
STATUTORY INSTRUMENTS

1991 No. 1302

AGRICULTURE

CEREALS MARKETING

**The Home-Grown Cereals Authority Levy
(Variation) Scheme (Approval) Order 1991**

Approved by both Houses of Parliament

Made - - - - 2nd May 1991

Laid before Parliament 13th May 1991

Coming into force - - 1st July 1991

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), as varied by the Home-Grown Cereals Authority Levy (Variation) Scheme (Approval) Order 1990(4), 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)(5) of that Act, now vested in them(6) 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 1991, and shall come into force on 1st July 1991.

(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) S.I. 1990/1316.
(5) See the definition of “the Ministers” in section 24(1).
(6) In the case of the Secretary of State for Wales by virtue of S.I. 1969/388 and 1978/272.

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

2. The Scheme is approved as 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 25th April 1991.

L.S.

John Selwyn Gummer
Minister of Agriculture, Fisheries and Food

24th April 1991

Strathclyde
Parliamentary Under Secretary of State, Scottish
Office

2nd May 1991

Peter Brooke
Secretary of State for Northern Ireland

24th April 1991

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 1991 and shall come into force on 1st July 1991.

Variation of the Home-Grown Cereals Authority Cereals Levy Scheme 1987

2. The Home-Grown Cereals Authority Cereals Levy Scheme 1987, which is set out in the Schedule to the Home-Grown Cereals Authority Levy Scheme (Approval) Order 1987, as amended by the Home-Grown Cereals Authority Levy (Variation) Scheme (Approval) Order 1990, is hereby further varied in accordance with the following provisions of this Scheme.

3. In paragraph 2 (interpretation)—

(a) after the definition of “agent intermediary” there shall be inserted the following definitions:—

““animal” includes any bird or fish but does not include man;”;

““animal feed” means any product produced to be fed to animals;”;

““animal feed process” means an industrial process applied to cereals the primary purpose of which is that the processed cereals produced by it shall be used for animal feed;”;

(b) after the definition of “overseas purchaser” there shall be inserted the following definition:

—

““processed cereals” means cereals (whether or not mixed with other ingredients but excluding cereals grown by him) to which a processor has applied an industrial process in the course of a business carried on by him;”;

(c) for the definition of “processor levy” there shall be substituted the following definition:—

““processor levy” means reduced-rate processor levy or standard-rate processor levy, as the case may be;”;

(d) after the definition of “quarter” there shall be inserted the following definition:—

““reduced-rate processor levy” means the levy imposed by paragraph 6(1);”;

(e) after the definition of “registrable person” there shall be inserted the following definition:

—

““standard-rate processor levy” means the levy imposed by paragraph 6(2);”.

4. In paragraph 4 (dealer levy) in sub-paragraph (5) there shall be inserted between the words “the grower” and “before making payment to the Authority” the words “or the agent intermediary acting on behalf of the grower”.

5. For paragraph 6 (processor levy) there shall be substituted the following paragraph:—

“Processor levy

6.—(1) Reduced-rate processor levy shall be payable to the Authority in respect of cereals sold and delivered by any person to a processor who declares, in a return relating to those cereals submitted to the Authority pursuant to paragraph 9(3) or 9(4), that he has

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applied, or intends to apply, an animal feed process to those cereals and shall be imposed on the processor in respect of the quantity of cereals delivered.

(2) Standard-rate processor levy shall be payable to the Authority in respect of cereals sold and delivered by any person to a processor who has not made in relation to those cereals a declaration pursuant to paragraph 6(1) and shall be imposed on the processor in respect of the quantity of cereals delivered.

(3) If a processor applies an industrial process, other than an animal feed process, to cereals in respect of which he has made a declaration pursuant to paragraph 6(1), he additionally shall be liable to pay to the Authority in respect of those cereals an amount equal to the difference between the reduced-rate processor levy and the standard-rate processor levy.

(4) If a processor applies an animal feed process to cereals in respect of which he has paid standard-rate processor levy, he shall be entitled to claim from the Authority in respect of those cereals a rebate equal to the difference between the reduced-rate processor levy and the standard-rate processor levy.

(5) If a processor sells or otherwise ceases to own the cereals in respect of which he has paid processor levy without applying an industrial process to them, he shall be entitled to claim from the Authority a rebate equal to the processor levy paid by him in respect of such cereals.

(6) The right to claim a rebate pursuant to paragraph 6(5) shall arise when property in the cereals passes to the purchaser from the processor or when the processor otherwise ceases to own the cereals.”

6. In paragraph 7 (payment of levy) paragraph 7(4) shall be deleted.
7. In paragraph 8 (recovery of levy and contribution to dealer levy) from paragraphs 8(1) and 8(2) there shall be deleted the word “summarily”.
8. For paragraph 9 (returns and information) there shall be substituted the following paragraph:—

“Returns and information

9.—(1) For the purposes of determining the liability of registrable persons to levy under this Scheme the following provisions of this paragraph shall apply.

(2) 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 cereals from or through him and, where the registrable person is a processor, who have purchased processed cereals from or through him;
- (b) the name and address of persons who have sold cereals to or through him and, where the registrable person is a processor, who have sold processed cereals to or through him;
- (c) the quantity and kind of cereals or processed cereals referred to in (a) and (b) above and the date of purchase or sale, and, where the registrable person is a processor, the quantity and kind of cereals or processed cereals delivered to or by the processor and the date of delivery;
- (d) where the registrable person is a processor, the quantity and kind of cereals processed by him in respect of which standard-rate processor levy is payable and, separately, in respect of which reduced-rate processor levy is payable;
- (e) where the registrable person is an agent intermediary, the name and address of any principal.

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(3) Subject to paragraph 9(4) 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.

(4) 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.

(5) Each registrable person shall retain any records required to be kept under paragraph 9(2) for six calendar years from the end of the year to which those records relate.

(6) Each registrable person shall produce for inspection on demand by an authorised officer of the Authority any records required to be kept under paragraph 9(2). An authorised officer acting in exercise of the power conferred by this sub-paragraph 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 which comes into force on 1st July 1991 the Ministers approve a Scheme which varies that approved by the Home-Grown Cereals Authority Levy Scheme (Approval) Order 1987 (S.I.1987/671) as varied by the Home-Grown Cereals Authority Levy (Variation) Scheme (Approval) Order 1990 (S.I. 1990/1316).

The principal changes made by this Scheme are—

- (a) the imposition of two rates of processor levy, a reduced-rate processor levy payable in respect of cereals processed for animal feed and a standard-rate processor levy in respect of other processed cereals; provision is also made for the collection of processor levy at the two different rates and for remedies where such levy is paid at one rate in respect of cereals which are subsequently used for a purpose that attracts a different rate (paragraph 5);
- (b) the requirements as to the keeping of records and the production of such records and other information by registrable persons to the Home Grown Cereals Authority are applicable only to the extent necessary for determining the liability of such persons to levy under the Scheme and, as a consequence of the introduction of dual rates of processor-levy, the requirements as to the keeping of records are extended (paragraph 8).

The definition of “processor levy” is amended so as to include the two types of processor levy and new definitions are introduced for the following terms: “animal”, “animal feed”, “animal feed process”, “processed cereals”, “reduced-rate processor levy” and “standard-rate processor levy”.

A minor change is made to paragraph 4(5) of the 1987 Scheme, as varied by the 1990 Variation Scheme, to provide that a person may retain benefit where he recovers part of the levy from an agent intermediary acting on behalf of the grower (paragraph 4).

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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