

STATUTORY INSTRUMENTS

1982 No. 970 (S.128)

AGRICULTURE

AGRICULTURAL MARKETING

**The North of Scotland Milk Marketing Scheme (Amendment)
Approval Order 1982**

*Made - - -
Coming into Operation*

*13th July 1982
6th August 1982*

Whereas the North of Scotland Milk Marketing Board (hereinafter referred to as "the Board") has submitted to the Secretary of State certain amendments to the North of Scotland Milk Marketing Scheme 1934(a), and the Secretary of State, as required by section 2 of, and the First Schedule to, the Agricultural Marketing Act 1958(b) duly published notice of the submission of the said amendments and of the time within which objections and representations with respect thereto might be made;

And whereas no such objections were made and the Secretary of State, by virtue of the powers conferred on him by the said section 2 and First Schedule, made certain modifications, to which the Board assented, in the said amendments which, as so modified, are set out in the Schedule hereto;

Now, therefore, in exercise of the powers conferred on him by the said section 2 and First Schedule, and of all other powers enabling him in that behalf, the Secretary of State hereby makes the following order:

1. This order may be cited as the North of Scotland Milk Marketing Scheme (Amendment) Approval Order 1982 and shall come into operation on 6th August 1982.
2. The amendments to the North of Scotland Milk Marketing Scheme 1934 set out in the Schedule to this order are hereby approved.

George Younger,
One of Her Majesty's Principal
Secretaries of State.

New St. Andrew's House,
Edinburgh.
13th July 1982.

(a) S.R. & O. 1934/703, amended by S.I. 1950/2058, 1957/2025, 1961/549, 1978/583, 1979/319, 1981/447, 864.

(b) 1958 c.47.

SCHEDULE

The North of Scotland Milk Marketing Scheme 1934 shall be further amended as follows:—

1. In section 2(1):—

- (a) in the definition of “The Act” for “1931” there shall be substituted “1958”;
- (b) the definition of ‘Certified milk’ and ‘Tuberculin-Tested milk’ shall be deleted; and
- (c) at the appropriate places there shall be inserted the following definitions:—
 - “Accounting period” means such period comprising twelve consecutive calendar months as shall be determined from time to time by the Board.
 - “Buyer” means a person who buys raw milk in bulk from or through the agency of the Board.
 - “Chairman” means any Chairman duly appointed in accordance with section 7 of the Scheme.
 - “ ‘Premium milk’ and ‘Standard milk’ ” means milk of these designations being special designations the use of which is authorised by any order made by the Secretary of State under sections 3 and 6 of the Milk and Dairies (Amendment) Act 1922(a) and sections 10 and 11 of the Milk (Special Designations) Act 1949(b).

2. In section 4:—

- (a) for subsections (1) and (2) there shall be substituted the following subsections:—
 - “(1) *The Board.* The Scheme shall be administered by a Board which shall be a body corporate with a common seal.
 - (2) *Composition of the Board.* The Board shall be composed of:—
 - (a) Five persons elected by the registered producers in accordance with the provisions of subsection (3) hereof; and
 - (b) Two persons appointed by the Minister in accordance with paragraph (2)(1)(b) of the Second Schedule to the Act.”;
- (b) in subsection (3)(a), the words “In the case of the first Annual General Meeting where no more than five candidates are duly nominated, or thereafter” shall be deleted;
- (c) in subsection (5)(c), after the words “subsection (6) hereof” there shall be inserted “or by removal under subsection (11) hereof”;
- (d) for subsection (6) there shall be substituted the following subsection:—
 - “*Disqualification of Members of the Board.* Any elected member of the Board who is appointed to any other office or place of profit under the Scheme, or becomes notour bankrupt or is sequestrated or grants a trust deed for behoof of creditors, or compounds with his creditors, or becomes of unsound mind, or is convicted of an indictable offence, or absents himself from meetings of the Board for a period of six months without the consent of the Board, or gives the Board notice in writing that he resigns office, or wilfully fails to disclose an interest as required by subsection (7) hereof, shall *ipso facto* cease to be a member of the Board from the time when any of these events comes to the notice of the Board.”;
- (e) in subsection (8) for the words “section 17” there shall be substituted the words “section 47”; and
- (f) in subsection (11) for the words from “the terms of” to the end of the subsection there shall be substituted the words “notice of such resolution with full names and addresses of the registered producers proposing and seconding the resolution has been lodged with the Secretary of the Board not later than twenty four days prior to the date of the meeting. The Board shall send a copy of such notice to each registered producer along with the notice referred to in section 38 of the Scheme”.

(a) 1922 c.54.

(b) 1949 c.34.

3. In section 5, in subsection (3)(b) for the words "section 15 of the Agricultural Marketing Act, 1933" there shall be substituted the words "section 3 of the Act".
4. In section 11, in subsection (2) at the end there shall be added the words "and section 13 of the Companies Act 1976".
5. In Section 12:—
 - (a) in subsection (2), for the words "County or Burgh Council" there shall be substituted the words "regional or district council"; and
 - (b) in subsection (5), for the words from "fee which shall not" to the end there shall be substituted the words "fee to be determined by the Board which reasonably compensates the Board for the cost of furnishing the information".
6. In section 14, for the words "twenty pounds" there shall be substituted the words "£100, such penalty to be imposed by the Disciplinary Committee in accordance with the provisions of section 30 of the Scheme."
7. In section 15:—
 - (a) the words "From and after the end of the Statutory Suspensory Period as defined in section 35 of the Scheme" shall be deleted;
 - (b) for subsection (1) there shall be substituted the following subsection:—

“(1) to buy milk and to produce any of the commodities as listed in section 23(5A) of this Scheme, and to sell, grade, pack, store, adapt for sale, insure, advertise and transport milk and any of the commodities referred to in section 23(5A) of this Scheme;”;
 - (c) in subsection (2)(a), for the words "sub-section (1) of section 6 of the Agricultural Marketing (No. 2) Act 1933" there shall be substituted the words "section 7(4) of the Act";
 - (d) in subsection (3), for the words "section 23A of this Scheme" there shall be substituted the words "section 23 of this Scheme";
 - (e) in subsection (4), after the words "to determine" there shall be inserted the words " , subject to section 23 of this Scheme, ”;
 - (f) for subsection (7) there shall be substituted the following subsection:—

“(5) to manufacture or acquire (whether by purchase or lease) and to sell or let for hire to registered producers and other persons anything (whether heritable or moveable, real or personal) required for the production, grading, packing, storing, adaptation for sale, transport or sale of milk. Provided that any such thing sold or let for hire shall be sold or let for hire primarily in such circumstances as to be likely to be utilised mainly by registered producers or in connection with milk produced by them;”;
 - (g) subsection (8) shall be deleted;
 - (h) subsection (9) shall be renumbered subsection "(6)", and for the words "sub-sections (1) and (7) hereof" there shall be substituted the words "subsections (1) and (5) hereof";
 - (i) subsection (10) shall be renumbered subsection "(7)";
 - (j) subsection (11) shall be renumbered subsection "(8)";
 - (k) subsection (12) shall be renumbered subsection "(9)", and at the beginning there shall be inserted the words "to sell semen and";
 - (l) subsection (13) shall be renumbered subsection "(10)"; and
 - (m) subsection (14) shall be renumbered subsection "(11)".

8. In section 16:—*(a)* in subsection (1):—

- (i)* the words “From and after the end of the Statutory Suspensory Period” shall be deleted;
- (ii)* for the words “sub-section (2)” there shall be substituted the words “sub-sections (2) and (3)”; and

(b) after subsection (2) there shall be added the following subsection:—

“(3) The Board shall not be required to accept milk where this cannot reasonably be done on account of industrial dispute, adverse weather or other contingency beyond its control. Any registered producer whose milk has not been accepted under the provisions of this subsection shall, during such a period of non-acceptance, be free to sell milk otherwise than to or through the agency of the Board, but in the event of such producer being unable to sell his milk or any part thereof otherwise than to or through the agency of the Board, the Board may in their absolute discretion make payment for such milk at such reduced price as may be determined in accordance with section 24(9B).”.

9. In section 17:—

- (a)* the words “From and after the end of the Statutory Suspensory Period” shall be deleted; and
- (b)* after the word “prohibited” there shall be inserted the words “except as provided for by Articles 7 and 8 of Council Regulation (EEC) No. 1422/78(a)”.

10. In section 18, the words “after the end of the Statutory Suspensory Period” in both places where they occur shall be deleted.

11. In section 19:—

- (a)* the words “From and after the end of the Statutory Suspensory Period” shall be deleted;
- (b)* in subsection (1), for the words “section 23A of this Scheme” there shall be substituted the words “section 23 of this Scheme”; and
- (c)* for subsection (4) there shall be substituted the following subsection:—

“(4) Subject to the provisions of subsection (1) of section 25 and subsection (2) of section 28 of the Scheme, the Board shall pay the proceeds of all sales of milk by or through the agency of the Board into the fund hereinafter referred to, and thereafter make payment to registered producers in the manner prescribed in section 24 of the Scheme.”.

12. In section 21:—

- (a)* the words “From and after the end of the Statutory Suspensory Period:” shall be deleted;
- (b)* in subsection (3) the words “Except as otherwise provided in subsection (4) hereof” shall be deleted; and
- (c)* for subsection (4) there shall be substituted the following subsection:—

“(4) The cost of collecting milk from registered producers shall be an expense chargeable to the fund established in terms of section 24(3) of the Scheme, but in the event of the Board considering that any such collection is unreasonably difficult or unduly onerous or costly (whether by reason of difficulty of access, or

inconvenience of location, or any other reason) then the Board may, in such a case, assess a Special Collection Charge. The amount of such a charge shall be fairly related to the actual extra cost of the collection compared to the average cost of collection as assessed by the Board, and shall be debited against the account of the individual producer concerned.”.

13. For section 22 there shall be substituted the following section:—

“22. Milk Containers

Each registered producer consigning milk to the Board shall maintain in good condition refrigerated farm tank equipment to permit of his milk being collected at his farm by tanker (unless the Board has determined that some other form of collection will apply).”.

14. Section 23 shall be deleted.

15. Section 23A shall be renumbered section “23”.

16. In section 24:—

- (a) in subsection (9):—

- (i) after the words “Board for the sale of” there shall be inserted the word “raw”;
- (ii) the words “as hereinafter defined.” shall be deleted;
- (iii) the words “subject to the provisions of the next following subsection “shall be deleted;
- (iv) in proviso (b), for the words “the Standard Haulage Rate or the Special Haulage Rate” there shall be substituted the words “the Special Collection Charge”;
- (v) the words from “The expression “accounting period” ”to the end of the subsection shall be deleted;

- (b) for subsection (9A) there shall be substituted the following subsection:—

“(9A) Any moneys payable to the Board from its commercial activities, together with such other moneys (if any) as the Board think fit, less (a) sums set aside by the Board under subsection 8(a) hereof and not deducted under subsection (9) hereof, and (b) such sums as in the opinion of the Board are required to pay all, or such part as the Board think fit, of the Board’s expenses, losses and outgoings of every description incurred in respect of that accounting period in relation to the activities from which the moneys payable under this subsection have accrued, shall be paid by the Board to all registered producers in proportion to the quantity of milk sold by them under the provisions of the Scheme during that accounting period or any part thereof.”;

- (c) after subsection (9A) there shall be inserted the following subsection:—

“(9B) In the event of the Board being prevented from accepting milk of a registered producer or any part thereof due to an industrial dispute, adverse weather or other contingency beyond the control of the Board, the Board may make such deduction from the pool price payable to that producer in respect of such milk as may be determined by the Board.”;

- (d) in subsection (10), for the words “sections 11 to 14” there shall be substituted the words “section 22”;
- (e) in subsection (11), for the words “the stocks, funds or securities mentioned in section 10 or section 11 of the Trusts (Scotland) Act, 1921, or for the time being approved by the Court of Session under section 27 of that Act” there shall be substituted the words “the investments specified in Part I and Part II of the First Schedule to the Trustee Investments Act 1961.”; and
- (f) after subsection (12) there shall be added the following subsection:—

“(13) *Power to Raise a Capital Contribution.* The Board shall have power to require registered producers who sell milk to or through the agency of the Board to make contributions of such amounts as may be necessary for the operation of the Scheme towards the capital expenditure, or other capital purposes, of the Board. These contributions shall be payable in respect of every litre of milk sold by them to or through the agency of the Board during such period or periods and at such rates per litre as the Board may from time to time determine. Such contributions shall be payable on such dates as may be fixed by the Board and shall be a debt due by the registered producer to the Board and recoverable by the Board accordingly. Any contribution so payable by any registered producer may be deducted by the Board from any moneys payable by the Board to that producer.”.

17. For section 25 there shall be substituted the following section:—

“25. Sales by Retail, Semi-Retail and Wholesale

(1) The following provisions of the Scheme shall not apply to milk (whether sold as whole milk or otherwise) sold by retail, semi-retail or wholesale (as hereinafter defined) by registered producers who are licensed by the Board to sell milk by retail, semi-retail or wholesale *videlicet*:—subsection (1) of section 16, subsections (2), (3), and (4) of section 19, section 21, and subsections (9) and (13) of section 24.

(2) *Contributions to the Board*

(a) Every registered producer shall pay to the Board a contribution of such amount as the Board may from time to time determine in respect of every litre of milk (whether sold as whole milk or otherwise) of his own production which he has sold by retail, by semi-retail or by wholesale. The Board may determine different rates of contribution for different descriptions of milk and for the avoidance of doubt it is hereby declared that the Board may, in exercise of the power conferred upon them by this subsection, for any such rate fixed by them in an accounting period determine during that period that some other rate shall be payable. Such contributions shall be payable on such dates as may be fixed by the Board and shall be a debt due by the registered producer to the Board and recoverable by the Board accordingly. In determining the rate of any such contribution the Board shall have regard to the extent to which the prices determined by the Joint Committee for milk (whether sold as whole milk or otherwise) of the same description as that sold by the registered producer for the appropriate accounting period, as estimated by the Board, exceed the producers' prices for that period as so estimated by the Board.

(b) In addition to the contribution determined by the Board under subsection (2)(a) hereof, the Board may require registered producers, in respect of every litre of milk (whether sold as whole milk or otherwise) of their own production sold by them by retail, semi-retail or wholesale, to make contributions of such amounts as the Board may from time to time determine, towards the expenses of the Joint Committee referred to in section 23 of the Scheme and towards the cost of advertising milk.

(c) In addition to the powers conferred on the Board under subsections (2)(a) and (b) hereof, the Board shall have power to require registered producers who sell milk (whether sold as whole milk or otherwise) of their own production by retail, semi-retail or wholesale, to make contributions of such amounts as may be necessary for the operation of the Scheme towards the capital expenditure or other capital

purposes of the Board. These contributions shall be payable in respect of every litre of milk (whether sold as whole milk or otherwise) of their own production sold by them by retail, semi-retail or wholesale during such period or periods, and at such rates per litre, as the Board may from time to time determine. Such contributions shall be payable on such dates as may be fixed by the Board and shall be a debt due by the registered producer to the Board and shall be recoverable by the Board accordingly. Any contributions so payable by any registered producer may be deducted by the Board from any moneys payable by the Board to that producer.

(3) *Definitions of Sale by Retail, by Semi-Retail and by Wholesale.*

(a) Sale by retail means the sale by a registered producer, licensed as aforesaid, of milk (whether sold as whole milk or otherwise) of his own production by his own hand or by the hand of a member of his family or that of a person directly employed by him to domestic consumers.

(b) Sale by semi-retail means the sale by a registered producer, licensed as aforesaid, of milk (whether sold as milk or otherwise) of his own production by his own hand or by the hand of a member of his family or that of a person directly employed by him to a hospital, hotel, restaurant or such other class or classes of buyers (not being consumers or persons carrying on business as distributors of milk or manufacturers of milk products) as the Board may from time to time determine.

(c) Sale by wholesale means the sale by a registered producer, licensed as aforesaid, of milk (whether sold as whole milk or otherwise) of his own production packed on his premises in retail containers and sold by him to a purchaser for subsequent retail sale. Provided that the Board may, at their discretion, and from time to time, fix the quantity of milk (whether sold as whole milk or otherwise) which may be any individual registered producer by wholesale under the provisions of this section.”.

18. In section 29, the words “After the end of the Statutory Suspensory Period and” shall be deleted.

19. In section 30:—

(a) in subsection (1):—

(i) the words “, from and after the end of the Statutory Suspensory Period,” shall be deleted;

(ii) for the words “(not exceeding ten pounds for a first offence, and not exceeding one hundred pounds for a second or subsequent offence)” there shall be substituted the words “not exceeding £1000”;

(iii) for the words “the Agricultural Marketing Acts 1931 to 1949” there shall be substituted the words “the Act”; and

(b) in subsection (7), for the words “section 6 of the Agricultural Marketing Act 1949,” there shall be substituted the words “section 10 of the Act.”.

20. Section 32 shall be deleted.

21. Section 33 shall be renumbered section “32”, and in subsection (10) the words ““Northern Chronicle,”” shall be deleted.

22. Section 33A shall be renumbered section “33” and—

(a) in subsection (8), for the word “Fourth” there shall be substituted the word “Second”; and

(b) in subsection (11), the words ““Northern Chronicle,”” shall be deleted.

23. Section 35 shall be deleted.
24. Section 36 shall be renumbered section “35” and:—
- (a) in subsection (1):—
- (i) for the words “books of accounts” in each of the three places where they occur there shall be substituted the words “accounting records”;
- (ii) the words “in a form approved by the Secretary of State and shall be” shall be deleted; and
- (b) for subsections (2) and (3) there shall be substituted the following subsections:—
- “(2) *Preparation of Accounts.* Following the end of each accounting period, the Board shall prepare, in respect of the accounting period, an Income and Expenditure Account for the fund established in accordance with section 24(3) of this Scheme, and a Profit and Loss Account in respect of the Board’s commercial activities. The Board shall also prepare a Balance Sheet as at the date at which these Accounts are made up. The Accounts shall make separate provision for the Board’s commercial activities and for the Board’s other activities, and shall be in a form approved by the Secretary of State.
- (3) *Audit of Accounts.* The Board shall submit the accounts prepared under subsection (2) above for audit to the Auditor appointed under section 11 of the Scheme. The Auditor shall examine the Accounts and shall verify the same with the accounting records, deeds, documents and vouchers relating thereto, and shall either sign the Accounts as found by him to show a true and fair view of the state of the Board’s affairs and of its results and to be in accordance with law, or shall report to the Board in what respect the Accounts do not show a true and fair view of the Board’s affairs and results and are not in accordance with law.
- (3A) *Submission of Audited Accounts to the Minister and to Registered Producers.* Once in every year, the Board shall send to the Minister and to every registered producer, along with a notice calling the meeting at which the Accounts of the Board are to be submitted, the Accounts prepared in accordance with subsection (2) above and the report of the Auditor thereon, together with a statement of the manner in which any moneys of the Board are invested in accordance with the provisions of subsection 11 of section 24 of the Scheme, and such other information on the workings of the Scheme in the period covered by the Accounts as the Board may consider necessary for the information of registered producers.”; and
- (c) in subsection (4), for the words “fee, not exceeding 1s as may be fixed by the Board” there shall be substituted the words “fee to be determined by the Board which reasonably compensates the Board for the cost of furnishing such Balance Sheet.”.
25. Sections 37 and 38 shall be renumbered sections “36” and “37” respectively.
26. Section 39 shall be renumbered section “38”, and at the end there shall be added the words “On the said notice there shall appear with reasonable prominence a statement of the right conferred upon a registered producer by subsection (1) of section 39 of the Scheme.”.
27. Sections 40, 41, 42 and 43 shall be renumbered sections “39”, “40”, “41” and “42” respectively.

28. Section 44 shall be renumbered section "43", and:—

- (a) in subsection (1), for the words "paragraphs 4 to 8 inclusive" there shall be substituted the words "paragraphs 4 to 6 inclusive"; and
- (b) in subsection (2):—
 - (i) for the words "paragraph 7" there shall be substituted the words "paragraph 5";
 - (ii) for the words "one shilling" there shall be substituted the words "five pence".

29. Sections 45, 46 and 47 shall be renumbered sections "44", "45" and "46" respectively.

30. The Second and Third Schedules shall be deleted.

31. The Fourth Schedule shall be renumbered "Second Schedule", and in the heading for the words "SECTION 33A" there shall be substituted the words "SECTION 33."

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order, which comes into operation on 6th August 1982 approves amendments to the North of Scotland Milk Marketing Scheme. The amendments provide for: clarification of the Board's powers to market milk and milk products; new arrangements governing the collection of milk from producers and the charging of such collection as a Board expense; a new category of 'wholesale producer' within the auspices of the scheme; clarification of the Board's financial and accounting arrangements; and various other amendments to up-date certain provisions of the Scheme, including the revision of disciplinary penalties and other charges contained in the scheme.

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