
STATUTORY INSTRUMENTS

1982 No. 1080

The Agricultural Marketing (Northern Ireland) Order 1982

PART III

AGRICULTURAL MARKETING SERVICE SCHEMES

Relations of board with Department

Action following report by [^{F1} Competition and Markets Authority]

42.—^{F2}(1) Paragraph (1D) applies in any of the following cases.

(1A) The first case is where section 138(2) of the Enterprise Act 2002 (duty to remedy adverse effects following market investigation reference) applies and whatever is to be remedied, mitigated or prevented relates to any provision of a scheme or any act or omission of a board administering a scheme.

(1B) The second case is where section 147(2)^{F3} or 147A(2)] of the Enterprise Act 2002 (power to remedy adverse effects in public interest cases) applies and whatever is to be remedied, mitigated or prevented relates to any provision of a scheme or any act or omission of a board administering a scheme.

(1C) The third case is where—

- (a) a report of the [^{F4} Competition and Markets Authority] under section 11 of the Competition Act 1980 (c. 21) (references of public bodies etc.), as laid before Parliament, contains conclusions to the effect that—
 - (i) certain matters indicated in the report operate against the public interest, and
 - (ii) those matters consist of or include any provision of a scheme or any act or omission of a board administering a scheme, and
- (b) none of the conclusions is to be disregarded by virtue of section 11C(3) of that Act (requirement for two-thirds majority).

(1D) The Department, if it thinks fit so to do—

- (a) may by order make such amendments in the scheme as it considers necessary or expedient for the purpose of rectifying the matter;
- (b) may by order revoke the scheme;
- (c) in the event of the matter being one which it is within the power of the board to rectify, may by order direct the board to take such steps to rectify the matter as may be specified in the order, and thereupon it shall be the duty of the board forthwith to comply with the order.]

(2) Before taking any action under^{F2} paragraph (1D)] the Department shall give the board notice of the action which it proposes to take and shall consider any representations made by the board within 28 days after the date of the notice.

Changes to legislation: The Agricultural Marketing (Northern Ireland) Order 1982, Section 42 is up to date with all changes known to be in force on or before 23 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(3) The Department may at any time, after consultation with the board concerned, by order revoke or vary any order in force under^{F2} paragraph (1D)(c)] 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 it thinks necessary or expedient in order better to attain the purposes for which those directions were given;

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

(4) Any order made under paragraph (3) shall state the general nature of the reasons for the making thereof.

(5) Any order made under^{F2} paragraph (1D)(a) or (c)] or paragraph (3) shall be subject to negative resolution, and any order made under^{F2} paragraph (1D)(b)] shall be subject to affirmative resolution.

^{F5}(5A) Any order made under this Article in a case falling within paragraph (1A) or (1B) shall be treated, for the purposes of sections 162(1) and 166(3) of the Enterprise Act 2002 (duties to register and keep under review enforcement orders etc.), as if it were made under the relevant power in Part 4 of that Act to make an enforcement order (within the meaning of that Part).]

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| F1 | Words in art. 42 substituted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892) , art. 1(1), Sch. 1 para. 210(4)(c) (with art. 3) |
| F2 | 2002 c. 40 |
| F3 | Words in art. 42(1B) inserted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892) , art. 1(1), Sch. 1 para. 210(4)(a) (with art. 3) |
| F4 | Words in art. 42(1C)(a) substituted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892) , art. 1(1), Sch. 1 para. 210(4)(b) (with art. 3) |
| F5 | 2002 c. 40 |

Changes to legislation:

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[View outstanding changes](#)

Changes and effects yet to be applied to :

- Instrument mod. (prosp.) by [1998 c. 41 s.45\(7\)Sch.7 Pt.II para.20\(2\)\(c\)](#)
- art.42 am. (NI) by [S.I. 1999/506 art.40](#)

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- [Sch.8 rev.inpt. and am. \(prosp.\) by 1998 c. 41 s.74\(1\)\(3\)Sch.12 para.6Sch.14 Pt.II](#)