
STATUTORY INSTRUMENTS

1990 No. 1316

AGRICULTURE
CEREALS MARKETING

**The Home-Grown Cereals Authority Levy
(Variation) Scheme (Approval) Order 1990**

Approved by both Houses of Parliament

<i>Made</i>	- - - -	<i>15th May 1990</i>
<i>Laid before Parliament</i>		<i>24th May 1990</i>
<i>Coming into force</i>	- -	<i>1st July 1990</i>

Whereas the Home-Grown Cereals Authority, established under Part I of the Cereals Marketing Act 1965(1), have prepared, pursuant to sections 16 and 23(1) of that Act(2), and, after consultation in accordance with section 16(1A) of that Act with such persons or organisations as appear to them to represent the interests concerned, have submitted to the Ministers hereinafter named, a Scheme (hereinafter called “the Scheme”) which varies the Scheme approved by the Home-Grown Cereals Authority Levy Scheme (Approval) Order 1987(3) for imposing levy on persons specified in that Scheme who are growers or processors of, or dealers in, home-grown cereals of a kind so specified, or who act as intermediaries in the selling and buying of such cereals:

Now, therefore, the Minister of Agriculture, Fisheries and Food, the Secretaries of State respectively concerned with agriculture in Scotland and Northern Ireland and the Secretary of State for Wales, acting jointly in exercise of the powers conferred by sections 16(4), 23(1) and 24(1)(4) of that Act, now vested in them(5) and of all other powers enabling them in that behalf, after consultation in accordance with section 16(4) of that Act with such persons or organisations as appear to them to represent the interests concerned, hereby make the following Order:—

Title and commencement

1. This Order may be cited as the Home-Grown Cereals Authority Levy (Variation) Scheme (Approval) Order 1990, and shall come into force on 1st July 1990.

(1) 1965 c. 14; Part I was amended by sections 4 and 24(4) of, and Schedule 3 to, the Agriculture Act 1986 (c. 49).
(2) Section 16 was amended by section 16(1) and (2) of the Agriculture (Miscellaneous Provisions) Act 1972 (c. 62), by the Cereals Marketing Act 1965 (Amendment) Regulations 1979 (S.I. 1979/26) and by section 5 of the Agriculture Act 1986.
(3) S.I. 1987/671.
(4) See the definition of “the Ministers”.
(5) In the case of the Secretary of State for Wales by virtue of S.I. 1969/388 and 1978/272.

Approval of Scheme under section 16 of the Cereals Marketing Act 1965

2.—(1) The Scheme is approved with the modification set out in paragraph (2) below.

(2) In paragraph 8 the words after “In paragraph 7 (payment of levy)” shall become subparagraph (a) and after that subparagraph there shall be inserted the following subparagraph:—

“(b) for the expression “paragraph 6(3)” in paragraph 7(4) there shall be substituted the expression “paragraph 6(2)”.”.

3. The Scheme as so modified and approved is set out in the Schedule to this Order.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 14th May 1990.

L.S.

John Selwyn Gummer
Minister of Agriculture, Fisheries and Food

15th May 1990

Sanderson of Bowden
Minister of State, Scottish Office

10th May 1990

Peter Brooke
Secretary of State for Northern Ireland

15th May 1990

David Hunt
Secretary of State for Wales

SCHEDULE

Article 2

HOME-GROWN CEREALS AUTHORITY LEVY (VARIATION) SCHEME

Under section 16 of the Cereals Marketing Act 1965.

Title and Commencement

1. This Scheme may be cited as the Home-Grown Cereals Authority Levy (Variation) Scheme 1990 and shall come into force on 1st July 1990.

Variation of the Home-Grown Cereals Authority Levy Scheme 1987

2. The Home-Grown Cereals Authority Levy Scheme 1987 is hereby varied in accordance with the following provisions of this Scheme.

3. In paragraph 1 (title and commencement) for the words “the Home-Grown Cereals Authority Levy Scheme 1987” there shall be substituted the words “the Home-Grown Cereals Authority Cereals Levy Scheme 1987”.

4. In paragraph 2 (interpretation)–

(a) for the definition of “dealer” there shall be substituted the following definition:–

““dealer” means any person (other than an overseas purchaser or the Intervention Board) who is a wholesale buyer of cereals from a grower;”;

(b) for the definition of “overseas purchaser” there shall be substituted the following definition:–

““overseas purchaser” means any person who is a wholesale buyer of cereals from a grower and who does not have a place of business in the United Kingdom;”;

(c) for the definition of “quarter” there shall be substituted the following definition:–

““quarter” means a period of three consecutive months ending on 30th September, 31st December, 31st March and 30th June;”;

(d) for the definition of “registrable person” there shall be substituted the following definition:–

““registrable person” means a dealer, a processor, an agent intermediary, a financial intermediary or a grower who sells cereals direct to an overseas purchaser;”;

(e) for the definition of “year” there shall be substituted the following definition:–

““year” means a period of twelve months beginning with 1st July in any year and ending on 30th June in the subsequent calendar year.”.

5. In paragraph 3 (register of dealers, processors and intermediaries)–

(a) for the words “carries on business as” in paragraph 3(1) there shall be substituted the word “is”; and

(b) for the words “carry on business as” in paragraph 3(6) there shall be substituted the word “be”.

6. In paragraph 4 (dealer levy)–

(a) paragraph 4(4) shall be deleted and paragraph 4(5) shall be renumbered as paragraph 4(4); and

(b) for paragraph 4(6) there shall be substituted the following subparagraph:–

“(5) A person who, pursuant to paragraph 4(4), has a right to recover part of the levy payable by him, shall, in respect of expenses incurred by him in exercising that right, be

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

entitled to deduct from the levy payable by him in relation to any period in respect of which he is required by the Authority to make returns hereunder an amount equal to 5 per cent of the levy or £1 whichever is the greater and to retain any benefit received by him as a result of having recovered from the grower before making payment to the Authority.”.

7. In paragraph 6 (processor levy) paragraph 6(2) shall be deleted and paragraph 6(3) shall be renumbered as paragraph 6(2).

8. In paragraph 7 (payment of levy)–

(a) for paragraphs 7(1), 7(2) and 7(3) there shall be substituted the following subparagraphs:–

“(1) In the case of grower levy and dealer levy, liability thereto shall arise when property in the cereals passes to the purchaser and the levy shall be paid to the Authority within 49 days of the end of the period in respect of which the return relating to the cereals is required to be submitted pursuant to paragraph 9(2).

(2) In the case of dealer levy, the right to recover a contribution equal to the grower levy pursuant to paragraph 4(4) shall arise when property in the cereals passes to the purchaser.

(3) In the case of processor levy, liability thereto shall arise when the cereals are delivered to the processor and the levy shall be paid to the Authority within 49 days of the end of the period in respect of which the return relating to the cereals is required to be submitted pursuant to paragraph 9(2).”; and

(b) for the expression “paragraph 6(3)” in paragraph 7(4) there shall be substituted the expression “paragraph 6(2)”.

9. In paragraph 8 (recovery of levy and contribution to dealer levy) for the expression “paragraph 4(5)” in paragraph 8(1)(b) and paragraph 8(2) there shall be substituted the expression “paragraph 4(4)”.

10. In paragraph 9 (returns and information)–

(a) from paragraph 9(1) there shall be deleted the words “grower or”;

(b) for paragraph 9(2) there shall be substituted the following subparagraphs:–

“(2) Subject to paragraph 9(2A) below each registrable person shall submit to the Authority returns in respect of each quarter giving such information as the Authority may require, such returns to be submitted within 28 days of the end of the quarter to which the return relates.

(2A) The Authority may permit a registrable person to make returns in respect of each year instead of each quarter, such returns to be submitted within 28 days of the end of the year to which the return relates, where he establishes to the satisfaction of the Authority that both the annual quantity of cereals in respect of which dealer levy will be imposed upon him is less than 250 tonnes and the annual quantity of cereals in respect of which processor levy will be imposed upon him is less than 1000 tonnes.”;

(c) from paragraph 9(3) there shall be deleted the words “grower or” and in paragraph 9(3) for the words “two calendar years” there shall be substituted the words “six calendar years”; and

(d) from paragraph 9(4) there shall be deleted the words “grower or”.

11. Paragraph 10 (transitional provisions) shall be deleted.

EXPLANATORY NOTE

(This note is not part of the Order)

By this Order which comes into force on 1st July 1990 the Ministers approve, with one modification, a Scheme which varies that approved by the Home-Grown Cereals Authority Levy Scheme (Approval) Order 1987 (S.I.1987/671). The Scheme, which is for the purpose of financing the Authority, applies throughout the United Kingdom and provides for payment of—

- (a) dealer levy in respect of cereals sold by growers to dealers, processors or overseas purchasers;
- (b) grower levy in respect of cereals sold into intervention (except where dealer levy has already been imposed); and
- (c) processor levy in respect of cereals sold and delivered to a processor.

Dealer levy is imposed on the purchaser or an agent intermediary acting on his behalf in the case of a sale to a dealer or processor and on the purchaser's agent intermediary or the grower or his agent intermediary in the case of a sale to an overseas purchaser. Grower levy is imposed on the grower or his intermediary. Growers thereby contribute to the financing of the Authority either by payment of the grower levy (and the dealer levy in the case of direct sales to an overseas purchaser) or via recovery of an amount equivalent to the grower levy by or on behalf of purchasers who have paid dealer levy.

The principal changes made by this Scheme are—

- (a) the definition of “dealer” is restricted to wholesale buyers of cereals from growers;
- (b) the definition of “year” is amended so as to commence on 1st July (following the amendment to section 24(2) of the Cereals Marketing Act 1965 by the Cereals Marketing Act (Application to Oilseeds) Order 1989 (S.I. 1989/1200)) and there is a consequential amendment to the definition of “quarter”;
- (c) the definition of registrable person is extended to include growers who sell cereals direct to an overseas purchaser (paragraph 4);
- (d) exemption from dealer and processor levy in the case of small quantities is removed (paragraph 6 and 7);
- (e) the time at which persons liable to levy are required to pay it to the Authority is specified (paragraph 8);
- (f) growers who do not sell cereals direct to an overseas purchaser are relieved of the duty to keep records and make returns to the Authority (paragraph 10); and
- (g) the period in respect of which, and the time at which, returns are required to be made to the Authority is specified (paragraph 10).

The modification to the Scheme is an amendment consequential upon the deletion of a subparagraph and the renumbering of the following subparagraph.

A Home-Grown Cereals Authority (Rate of Levy) Order is made annually specifying the rate of levy for each of the kinds of home-grown cereals in respect of which levy is to be imposed.