



Agricultural Marketing Act 1958

1958 CHAPTER 47

PART I

AGRICULTURAL MARKETING SCHEMES

Effect of schemes on contracts

17 Effect of schemes on contracts

- (1) Subject to the provisions of subsections (2) and (3) of this section, a contract of which neither the making nor the performance was, at the time when the contract was made, prohibited by or under any scheme in force, shall not, unless the terms of the contract otherwise provide, be void or unenforceable by reason that, at the time for the performance of any provision of the contract, the performance thereof is so prohibited.
- (2) Where the performance of any such contract as is referred to in the foregoing subsection is prohibited by or under any scheme in force, the foregoing subsection shall cease to apply to that contract on the expiration of three months after the prohibition first takes effect, unless the contract is registered under the next following section.
- (3) Where any scheme in force provides—
 - (a) for requiring registered producers to sell the regulated product or any description thereof only to, or through the agency of, the board, or
 - (b) for the determination of the quantity of the regulated product or of any description thereof which may be sold by any registered producer,

then, notwithstanding anything in subsection (1) of this section, every contract (whether made before or after the commencement of this Act) whereby a registered producer undertakes to sell, otherwise than to, or through the agency of, the board, a quantity of an agricultural product determined by reference to the total quantity thereof from time to time produced by the registered producer or produced by him in any area or premises specified in the contract, shall, if and in so far as the performance of the contract is prohibited by or under the scheme, be void and unenforceable.

Status: This is the original version (as it was originally enacted).

- (4) Where, in conformity with a scheme, any contract for the sale of the regulated product by a registered producer otherwise than to, or through the agency of, the board purports to confer on the board any right to receive from the purchaser the whole or any part of the purchase price payable under the contract, or of any damages for which the purchaser may be liable in respect of a wrongful rejection of articles tendered in accordance with the contract, the board may enforce that right against the purchaser, notwithstanding that the board are not parties to the contract and notwithstanding that, as between the board and the purchaser, there is no consideration.
- (5) No person shall be liable to any penalty in respect of a contravention of any scheme if he proves that the contravention was necessary for the performance of a contract which, by reason of subsections (1) and (2) of this section, was not, at the time of the contravention, void or unenforceable.

18 Registration of certain contracts

- (1) It shall be the duty of the board, on the application of any party to such a contract as is referred to in subsection (1) of the last foregoing section, not being such a contract as is referred to in subsection (3) of that section, to register the contract within the period of fourteen days after the application is made unless—
 - (a) the, application is made after the said subsection (1) has, by virtue of subsection (2) of the last foregoing section, ceased to apply to the contract; or
 - (b) in the case of a contract made during the relevant period, the board are of opinion that the contract was made with a view to evading the operation of the scheme by or under which the performance of the contract is prohibited.
- (2) If any party to a contract is aggrieved by the omission of a board to register the contract within the period referred to in the foregoing subsection, he may, within twenty-one days after the expiration of that period, appeal to the court, and, pending the determination of any such appeal, subsection (1) of the last foregoing section shall, notwithstanding anything in subsection (2) of that section, continue to apply to the contract.
- (3) On any appeal under this section, the board concerned and any party to the contract may appear and be heard, and if, on the hearing of any such appeal, the court finds—
 - (a) that the application for registration of the contract was made before the expiration of the period on the expiration of which subsection (1) of the last foregoing section ceased, by virtue of subsection (2) of that section, to apply to the contract, and
 - (b) in the case of a contract made during the relevant period, that the contract was not made with a view to evading the operation of the scheme,the court shall by order direct the registration of the contract, and thereupon the contract shall be deemed to have been registered as from the date of the order.
- (4) Where the court does not by order direct the registration of a contract, being a contract made during the relevant period, any party to the contract who is certified by the court to have entered into the contract in good faith without a view to evading the operation of the scheme may recover the amount of any damage suffered by him by reason of the avoidance of the contract from any other party to the contract who is certified by the court to have entered into the contract with a view to evading the operation of the scheme.

- (5) Subject to the provisions of section one hundred and eleven of the County Courts Act, 1934 (which provides for the removal into the High Court of any proceedings commenced in a county court), the jurisdiction of the court under this section with respect to any contract shall be exercised by the county court within the district of which any party to the contract has dwelt or carried on business at any time during the period within which the appeal may be brought :

Provided that if, before proceedings in respect of an appeal under this section are commenced in the county court, the board concerned and all parties to the contract agree that the appeal should be heard by the High Court, the jurisdiction of the court under this section shall be exercised by the High Court.

- (6) For the purposes of this section, " the relevant period ", in relation to a scheme, means a period beginning twelve months before the date when notice of the submission of the scheme was published in the Gazette and ending six months after the expiration of the suspensory period, or, in the case of a substitutional scheme, ending six months after the date when the scheme comes into force.
- (7) In the application of this section to Scotland the following subsection shall be substituted for subsection (5):—

“(5) The jurisdiction of the court under this section with respect to any contract shall be exercised by the sheriff within whose jurisdiction any party to the contract has dwelt or carried on business at any time during the period within which the appeal may be brought:

Provided that—

- (a) if, before proceedings in respect of an appeal under this section are commenced in the sheriff court, the board concerned and all parties to the contract agree that the appeal should be heard by the Court of Session, the jurisdiction of the court under this section shall be exercised by the Court of Session; and
- (b) it shall be lawful for the Court of Session, on the application of the board concerned or of any party to the contract, to require any appeal to the sheriff under this section to be remitted to the Court of Session”.