

1990 No. 1317

AGRICULTURE

CEREALS MARKETING

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

Approved by both Houses of Parliament

<i>Made - - - -</i>	<i>10th May 1990</i>
<i>Laid before Parliament</i>	<i>18th 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(a), have prepared, pursuant to sections 16 and 23(1) of that Act(b), 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") for imposing levy on persons specified in the Scheme who are growers 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)(c) of that Act, and now vested in them(d) 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 Oilseeds Levy Scheme (Approval) Order 1990, and shall come into force on 1st July 1990.

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

2. The Scheme is approved without modification and is set out in the Schedule to this Order.

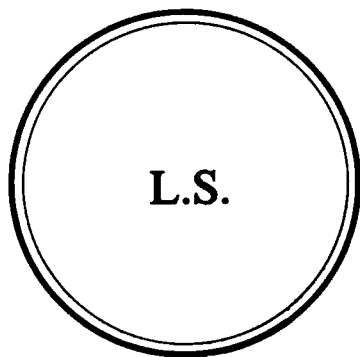
(a) 1965 c.14; Part I was amended by sections 4 and 24(4) of, and Schedule 3 to, the Agriculture Act 1986 (c.49).

(b) 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.

(c) See the definition of "the Ministers".

(d) In the case of the Secretary of State for Wales by virtue of S.I. 1969/388 and 1978/272.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 8th May 1990.



John Selwyn Gummer
Minister of Agriculture, Fisheries and Food

Sanderson of Bowden
Minister of State, Scottish Office

8th May 1990

Peter Brooke
Secretary of State for Northern Ireland

10th May 1990

David Hunt
Secretary of State for Wales

9th May 1990

HOME-GROWN CEREALS AUTHORITY OILSEEDS LEVY SCHEME

Under Section 16 of the Cereals Marketing Act 1965 for the imposition of levy on oilseeds.

Title and commencement

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

Interpretation

2.—(1) In this Scheme:—

“the Act” means the Cereals Marketing Act 1965;

“agent intermediary” means any person with a place of business in the United Kingdom acting as agent for a grower, dealer or overseas purchaser;

“the Authority” means the Home-Grown Cereals Authority as established under Part I of the Act;

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

“financial intermediary” means any person other than a grower, dealer, overseas purchaser or agent intermediary who in the course of his business acts as an intermediary in the buying and selling of oilseeds;

“grower” means any person who grows oilseeds;

“half-year” means a period of six consecutive months ending on 31st December or 30th June;

“Intervention Board” means the Intervention Board for Agricultural Produce established under section 6 of the European Communities Act 1972(a);

“levy” means a levy imposed by this Scheme;

“month” means a calendar month;

“oilseeds” means oilseeds grown in the United Kingdom being rapeseed, linseed, soyabean or sunflowerseed or any two or more of such oilseeds grown as one crop;

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

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

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

(2) Any reference in this Scheme to a numbered paragraph shall be construed as a reference to the paragraph bearing that number in the Scheme.

Register of dealers and intermediaries

3.—(1) From 1st July 1990 the Authority shall keep a register of registrable persons and shall enter therein the name and address of any person who is a registrable person.

(2) Subject to paragraph 3(3), every registrable person shall, within one month of 1st July 1990, apply to the Authority to be registered.

(3) Every person who on or after 1st July 1990 commences trading as a registrable person shall, within one month of the date on which he commenced trading, apply to the Authority to be registered.

(4) Every application for registration shall be made in such form and manner as the Authority may prescribe.

(5) As soon as practicable after registration the Authority shall provide the applicant with a certificate of registration bearing the date of registration and a registration number.

(6) Any registrable person may apply to the Authority for removal of his name from the register and the Authority shall, if satisfied that such person has ceased to be a registrable person, remove his name from the register.

(a) 1972 c.68.

The levy

4.—(1) The levy shall be payable to the Authority in respect of oilseeds:—

- (a) sold by a grower (directly or through an agent intermediary acting on his behalf) to a dealer (directly or through an agent intermediary acting on behalf of the dealer) or to an overseas purchaser (directly or through an agent intermediary acting on behalf of the purchaser); or
- (b) sold to the Intervention Board other than oilseeds in respect of which the levy is payable under paragraph 4(1)(a).

(2) In the case of sales by a grower to a dealer, the levy shall be imposed on the purchaser except that if the purchaser buys through an agent intermediary acting on his behalf, the levy shall be imposed on such agent intermediary.

(3) In the case of sales by a grower to an overseas purchaser, the levy shall be imposed as follows:—

- (a) if the overseas purchaser buys through an agent intermediary acting on his behalf, on such agent intermediary;
- (b) subject to paragraph 4(3)(a), if the grower sells through an agent intermediary acting on his behalf, on such agent intermediary;
- (c) otherwise, on the grower.

(4) A person upon whom levy is imposed by paragraph 4(2) or 4(3)(a) shall be entitled to recover an amount equal to the levy as follows:—

- (a) if the grower has sold through an agent intermediary acting on his behalf, from such agent intermediary;
- (b) otherwise, from the grower.

(5) A person who, pursuant to paragraph 4(4), has a right to recover the levy payable by him, shall, in respect of expenses incurred by him in exercising that right be entitled to retain any benefit received by him as result of having recovered from the grower before making payment to the Authority.

(6) In the case of sales to the Intervention Board the levy shall be imposed on the grower, agent intermediary or financial intermediary who makes the offer to the Intervention Board.

Payment of Levy

5. The right of a person on whom levy is imposed by virtue of paragraph 4(1) to (3) to recover an amount equal thereto pursuant to paragraph 4(4) shall arise when property in the oilseeds passes to the purchaser and the levy shall be paid to the Authority within 49 days of the 31st December or 30th June after the date on which property in the oilseeds has passed, whichever first follows the date of the passing of the property.

Recovery of levy

6.—(1) In the event of any default in respect of any payment in relation to:—

- (a) levy required to be paid to the Authority under this Scheme, or
- (b) the right to recover the levy pursuant to paragraph 4(4),

that payment shall be recoverable by the Authority or by the person entitled to recover the levy, as the case may be, summarily as a civil debt.

(2) Where a person, who is liable in respect of the levy and is entitled to recover it from an agent intermediary or a grower pursuant to paragraph 4(4), defaults in respect of such levy, any unpaid sum due to him in respect of that levy shall be recoverable from the agent intermediary or grower, as the case may be, by the Authority, summarily as a civil debt.

Returns and information

7.—(1) The Authority may require any registrable person to keep or cause to be kept records as follows:—

- (a) the name and address of persons who have purchased oilseeds from or through him;
- (b) the name and address of persons who have sold oilseeds to or through him;
- (c) the date of each sale and purchase;
- (d) the quantity and kind of oilseeds sold and purchased;
- (e) the name and address of any principal (in the case of an agent intermediary).

(2) Each registrable person shall submit to the Authority returns in respect of each half-year giving such information as the Authority may require, such returns to be submitted not later than such date, being a date not earlier than 14 days and not later than 28 days after the end of the half-year to which the return relates, as the Authority may from time to time prescribe.

(3) Each registrable person shall retain any records required to be kept under paragraph 7(1) for six calendar years from the end of the year to which those records relate.

(4) Each registrable person shall produce for inspection on demand by an authorised officer of the Authority any records required to be kept under paragraph 7(1).

(5) An authorised officer acting in exercise of the power conferred by paragraph 7(4) shall carry a warrant of his authority so to act and shall produce the same on demand.

EXPLANATORY NOTE

(This note is not part of the Order)

By this Order the Ministers approve a Scheme imposing a levy in respect of rapeseed, linseed, soyabean or sunflowerseed grown in the United Kingdom which are all home-grown cereals for the purposes of the Cereals Marketing Act 1965, by virtue of the Cereals Marketing Act (Application to Oilseeds) Order 1989 (S.I. 1989/1200) (which, *inter alia*, extended the definition of "home-grown cereals" in section 24 of that Act to include specified oilseeds). The Scheme, which is for the purpose of financing the Home-Grown Cereals Authority, applies throughout the United Kingdom and comes into force on 1st July 1990.

The Scheme provides for a levy to be imposed on dealers who purchase oilseeds or on intermediaries who act on their behalf or on behalf of overseas purchasers or growers who sell to them or to the Intervention Board (paragraph 4(2) and (3)). The levy is recoverable by dealers (and by intermediaries where they act for dealers or overseas purchasers) from growers or their intermediaries (paragraph 4(4)). Where there is a sale by a grower to an overseas purchaser other than through an intermediary, liability to pay levy falls directly on the grower (paragraph 4(3)(c)). Growers thereby contribute to the financing of the Authority either by the direct payment of levy, or via the recovery by dealers or their intermediaries of the levy paid by them.

The Scheme also provides for the registration of dealers, agent intermediaries, financial intermediaries and growers who sell oilseeds direct to overseas purchasers and requires them to keep records of purchases and sales of oilseeds and to make half-yearly returns (paragraphs 3 and 7).

Levy may be recovered as a civil debt (paragraph 6) and there is a power to inspect records (paragraph 7(4)). Penalties are provided for in section 17 of the Cereals Marketing Act 1965 as amended.

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.

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