosecutor the accused gave all the information in his power with respect to the name and address of that other person, and with respect to any relevant document in his possession or power relating to the material and the contract of sale.
- (6) Subsection (7) of section 5 of this Act shall apply for the interpretation of this section.”
- (2) The said Act of 1964 shall have effect subject to the further amendments set out in Schedule 7 to this Act, being miscellaneous minor amendments.
- (3) Section 39 of the said Act of 1964 shall have effect as if this section (together with the said Schedule 7) were contained in that Act and had been extended to Northern Ireland by Order in Council under subsection (2) of the said section 39.

#### **44 Extension of Agricultural and Forestry Associations Act 1962**

- (1) Section 1 of the Agricultural and Forestry Associations Act 1962 (which confers exemptions from Part I of the Restrictive Trade Practices Act 1956 for certain co-operative associations formed for purposes of agriculture or forestry) shall apply to corresponding associations of persons engaged in the business of catching or taking fish or shellfish, and accordingly shall have effect as if—
- (a) references to persons occupying land used for agriculture or forestry or both included references to persons engaged in the business aforesaid ;
  - (b) references to produce produced by members of an association on land so occupied and used, and to the production of such produce on such land, included references to fish or shellfish caught or taken by such members, and to the catching or taking of fish or shellfish, in the course of their business.
- (2) Without prejudice to the foregoing provision, the said section 1 shall apply to any co-operative association having as its object or primary object to assist its members—
- (a) in the carrying on of the businesses of agriculture or forestry or both on land occupied by them ; or
  - (b) in the carrying on of businesses consisting in the catching or taking of fish or shellfish,
- whether or not the conditions specified in paragraphs (a) to (c) of subsection (1) of that section are satisfied ; and for the purposes of this subsection " co-operative association" has the meaning assigned by subsection (9) of section 70 of the Finance Act 1965, and references to members of a co-operative association include references to members of any such association which is a member of that association.
- (3) The restrictions in respect of which exemption from Part I of the Restrictive Trade Practices Act 1956 is conferred by subsection (2) of the said section 1 shall include restrictions accepted or treated as accepted as mentioned in that subsection in respect of the production of produce, the catching or taking of fish or shellfish, or the supply of produce, fish or shellfish by members of an association to which the section applies.

- (4) This section shall be construed as one with the Agricultural and Forestry Associations Act 1962.

#### **45 Modification of Restrictive Trade Practices Act 1956 in relation to agricultural marketing boards**

- (1) For the purposes of the Restrictive Trade Practices Act 1956, the definition of " trade association " in section 6(8) of that Act shall not include, and shall be deemed never to have included, a board within the meaning of this section.
- (2) Where a board enter into an agreement on or after the commencement date in the exercise only of such powers as are mentioned in subsection (1) of section 20 of the Agricultural Marketing Act 1958 (which section provides, among other things, that certain of a board's powers with respect to products must be exercised in accordance with any directions given by the Minister for the purpose of safeguarding the public interest) or of such powers as are mentioned in section 36 of that Act (under which a board are empowered, subject to the directions of the Minister, to provide artificial insemination services), Part I of the said Act of 1956 shall not apply to the agreement if—
- (a) the board have served notice of the terms of the agreement on the Minister before entering into it; and
  - (b) either the period of twenty-eight days beginning with the date of service of the board's notice on the Minister has expired and the Minister has not during that period served notice on the board that he objects to those terms for the purposes of this subsection or the Minister has served on the board during that period notice that he does not so object; and
  - (c) the board have furnished a copy of the agreement to the Minister within the period of twenty-eight days beginning with the date on which they entered into it or within such longer period as the Minister may allow in any particular case.
- (3) Where a board have entered into an agreement before the commencement date wholly or partly in the exercise of any of the powers mentioned in subsection (2) of this section and either the board served on the Minister, before they entered into the agreement, notice of its terms in pursuance of a requirement to do so contained in a scheme administered by them or the board furnish a copy of the agreement to the Minister within the period of three months beginning with the commencement date, Part T of the said Act of 1956 shall not apply to the agreement—
- (a) subject to paragraph (c) below, as respects the period of fifteen months beginning with the commencement date;
  - (b) if during the said period of fifteen months or that period as previously extended under this paragraph the Minister serves notice on the board extending or further extending that period in relation to the agreement, then, subject to paragraph (c) below, as respects the extended period;
  - (c) if during the said period or extended period the Minister serves notice on the board that he objects to the agreement for the purposes of this subsection, only as respects the period beginning with the commencement date and ending with the date of service of the notice;
  - (d) if during the said period or extended period the Minister serves notice on the board that he does not so object, as respects any period after the commencement date;

and the said Part I shall, as respects any period before the commencement date, be deemed not to have applied to an agreement to which it does not apply by virtue of this subsection as respects a subsequent period.

- (4) Subsections (2) and (3) of this section shall have effect in relation to a Northern Ireland board as if for any reference to the powers mentioned in subsection (2) of this section were there substituted a reference to the powers mentioned in subsection (1) of section 14 of the Agricultural Marketing Act (Northern Ireland) 1964 (which section corresponds to the said section 20).
- (5) Where by virtue of any of the provisions of subsections (2) to (4) of this section Part I of the said Act of 1956 does not apply, or does not apply or is deemed not to have applied as respects any period, to an agreement made between a board and a trade association within the meaning of section 6 of that Act, being an agreement as to the terms for other agreements between the board and persons who are members of the association or are represented thereon by such members, the said Part I shall not apply or, as the case may be, shall not apply or shall be deemed not to have applied as respects that period—
- (a) to any such other agreement containing only terms contemplated by the agreement made between the board and the association;
  - (b) to any agreement made between two or more of those persons of which the purpose is confined to promoting the agreements mentioned in paragraph (a) of this subsection or any of them.
- (6) Nothing in this section shall be construed as derogating from the powers of the Minister to give directions at any time under the provisions of the said Acts of 1958 and 1964 which are mentioned in subsections (2) and (4) of this section.
- (7) In this section—
- " agreement " means an agreement within the meaning of Part I of the Restrictive Trade Practices Act 1956 to which, apart from this section, the said Part I applies ;
- " board " means a board constituted by a scheme made or having effect as if made under the Agricultural Marketing Act 1958 and includes a Northern Ireland board ;
- " the commencement date " means the date of the passing of this Act;
- " the Minister ", except in relation to a Northern Ireland board, has the same meaning as in the said Act of 1958 and, in relation to a Northern Ireland board, has the same meaning as in the Agricultural Marketing Act (Northern Ireland) 1964; and
- " Northern Ireland board " means a board constituted by a scheme made or having effect as if made under the said Act of 1964; and for the purposes of subsection (2) of this section an agreement shall be treated as entered into by a board in the exercise only of the powers mentioned in that subsection, or that subsection as modified by subsection (4) of this section, notwithstanding that the agreement contains provisions entered into by the board in the exercise of other powers if the Minister is of opinion that those provisions are incidental provisions only.

#### **46 Further functions of agricultural wages committees**

- (1) The Minister may by regulations—

- (a) provide that the functions under the Agricultural Wages Act 1948 of agricultural wages committees established in pursuance of that Act shall include such further functions as the Minister considers appropriate for the purpose of enabling or requiring those committees to give effect to orders made or which may be made by the Agricultural Wages Board for England and Wales under that Act and (without prejudice to the generality of the foregoing provisions in this paragraph) to determine whether any person is a member of any special class of workers as defined in such an order;
- (b) make provision with respect to the procedure to be followed in connection with the exercise of the further functions aforesaid and provide that section 15 of that Act (which relates to evidence of resolutions and orders) shall apply with such modifications as the Minister considers appropriate to decisions made in the exercise of those functions.

(2) In this section " functions " means powers and duties.

(3) In the application of this section to Scotland, for any reference to the Agricultural Wages Act 1948 and the Agricultural Wages Board for England and Wales there shall be substituted respectively a reference to the Agricultural Wages (Scotland) Act 1949 and the Scottish Agricultural Wages Board.

#### **47 Further exemptions of transfers of land from control of Rural Development Boards**

Section 49 of the Agriculture Act 1967 (under which the transfer of any land in the area of a Rural Development Board requires the consent of the Board) shall not apply to a transfer to or from a river authority or an internal drainage board within the meaning of the Land Drainage Act 1930; and accordingly after paragraph (f) of section 50(3) of the said Act of 1967 (which exempts certain transfers from the requirement aforesaid) there shall be inserted the following paragraphs :—

- “(g) a river authority (including the Conservators of the River Thames and the Lee Conservancy Catchment Board);
- (h) an internal drainage board within the meaning of the Land Drainage Act 1930”.

#### **48 Extension of s.3 of Parks Regulation (Amendment) Act 1926**

In section 3 of the Parks Regulation (Amendment) Act 1926 (under which, among other things, the Minister of Agriculture, Fisheries and Food has power to regulate the conduct of persons using the Royal Botanic Gardens at Kew), the second reference to the said Gardens shall include a reference to any park, garden, recreation ground, open space and other land for the time being vested in or under the control or management of the said Minister.

#### **49 Amendment of s.53(2) of the Agricultural Marketing Act 1958**

The proviso to subsection (2) of section 53 of the Agricultural Marketing Act 1958 (which restricts the operation in respect of reserved matters of schemes and regulations made under corresponding legislation of the Parliament of Northern Ireland unless it is certified by the Secretary of State that it is expedient that the schemes or regulations should have full effect as subserving the purposes therein described, being purposes

of Great Britain) shall have effect with the omission of the words from " as subserving the purposes of " to " produced or sold by them ".

*Supplemental*

**50 Interpretation etc.-general**

- (1) Subject to subsection (7) of section 45 of this Act, in this Act—
- " the Minister" means, except in the application of this Act to Scotland, the Minister of Agriculture, Fisheries and Food and, in the application of this Act to Scotland, the Secretary of State;
- " the Ministers" means the Minister of Agriculture, Fisheries and Food and the Secretary of State acting jointly; and
- " notice " means notice in writing.
- (2) It is hereby declared that in this Act any reference to a river authority includes a reference to the Conservators of the River Thames and the Lee Conservancy Catchment Board, and any reference to a river authority area is, in relation to the said Conservators, a reference to the Thames catchment area and, in relation to the said Board, a reference to the Lee catchment area.
- (3) Any reference in this Act to any enactment is a reference to it as amended, and includes a reference to it as applied, by or under any other enactment including an enactment in this Act.
- (4) Where an offence under this Act committed by a body corporate 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. In this subsection " 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 undertaking 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.

**51 Orders, regulations and schemes**

- (1) Any power conferred by this Act to make regulations or a scheme or an order (other than an order under section 23(1)(a)) shall be exercisable by statutory instrument.
- (2) Any statutory instrument containing an order or regulations made under any provision of this Act, other than an order under section 23(1)(b) and regulations under section 2, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) No scheme shall be made under this Act unless a draft of the scheme has been approved by each House of Parliament.
- (4) Any order or scheme made under any provision of this Act may be revoked or varied by a subsequent order or scheme made thereunder.
- (5) Any order, scheme or regulations under this Act may make different provision for different circumstances; and nothing in any other provision of this Act authorising

the making of different provision for such different cases as may be specified in that provision shall be construed as prejudicing the generality of the power conferred by this subsection.

## **52 Repeals**

The enactments mentioned in Schedule 8 to this Act are hereby repealed to the extent specified in column 3 of that Schedule.

## **53 Financial provisions**

There shall be defrayed out of moneys provided by Parliament—

- (a) any expenses incurred by virtue of this Act by any Minister or government department (except the Postmaster General); and
- (b) any increase attributable to the provisions of this Act in the sums payable out of such moneys under any other Act;

and any sums received by the Minister or the Ministers by virtue of this Act shall be paid into the Exchequer.

## **54 Short title, commencement and extent, etc.**

- (1) This Act may be cited as the Agriculture (Miscellaneous Provisions) Act 1968.
- (2) Part I of this Act shall come into operation on the expiration of two months beginning with the date on which this Act is passed.
- (3) This Act, except Part IV and sections 10, 13, 47 and 48, extends to Scotland, and sections 11, 14 and 16 and Part III of this Act extend to Scotland only.
- (4) This Part of this Act, except sections 41, 42 and 46 to 48, extends to Northern Ireland; but nothing in this Part of this Act shall restrict the powers of the Parliament of Northern Ireland to make laws with respect to any matter with respect to which that Parliament has power to make laws, and any laws made by that Parliament with respect to any such matters shall have effect notwithstanding anything in section 45 of this Act or in any scheme under section 38 or section 40 of this Act applying to Northern Ireland.