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## SCHEDULES

### FOURTH SCHEDULE

#### PROVISIONS CORRESPONDING TO CERTAIN PROVISIONS OF THE AGRICULTURAL MARKETING ACTS, 1931 TO 1934

#### PART III

##### EFFECT OF MARKETING SCHEMES ON CONTRACTS

- 1 Subject as hereinafter provided, a contract of which neither the making nor the performance was, at the time when the contract was made, prohibited by or under any marketing 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 :

Provided that, where the performance of any such contract is prohibited by or under any such scheme, this paragraph shall cease to apply to that contract upon the expiration of three months after the prohibition first takes effect, unless the contract is registered under this Part of this Schedule,

- 2 It shall be the duty of the board administering a marketing scheme, on the application of any party to such a contract as aforesaid, to register the contract within the period of fourteen days after the application unless—
- (a) the application is made after the time at which it is provided by the proviso to the preceding paragraph that that paragraph shall cease to apply to the contract; or
  - (b) the board is of opinion—
    - (i) that the contract is unenforceable by any party thereto by virtue of the provisions of section four of the Statute of Frauds or section four of the Sale of Goods Act, 1893; or
    - (ii) in the case of a contract made during the relevant period, that the contract was made with a view to evading the operation of the scheme;

and if any party to a contract is aggrieved by the omission of a board to register the contract within the period aforesaid, he may, within twenty-one days after the expiration of that period, appeal to the court, and, pending the determination of any such appeal, paragraph 1 of this Part of this Schedule shall, notwithstanding anything in the proviso to that paragraph, continue to apply to the contract.

- 3 On any appeal under the last preceding paragraph 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 time at which it is provided by the proviso to paragraph 1 of this Part of this Schedule that that paragraph shall cease to apply to the contract; and

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- (b) that the contract is not unenforceable by any party thereto by virtue of the provisions of section four of the Statute of Frauds or section four of the Sale of Goods Act, 1893; and
- (c) 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 be registered as from the date of the order; but where, in the case of a contract made during the relevant period, the court does not direct the registration of the contract, any party to the contract certified by the court to have entered into the contract bona fide without a view to the evasion of 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 party certified by the court to have entered into the contract with a view to such evasion as aforesaid.

- 4 For the purposes of an appeal under this Part of this Schedule with respect to any contract, the court shall be any county court within the district in 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—

- (a) if, before proceedings in respect of any such appeal are commenced in the county court, the board and all parties to the contract agree that the appeal should be heard by the High Court, the High Court shall be the court for the purposes of the appeal; and
- (b) section one hundred and eleven of the County Courts Act, 1934, which provides for- the removal of matters from the county court to the High Court shall apply with respect to any appeal under this section as if the appeal were a matter commenced in the county court under that Act.

- 5 No person shall be liable to any penalty in respect of a contravention of any marketing scheme, if he proves that the contravention was necessary for the performance of a contract which, by virtue of this Part of this Schedule, was not, at the time of the contravention, void or unenforceable.

- 6 For the purposes of this Part of this Schedule, the expression " the relevant period " means, in relation to a scheme, a period beginning twelve months before the date when notice of the submission of the scheme was published in the Gazettes and ending six months after the date when the scheme comes into force.