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## STATUTORY INSTRUMENTS

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# 1982 No. 1080

## The Agricultural Marketing (Northern Ireland) Order 1982

### PART II

#### AGRICULTURAL MARKETING SCHEMES

##### *Submission and approval of schemes and procedure for determining whether scheme to remain in force*

##### ***Submission of agricultural marketing schemes***

**3**<sup>F1</sup>.—(1) An agricultural marketing scheme regulating the marketing of an agricultural product by the producers thereof, other than a substitutional scheme, may be submitted to the Department for its approval by any persons who satisfy the Department that they are substantially representative of the persons who produce that product.

(2) Subject to paragraphs (5) and (6), a substitutional scheme may be submitted to the Department for its approval by the board or boards administering the scheme or schemes revoked by the substitutional scheme.

(3) The application of a scheme shall not be restricted to any particular part or parts of Northern Ireland.

(4) For the purpose of satisfying itself as mentioned in paragraph (1), the Department shall have regard both to the number of persons represented and to the quantity of the agricultural product to which the scheme relates produced by them during some recent period before the scheme is submitted.

(5) Before a substitutional scheme is submitted to the Department under paragraph (2) it shall be published in the prescribed manner to all producers registered under the scheme or schemes revoked by it.

(6) If, within the prescribed period after it has been so published to producers registered under a scheme revoked by it, a poll on the question whether it shall be submitted to the Department is demanded by the prescribed number or the prescribed proportion, as the case may be, of the producers registered under the scheme revoked, the substitutional scheme shall not be submitted to the Department unless a poll on that question has been taken and the result thereof shows that the requisite majority of those producers has voted in favour on its submission.

(7) In paragraphs (5) and (6) “prescribed” means, in relation to a scheme revoked by a substitutional scheme, prescribed by the scheme revoked.

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### **Approval of schemes**

**4**<sup>F2</sup>.—(1) Before approving a scheme submitted under Article 3, the Department shall cause to be published, in the Belfast Gazette and in such other manner as it thinks best for informing persons affected, a notice—

- (a) stating that the scheme has been submitted to it;
- (b) specifying the place where copies of the scheme may be obtained, on payment of such fee as may be specified in the notice, and inspected; and
- (c) specifying the period, which shall not be less than six weeks after the date of publication of the notice in the Belfast Gazette, within which objections and representations with respect to the scheme may be made.

(2) Every objection shall be made to the Department in writing and shall state the grounds of objection and the specific modifications required.

(3) Where an objection has been duly made to a scheme by a person affected thereby and has not been withdrawn, the Department, unless it considers the objection to be frivolous, or unless it proposes to modify the scheme to meet the objection, shall, before taking any further action under this Article, direct a public inquiry to be held and consider the report of the person who held the inquiry.

(4) After considering any scheme duly submitted to it under Article 3 and any objections and representations duly made with respect thereto, and after holding such inquiries, if any, as it thinks fit or is required to hold under this Article, the Department may, subject to paragraph (5), make such modifications in the scheme as it thinks proper.

(5) Before making any modifications in a scheme, the Department shall give notice of the proposed modifications to such persons (not being less than nine nor more than twenty-one) as may be nominated for the purpose, at the time of the submission of the scheme, by the persons submitting the scheme, and unless, within four weeks after notice has been so given or such longer time as the Department may allow, more than half the persons so nominated notify the Department that they assent to the modifications, the Department shall take no further action under this Article.

(6) If the Department after making such modifications, if any, as aforesaid, is satisfied that the scheme will conduce to the more efficient production and marketing of the regulated product, it may lay before the Assembly a draft of the scheme, and if the Assembly resolves that the scheme shall be approved the Department shall make an order approving the scheme in terms of the draft.

(7) The Department, on laying before the Assembly a draft of a scheme under paragraph (6), shall at the same time lay before the Assembly—

- (a) if the scheme is not a substitutional scheme, a report as to the evidence by which it has been satisfied for the purposes of Article 3(1) that the persons submitting the scheme were duly representative; or
- (b) if the scheme is a substitutional scheme, a report showing that the provisions of Article 3(5) and (6) have been complied with.

(8) Where the Department has made an order under paragraph (6) approving a scheme, the scheme shall, subject to paragraph (9), come into force on such date as may be specified in the order, being a date after that on which the Assembly resolves that the scheme shall be approved.

(9) Except in the case of a substitutional scheme, the operation of any provision of a scheme made in pursuance of Article 8(1), (2) or (3), 9, 10(2), 11(2), 15(1)(b) or (c) or (3) or 16(1) shall be suspended until the expiration of the suspensory period.

(10) The Department may by regulations subject to negative resolution provide for such matters as it thinks necessary regarding an inquiry held under paragraph (3); and<sup>F3</sup> Schedule A1 to the

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Interpretation Act (Northern Ireland) 1954 shall, in its application to any such inquiry by virtue of section 23 of that Act,] be subject to the provisions of any regulations made under this paragraph.

(11) Such expenses of any inquiry under this Article as may be incurred by the Department with the approval of the Department of Finance and Personnel shall be defrayed out of moneys appropriated by Measure.

(12) A scheme may be amended or revoked in accordance with the provisions of Schedule 1.

**F2** mod. by 1984 NI 12, SR 1995/103

**F3** 2005 c. 12

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

**5**<sup>F4</sup>.—(1) Every scheme shall constitute a board to administer the scheme.

(2) The provisions of Schedule 2 shall have effect with respect to the incorporation, constitution, registration and winding up of boards.

**F4** mod. by 1984 NI 12, SR 1995/103

### ***Registration of producers and taking of poll of registered producers on question whether scheme to remain in force***

**6**<sup>F5</sup>.—(1) Every scheme shall provide for the registration of any producer who makes application for that purpose.

(2) Every scheme, other than a substitutional scheme, shall require a poll of the registered producers to be taken, within such time as may be specified in the scheme, on the question whether the scheme shall remain in force.

(3) Subject to paragraph (4), if the poll aforesaid shows that the requisite majority of registered producers has voted in favour of the scheme remaining in force, the provisions of the scheme, the operation of which are by virtue of Article 4(9) suspended until the expiration of the suspensory period, shall come into force at the expiration of that period; but in any other case the scheme shall cease to have effect at the date on which the result of the poll is declared and the provisions of paragraph 8(2) of Schedule 2 shall apply as if the scheme had been revoked.

(4) If it is proved to the satisfaction of the Department at any time before the expiration of the suspensory period that the number of producers voting on the poll was less than half the total number of producers (excluding producers exempted, or entitled to exemption, from registration by or under the provisions of the scheme), it shall forthwith by order revoke the scheme.

(5) Every scheme shall provide for the manner in which polls are to be taken for the purposes of this Part, and in particular but without prejudice to the generality of the foregoing provision—

- (a) may apply with any necessary modifications any statutory provision (including the penal provisions thereof) relating to parliamentary, Assembly or local government elections and to the prevention of corrupt and illegal practices thereat;
- (b) may prescribe the manner in which the quantity of the regulated product which any registered producer is capable of producing is to be determined for the purposes of the poll;
- (c) may prescribe the information relating to the regulated product which is to be furnished by every registered producer before or at the time of voting, and the manner in which the information is to be furnished, and may require the rejection of the vote of any producer who fails to furnish the prescribed information in the prescribed manner, and may impose penalties for furnishing false information;

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(d) shall prescribe the manner in which the result of the poll is to be declared and published.

(6) In the case of a scheme regulating the marketing of two or more separate products, the foregoing provisions of this Article shall apply subject to the following modifications, that is to say—

- (a) references to a poll on the question whether the scheme shall remain in force shall be construed as references to a poll, in respect of each product, on the question whether the scheme shall remain in force so far as it applies to that product;
- (b) paragraphs (3) and (4) shall apply, in relation to each poll, as if the provisions of the scheme, so far as they apply to the product in respect of which the poll is taken, were a separate scheme;

and the question whether any product is to be treated as a separate product for the purpose of this paragraph shall be determined by the provisions of the scheme.

(7) For the purposes of paragraph (2) to (4) a person who is registered as a producer notwithstanding that he has been exempted from registration by or under the provisions of the scheme shall not be deemed to be a registered producer.

(8) 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; but for the purposes of those provisions of this Part and of the scheme which relate to elections, polls 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.

F5 mod. by 1984 NI 12, SR 1995/103

***Information to be furnished for purposes of register, etc***

7<sup>F6</sup>.—(1) As soon as practicable after any scheme, other than a substitutional scheme, comes into force the board shall cause to be published in such newspapers as the Department may direct a form of application for registration as a producer under the scheme, together with a notice stating—

- (a) the nature of the regulated product;
- (b) the classes or descriptions of producers which are exempted from registration and the procedure required, if any, for securing exemption from registration;
- (c) that a poll of registered producers (other than producers exempted from registration) is to be taken in pursuance of this Part on the question whether the scheme shall remain in force;
- (d) that no person will be entitled to vote on the poll aforesaid unless he is registered within the time specified in the notice but that no person so registered will, if it is decided as the result of the poll that the scheme shall not remain in force, incur any financial liability by reason of his registration;
- (e) that, if it is decided as a result of the poll that the scheme shall remain in force, every producer who is not registered or exempted from registration will be prohibited from selling the regulated product;
- (f) the place where copies of the scheme may be obtained on payment therefore;
- (g) such other particulars as the board may think fit.

(2) The Department, as soon as practicable after any scheme approved by it, other than a substitutional scheme, comes into force—

- (a) shall cause a list to be compiled containing the names of all such persons as it has reason to believe are producers, together with their respective addresses so far as known to it, and forward a copy of the list to the board; or

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(b) if it appears to the Department that it has so little information at its disposal that the list aforesaid would serve no useful purpose, shall inform the board accordingly.

(3) As soon as practicable after receiving such a list as aforesaid the board shall send by post to every person named in the list, and to every other person who the board has reason to believe is a producer, being a person who is not registered as a producer, a notice addressed to him at his last known address, stating the particulars required to be stated in the notice published under paragraph (1), together with a form of application for registration.

*Para. (4) rep. by 2004 NI 7*

<b>F6</b> mod. by <a href="#">1984 NI 12</a> , SR 1995/103
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**Changes and effects yet to be applied to :**

- Instrument mod. (prosp.) by [1998 c. 41 s.45\(7\)Sch.7 Pt.II para.20\(2\)\(c\)](#)

**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](#)