



# Agricultural Marketing Act (Northern Ireland) 1964

## 1964 CHAPTER 13

### AGRICULTURAL MARKETING SCHEMES

#### **1 Framing of marketing schemes.**

- (1) A scheme regulating the marketing of any agricultural product, for application to Northern Ireland or some part thereof,—
  - (a) may be framed by the Ministry of Agriculture (in this Act referred to as “the Ministry”) where the Ministry is satisfied that such a scheme is necessary for the more efficient production and marketing of that agricultural product;
  - (b) shall be framed by the Ministry where such a scheme appears to the Ministry to be necessary for sub-serving any purposes of an order regulating sales of that agricultural product and made under Part III of the United Kingdom Act.
- (2) The Ministry shall when framing a scheme take into consultation representatives of the producers of the agricultural product proposed to be regulated and representatives of any other interests appearing to the Ministry to be directly affected by the scheme.

#### **2 Approval of schemes.**

- (1) The Ministry, after compliance with the provisions of Part I of Schedule 1, may make an order approving the scheme as framed or with such modifications, if any, as may be made under the said provisions.
- (2) Every scheme approved by an order made by the Ministry under subsection (1)—
  - (a) shall be subject to negative resolution;
  - (b) shall in any event cease to have effect upon the expiration of a period of two years from the date upon which it came into force, unless at some time before

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the expiration of that period it has been approved by a resolution passed by each House of Parliament.

- (3) Subject to the foregoing provisions, a scheme shall come into force upon the date specified in that behalf in the order approving the scheme; and the making of the order shall be conclusive evidence that the requirements of this Act have been complied with and that the order and the scheme approved thereby have been duly made and approved and are within the powers conferred by this Act.
- (4) Without prejudice to section 17(2) of the Interpretation Act (Northern Ireland) 1954, the Ministry may at any time, after the like consultation as is required by section 1(2), by order, amend or revoke a scheme approved under this section but shall not revoke a scheme as respects any agricultural product to which section 1(1)(b) applies, in so far as the scheme sub-serves any purposes of an order regulating sales of that agricultural product and made under Part III of the United Kingdom Act, nor so amend the scheme that it will cease to sub-serve any such purposes.
- (5) The provisions contained in Part II of Schedule 1 shall apply with respect to the revocation and cesser of schemes.
- (6) As soon as possible after making an order approving, amending or revoking a scheme, the Ministry shall cause the order or notice of the making of the order to be published in the Belfast Gazette and in such other manner as the Ministry thinks best for informing persons affected.

### **3 Constitution of boards to administer schemes.**

- (1) Every scheme shall constitute a board to administer the scheme and during such period (not being longer than twelve months from the day on which the scheme comes into force) as may be specified in the scheme, the board shall, subject to the provisions of the scheme as to the filling of casual vacancies, be composed of persons to be named in the scheme.
- (2) After the expiration of the said period, the board shall be composed of such number of members as the scheme may fix, of whom three shall be appointed by the Minister of Agriculture (in this Act referred to as “the Minister”) and the others shall, subject to the provisions of the scheme as to the filling of casual vacancies, be elected in accordance with the scheme, either by registered producers or by a body or bodies elected by such producers in accordance with the scheme.
- (3) The board shall elect from among their members a chairman and vice-chairman who shall hold office for such period as may be specified in the scheme, but during a period of two years (or such longer period as may be provided by the scheme) from the date of the coming into force of the scheme the chairman of the board shall be such member thereof as the Minister may designate.
- (4) When the members of the board as fixed by a scheme exceed eleven in number, the board shall appoint an executive committee having the full powers of the board for the administration of the said scheme.
- (5) An executive committee appointed under subsection (4) shall consist of not more than eleven members of the board and the chairman and the vice-chairman of the board (whether being members appointed by the Minister or not), and also any members of the board appointed by the Minister and not being such chairman or vice-chairman, shall be included in the committee as chairman, vice-chairman and members.

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- (6) Every scheme shall provide for the conducting by the Ministry of the election of the members of the board who are to be elected, the term during which those members are to hold office, the filling of casual vacancies arising during such term of office, and the resignation of office by any such member.
- (7) Except as may be otherwise stated in the instrument of appointment, a member appointed by the Minister otherwise than to fill a casual vacancy shall, unless he sooner ceases to be a member during his term of office, hold office for three years from the date of his appointment and shall be eligible for re-appointment.
- (8) If a casual vacancy occurs amongst the members appointed by the Minister, the Minister shall appoint a person to fill the vacancy and such person shall hold office for the remainder of the period for which his predecessor, if he had continued to be a member, would have held office, and shall be eligible for re-appointment.
- (9) Notwithstanding anything in this section, provision may be made by a scheme for the board acting notwithstanding any vacancy in the membership thereof.
- (10) The provisions contained in Schedule 2 shall apply with respect to the incorporation, registration and winding up of any board constituted by a scheme.

#### **4 Register of producers and lists.**

- (1) Every scheme shall provide for the registration of any producer who makes application for that purpose, and for the removal from the register of the names of persons who have ceased to be producers.
- (2) The Ministry, as soon as practicable after any scheme has been framed, shall cause a list to be compiled containing—
  - (a) the names of all such persons within the area to which the scheme applies as the Ministry has reason to believe are producers, not being persons to be exempted from registration under the scheme; and
  - (b) the respective addresses of such persons so far as known to the Ministry.
- (3) The annual agricultural statistics collected by the Ministry may be used for the purpose of compiling the list under subsection (2) and when such list has been compiled, the Ministry shall send by post to every person named in the list particulars of the scheme framed by the Ministry, together with a form of application for registration as a producer under the scheme.
- (4) Registration under a scheme of the name or style under which two or more persons carry on business in partnership as producers shall operate as the registration of all the partners for the time being, so, however, that, for the purposes of the provisions of this Act or of the scheme which relate to elections and voting at meetings, and to the assessment of contributions on registered producers, all the partners shall be treated as constituting together a single registered producer.
- (5) The register of producers for the purposes of a scheme shall be kept by the board constituted under the scheme and shall be open for inspection, and the board shall furnish a copy of the register, or of any part thereof, to any person demanding it, upon payment of such fee as the Ministry may approve.

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## 5 Regulation of sales of regulated product.

- (1) Every scheme shall require that no sale of the regulated product [<sup>F1</sup> or any description thereof] shall be made by any producer who is not either a registered producer or a person exempted from registration by or under the provisions of the scheme.
- (2) A scheme may provide for all or any of the matters set out in the following paragraphs, that is to say:—
- (a) for requiring registered producers to sell the regulated product or any description thereof, or such quantity thereof or of any description thereof as may from time to time be determined by the board, only to, or through the agency of, the board;
  - (b) for the determination from time to time of the quantity of the regulated product or of any description thereof which may be sold by any producer;
  - (c) for the determination from time to time—
    - (i) of the descriptions of the regulated product which may be sold by any producer;
    - (ii) of the price at, below or above which, the terms on which, and the persons to ...<sup>F2</sup> whom, the regulated product or any description or quantity thereof, may be sold as aforesaid;
  - (d) for empowering the board to receive the whole or any part of any sums payable by purchasers of the regulated product in respect of sales of that product by registered producers, and for securing that any sums so received are distributed by the board to the sellers in such manner as may be specified in the scheme or prescribed by the board;
  - (e) for permitting the board, with the approval of the Ministry, to pay or allow a discount or similar abatement in respect of the fixed price of the regulated product or any description thereof payable for some past period to persons who during the said period have purchased the product or any description thereof.

In this paragraph the expression “fixed price” means the price at which the regulated product may be sold by producers under the scheme;

- <sup>F3</sup>(f) for prohibiting producers from selling the regulated product or any description or quantity thereof through the agency of any persons except the persons, if any, who are authorised by the board in writing to act as agents for the sale of the product or the product of that description or quantity;
- (g) for prohibiting—
  - (i) any person other than the board, or
  - (ii) any such person who is not authorised by the board in writing,
 from acting as an agent for the sale of the regulated product or any description or quantity thereof;
- (h) for empowering any person authorised in writing by the board (including, with the approval of the Ministry, an officer of the Ministry)—
  - (i) to enter and remain on, at all reasonable times, any land or premises on which he has reason to believe there are regulated products or any description thereof, taking with him such other persons and such equipment as appear to him necessary, and
  - (ii) to inspect any such products which are found there and weigh or otherwise measure or count them and for that purpose to use any such

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- equipment or any weighing or measuring equipment which is on the land or premises, and
- (iii) to apply or cause to be applied to any such product a mark identifying it as such a product or such a product of any description;
- (i) for requiring any person who proposes to act as an agent for the sale of the regulated product or any description thereof, on premises used or occupied by whom any such product is found, or any person who is acting or has acted as an agent for the sale of any such product—
- (i) to state to a person authorised as mentioned in paragraph ( *h* ), when requested by him, the name and address of the person on whose behalf the product is proposed to be sold or, where the product has been sold, the names and addresses of the seller and the buyer;
- (ii) to make and keep any specified record of any sales of the product conducted by him or on his behalf;
- (iii) to produce to a person so authorised, when requested by him, and permit him to inspect and to copy the whole or part of any record made and kept under sub-paragraph (ii) in relation to the product or any other books or documents relating to dealings with the product.]
- (3) A scheme which provides for the matter set out in subsection (2)( *b* ) shall either specify the method of determination or require the board to prescribe it and, without prejudice to the generality of the foregoing provision, the method of determination may be such as to secure that the quantity, if any, which any particular producer may sell is determined wholly or partly by reference to the quantity of that product or description, as the case may be, which was, in some past period, produced, sold or otherwise dealt with on particular land or premises or by particular persons.
- (4) A scheme may provide for securing, for all or any of the purposes of the scheme or of this Act,—
- (a) that the sale of any product wholly or partly manufactured or derived from the regulated product shall be deemed to be a sale of the regulated product if the substance of the transaction between the seller and the buyer is that the seller, being in possession of the regulated product, agrees to subject it, or cause it to be subjected, to some process and to sell the resulting product to the buyer; and
- (b) that, without prejudice to the foregoing provisions of this subsection, where the regulated product is livestock of any kind, a person shall be deemed to sell the regulated product if he sells the carcasses of any livestock of that kind, being livestock produced by him in the area to which the scheme is applicable.
- (5) Any producer who sells the regulated product [<sup>F3</sup> or any description or quantity thereof] in contravention of any provisions of a scheme made in pursuance of subsection (1) or [<sup>F3</sup> paragraph ( *a* )], paragraph ( *b* ) or paragraph ( *c* ) [<sup>F3</sup> or paragraph ( *d* ) or paragraph ( *f* )] of subsection (2), shall for each offence be liable on summary conviction [<sup>F3</sup> to imprisonment for a term not exceeding three months or] to a fine not exceeding [<sup>F4</sup> level 2 on the standard scale], [<sup>F3</sup> or to both such imprisonment and such fine] or on conviction on indictment [<sup>F3</sup> to imprisonment for a term not exceeding three months or] to [<sup>F4</sup> an unlimited fine], [<sup>F3</sup> or to both such imprisonment and such fine] and in either case to an additional fine not exceeding one half of the price at which the product was sold but the fines imposed on summary conviction for any offence under this subsection shall not exceed in the aggregate [<sup>F4</sup> level 4 on the standard scale].

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- <sup>F3</sup>(6) Any person who acts in contravention of any provision of a scheme made in pursuance of paragraph ( g ) of subsection (2) shall be liable on conviction to imprisonment for a term not exceeding three months or to a fine not exceeding<sup>F4</sup> [ level 4 on standard scale] or to both such imprisonment and such fine.
- (7) Any person who—
- (a) acts in contravention of any provision of a scheme made in pursuance of paragraph ( i ) of subsection (2), or
  - (b) does not comply with any request duly made of him as mentioned in the said paragraph ( i ), or
  - (c) in any statement or record made as so mentioned knowingly or recklessly makes a statement or entry which is false, or
  - (d) without lawful authority obliterates or defaces a mark applied to a regulated product under paragraph ( h )(iii) of subsection (2), or
  - (e) wilfully obstructs or impedes a person exercising functions under any provision of a scheme made in pursuance of paragraph ( h ) of subsection (2),
- shall be liable on conviction to a fine not exceeding £200.]

<b>F1</b>	1975 NI 8
<b>F2</b>	1970 c.20 (NI)
<b>F3</b>	1970 c.20 (NI)
<b>F4</b>	1984 NI 3

## **6 Further provisions as to marketing of regulated product and provisions for encouragement of co-operation, education and research.**

- (1) A scheme may provide for all or any of the matters set out in the following paragraphs, that is to say:—
- (a) for empowering the board to buy the regulated product, to produce such commodities, the whole or a main ingredient of which is derived from that product, as may be specified in the scheme and to sell and (subject to regulations made under subsection (2)) to grade, pack, store, adapt for sale, insure, advertise, promote the sale of, and transport the regulated product and any such commodities;
  - (b) for empowering the board to buy such ingredients other than the regulated product as may be necessary for the production of the commodities specified in the scheme;
  - (c) for empowering the board to enter into agreements with buyers of the regulated product or their representatives concerning the prices at which and the terms on which the regulated product shall be sold by the board;
  - (d) for empowering the board to buy or rent or take on hire, and to sell or let for hire to registered producers, anything required for the production, adaptation for sale, or sale of the regulated product;
  - (e) for empowering the board to buy or rent or take on hire, and to sell or let for hire to persons other than registered producers anything designed to promote the sale of the regulated product;
  - (f) for empowering the board to act jointly with the board administering any other scheme under this Act, or with a committee of dealers, in determining any matter mentioned in section 5(2)( c ) and to agree to refer any question which

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may arise in the course of such joint action to the decision of a joint body consisting of such members of the boards, or of the board and the committee of dealers, as the scheme or schemes may provide.

In this paragraph the expression “committee of dealers” means a committee constituted under regulations made by the Ministry and composed of representatives of persons carrying on business as dealers in a regulated product;

- (g) for empowering the board to co-operate with any other person in doing anything which the board are or might be empowered to do by virtue of paragraph ( a ), paragraph ( b ), paragraph ( d ) or paragraph ( e );
  - (h) without prejudice to any functions of the Ministry under section 5 of the Agriculture Act (Northern Ireland) 1949 , for enabling the board to encourage, promote or conduct agricultural co-operation, research and education;
  - <sup>F5</sup>(i) for empowering the board to do anything calculated to procure, promote or facilitate the doing by any other person of anything in the doing of which the board are or might be empowered to co-operate by virtue of paragraph ( g ).]
- (2) For the purposes of any scheme, the Ministry may by regulations prescribe the persons by whom and the manner in which the regulated product or any description or quantity thereof is to be graded, and the manner in which the regulated product or any description or quantity thereof is to be marked, packed, stored, adapted for sale, insured, advertised or transported or its sale promoted.
- (3) All regulations made under subsection (2) shall cease to have effect if and when the scheme for the purposes of which the regulations have been made ceases to have effect.
- <sup>F5</sup>(4) Regulations made under subsection (2) may provide that a person who contravenes the regulations shall be guilty of an offence and liable on summary conviction to a fine not exceeding<sup>F6</sup> level 4 on the standard scale].]

<b>F5</b>	1975 NI 8
<b>F6</b>	1984 NI 3

## 7 Miscellaneous provisions of schemes.

- (1) Every scheme shall provide for the following matters, that is to say:—
- (a) for exempting from registration under the scheme any producer or groups, classes or descriptions of producers as may be specified in the scheme;
  - (b) for exempting from all or any of the provisions of the scheme sales of such classes or descriptions, and to such classes of persons, as may be specified in the scheme or in regulations to be made by the Ministry under this Act with respect to the removal of any agricultural product from Northern Ireland into Great Britain;
  - (c) for securing that any producer aggrieved by any act or omission of the board may refer the matter to one or more than one arbitrator appointed in such manner as may be provided by the scheme, and for the manner in which any such reference is to be heard and determined.
- (2) A scheme may provide for both or either of the following matters:—
- (a) for empowering any person authorised in writing by the board (including, with the approval of the Ministry, any officer of the Ministry) for the purpose of

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securing compliance with the scheme to enter [<sup>F7</sup> and remain on] and inspect at any reasonable time, and on production of his authority, any part of the land or premises occupied by any registered producer (being a producer specified in the authority) which the person so authorised has reason to believe is used for producing the regulated product, or for doing any of the following things which is regulated by the scheme, that is to say, grading, marking, packing or storing the regulated product, or adapting it for sale [<sup>F7</sup> and to take with him such other persons and such equipment as appear to him necessary], and for requiring registered producers to permit such entry, [<sup>F7</sup> remaining], and inspection;

- (b) for requiring any producer of the regulated product to furnish to the board his name and address and such information relating to the regulated product as the board, with the approval of the Ministry, may determine.
- (3) A scheme may provide for securing that where, by reason of a registered producer dying, or becoming subject to some legal disability, or entering into a composition or scheme of arrangement with his creditors, any property in, or control of, the regulated product is transferred from the registered producer to a personal representative, trustee, committee, or other person, the personal representative, trustee, committee, or other person, as the case may be, shall, in such circumstances and in respect of such matters as may be specified in the scheme, be deemed to be a producer.

**F7** 1970 c.20 (NI)

## **8 Penalties for contravention of schemes.**

- <sup>F8</sup>(1) Any person who wilfully obstructs or impedes a person authorised as mentioned in paragraph (a) of section 7(2) in the exercise of his powers under a provision of a scheme made in pursuance of that paragraph shall be liable on conviction to a fine not exceeding £200.]
- (2) Any producer from whom any information is required by a board in the exercise of their powers under a provision of a scheme made in pursuance of section 7(2)(b) and who fails to comply with the requirement or knowingly makes any false statement in reply thereto, [<sup>F9</sup> shall be guilty of an offence and] shall for each offence be liable on conviction to [<sup>F8</sup> a fine not exceeding £200].

**F8** 1970 c.20 (NI)

**F9** 1975 NI 8

## FINANCIAL POWERS AND DUTIES OF BOARDS

### **9 Schemes to provide for establishment of a fund, payment of contributions, etc.**

- (1) Every scheme shall provide for the following matters, that is to say:—
- (a) for the establishment of a fund (in this section referred to as the “the fund”) to be administered and controlled by the board, for the payment into the fund of all moneys received by the board, and for the payment out of the fund of any



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- moneys required by the board for the operation of the scheme or otherwise for the purposes of this Act;
- (b) for the payment by producers of contributions to the fund of such amounts as the board, with the approval of the Ministry, may determine to be necessary for the operation of the scheme or otherwise for the purposes of this Act, and for the manner in which the contributions of producers will be assessed;
  - (c) for exempting from the payment of contributions under the scheme such classes of producers being producers exempted from registration under the scheme, as the Ministry may determine;
  - (d) for the distribution among producers, in such manner as may be provided by the scheme, of all moneys standing to the credit of the fund and not required for the operation of the scheme or otherwise for the purposes of this Act;
  - (e) for the manner in which the moneys of the board may be invested;
  - (f) for the accounts to be kept by the board and for the audit of those accounts;
  - (g) for the furnishing by a board to the Ministry of Finance, so long as the board is under any financial liability to that Ministry, of the audited accounts of the board together with such relevant information as that Ministry may require;
  - (h) for the furnishing by the board to the Ministry and to registered producers of accounts, returns and other information;
  - (i) for the furnishing by the board of a copy of the accounts of the board to any person requiring it, upon payment of such fee as the scheme may specify.
- (2) For the purposes of subsection (1)( b) a scheme may provide that contributions to defray the cost of any capital expenditure shall be assessed separately from contributions to defray the cost of any other expenditure or expenses of the board.
- (3) The Ministry may by order require the board administering a scheme to impose a special levy or levies—
- (a) for the purpose of securing that the provisions of the scheme operate equitably as between all classes of producers; or
  - (b) for the purpose of covering any loss which the board have sustained in trading under the scheme;
- and any such levy shall be imposed by the board upon such producers, and in such proportions, as may be specified in the order.
- (4) The amount of any contribution payable under a scheme by a producer to the fund, and the amount of any levy imposed upon a producer under subsection (3), shall be a debt due to the board from such producer.
- (5) A scheme may provide for empowering the board, in such class of cases as may be specified in the scheme, to pay compensation to registered producers in respect of any loss which, in the opinion of the board, has been occasioned to such producers by the operation of any scheme, whether administered by that board or not.

## **10 Power of marketing boards to make loans and grants and to enter into guarantees.**

- (1) A scheme may provide for empowering the board, subject to such limitations as may be specified in the scheme—
- (a) to lend or grant money to any other board;

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- (b) to guarantee payment by any other board of any sums which that board may be liable to pay on account of principal or interest in respect of any loan raised by them.
- (2) A scheme which contains such a provision as is authorised by subsection (1) may further provide for securing that any loan, grant or guarantee not specifically authorised by the scheme shall not be made or given by the board except in pursuance of a resolution of the board specifying all material particulars relating to the proposed transaction being a resolution which has been previously notified to, and approved by, the Ministry.
- (3) Any scheme may empower the board to pay on account or lend to any registered producer a portion of the amount which the board estimate that he will receive from the sale of any quantity of the regulated product produced or in course of production or held in store by him.

## **11 Borrowing power of boards and application of loans and grants made to boards.**

- (1) Every scheme shall provide for empowering the board to borrow money for the purpose of exercising their functions under the scheme.
- (2) A board shall have power to accept from any other person any grant to be applied for any of the purposes for which the board are empowered to expend money.
- (3) A scheme may provide for empowering the board, where a loan or grant is proposed to be made to them, to agree with the person proposing to make the loan or grant, as the case may be, and, in the case of a loan, with any person proposing to guarantee the repayment thereof, that if the loan or grant is duly made or the guarantee duly given, the board will apply the money obtained by them by means of the loan or grant subject to such conditions (including conditions as to the persons on whose advice the board are to act in applying the said money) as may be specified in the agreement.
- (4) Where a scheme provides for empowering the board to make any such agreement as aforesaid, the scheme—
  - (a) shall impose upon the board the duty of carrying into effect any such agreement entered into by them; and
  - (b) may provide that where such an agreement contains conditions requiring the board to act on the advice of any specified persons, the provisions of the scheme entitling a registered producer aggrieved by any act or omission of the board to refer the matter to arbitration shall not apply in relation to anything done, or omitted to be done, by the board in pursuance of the agreement.
- (5) The Ministry of Finance may, on the recommendation of the Ministry, guarantee, in such manner as the Ministry of Finance thinks fit, the payment of the interest and principal, or of either interest or principal, of loans proposed to be borrowed by a board for the purpose of meeting the expenses incurred in connection with the initiation and operation of a scheme. Any such loan shall be repaid by the board within two years but may, with the guarantee of the Ministry of Finance, from time to time be renewed for a further period of two years, if the Ministry so recommends.

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## EFFECT OF SCHEMES ON CONTRACTS

### **12 Effect of schemes on contracts.**

- (1) Subject to subsection (2), a contract of which neither the making nor the performance was, at the time when the contract was made, prohibited by or under any scheme in force shall not, unless the terms of the contract otherwise provide, be void or unenforceable by reason that, at the time for the performance of any provision of the contract, the performance thereof is so prohibited.
- (2) Where the performance of any such contract as is referred to in subsection (1) is prohibited by or under any scheme in force, subsection (1) shall cease to apply to that contract upon the expiration of three months after the prohibition first takes effect, unless that contract is registered under section 13.
- (3) Where, in conformity with a scheme in force, any contract for the sale of the regulated product by a registered producer otherwise than to, or through the agency of, the board purports to confer on the board any right to receive from the purchaser the whole or any part of the purchase price payable under the contract or of any damages for which the purchaser may be liable in respect of a wrongful rejection of articles tendered in accordance with the contract, the board may enforce that right against the purchaser, notwithstanding that the board are not a party to the contract and notwithstanding that, as between the board and the purchaser, there is no consideration.
- (4) A person shall not be liable to any penalty in respect of a contravention of any scheme, if he proves that the contravention was necessary for the performance of a contract which, by reason of subsections (1) and (2), was not, at the time of the contravention void or unenforceable.

### **13 Registration of certain contracts.**

- (1) It shall be the duty of the board, on the application of any party to such a contract as is referred to in section 12(1), to register the contract within the period of fourteen days after the application is made, unless—
  - (a) the application is made after the said section 12(1) has, by virtue of section 12(2), ceased to apply to the contract; or
  - (b) as respects a contract made during the relevant period, the board are of opinion that the contract was made with a view to evading the operation of the scheme by or under which the performance of the contract is prohibited.
- (2) Any party to a contract who is aggrieved by the omission of a board to register the contract within the period referred to in subsection (1), may, within twenty-one days after the expiration of that period, appeal to the court, and, pending the determination of any such appeal, section 12(1) shall, notwithstanding anything in section 12(2), continue to apply to the contract.
- (3) On any appeal under this section, the board concerned and any party to the contract may appear and be heard, and if, on the hearing of any such appeal, the court finds—
  - (a) that the application for registration of the contract was made before the expiration of the period on the expiration of which section 12(1) ceased, by virtue of section 12(2), to apply to the contract; and

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- (b) as respects a contract made during the relevant period, that the contract was not made with a view to evading the operation of the scheme;
- the court shall by order direct the registration of the contract, and thereupon the contract shall be deemed to have been registered as from the date of the order.
- (4) Where the court does not by order direct the registration of a contract made during the relevant period, any party to that contract who is certified by the court to have entered into the contract in good faith without a view to evading the operation of the scheme may recover the amount of any damage suffered by him by reason of the avoidance of the contract from any party thereto who is certified by the court to have entered into the contract with a view to evading the operation of the scheme.
- (5) For the purposes of an appeal under this section with respect to any contract, the court shall, subject to subsection (6), be the county court for any division within which any party to the contract has dwelt or carried on business at any time during the period within which the appeal may be brought.
- (6) Notwithstanding the provisions of subsection (5)—
- (a) if, before proceedings in respect of any appeal under this section are commenced in the county court, the board and all parties to the contract agree that the appeal should be heard by the High Court, the High Court shall be the court for the purposes of the appeal; and
- Para. (b) rep. by 1978 c. 23*
- (7) For the purposes of this section, the expression “the relevant period”, in relation to a scheme, means a period beginning twelve months before the date when notice of the framing of the scheme was published by the Ministry and ending six months after the date when the scheme comes into force.

#### POWERS OF THE MINISTER AND THE MINISTRY

#### **14 Directions by Minister to boards as respects certain matters.**

- (1) This section shall have effect with respect to any powers exercisable by a board by virtue of any provision of a scheme providing for any of the following matters, that is to say—
- (a) for empowering the board to buy the regulated product, to produce such commodities the whole or a main ingredient of which is derived from that product as may be specified in the scheme and to sell the regulated product and any such commodities;
- (b) for the determination from time to time—
- (i) of the quantity of the regulated product or of any description thereof which may be sold by any producer;
- (ii) of the descriptions of the regulated product which may be sold by any producer;
- (iii) of the price at, below or above which, the terms on which, and the persons to whom, or through the agency of whom, the regulated product, or any description or quantity thereof, may be sold by any producer;

*Status: Point in time view as at 15/12/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Agricultural Marketing Act (Northern Ireland) 1964. (See end of Document for details)*

- (c) <sup>F10</sup>for empowering the board to enter into agreements with buyers of the regulated product or their representatives concerning the prices at which and the terms on which the regulated product shall be sold by the board;

and references in the following provisions of this section to acts or omissions of the board shall be construed as references to acts or omissions of the board in the exercise of any of the said powers.

- (2) Subject to the provisions of this section, if it appears to the Minister that the result, or one of the results, of any act or omission of the board or intended act or omission of the board is or will be ...<sup>F11</sup>

- (a) to restrict the purposes for which the regulated product or any description thereof is used, or to limit the quantity of the regulated product, which is used for any particular purpose; or
- (b) to limit the quantity of the regulated product or of any description thereof, or of any commodity produced therefrom, which is produced or sold, whether by producers or by other persons; or
- (c) to regulate the price at which the regulated product, or any description or quantity thereof, or any commodity produced therefrom, is sold, whether by producers or by other persons; or
- (d) to limit the classes of persons to whom or through the agency of whom the regulated product, or any description or quantity thereof, or any commodity produced therefrom, is sold, whether by producers or by other persons;

and that that result is or will be contrary to the public interest, the Minister may by order give to the board such directions as to their acts or omissions as he considers necessary or expedient for the purpose of preventing that result or, as the case may be, preventing or mitigating the damage to the public interest entailed thereby, and it shall be the duty of the board to comply with that order.

- (3) Before making an order under subsection (2) the Minister shall give to the board notice in writing stating the general nature of the action which he proposes to take and of his reasons for taking it, and shall not make any order under that subsection for at least twenty-eight days after the date of the notice.
- (4) If within the said period of twenty-eight days or such longer period as the Minister may allow the board make representations to the Minister regarding the action which he proposes to take, the Minister shall not make an order under subsection (2) until he has considered such representations.
- (5) The Minister may at any time, after consultation with the board, by order revoke or vary any order in force under subsection (2) so as either—
- (a) to withdraw the whole or any part of the directions in force thereunder; or
- (b) to vary or add to those directions in any manner which he thinks necessary or expedient in order better to attain the purposes for which those directions were given;

but the Minister shall not, except with the consent of the board, vary or add to any directions under paragraph ( b ) where, in his opinion, the need for the variation or addition arose from circumstances not obtaining at the date when the directions were given.

**F10** 1968 c.34

**F11** 1975 NI 8

*Status: Point in time view as at 15/12/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Agricultural Marketing Act (Northern Ireland) 1964. (See end of Document for details)*

## **15 Temporary directions by Minister.**

- (1) Where the Minister gives any such notice as is provided for by section 14(3), the Minister, if he considers it necessary to take immediate action for the purpose of preventing injury to the public interest from any change made or intended to be made by the board in their course of action in any matter relevant to the subject of the notice, may, at or after the time of the giving of the notice, make a temporary order giving to the board such directions as to their course of action in that matter as he may think necessary for that purpose, and it shall be the duty of the board to comply with the order.
- (2) A temporary order under this section made by the Minister in connection with the giving of such a notice as is provided for by section 14(3) shall be limited so as to expire on such date as may be specified in the order, not being later than four months from the date of the making thereof.
- (3) An order amending or altering a temporary order under this section shall not extend the duration thereof beyond the period prescribed by subsection (2).

## **16 Savings for effect of sections 14 and 15 and provisions as to orders thereunder.**

- (1) Nothing in section 14 or section 15 shall be construed as authorising or requiring a board to do anything that they are not lawfully empowered to do.
- (2) An order made under any of the provisions of section 14 or section 15 shall state the general nature of the reasons for the making thereof.

## **17 Power of the Ministry to make regulations and orders.**

- (1) The Ministry may by regulations make such provision as appears to the Ministry to be necessary for all or any of the following purposes:—
  - (a) for giving full effect to this Act;
  - (b) for regulating the removal from Northern Ireland into Great Britain of any agricultural product the marketing of which is regulated by a scheme for the time being in force under this Act or under the United Kingdom Act, the quantity of the product or any description thereof which may be so removed, and the descriptions of the product which may be so removed, and in particular (without prejudice to the generality of the foregoing provision of this paragraph) for the following matters:—
    - (i) the registration of persons carrying on business in Northern Ireland as dealers in the regulated product;
    - (ii) the exemption from registration of such classes of persons carrying on business as aforesaid as the regulations may specify;
- <sup>F12</sup>(ba) for regulating or prohibiting the movement in, or in any part of, Northern Ireland of any agricultural product the marketing of which is regulated by a scheme for the time being in force under this Act, for prescribing the quantity of the product or any description thereof which may or may not be so moved and the descriptions of the product which may or may not be so moved, and in particular (without prejudice to the generality of the foregoing provisions of this paragraph) for the following matters—
  - (i) requiring the person who is in charge of a vehicle in which the product is being carried to have in his possession a document which complies with the requirements of the regulations;

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- (ii) empowering persons authorised in writing to exercise functions under the regulations to halt any vehicle suspected to contain the product, inspect the vehicle and any agricultural product which is being carried in it, inspect and detain any document such as is mentioned in sub-paragraph (i), require the vehicle to be taken to the nearest suitable and available weighing or measuring equipment, require the product to be unloaded from the vehicle and to be weighed or require the person in charge of the vehicle to have it check-weighed, and require that person to state the name and address of the owner of the product, the address from which it has been moved, the address to which it is being moved and, where the product has been the subject of a sale, the name and address of the seller;
    - (iii) designating the person by whom any expenses incurred in complying with any requirement made under sub-paragraph (ii) are to be defrayed;
    - (iv) providing for the seizure and detention and the disposal or destruction of the product where it is suspected of being or having been moved in contravention of the regulations and of any vehicle, container or thing in or with which it is being or is suspected of having been carried or handled, and for the forfeiture of, or of the proceeds of sale of, any such product, vehicle, container or thing;]
  - (c) for constituting, for the purposes of this Act committees composed of representatives of persons carrying on business as dealers in a regulated product;
  - (d) for sub-serving the purposes of any order under Part III of the United Kingdom Act regulating sales of an agricultural product;
  - (e) for sub-serving the purposes of an agricultural marketing scheme under the United Kingdom Act.
- (2) Where the Ministry by regulations under subsection (1)( b) makes provision for the registration of persons carrying on business in Northern Ireland as dealers in the regulated product, then, if the regulations so provide, there shall be payable to the Ministry by each such dealer a licence fee consisting of—
- (a) <sup>F13</sup>such annual sum not exceeding ten pounds as the regulations may fix; or
  - (b) a sum payable at such times and calculated at such rate as the regulations may prescribe, but not being in any case a rate higher than three per cent. of the value of the regulated product removed into Great Britain by such dealer; or
  - (c) the said annual sum together with a sum payable at such times and calculated at such rate as aforesaid.
- (3) Subject to any directions which may be contained in regulations made under this section, it shall be the duty of boards to exercise their powers in such manner as appears to them to be necessary for securing that the regulations are not contravened.
- (4) Any person who removes or attempts to remove any agricultural product from Northern Ireland into Great Britain in contravention of the provisions of any regulation made under subsection (1)( b) shall be liable on conviction to imprisonment for a term not exceeding three months, or to a fine not exceeding one hundred pounds, or to both such imprisonment and such fine.
- <sup>F12</sup>(4A) Any person who acts in contravention of any regulations made under subsection (1) ( ba) or does not comply with any requirement duly made of him under such regulations or when required to produce any document or to make any statement under

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such regulations produces any document which he knows to be false or knowingly or recklessly makes any statement which is false shall be liable on conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £200 or to both such imprisonment and such fine; and any agricultural product which has been moved in contravention of the regulations and any vehicle, container or thing which has been used for the carriage, handling or concealment of the product, if not already forfeited by virtue of subsection (1)(ba)(iv), shall be liable to be forfeited.

- (4B) Any person who wilfully obstructs or impedes a person exercising functions under regulations made in pursuance of subsection (1)(ba) shall be liable on conviction to a fine not exceeding £200.]
- (5) The Ministry may by order do any matter or thing which is necessary for removing any difficulty arising in the bringing into operation of any provision of a scheme under this Act or any order under Part III of the United Kingdom Act regulating sales of an agricultural product.
- (6) Every order made under subsection (5) shall come into force upon the date specified therein in that behalf and shall be laid before Parliament as soon as may be after it is made, and shall cease to have effect upon the expiration of a period of six months from the date upon which it came into force, unless before the expiration of that period it is approved by a resolution passed by each House of Parliament.

F12 1970 c.20 (NI)

F13 1968 c.8 (NI)

## 18 Employment of officers and payment of members.

- (1) The number, grading, remuneration and terms and conditions of service of officers and servants employed by a board for the performance of their functions under this Act or under a scheme shall be determined by the board subject, except in such cases and to such extent as may be specified in the scheme, to the approval of the Ministry.
- (2) The appointment and terms of employment of every such officer and servant as aforesaid shall, except in such cases as may be specified in the scheme, be subject to the approval of the Ministry.
- (3) A board shall furnish to the Ministry such information regarding persons employed or being considered for employment by the board as the Ministry may require for the purposes of its functions under subsection (1) or subsection (2).
- (4) No salary or remuneration shall be paid to any member of a board except with the approval of the Ministry.

## 19 Inspection of premises and furnishing of returns.

- (1) Any [<sup>F14</sup> person authorised in writing] by the Ministry shall have power to enter [<sup>F14</sup> and remain on at all reasonable times, taking with him such other persons and such equipment as appear to him necessary] and to inspect—
- (a) any land or premises occupied or used by any person registered under regulations as a dealer, for the purposes of his business as such dealer; and
  - (b) any land or premises which the Ministry [<sup>F15</sup> or the person so authorised] has reason to believe to be occupied or used by any person for the purpose



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of producing, selling, grading, marking, packing or storing any regulated product;

and any person who [<sup>F15</sup> wilfully] obstructs or impedes [<sup>F14</sup> a person so authorised] in the exercise of his powers under this subsection shall be liable on conviction to a fine not exceeding [<sup>F14</sup> £200].

<sup>F16</sup>(1A) The power under subsection (1) to inspect land and premises shall include power to do anything that is reasonably necessary to ensure that the provisions of a scheme are being complied with.]

(2) The Ministry may for the purposes of this Act by order require any producer of, or person carrying on business as a dealer in, a regulated product to make to the Ministry, at such time or times and in such form and manner as may be prescribed by the order, returns as to the production, sales and stocks of the regulated product, and also, in the case of a dealer, returns as to purchases of the regulated product.

(3) Any person who fails to comply with any requirements of an order under subsection (2) within the time prescribed by the order, or knowingly makes any false statement in reply to such requirement, shall for each offence be liable on conviction to [<sup>F14</sup> a fine not exceeding £200].

**F14** 1970 c.20 (NI)

**F15** 1970 c.20 (NI)

**F16** 1975 NI 8

## FINANCIAL PROVISIONS

### **20 Provisions as to expenses of the Ministry, licence fees and guarantees.**

- (1) Any expenses incurred by the Ministry in respect of—
- the conduct of any elections of members of a board; or
  - the compilation of lists of the names and addresses of producers of a regulated product; or
  - the employment of any officer of the Ministry by a board on inspections for securing compliance with a scheme or otherwise for the purposes of this Act; or
  - the execution of an order under this Act for removing any difficulty arising in the bringing into operation of any provision of a scheme;

shall, to such amount as may be certified by the Ministry with the approval of the Ministry of Finance, be paid to the Ministry by the board concerned, and all sums so received by the Ministry shall be paid to the Exchequer.

- (2) All sums received by the Ministry in respect of licence fees payable under regulations made under section 17 shall be paid to the Exchequer.
- (3) Such sums as may from time to time be required by the Ministry of Finance for fulfilling any guarantees given under section 11(5) shall be a charge on and payable out of the Consolidated Fund and for that purpose the Ministry of Finance may borrow money. All sums received by the Ministry of Finance from time to time in or towards

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repayment of any sum paid by the said Ministry under a guarantee shall be paid to the Exchequer.

(4) <sup>F17</sup> .....

<b>F17</b> S. 20(4) repealed (15.12.2009) by <a href="#">Financial Provisions Act (Northern Ireland) 2009 (c. 9), s. 6(2), Sch.</a>
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## GENERAL AND SUPPLEMENTARY

### 21 Power of marketing boards to negotiate with other persons.

- (1) A board shall have power to negotiate with any other person in respect of any matter concerning the marketing of the regulated product, or of any agricultural product from which the regulated product is wholly or partly manufactured or derived, or of any commodity wholly or partly manufactured or derived from the regulated product, and to agree with any other party to the negotiations to bring into consultation in connection therewith such person as may be agreed upon between the parties or, in default of agreement, nominated by the Minister or, in a case to which subsection (2) applies, nominated by the appropriate authority specified in that subsection.
- (2) Where a question arising between a board administering a scheme under this Act and a board in Great Britain administering a scheme under the United Kingdom Act is to be decided under this section, and the parties do not agree upon the person to whose decision the question is to be referred, that person shall be nominated by the Secretary of State concerned with agriculture in Northern Ireland, acting in conjunction with the Minister as defined by section 52(1) of the United Kingdom Act in relation to the scheme under the United Kingdom Act administered in Great Britain by the board concerned.

### 22 Power of marketing boards to co-operate with boards in Great Britain for purposes of s.7 of the United Kingdom Act.

- (1) Where, in pursuance of section 7 of the United Kingdom Act, a board administering a scheme in Great Britain are authorised to exercise any powers in relation to an agricultural product of Northern Ireland which as respects Northern Ireland is regulated by a corresponding scheme, then the board administering that corresponding scheme shall have power to do all such matters or things as are necessary for the purpose of enabling the first-mentioned board to exercise their powers in pursuance of the said section 7.
- (2) In this section the expression “corresponding scheme” means a scheme under this Act for regulating the marketing of the same agricultural product as the product the marketing of which is regulated, as respects Great Britain, by the scheme administered by the board having powers in pursuance of the said section 7.

### 23 Restrictions on disclosing information or returns.

- (1) Subject to subsection (2), any person who discloses any information obtained by him in the exercise of any power conferred on him or on the Ministry or on any board by or under this Act shall be liable on conviction to a fine not exceeding fifty pounds.

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- (2) Nothing in subsection (1) shall apply to the disclosure of any information:—
- (a) made by a board in compliance with a requisition under<sup>F18</sup> Article 43 of the Diseases of Animals (Northern Ireland) Order 1981];
  - <sup>F19</sup>(aa) made to a district council for the purposes of its functions under the Food and Drugs Act (Northern Ireland) 1958 , or to the Ministry;]
  - <sup>F20</sup>(aaa) made to the Monopolies and Mergers Commission, or to any member of that Commission or to any of the staff of that Commission, or to the Director General of Fair Trading or any of the staff appointed by that Director General, if it is made for the purpose of enabling the Commission or the Director General to perform any functions of theirs or his under the Fair Trading Act 1973 ] [<sup>F21</sup> or the Competition Act 1980 ];
  - (b) made for the purposes of a prosecution or other legal proceedings (including arbitrations) under this Act or under a scheme or regulation made under this Act or for the purpose of any report of such proceedings;
  - (c) if, and in so far as, the disclosure is required or authorised by this Act or any scheme or regulation made thereunder.
- (3) No individual return or part of a return made to the Ministry in accordance with an order of the Ministry under this Act shall be disclosed without the authority of the person by whom the return was made, except in so far as the disclosure is authorised by subsection (2).

**F18** 1981 NI 22

**F19** SRO (NI) 1973/343

**F20** 1973 c.41

**F21** 1980 c.21

## 24 Prosecutions and fines.

- (1) Except where this Act otherwise expressly provides, all offences under this Act shall be prosecuted, and all fines thereunder shall be recovered [<sup>F22</sup> and, subject to the provisions of any regulations made under section 17(1)( *ba*), all forfeitures thereunder disposed of], in manner provided by the Summary Jurisdiction Acts.
- (2) A prosecution for an offence (other than an offence committed by an officer of the Ministry or of any board established under this Act) which under this Act may be prosecuted before a court of summary jurisdiction shall not be instituted except by, or with the consent of, the Ministry.

**F22** 1970 c.20 (NI)

## 25 Parliamentary control of regulations and orders.

All regulations made under this Act and all orders made under section 2(4), section 14, section 15 or section 19(2) shall be subject to negative resolution and all orders made under section 9(3) shall be subject to affirmative resolution.

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## **26 Interpretation.**

- (1) In this Act, the following expressions have the meanings hereby assigned to them, that is to say:—

“agricultural product” includes any product of agriculture or horticulture and any article of food or drink wholly or partly manufactured or derived from any such product, and fleeces (including all kinds of wool, whether from a living animal or from a dead animal or from the skin of a dead animal) and the skins of animals;

“board” means a board administering a scheme and, in relation to any scheme, means the board administering that scheme;

“Minister” and “Ministry” respectively mean the Minister and Ministry of Agriculture;

“producer” means, in relation to any scheme, any person who produces the regulated product;

“regulated product” means, in relation to any scheme, any product the marketing of which is regulated by the scheme, but does not include any product in so far as it is produced outside the area to which the scheme is applicable;

“registered”, in relation to any scheme, means registered under that scheme;

“regulations” means regulations made by the Ministry under this Act;

“scheme” means a scheme under this Act;

“United Kingdom Act” means the Agricultural Marketing Act 1958 .

- (2) For the purposes of a scheme regulating the marketing of livestock of any kind, every person whose business it is to keep livestock of that kind for the purpose of breeding from it or selling it in an improved condition shall (except in so far as the scheme otherwise provides be deemed to produce it.

*S. 27 rep. by SLR 1973*

## **28 Short title.**

This Act may be cited as the Agricultural Marketing Act (Northern Ireland) 1964.

**Status:**

Point in time view as at 15/12/2009.

**Changes to legislation:**

There are currently no known outstanding effects for the Agricultural Marketing Act (Northern Ireland) 1964.