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**Changes to legislation:** There are currently no known outstanding effects for the Agriculture Act 1993, Cross Heading: Restraints on alienation etc.. (See end of Document for details)

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## SCHEDULES

### SCHEDULE 4

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

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

- 6 (1) Any provision which imposes a prohibition (whether absolute or qualified) on the transfer of any property or rights of the Board shall be treated as not applying in the case of a transfer under section 35 above.
- (2) Sub-paragraph (1) above 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 I of the <sup>M1</sup>Agricultural Marketing Act 1958.
- (3) For the purposes of this paragraph, any provision which has the effect of penalising a transfer shall be treated as prohibiting it.

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#### **Marginal Citations**

**M1** 1958 c. 47.

- 7 (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.
- (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) below, be treated as not applying in the case of a transaction effected under an approved scheme.
- (3) Sub-paragraph (2) above 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 I of the Agricultural Marketing Act 1958.
- (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.
- 8 (1) If any person suffers a diminution in the value of any property or interest in consequence of the operation of paragraph 7 above or, where sub-paragraph (2) below applies, paragraph 6 above, 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.

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- (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 by the Ministers.
- 9 (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, and
  - (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) if the scheme provides for there to be more than one transferee under section 35 above, specifies one of them as the body against which any claim under paragraph 10 below in relation to the identified provision is to be made, that provision shall, subject to any provision of regulations under sub-paragraph (3) (c) below, be treated as not applying in the case of a transaction effected under the scheme.
- (3) The Ministers 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 Ministers of a certificate of compliance in relation to the giving of notice under paragraph (a) above, and
  - (c) excluding sub-paragraph (2) above where no certificate of compliance under paragraph (b) above has been given at the time that a transaction is effected.
- (4) Sub-paragraph (2) above 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 I of the <sup>M2</sup>Agricultural Marketing Act 1958.
- (5) 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.

**Marginal Citations**

**M2** 1958 c. 47.

- 10 (1) If any person suffers a diminution in the value of any property or interest in consequence of the operation of paragraph 9 above in relation to any provision, such compensation as may be just shall be paid to him—
- (a) where the approved scheme provides for there to be one transferee under section 35 above, by that body, and
  - (b) where the scheme provides for there to be more than one transferee under that section, by the body which the approved scheme specifies as the body against which any claim for compensation under this paragraph, in relation to the provision concerned, is to be made.

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- (2) Any dispute as to whether, and, if so, how much compensation is payable under this paragraph, or as to the person to whom it shall be paid, shall be referred to and determined by an arbitrator appointed by the Ministers.

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