



# Agricultural Marketing Act 1958

## 1958 CHAPTER 47

### PART I

#### AGRICULTURAL MARKETING SCHEMES

*Submission and approval of schemes and procedure  
for determining whether scheme to remain in force*

#### **1 Submission of schemes**

- (1) A scheme regulating the marketing of an agricultural product by the producers thereof, other than a substitutional scheme, may be submitted to the Minister for his approval by any persons who satisfy the Minister that they are substantially representative of the persons who produce that product in the area to which the scheme is applicable, and, subject to subsection (4) of this section, a substitutional scheme may be submitted to the Minister for his approval by the board or boards administering the scheme or schemes revoked by the substitutional scheme.
- (2) A scheme may be applicable to Great Britain or any part thereof or to Great Britain or any part thereof and also to Northern Ireland or any part thereof but shall not be applicable only to Northern Ireland or a part thereof.
- (3) For the purpose of satisfying himself as mentioned in subsection (1) of this section, the Minister shall have regard both to the number of persons represented and to the quantity of the agricultural product to which the scheme relates produced by them in the area to which the scheme is applicable during some recent period before the scheme is submitted.
- (4) Before a substitutional scheme is submitted to the Minister under subsection (1) of this section it shall be published in the prescribed manner to all producers registered under the scheme revoked by it or (where it revokes more schemes than one) to all producers registered under each of them, and if, within the prescribed period after it has been so published to producers registered under a scheme revoked by it, a poll on the question whether it shall be submitted to the Minister is demanded by the prescribed number or the prescribed proportion, as the case may be, of the producers registered under the

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scheme revoked, the substitutional scheme shall not be submitted to him unless a poll on that question has been taken and the result thereof shows that the requisite majority of those producers has voted in favour of its submission.

In this subsection "prescribed" means, in relation to a scheme revoked by a substitutional scheme, prescribed by the scheme revoked.

## **2 Approval of schemes**

- (1) Before approving a scheme submitted under the foregoing section, the Minister shall cause to be published, in the Gazette and in such other manner as he thinks best for informing persons affected, a notice—
  - (a) stating that the scheme has been submitted to him,
  - (b) specifying the place where copies of the scheme may be obtained, on payment of such fee as may be specified in the notice, and inspected, and
  - (c) specifying the period, which shall not be less than six weeks after the date of publication of the notice in the Gazette, within which objections and representations with respect to the scheme may be made.
- (2) Every objection shall be made to the Minister in writing and shall state the grounds of objection and the specific modifications required.
- (3) Where an objection has been duly made to a scheme by a person affected thereby and has not been withdrawn, the Minister, unless he considers the objection to be frivolous, or unless he proposes to modify the scheme to meet the objection, shall, before taking any further action under this section, direct a public inquiry to be held and consider the report of the person who held the inquiry.
- (4) After considering any scheme duly submitted to him under the foregoing section and any objections and representations duly made with respect thereto, and after holding such inquiries, if any, as he thinks fit or is required to hold under this section, the Minister may, subject to the following provisions of this section, make such modifications in the scheme as he thinks proper.
- (5) No scheme shall be modified by the Minister so as to be applicable to any area to which it would not have been applicable without modification.
- (6) Before making any modifications in a scheme, the Minister shall give notice of the proposed modifications to such persons (not being less than nine nor more than twenty-one) as may be nominated for the purpose, at the time of the submission of the scheme, by the persons submitting the scheme, and unless, within four weeks after notice has been so given or such longer time as the Minister may allow, more than half the persons so nominated notify the Minister that they assent to the modifications, the Minister shall take no further action under this section.
- (7) If the Minister, after making such modifications, if any, as aforesaid, is satisfied that the scheme will conduce to the more efficient production and marketing of the regulated product, he may, subject to subsection (9) of this section, lay before Parliament a draft of the scheme, and if each House of Parliament resolves that the scheme shall be approved the Minister shall make an order approving the scheme in terms of the draft.
- (8) The Minister, on laying before Parliament a draft of a scheme under the last foregoing subsection, shall at the same time lay before Parliament—

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- (a) if the scheme is not a substitutional scheme, a report as to the evidence by which he has been satisfied for the purposes of subsection (1) of section one of this Act that the persons submitting the scheme were duly representative; or
  - (b) if the scheme is a substitutional scheme, a report showing that the provisions of subsection (4) of the said section one have been complied with.
- (9) A draft of a scheme which, by the terms of the draft, is to apply to Northern Ireland or any part thereof shall not be laid before either House of Parliament under subsection (7) of this section unless each House of the Parliament of Northern Ireland has resolved that it is expedient that a scheme in the terms of the draft should, if approved under the said subsection (7), extend to Northern Ireland.
- (10) If the draft of a scheme which, by the terms of the draft, is to be applicable to Northern Ireland or any part thereof has been laid before either House of the Parliament of Northern Ireland and that House has resolved that it is not expedient that the scheme should extend to Northern Ireland, the Minister may thereupon make in the draft of the scheme such modifications as are necessary in order to prevent the scheme applying to any part of Northern Ireland and such other modifications, being modifications consequential on the modifications aforesaid, as he may think fit; and subsection (6) of this section shall apply in relation to the modifications and they shall be taken into account by the Minister under subsection (7) of this section before he lays the draft of the scheme before Parliament.
- (11) Where the Minister has made an order under subsection (7) of this section approving a scheme, the scheme shall, subject to the provisions of this Part of this Act, come into force on such date as may be specified in the order, being a date after the latest date on which either House of Parliament resolves that the scheme shall be approved; and the making of the order shall be conclusive evidence that the requirements of this Act have been complied with and that the order and the scheme approved thereby have been duly made and approved and are within the powers conferred by this Act.
- (12) As soon as possible after making an order under subsection (7) of this section, the Minister shall cause the order to be published in the Gazette and in such other manner as he thinks best for informing persons affected.
- (13) Any inquiry under this section shall be held by a competent and impartial person appointed by the Minister, and shall be held in accordance with rules made by the Ministers for the purpose; and those rules may contain provisions as to the costs of the inquiry and shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (14) Such expenses of any inquiry under this section as may be incurred by the Minister with the approval of the Treasury shall be defrayed out of moneys provided by Parliament.
- (15) A scheme may be amended or revoked in accordance with the provisions of the First Schedule to this Act.

### **3 Constitution of boards to administer schemes and appointment of executive committees**

- (1) Every scheme shall constitute a board to administer the scheme.
- (2) Subject to the provisions of subsection (4) of this section, every scheme shall require the board to appoint an executive committee and shall provide for the delegation to

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the executive committee of all the functions of the board under the scheme, except such functions, if any, as may be specified in the scheme.

- (3) The provisions of the Second Schedule to this Act shall have effect with respect to the incorporation, composition and winding up of boards and with respect to the composition of the executive committee of a board.
- (4) Subsection (2) of this section shall not apply to the Hops Marketing Scheme, 1932, or to the Scottish Milk Marketing Scheme, 1933, but the Minister, after consulting the board, may by order amend each of those schemes so as to make it conform with the requirements of that subsection and with the requirements of paragraph 2 of the Second Schedule to this Act with respect to the composition of the executive committee referred to in that subsection.
- (5) An order made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) As soon as may be after an order under this section is made, the Minister by whom the order was made shall, in such manner as he thinks best for informing persons concerned, publish a notice stating that the order has been made and specifying a place where copies of the order may be purchased.

#### **4 Registration of producers and taking of poll of registered producers on question whether scheme to remain in force**

- (1) Every scheme shall provide for the registration of any producer who makes application for that purpose.
- (2) Every scheme, other than a substitutional scheme, shall require a poll of the registered producers to be taken, within such time as may be specified in the scheme, on the question whether the scheme shall remain in force.
- (3) If the poll aforesaid shows that the requisite majority of registered producers has voted in favour of the scheme remaining in force, the provisions of the scheme, the operation of which is suspended (under the provisions hereafter contained in this Part of this Act) until the expiration of the suspensory period, shall come into force at the expiration of that period, but in any other case the scheme shall cease to have effect at the date on which the result of the poll is declared, and the provisions of paragraph 6 of the First Schedule to this Act, and of sub-paragraph (2) of paragraph 6 of the Second Schedule thereto, shall apply as if the scheme had been revoked:

Provided that, if it is proved to the satisfaction of the Minister at any time before the expiration of the suspensory period that the number of producers voting on the poll was less than half the total number of producers (excluding producers exempted, or entitled to exemption, from registration by or under the provisions of the scheme), he shall forthwith by order revoke the scheme.

- (4) Every scheme shall provide for the manner in which polls are to be taken for the purposes of this Act, and in particular but without prejudice to the generality of the foregoing provision—
  - (a) may apply with any necessary modifications any enactments (including the penal provisions thereof) relating to parliamentary or local government elections and to the prevention of corrupt and illegal practices thereat;

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- (b) may prescribe the manner in which the quantity of the regulated product which any registered producer is capable of producing is to be determined for the purposes of the poll;
  - (c) may prescribe the information relating to the regulated product which is to be furnished by every registered producer before or at the time of voting, and the manner in which the information is to be furnished, and may require the rejection of the vote of any producer who fails to furnish the prescribed information in the prescribed manner, and may impose penalties for furnishing false information ;
  - (d) shall prescribe the manner in which the result of the poll is to be declared and published.
- (5) In the case of a scheme regulating the marketing of two or more separate products, the foregoing provisions of this section shall apply subject to the following modifications, that is to say:—
- (a) references to a poll on the question whether the scheme shall remain in force shall be construed as; references to a poll, in respect of each product, on the question whether the scheme shall remain in force so far as it applies to that product;
  - (b) subsection (3) shall apply, in relation to each poll, as if the provisions of the scheme, so far as they apply to the product in respect of which the poll is taken, were a separate scheme.

The question whether any product is to be treated as a separate product for the purpose of this subsection shall be determined by the provisions of the scheme.

- (6) For the purposes of subsections (2) and (3) of this section, a person who is registered as a producer notwithstanding that he has been exempted from registration by or under the provisions of the scheme shall not be deemed to be a registered producer.
- (7) Registration under a scheme of the name or style under which two or more persons carry on business in partnership as producers shall operate as the registration of all the partners for the time being, so, however, that for the purposes of those provisions of this Act and of the scheme which relate to elections, polls and voting at meetings, and to the assessment of contributions on registered producers, all the partners shall be treated as constituting together a single registered producer.

## **5 Information to be furnished for purposes of register, etc.**

- (1) As soon as practicable after any scheme, other than a substitutional scheme, comes into force the board shall cause to be published in such newspapers as the Minister may direct, being newspapers circulating within the area to which the scheme is applicable, a form of application for registration as a producer under the scheme, together with a notice stating—
  - (a) the nature of the regulated product and the area to which the scheme is applicable ;
  - (b) the classes or descriptions of producers which are exempted from registration and the procedure required, if any, for securing exemption from registration;
  - (c) that a poll of registered producers (other than producers exempted from registration) is to be taken in pursuance of this Act on the question whether the scheme shall remain in force;

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- (d) that no person will be entitled to vote on the poll afore said unless he is registered within the time specified in the notice but that no person so registered will, if it is decided as the result of the poll that the scheme shall not remain in force, incur any financial liability by reason of his registration;
  - (e) that, if it is decided as a result of the poll that the scheme shall remain in force, every producer who is not registered or exempted from registration will be prohibited from selling the regulated product;
  - (f) the place where copies of the scheme may be obtained on payment therefor;
  - (g) such other particulars as the board may think fit.
- (2) The Minister, as soon as practicable after any scheme approved by him, other than a substitutional scheme, comes into force—
- (a) shall cause a list to be compiled containing the names of all such persons as he has reason to believe are producers, together with their respective addresses so far as known to him, and forward a copy of the list to the board; or
  - (b) if it appears to him that he has so little information at his disposal that the list aforesaid would serve no useful purpose, shall inform the board accordingly.
- (3) As soon as practicable after receiving such a list as aforesaid the board shall send by post to every person named in the list, and to every other person who the board have reason to believe is a producer, being a person who is not registered as a producer, a notice addressed to him at his last known address, stating the particulars required to be stated in the notice published under subsection (1) of this section, together with a form of application for registration.
- (4) Subject to the provisions of section eighty of the Agriculture Act, 1947 (which imposes restrictions on the disclosure of information obtained under that Act), the Minister, if he thinks fit with a view to facilitating the due submission of a scheme, may, at the request of any person, cause such a list as aforesaid to be compiled and to be supplied to that person on payment of a fee of such amount as may be certified by the Minister to represent the cost of compiling the list.