
STATUTORY INSTRUMENTS

1991 No. 1735 (S. 149)

AGRICULTURE

The Agricultural Marketing Act 1958 and Milk Marketing Schemes (Amendment) (Scotland) Regulations 1991

<i>Made</i>	- - - -	<i>23rd July 1991</i>
<i>Laid before Parliament</i>		<i>1st August 1991</i>
<i>Coming into force</i>	- -	<i>22nd August 1991</i>

The Secretary of State for Scotland, being a Minister designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to the Common Agricultural Policy of the European Economic Community, in exercise of the powers conferred on him by the said section 2(2) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Agricultural Marketing Act 1958 and the Milk Marketing Schemes (Amendment) (Scotland) Regulations 1991 and shall come into force on 22nd August 1991.

(2) These Regulations other than regulation 3 shall extend to Scotland only.

Interpretation

2. In these Regulations unless the context otherwise requires the following expressions have the meaning hereby assigned to them:—

“1958 Act” means the Agricultural Marketing Act 1958⁽³⁾;

“the Aberdeen and District Milk Marketing Scheme” means the Scheme set out in the Schedule to the Aberdeen and District Milk Marketing Scheme 1984 Approval Order 1984⁽⁴⁾;

“the North of Scotland Milk Marketing Scheme” means the Scheme set out in the Schedule to the North of Scotland Milk Marketing Scheme Approval Order 1934⁽⁵⁾; and

(1) S.I.1972/1811.

(2) 1972 c. 68.

(3) 1958 c. 47 to which there are amendments not relevant to these Regulations.

(4) S.I. 1984/464, amended by S.I. 1987/740 and 1988/182.

(5) SR & O 1934/703, amended by S.I. 1950/2058, 1957/2025, 1961/549, 1978/583, 1979/319, 1981/447 and 864, 1982/970 and 1988/182.

“the Scottish Milk Marketing Scheme” means the Scheme set out in Schedule 1 to the Scottish Milk Marketing Scheme (Consolidation) Approval Order 1989⁽⁶⁾.

Amendment of the Agricultural Marketing Act 1958

3. After section 39 of the 1958 Act there shall be inserted—

“**39A.**—(1) For the purpose of ensuring that in Scotland the operations of milk marketing boards specified in Article 5.1 of Council Regulation (EEC) No 1422/78 (processing of milk for direct human consumption and manufacture of milk products) are subject to a separate system of financial management and administration with a view to placing their processing undertakings on an equal footing with other independent undertakings, a board administering any milk marketing scheme in Scotland which includes power to carry out such operations may, with the approval of the Minister, set up a company or subsidiary to carry out those operations or transfer to an existing company such assets, rights or liabilities as are necessary to carry out those operations.

(2) In this section “company” has the same meaning as in section 735(1)(a) of the Companies Act 1985⁽⁷⁾ and “subsidiary” has the same meaning as it has for the purposes of section 736 of that Act.

(3) The power conferred by subsection (1) of this section is without prejudice to any corresponding power conferred on a Board administering a milk marketing scheme in England and Wales by any amendment of that scheme made before the coming into force of that subsection.”.

Amendment of the Scottish Milk Marketing Scheme

4. The Scottish Milk Marketing Scheme shall be amended—

(a) by inserting in section 2(1) thereof:—

(i) after the definition of “commercial activities” the following definition:—

““company” has the same meaning as in section 735(1)(a) of the Companies Act 1985;”;

(ii) after the definition of “statutory poll” the following definition:—

““subsidiary” has the same meaning as it has for the purposes of section 736 of the Companies Act 1985;”;

(b) by renumbering section 16 as “16(1)”; and

(c) by inserting after section 16(1) the following paragraphs:—

“(2) For the purpose of complying with this section, the Board may if it thinks fit and with the approval of the Minister—

- (a) form a company to carry out commercial activities or to form a subsidiary to carry out commercial activities;
- (b) transfer to that company or to an existing company or to a subsidiary such assets, rights or liabilities as are necessary;
- (c) make available to or for such company or such subsidiary on prevailing market terms, loans, guarantees or other financial benefits.

(3) For so long as and to the extent that any commercial activities of the Board are, under this section, carried out by a company or a subsidiary of that company—

⁽⁶⁾ S.I. 1989/1806.

⁽⁷⁾ 1985 c. 6.

- (a) they shall be the activities of that company or that subsidiary;
- (b) reference to their commercial activities in sections 26(3)(b) and 39(2) and (7) of the Scheme shall be construed accordingly; and
- (c) reference to the Board's accounts and records in section 39 of the Scheme shall be construed as including a reference to that company's accounts and records and, if applicable, that subsidiary's accounts and records."

Amendment of the Aberdeen and District Milk Marketing Scheme

5. The Aberdeen and District Milk Marketing Scheme shall be amended as follows:–

- (a) by inserting in section 2(1) thereof–
 - (i) after the definition of “commercial activities” the following definition:–
““company” has the same meaning as in section 735(1)(a) of the Companies Act 1985;”;
 - (ii) after the definition of “statutory poll” the following definition:–
““subsidiary” has the same meaning as it has for the purposes of section 736 of the Companies Act 1985;”;
- (b) by renumbering section 17 as section “17(1)”; and
- (c) by inserting after section 17(1) the following paragraphs:–
 - “(2) For the purpose of complying with this section the Board may if it thinks fit and with the approval of the Minister–
 - (a) form a company to carry out commercial activities or to form a subsidiary to carry out commercial activities;
 - (b) transfer to that company such assets, rights or liabilities as are necessary;
 - (c) make available to or for that company or that subsidiary on prevailing market terms, loans, guarantees or other financial benefits.
 - (3) For so long as and to the extent that any commercial activities of the Board are, under this section, carried out by a company or a subsidiary of that company–
 - (a) they shall be the activities of that company or that subsidiary;
 - (b) reference to their commercial activities in sections 27(3)(b) and 39(2) and (7) of the Scheme shall be construed accordingly; and
 - (c) reference to the Board's accounts and records in section 39 of the Scheme shall be construed as including a reference to that company's accounts and records and, if applicable, that subsidiary's accounts and records."

Amendment of the North of Scotland Milk Marketing Scheme

6. The North of Scotland Milk Marketing Scheme shall be further amended–

- (a) by inserting in section 2(1)(8) thereof–
 - (i) after the definition of “commercial activities” the following definition:–
““company” has the same meaning as in section 735(1)(a) of the Companies Act 1985;”;
 - (ii) after the definition of “statutory poll” the following definition:–

““subsidiary” has the same meaning as it has for the purposes of section 736 of the Companies Act 1985;”;

(b) by renumbering section 15A(9) as “15A(1)”;

(c) by inserting after section 15A(1) thereof the following paragraphs:–

“(2) For the purpose of complying with this section, the Board may if it thinks fit and with the approval of the Minister–

(a) form a company to carry out commercial activities or to form a subsidiary to carry out commercial activities;

(b) transfer to that company such assets, rights or liabilities as are necessary;

(c) make available to or for such company or such subsidiary on prevailing market terms, loans, guarantees or other financial benefits.

(3) For so long as and to the extent that any commercial activities of the Board are, under this section, carried out by a company or a subsidiary of that company–

(a) they shall be the activities of that company or that subsidiary;

(b) reference to their commercial activities in sections 24(3) and 35(1A)(10) and (5) of the Scheme shall be construed accordingly; and

(c) reference to the Board’s accounts and records in section 35 of the Scheme shall be construed as including a reference to that company’s accounts and records and, if applicable, that subsidiary’s accounts and records.”.

St. Andrew’s House,
Edinburgh
23rd July 1991

Strathclyde
Parliamentary Under Secretary of State, Scottish
Office

(9) Section 15A was inserted by S.I. 1981/447.

(10) Section 36 was renumbered as section 35 by S.I. 1982/970 and paragraph (1A) was inserted by S.I. 1981/447.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations come into force on 22nd August 1991 and further amend the Agricultural Marketing Act 1958 and the 3 Milk Marketing Schemes that apply to Scotland.

These Regulations amend the Agricultural Marketing Act 1958 by inserting a new section 39A permitting the Scottish Milk Marketing Board; the Aberdeen and District Milk Marketing Board; and the North of Scotland Milk Marketing Board, subject to the approval of the Secretary of State, to carry out its commercial activities by means of a company. In this way the operations of each of the Milk Marketing Boards mentioned, in the processing of milk for direct human consumption and the manufacture of milk products, shall be subject to a separate system of financial management and administration with a view to placing their processing undertakings on an equal footing with other independent undertakings.

The Regulations also amend each of the Milk Marketing Schemes by inserting new paragraphs authorising the respective Milk Marketing Board, subject to the approval of the Secretary of State, to transfer their commercial activities to an existing company or to form a new company to carry out their commercial activities; and by making minor consequential amendments.

These Regulations further implement the United Kingdom's obligation to supervise compliance with Council Regulation [\(EEC\) No 1422/78](#) concerning the granting of certain special rights to milk producer organisations in the United Kingdom (O.J. No. L171, 28.6.1978, p.14) and in particular with Article 5.1 of Regulation 1422/78.