

1986 No. 1372**INDUSTRIAL ORGANISATION AND DEVELOPMENT****The Apple and Pear Development Council Order 1986***Laid before Parliament in draft*

<i>Made</i>	- - -	<i>4th August 1986</i>
<i>Coming into Operation</i>		<i>5th August 1986</i>

The Minister of Agriculture, Fisheries and Food and the Secretary of State acting jointly, in exercise of the powers conferred by section 8(1) of the Industrial Organisation and Development Act 1947(a) and now vested in them(b), and of all other powers enabling them in that behalf, after consultation with the Apple and Pear Development Council (established under the said Act by the Apple and Pear Development Council Order 1966(c) and continued in being by the Apple and Pear Development Council Order 1980 (d)), with such organisations as appear to them to be representative of substantial numbers of persons carrying on business in the industry and with such organisations representative of persons employed in the industry as appear to them to be appropriate, hereby make the following order a draft whereof has been laid before Parliament and approved by a resolution of each House of Parliament:—

Citation and commencement

1. This order may be cited as the Apple and Pear Development Council Order 1986, and shall come into operation on the day immediately following the day on which it is made.

Interpretation

2. In this order, unless the context otherwise requires:—

“the Act” means the Industrial Organisation and Development Act 1947;

“apples and pears” means apples and pears other than “cider apples” and “perry pears”;

“apple or pear tree” means any plant capable, respectively, of bearing apples or pears in season and of at least five years’ growth after initial budding or grafting;

(a) 1947 c. 40, which is to be read with section 40 of the Criminal Justice Act 1982 (c. 48) and S.I. 1984/447.

(b) By virtue of S.I. 1978/272.

(c) S.I. 1966/1579, amended by S.I. 1970/830, 1971/511, 1975/142.

(d) S.I. 1980/623, amended by S.I. 1980/2001.

“cider apples” and “perry pears” mean respectively apples and pears of the varieties specified in Schedule 1 to this order;

“the Council” means the Apple and Pear Development Council established under the Act by the Apple and Pear Development Council Order 1966 and continued in being by the Apple and Pear Development Council Order 1980;

“grower” means a person who carries on business in the industry and occupies land in England and Wales of two hectares or more planted with 50 or more apple or pear trees;

“the industry” means the growing of apples and pears in England and Wales for sale or for processing into an apple or pear product with a view to its sale, by way of trade or business;

“the Minister” means the Minister of Agriculture, Fisheries and Food;

“sale” includes storage or preparation with a view to subsequent sale.

The Development Council

3.— (1) The Council shall continue in being and shall have the functions specified in Schedule 2 to this order.

(2) The Council shall exercise their functions in such manner as appears to them to be likely to increase efficiency and productivity in the industry, to improve and develop the service that the industry renders or could render to the community and to enable the industry to render that service more economically.

(3) The Council may enter into such agreements, acquire such property and do such things, as may in the opinion of the Council be necessary or desirable for the exercise of any of their functions and may dispose as they think fit of any property acquired by them.

Constitution of Council

4. The Council shall consist of the following members appointed by the Minister, that is to say:—

- (1) 8 persons capable of representing the interests of growers;
- (2) 2 persons capable of representing the interests of persons employed in the industry;
- (3) 2 persons as to whom the Minister is satisfied that they have no such financial or industrial interest as is likely to affect them in the discharge of their functions as members of the Council (hereinafter referred to as “independent members”); and
- (4) 2 persons having special knowledge of matters relating to the marketing or distribution of products of the industry.

Proceedings of Council

5. The provisions of Schedule 3 to this order shall have effect in relation to the membership and proceedings of the Council.

Register of growers

6.— (1) The Council shall continue to keep a register of growers and shall enter therein the name and address of every person who applies to the Council in writing to be registered.

(2) The Council may enter in the register, in addition to the name and address of any registered person, any business name under which he carries on business in the industry, the address of any place at which he carries on business in the industry and the names of his partners in business in the industry, but no other information.

(3) Any person whose name is entered in the register shall notify the Council forthwith in writing of any matter rendering the entry in the register relating to him inaccurate or incomplete.

(4) The Council shall, on receipt of any such notification as is referred to in paragraph (3) hereof, amend the register in accordance therewith.

(5) Any registered person may apply in writing to the Council for the removal of his name from the register and if the Council are satisfied that such person no longer carries on business in the industry they may remove his name forthwith.

(6) The Council may, if they have reasonable cause to believe that any person whose name is entered in the register no longer carries on a business in the industry, by notice in writing inform that person of their intention to remove his name from the register unless within one month from the date of the notice he gives notice in writing to the Council that he is a person carrying on such a business, and if no such notice is received by the Council within the said period the Council may on the expiration of that period remove his name from the register.

(7) The register shall be kept at the office of the Council and any person shall, on the payment of a fee not exceeding one pound, be entitled to inspect the register during normal business hours and to take, or be supplied with, a copy of the entries relating to any one registered person.

Registration of growers

7.— (1) Every person who on or after the day on which this order comes into operation becomes a grower shall within one month thereafter apply in writing to the Council to be registered.

(2) Where two or more persons jointly carry on business in the industry they shall, for the purpose of registration, be treated as constituting a single person.

Returns and information

8.— (1) Subject to paragraph (2) of this article, the Council may require any registered grower to furnish such returns and information relating to activities carried on by him and comprised in the industry, including information with respect to the productive capacity, capital assets, staff, output, orders, sales, deliveries, stocks and costs as appear to the Council to be required for the exercise of any of their functions.

(2) The Council shall not exercise the powers conferred upon them under this article generally as regards the industry or any section thereof unless the Minister has consented to such exercise and has approved the form in which the returns or other information will be required to be furnished.

Charges for expenses

9.— (1) For the purposes of enabling them to meet their administrative and other expenses incurred or to be incurred in the exercise of their functions the Council may, with the approval of the Minister and subject to paragraph (2) of this article, impose on every grower—

- (a) an annual charge at a rate not exceeding sixty five pounds in respect of each hectare of land occupied by him for the purpose of business in the industry and planted with apple or pear trees, or,
- (b) where the average density of planting on such land is less than 125 trees per hectare and the grower so elects, an annual charge in respect of every 50 trees at the rate of two fifths of the charge imposed under the preceding subparagraph.

(2) For the purpose of computing amounts payable under paragraph (1) of this article headlands shall be included but fractions of less than each complete one-tenth of a hectare or any remainder after the number of trees have been divided by 50 shall be ignored.

(3) Where two or more persons jointly carry on business in the industry, they shall, for the purpose of calculating any charge payable by them in respect of land used in the joint business, be treated as constituting a single person.

(4) In addition to any charge imposed under paragraph (1) of this article the Council may, with the approval of the Minister, for the purposes of enabling them to meet their administrative and other expenses incurred or to be incurred in connection with any scheme for promoting the production and marketing of standard products, impose on every person participating in any such scheme, being a person carrying on any business consisting wholly or partly in the production of, or dealing in, any of the materials of the industry, a charge at a rate not exceeding twelve pence for every ten kilograms by net weight of such standard products marketed by him.

(5) Every charge imposed in accordance with the provisions of this article shall be payable on such date or dates as the Council may determine at the office of the Council, and it shall be a debt due to the Council and shall be recoverable as such.

Borrowing and investment of money

10.— (1) The Council may borrow money and pledge, mortgage or charge any of their property (including the proceeds of the charges imposed in accordance with the provisions of article 9 of this order) for the purpose of defraying any expenses incurred or to be incurred in the discharge of their functions.

(2) The Council may maintain a reserve fund for the purposes of their functions.

(3) Any moneys for the time being comprised in a reserve fund maintained under this article, and any other moneys of the Council which are not for the time being required for any other purpose, may be invested in accordance with the next following paragraph.

(4) Sections 1, 2, 5, 6, 12 and 13 of the Trustee Investments Act 1961(a) (which relate to the investment powers of trustees) shall have effect in relation to any such moneys, and in relation to any investments or other property for the time being representing any such moneys, as if they constituted a trust fund and the Council were the trustees of that trust fund.

Returns of orchard area and other matters

11.— (1) For the purposes of the imposition or recovery of their charges, the Council may from time to time require by notice in writing any person carrying on business in the industry to furnish to the Council a written return, in such form, within such period and showing such information as may be specified in the notice, or to produce for examination at such time as may be specified in the notice books or other documents or records in the custody or under the control of that person, or to keep records and produce them for examination as aforesaid.

(2) The Council shall ensure that the returns to be furnished in accordance with provisions of article 8 of this order or the returns to be furnished or the books or other documents or other records to be produced in accordance with the provisions of this article shall be examined by the independent members of the Council or by officers of the Council specially authorised for that purpose by the Council.

(3) A person who uses in his business what he claims to be a secret process that ought not to be disclosed on the ground of risk of prejudice to his business shall not be required by anything in this article or in article 8 of this order to disclose particulars relating to the process unless the requirement and the form thereof have been approved by the Minister after consideration of his claim.

Offences

12.— (1) If any grower continues his business in the industry after the expiration of the period within which he is required by article 7(1) of this order to apply to be registered without having so applied he shall be liable on summary conviction to a fine not exceeding £400.

(2) If any person required to furnish returns or information or to keep records or to produce for examination books or other documents or records under this order fails to furnish, keep or produce them in accordance with the requirement he shall, unless he proves that he had reasonable excuse for the failure, be liable on summary conviction to a fine not exceeding £400.

(3) If any person who is convicted of an offence under paragraph (1) of this article continues his business in the industry after the expiration of 21 days commencing with the date of the conviction without having applied for registration he shall be guilty of a further and continuing offence and shall be

(a) 1961 c. 62.

liable on summary conviction to a fine not exceeding five pounds in respect of each day during which he continues such business without having applied for registration.

(4) If any person who is convicted of an offence under paragraph (2) of this article, fails without reasonable excuse to furnish such return or to produce for examination such books, other documents or records to the Council within 21 days after such conviction he shall be guilty of a further and continuing offence and shall be liable on summary conviction to a fine not exceeding two pounds in respect of each day during which such failure continues.

(5) If any person knowingly or recklessly makes any statement, in compliance with a notice under the provisions of article 8 or 11 of this order, which is false in a material particular, he shall be liable on summary conviction to a fine not exceeding £400.

Revocation

13. The Apple and Pear Development Council Order 1980 and the Apple and Pear Development Council (Amendment) Order 1980 are hereby revoked.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 30th July 1986.

(L.S.)

Michael Jopling,
Minister of Agriculture, Fisheries and Food.

Wyn Roberts,
Parliamentary Under-Secretary of State for Wales.

4th August 1986.

Article 2

SCHEDULE 1

CIDER APPLES AND PERRY PEARS

The following varieties of apples are cider apples:—

Abundance	Fillbarrel
Allens Sweet	Foxwhelp
Amer de Berthecourt	Franqueville
Amer de Torentice	Frederick
Argile Grise	Frequin Audievre
Ashton Brown Jersey	Frequin Tardif
Ball's Bitter Sweet	Gilbert
Barbarie Blanche	Goddard
Bedan	Green Norman
Belle de Douai	Grosse Launette
Belle Norman	Hagloe Crab
Bergere	Hangdown
Binet Rouge	Harnette
Black Foxwhelp	Harry Masters Jersey
Black Norman	Honeystring
Blanc Mollet	Improved Dove
Bloody Turk	Improved Hangdown
Bouteille de Caen	Improved Kingston Black
Bramtot	Improved Lambrook Pippin
Bran Rose	Improved Pound
Breakwell's Seedling	Jackson
Broadleaf Norman	Jambe de Lievre
Broadley Jersey	Jolly Rouge
Brown Jersey	Killerton Sweet
Brown Snout	Kingston Black
Brown Thorn	Knotted Kernel
Brown's Apple	Lavignee
Bulmer's Norman	Lorna Doone
Camelot	Loyal Drain
Cherry Norman	Major
Cherry Pearmain	Marechal
Chisel Jersey	Medaille d'Or 1.
Churchill	Medaille d'Or 2.
Cider Lady's Finger	Michelin
Cimetiere	Morgan Sweet
Collington Bitter Sweet	Moulin à Vent
Compton Drum	Nehou
Cool Jersey	Neverblight
Court Royal	Oakham Green
Cow Apple	Oisier
Cowarne Red	Old Pound
Crimson King	Omont
Croix de Bouelles	Peau de Blaireau
Crummy Norman	Peau de Vache
Dabinett	Pennard Bitter
De Boutteville	Pomme Mettais
Des Domaines	Porter's Perfection
Doux Amer	Port Wine
Doux Lazon	Red Foxwhelp
Dove	Red Jersey
Dymock Red	Red Norman
Early David	Red Streak
Ecarlatine	Reine des Hâtives
Eggleton Styne	Reine des Pommes
Ellis Bitter	Reinette D'Obry
Fair Maid of Devon	Rouge Bruyere

Rougette Douce	Tanners Red
Royal Jersey	Taunton Fair Maid
Royal Wilding	Thomas Hunt
St Laurent	Tom Putt
Sandford Jersey	Tremlett's Bitter
Scudamores Crab	Upright French
Sherrington Norman	Upright Styre
Silver Cup	Vagnon Archer
Skyrmes Kernel	Vilberie
Slack My Girdle	Wellings Bitter Sweet
Somerset Brown Jersey	White Alphington
Somerset Red Streak	White Close Pippin
Stable Jersey	White Frequin
Stembridge Jersey	White Jersey
Stoke Red	White Norman
Strawberry Norman	Woodbine
Sweet Alford	Yarlington Mill
Sweet Blenheim	Yellow Redstreak
Sweet Copping	Yellow Styre

The following varieties of pears are perry pears:—

<i>Variety</i>	<i>Synonym(s)</i>
Arlingham Squash	Squash Pear, Old Squash, Old Taynton Squash
Barland	
Barnet	Barn Pear, Brown Thorn Pear, Hedgehog Pear
Bartestree Squash	
Bastard Longdon	
Bastard Sack	
Billy Williams	
Black Huffcap	Black Pear
Blacksmith	
Blakeney Red	Blakeney, Red Pear, Circus Pear, Painted Lady, Painted Pear
Bloody Bastard	
Bosbury Scarlet	
Boy Pear	
Brandy	
Brockhill	
Brown Bess	Brown Bessie
Brown Russet	
Butt	Norton Butt
Cannock	
Chaceley Green	Chaseley Green
Claret	
Clipper Dick	
Clusters	
Coppy	Coppice
Cowslip	

<i>Variety</i>	<i>Synonym(s)</i>
Deadboy	
Ducksbarn	Duckbarn, Ducksbourne
Early Blet	
Early Griffin	Griffin's Early
Early Hay Pear	Hay Pear
Early Longdon	
Early Treacle	
Flakey Bark	
Forrest Pear	
Gin	
Golden Balls	
Goldings	
Grandfather Tum(p)	
Green Horse	Horse Pear
Green Longdon	Brown Longdon, Longdon, Longland(s), Old Fashioned Longdon, Russet Longdon
Gregg's Pit	
Hampton Rough	Roughs
Harley Gum	Arlingham
Hartpury Green	
Hastings	
Hatherley Squash	
Hellens Early	Sweet Huffcap
Hellens Green	
Hendre Huffcap	Yellow Huffcap
Heydon	
High Pear	
Hillend Green	Ford's Green Huffcap
Holmer	Cluster Top, Startle Cock
Honey Knob	
Iron Sides	
Jenkins' Red	
Judge Amphlett	
Knapper	Napper
Late Hay Pear	Hay Pear
Late Treacle	
Lullam	
Lumber	Lumber Reds, Steelyard Balls, Steelyer Balls, Swaycots, Cumber
Margaret	
Merrylegs	

<i>Variety</i>	<i>Synonym(s)</i>
Moorcroft	Malvern Hills, Stinking Bishop, Choke Pear, Chokers
Murrell	
Nailer	Billy Williams
Newbridge	White Moorcroft
New Meadow	Lintot, Yokehouse
Oldfield	Ollville, Oleville, Offfield, Awrel, Hawfield
Painted Lady	
Parsonage	
Pig Pear	
Pine	
Pint	Pine
Potato Pear	
Red Huffcap	Huffcap, Uffcap, Uffcup
Red Longdon	Red Longley, Red Longney, Brockle, Brockhill, Cider Pear
Red Pear	Aylton Red, Blunt Red, Red Horse
Rock	Mad Pear, Mad Cap, Black Huffcap, Brown Huffcap, Red Huffcap, Huffcap, Uffcap, Uffcup
Rumblers	Jug Rumbles, Rumble Jumble
Sack	
Sickle Pear	American Sickle
Silver Pear	Summer Pear
Snake Pole	
Sow Pear	
Speart Pear	
Staunton Squash	Squash Pear, White Squash
Stinking Bishop	
Swan Egg	Swan
Taynton Squash	
Teddington Green	Teddingtons
Thorn	
Thurston's Red	Dymock Red, Billy Thurston
Tumper	Tum, Tom, Tump
Turner's Barn	Longstalk
White Bache	Bache's White, Beech White, White Beech
White Longdon	Longdon, Longland(s), Bastard Barland, Dandoe, Garradine, Port
Winnal's Longdon	Longdon, Longland(s)
Yellow Huffcap	Huffcap, Uffcap, Uffcup, Brown Huffcap, Black Huffcap, Green Huffcap, Kings Arms, Yellow Longdon, Yellow Longland(s), Chandos Huffcap
Young Heydon	

Article 3(1)

SCHEDULE 2

FUNCTIONS OF THE APPLE AND PEAR DEVELOPMENT COUNCIL

1. Promoting or undertaking scientific research.
2. Promoting or undertaking inquiry as to materials and equipment and as to methods of production, management and labour utilisation, including the discovery and development of new materials, equipment and methods and of improvements in those already in use, the assessment of the advantages of different alternatives, and the conduct of experimental establishments and of tests on a commercial scale.
3. Promoting the production and marketing of standard products.
4. Advising persons who participate in any scheme for promoting the production and marketing of standard products as to the prices at which they should endeavour to sell such products, and undertaking inquiry for the purpose of enabling the Council so to advise.
5. Promoting the better definition of trade descriptions and consistency in the use thereof.
6. Undertaking the certification of products, the registration of certification trade marks, and the functions of proprietors of such marks.
7. Promoting or undertaking research for improving arrangements for marketing and distributing products.
8. Promoting or undertaking research into matters relating to the consumption or use of the products of the industry.
9. Promoting arrangements for co-operative organisations for supplying materials and equipment, for co-ordinating production, and for marketing and distributing products.
10. Promoting the development of export trade, including promoting or undertaking arrangements for publicity overseas.
11. Promoting or undertaking arrangements for better acquainting the public in the United Kingdom with the products of the industry and methods of using them.
12. Promoting or undertaking the collection and formulation of statistics.
13. Undertaking arrangements for making available information obtained, and for advising, on matters with which the Council are concerned in the exercise of any of their functions.

Article 5

SCHEDULE 3

PROCEEDINGS OF THE COUNCIL

1. The members of the Council shall hold office for such term not exceeding four years as the Minister may determine, so, however, that a member of the Council on vacating his office on the expiration of the term thereof shall be eligible for reappointment.
2. If a member appointed as an independent member—
 - (a) commences or resumes carrying on a business in the industry or acts in the management of any undertaking the owner of which carries on business in the industry, or

- (b) refuses to sell or dispose of any interest or security held directly or indirectly for his benefit and the retention of which he has been informed by the Minister to be in his opinion likely to affect him in the discharge of his functions or fails to sell or dispose of any such interest or security within one month after having been requested by the Minister so to do,

the Minister may declare the office of such member to be vacant.

3. A quorum of the Council shall be such number as the Council may decide not being less than eight.

4. The Council may appoint committees of their members and may determine the quorum and procedure of any such committee.

5. The seal of the Council shall not be applied to any document except by the authority of the Council or a duly authorised committee or members of the Council and the application of the seal shall be authenticated by the signatures of two members of the Council.

6. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Council by any person generally or specially authorised by them for the purpose.

7. Every document purporting to be a document duly executed or issued either under the seal of the Council authenticated in the manner provided by this Schedule or on behalf of the Council, or purporting to be signed by the secretary or any person authorised to act in that behalf, shall, until the contrary be proved, be deemed to be a document so executed or issued or so signed as the case may be.

8. The Council may pay their members any expenses properly incurred by them in the business of the Council and may pay such remuneration and allowances to any of the members of the Council as the Minister may determine. The Council may also pay on the retirement or death of any of their members as to whom it may be determined by the Minister to make such provision, such pensions and gratuities by reference to their service as may be so determined.

9. The validity of any proceedings of the Council shall not be affected by any vacancy amongst the members thereof.

10. Minutes shall be kept of the proceedings of the Council and any such minutes shall, if signed by any person purporting to have acted as chairman of the meeting or at a meeting at which they were read, be evidence of the proceedings at the first mentioned meeting, and a meeting to which any such minutes relate shall, unless the contrary is proved, be taken to have been regularly convened and constituted.

11.— (1) A member of the Council shall, if he is in any way directly or indirectly interested in a contract made or proposed to be made by the Council, disclose the nature of his interest at a meeting of the Council as soon as possible after the relevant circumstances have come to his knowledge.

(2) Any disclosure made by a member under the foregoing sub-paragraph shall be recorded in the minutes of the Council, and that member shall not take part after the disclosure in any deliberation or decision of the Council with respect to that contract, but may, nevertheless, be taken into account for the purpose of constituting a quorum of the Council.

12. The Council shall have an office at which communications and notices will at all times be received and shall notify the Minister of the address of that office and any change of that address.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This order continues in being the development council for the apple and pear growing industry in England and Wales. It re-enacts with amendments the Apple and Pear Development Council Order 1980 and the Apple and Pear Development Council (Amendment) Order 1980, which were validated by the Agriculture Act 1986 (c. 49).

The principal changes are that the order—

- (a) extends the definition of “the industry” so as to include the growing of apples and pears for processing with a view to sale (article 2);
- (b) increases to a sum not exceeding one pound the fee chargeable for examination of the register of growers (article 6(7));
- (c) raises to sixty five pounds the maximum rate of annual charge which the Council may impose on growers (article 9);
- (d) alters the penalties prescribed for offences to a maximum fine on summary conviction of £400 with daily fines in specified circumstances for offences continuing after conviction (article 12).

The order comes into operation on 5th August 1986.

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