
STATUTORY INSTRUMENTS

1994 No. 2590

The North of Scotland Milk Marketing Board
(Residual Functions) Regulations 1994

PART II

CONSTITUTION AND MEMBERSHIP OF THE BOARD

Restructuring of the Board's functions

4.—(1) The Board shall immediately after the transfer under section 11 of the Act continue to exist until dissolved by order made under section 14(5) of the Act as a body corporate, with a common seal, called the North of Scotland Milk Marketing Board but with their functions confined to winding up their affairs, in accordance with and subject to Part VII of these Regulations, and in particular—

- (a) managing or otherwise dealing with the interests and rights in or in relation to property which are for the time being vested in them;
- (b) carrying on such other functions in relation to the assets and liabilities which are for the time being vested in them as are specified in Part V of these Regulations;
- (c) maintaining and preserving the Board's minute books, accounting records and all other records and making appropriate arrangements for their final disposal;
- (d) carrying on the other functions conferred by these Regulations; and
- (e) undertaking any functions ancillary or incidental to the functions mentioned above,

in such a manner, having regard to the interests of registered producers, as they consider is best calculated to secure the purposes specified in paragraph (2) below.

(2) The purposes mentioned in paragraph (1) above are that—

- (a) the Board's assets are advantageously realised and the proceeds are applied in or towards discharging their liabilities and other functions under these Regulations;
- (b) while any particular asset of the Board remains unrealised, it is held and managed as advantageously as is consistent with its eventual realisation; and
- (c) the liabilities of the Board so far as not discharged in pursuance of sub-paragraph (a) above are discharged.

(3) The Board may enter into such agreements, acquire such property and do such things as may, in their opinion, be necessary or desirable for the purpose of discharging any of their functions and may sell or otherwise dispose of any property acquired by them which they do not need for such purpose.

(4) The Board shall not be regarded as acting on behalf of, and their property shall not be regarded as property of, or held on behalf of, the Crown and neither the Board nor their members nor the members of their staff shall be regarded as Crown servants.

Members of the Board

5.—(1) The Board shall consist of not more than five nor less than three members whom the Minister shall appoint.

(2) The Minister shall designate one of the members appointed under this regulation as the chairman of the Board.

(3) In appointing a person to be a member of the Board, the Minister shall have regard to the desirability of appointing—

- (a) persons who have experience of, and have shown capacity in, some matter relevant to the Board's functions, and
- (b) (without prejudice to sub-paragraph (a) above) persons who are producers.

(4) Subject to the following provisions of this regulation, a member of the Board shall hold and vacate office in accordance with the terms of his appointment specified in the instrument by which the Minister appoints him.

(5) Any appointment of a person as a member of the Board shall be for a term not exceeding two years, but a person who ceases to be such a member at the end of the term shall be eligible for re-appointment.

(6) A member of the Board may at any time by notice to the Minister resign his office.

(7) The Minister may remove a member of the Board if he is satisfied that—

- (a) the member has been absent without the consent of the Board from two consecutive meetings of the Board;
- (b) the member has been sequestrated, has become bankrupt or has granted a trust deed in favour of his creditors or that he is otherwise apparently insolvent (within the meaning of the Bankruptcy (Scotland) Act 1985⁽¹⁾);
- (c) the member is unable or unfit to carry out the functions of a member;
- (d) the member has not complied with the terms of his appointment; or
- (e) the member has been convicted of an indictable offence.

(8) Section 4(7) of the marketing scheme is preserved, subject to the modification that—

- (a) after the figure “(7)” there shall be inserted the letter “(a)”;
- (b) for the last sentence there shall be substituted the following sentence:—

“A member of the Board shall not, however, be precluded from voting on a question relating to—

- (i) the manner in which any milk which is the property of the Board is to be dealt with by reason only that he has sold milk to or through the Board; or
- (ii) any contract of insurance which the Board are empowered to effect under regulation 34 of the North of Scotland Milk Marketing Board (Residual Functions) Regulations 1994;

nor shall he be required to withdraw from a meeting of the Board at which such questions are being considered.”; and

- (c) there shall be added after subsection (7)(a) the following subsection:—

“Deeds

- (b) (i) All deeds and other writings to which the Board are a party shall be held to be validly executed on behalf of the Board by being sealed with the

(1) 1985 c. 66.

common seal of the Board and signed by two members of the Board or by one member of the Board and the Secretary, and such subscription on behalf of the Board shall be binding whether attested by witnesses or not.

- (ii) All deeds and other writings executed in any place out of Great Britain or Northern Ireland shall be validly executed by being signed by such persons as may be duly authorised by the Board.
- (iii) A document or proceedings requiring authentication by the Board may be signed by a member of the Board, Secretary or other person authorised by the Board, and need not be under the common seal of the Board.”.

Remuneration and expenses of Board members

6.—(1) The Board shall pay to the members of the Board such remuneration as may from time to time be determined by the Minister having regard to the functions to be discharged by the Board.

(2) Section 4(10) of the marketing scheme is preserved, subject to the modification that—

- (a) after the words “their duties, to” there shall be inserted the words “payment of”; and
- (b) for the word “allowances” there shall be substituted the word “expenses”.

Meetings of the Board

7. Section 5(3)(a) of the marketing scheme is preserved, subject to the modification that there shall be inserted at the end “, and may appoint committees and may, subject to the provisions of this Scheme with respect to the application of the common seal of the Board, delegate any of their powers to any committee so appointed.”.

Proceedings of the Board

8.—(1) Subject to the provisions of these Regulations the Board may determine their own quorum and procedure and the quorum and procedure of any committee appointed by them.

(2) In the case of an equality of votes at any meeting of the Board the chairman, if present, or the person who is the chairman of that meeting shall have a second or casting vote.

(3) Section 5(5) of the marketing scheme is preserved, subject to the modification that there be inserted after the words “of the Board or the committee,” the words “or that a member of the Board had voted upon any question upon which he was not entitled to vote,”.

Minutes

9. Section 5(6) of the marketing scheme is preserved.

Chairman

10. Section 7 of the marketing scheme is preserved, subject to the modification that—

- (a) the first sentence and the words “, or in his absence the Vice-Chairman,” shall be omitted; and
- (b) for the words “If both are” there shall be substituted the words “If he is”.

Address and change of address of office

11.—(1) Section 8 of the marketing scheme is preserved, subject to the modification that for the words “the area of the Scheme” there shall be substituted “Scotland”.

(2) Section 9 of the marketing scheme is preserved.

Staff

12.—(1) Section 10 of the marketing scheme is preserved, subject to the modification that—

- (a) for the word “shall”, where it first occurs, there shall be substituted the word “may”;
- (b) the words beginning with “, and shall determine their respective duties and remuneration.” to the end of the section shall be omitted; and
- (c) after the words “such other employees” there shall be inserted the words “and officers”.

(2) The Board may by factory and commission or by power of attorney or otherwise—

- (a) appoint a person to be the agent of the Board;
- (b) delegate to that person any of their functions,

for such purposes, for such time and on such terms and conditions (including as to remuneration) as they think fit and may at any time revoke or alter such terms and conditions.

(3) The Board may—

- (a) pay such remuneration, pensions, allowances or gratuities to or in respect of any persons who have been or are their employees or officers as they may determine;
- (b) make such payments as they may determine towards provision for the payment of remuneration, pensions, allowances or gratuities to or in respect of such persons; and
- (c) provide and maintain, or participate in, such schemes as they may determine (whether contributory or not) for the payment of remuneration, pensions, allowances or gratuities to or in respect of such persons.

(4) Any reference in paragraph (3) above to remuneration, pensions, allowances or gratuities to or in respect of such persons as are mentioned in that paragraph includes a reference to remuneration, pensions, allowances or gratuities by way of compensation to or in respect of any of the Board’s employees or officers who suffer loss of office or employment or loss or diminution of emoluments.

(5) If any person—

- (a) on ceasing to hold any employment or office with the Board, becomes or continues to be one of their members, and
- (b) was, by reference to his employment or office with the Board, a participant in a pension scheme maintained by the Board for the benefit of any of their officers or employees,

the Board may make provision for him to continue to participate in that scheme, on such terms and conditions as they may determine, as if his service as a member were service as an officer or employee of the Board; and any such provision shall be without prejudice to regulation 6 above.

Auditor

13. Section 11 of the marketing scheme is preserved, subject to the modification that—

- (a) in subsection (1) the words “the Secretary of” shall be omitted;
- (b) in subsection (2) for the words “section 161 of the Companies Act 1948 and section 13 of the Companies Act 1976” there shall be substituted the words “section 389 of the Companies Act 1985”**((2))**.