

## SCHEDULES

### SCHEDULE 1

Article 4(12).

#### AMENDMENT AND REVOCATION OF AGRICULTURAL MARKETING SCHEMES

##### *Amendment*

1.—(1) Subject to the provisions of this paragraph, an amendment of a scheme may be submitted by the board to the Department for its approval.

(2) Before an amendment of a scheme is submitted to the Department under this paragraph the amendment shall be published in the prescribed manner to all registered producers and if, within the prescribed period after it has been so published, 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 registered producers, the amendment 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 registered producers has voted in favour of its submission.

In this sub#paragraph “prescribed” means prescribed by the scheme.

(3) Where an amendment of a scheme is duly submitted to the Department in accordance with the foregoing provisions of this paragraph, the following provisions of Article 4, that is to say, paragraphs (1) to (6), (8), (10) and (11) shall apply in relation to the amendment as if it were a scheme, but subject to the following modifications, that is to say—

(a) for paragraph (5) there shall be substituted the following paragraph—

“(5) Before making any modifications, the Department shall give notice of the proposed modifications to the board and unless, within four weeks after notice has been so given or such longer time as the Department may allow, the board notifies the Department that it assents to the modifications, the Department shall take no further action in the matter.”

(b) in paragraph (6) for the words “the more efficient production and marketing of the regulated product” there shall be substituted the words “ the more efficient operation of the scheme ”; and

(c) except in a case where the Department is required by paragraph (3) as applied by this sub# paragraph to direct a public inquiry to be held, the provisions of paragraph (6) requiring a draft to be laid before the Assembly and approval of the draft by the Assembly before the Department approves a scheme, and the provisions of paragraph (8) requiring that the date specified in the order shall be after that on which the Assembly resolves that the scheme shall be approved, shall not apply.

##### *Revocation*

2.—(1) If a demand for a poll on the question whether a scheme shall be revoked is made to the board in the prescribed manner and by the prescribed number or the prescribed proportion, as the case may be, of the registered producers, the board shall, subject to sub#paragraph (2), forthwith cause a poll of the registered producers to be taken on that question, and if the result of the poll shows that there have voted in favour of the revocation of the scheme—

(a) more than half the total number of registered producers voting on the poll, and

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- (b) such number of registered producers as are together capable of producing more than half the quantity of the regulated product which all the registered producers voting on the poll are together capable of producing,

the board shall, as soon as practicable after the declaration of the result of the poll, communicate the result thereof to the Department, and the Department shall thereupon by order revoke the scheme.

(2) Without the consent of the board, no poll shall be taken under this paragraph—

- (i) in the case of a scheme other than a substitutional scheme, within two years after the date of the declaration of the result of the initial poll; or
- (ii) in the case of any scheme, within the prescribed period after the date of the declaration of the result of any previous poll taken under this paragraph.

(3) In this paragraph “prescribed” means prescribed by the scheme.

3. A scheme may be revoked by a subsequent scheme, and where a scheme is so revoked the subsequent scheme may provide for the transfer to the new board of the whole or any part of the property, rights and liabilities of the existing board and for the continuation by or against the new board of any legal proceedings pending by or against the existing board.

In this paragraph “new board” means the board administering the subsequent scheme, and “existing board” means the board administering the scheme revoked.

4. The Department shall by order revoke a scheme if an order is made for the winding up of the board.

5. Without prejudice to any other powers conferred on it by this Order, the Department, if it is of opinion that any provision of a scheme or any act or omission of a board—

- (a) is contrary to the interests of consumers of the regulated product, or
- (b) is contrary to the interests of a substantial number of persons affected by the scheme and is not in the public interest,

may lay before the Assembly a draft of an order revoking the scheme, and if the Assembly resolves that the order shall be approved, the Department shall make the order to take effect on such date as may be specified in the order, being a date after that on which the Assembly resolves that the order shall be approved.

## SCHEDULE 2

Article 5(2).

### PROVISIONS AS TO THE INCORPORATION, CONSTITUTION, REGISTRATION AND WINDING UP OF AGRICULTURAL MARKETING BOARDS UNDER PART II

#### *Incorporation*

1. A board shall be constituted by the scheme as a body corporate and, subject to the provisions of this Order and of the scheme, section 19 of the Interpretation Act (Northern Ireland) 1954 shall apply to the board.

#### *Constitution*

- 2.—(1) The composition of a board shall be such as may be prescribed by the scheme.
- (2) Subject to sub-paragraph (3), the scheme shall be so framed as to secure that—

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- (a) the total number of members shall not be less than eight nor, unless for special reasons the Department thinks fit to allow a greater number, more than twenty-four;
  - (b) of the members, not less than and (provided that there are at least two) not more than one-quarter of the total number two of members shall be persons appointed by the Head of the Department as being persons who in his opinion are qualified for appointment as having had experience and shown capacity in commerce, finance, administration, public affairs or the organisation of workers, or as being specially conversant with the interests of consumers of the regulated work product;
  - (c) the remaining members shall be persons 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) Notwithstanding anything in sub-paragraph (2), provision may be made by a scheme—
- (a) for the composition of the board during such period, not being longer than three years from the day on which the scheme comes into force, as may be specified in the scheme to be determined in accordance with such transitional provisions as may be prescribed by the scheme;
  - (b) for the board acting notwithstanding any vacancy in the membership thereof; and
  - (c) for the filling of casual vacancies.
3. Every scheme shall provide for—
- (a) the term during which members of the board are to hold office;
  - (b) the resignation of office by any member;
  - (c) the payment by the board to the members thereof of such remuneration and allowances as may be determined by the annual general meeting of registered producers held in pursuance of Article 10(4);
  - (d) the election of officers of the board.
4. Every scheme shall provide that—
- (a) the board may appoint an executive committee and delegate to that committee such functions of the board as the board thinks fit;
  - (b) an executive committee shall consist of not more than seven members of the board and shall include at least one of the members of the board who are appointed by the Head of the Department.

### *Registration*

5. Every scheme shall provide for notification to the Department of the address of the office of the board at which communications and notices will at all times be received, and of any change in that address.

### *Winding up*

6.—(1) Every scheme shall provide for the winding up of the board, and for that purpose may apply<sup>F1</sup> Part VI of the Insolvency (Northern Ireland) Order 1989] (which contains provisions for the winding up of unregistered companies), subject to the modifications set out in this paragraph and paragraph 7.

(2) For the purposes of<sup>F1</sup> Articles 185, 186 and 188 of the Insolvency (Northern Ireland) Order 1989] , the principal place of business of the board shall be deemed to be the office of the board the address of which is notified to the Department under paragraph 5.

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(3) [F1 Article 187 of the Insolvency (Northern Ireland) Order 1989 shall not apply and Article 188(1)(b)] shall apply as if the words “or any member thereof as such” were omitted.

(4) A petition for winding up a board may be presented by the Department as well as by any person authorised under[F1 Part V of the Insolvency (Northern Ireland) Order 1989] to present a petition for winding up a company.

(5) In the event of the winding up of a board, every person who at any time during the relevant period was a registered producer shall be liable to contribute to the payment of the debts and liabilities of the board and to the payment of the costs, charges and expenses of the winding up an amount assessed in such manner and subject to such limitations as may be provided by the scheme, but save as aforesaid no person shall be liable to contribute to the assets of the board in the winding up by reason only of his being or having been a registered producer or a member of the board.

(6) Except as provided by paragraph 7, of any assets of the board remaining after the discharge of the debts and liabilities of the board and the payment of the costs, charges and expenses incurred in the winding up shall be distributed by the court among the persons who at any time during the relevant period were registered producers.

(7) In this paragraph “the relevant period” means—

- (a) in a case where, before the commencement of the winding up, the scheme has been revoked, the year immediately before the revocation of the scheme;
- (b) in any other case, the year immediately before the commencement of the winding up.

**F1** 1989 NI 19

7.—(1) Subject to sub-paragraphs (2) to (4), the board may at any time before a petition for the winding up of the board is presented pass a resolution providing for the disposal on the winding up of the board of any assets of the board remaining after the discharge of the debts and liabilities of the board and the payment of the costs, charges and expenses incurred in the winding up.

(2) a resolution under this paragraph may provide—

- (a) for the transferring of so much of those assets as may be specified in the resolution to a person or persons so specified for use by those persons for purposes so specified, being purposes which appear to the board to be for the general benefit of persons engaged by way of business in the production of the regulated product; and
- (b) for the distribution of so much of those assets as may be specified in the resolution among such of the persons registered as producers under the scheme as may be so specified in such proportions as may be so specified,

and any such resolution may make different provision according to the amount of those assets to be disposed of.

(3) Where such a resolution has been passed by the board, then, notwithstanding anything in the Companies Act (Northern Ireland) 1960, the assets remaining as aforesaid shall be disposed of in accordance with the resolution.

(4) The board may not pass a resolution under this paragraph unless—

- (a) it has first caused a poll of registered producers to be taken on the question whether such a resolution should be passed; and
- (b) the result of the poll shows that the requisite majority of those producers has voted in favour of passing such resolution.

8.—(1) Where a scheme is revoked by a subsequent scheme, the subsequent scheme may provide for the dissolution, without winding up, of the board administering the scheme revoked.

(2) The board administering a scheme shall not be deemed to be dissolved by reason only that the scheme has been revoked and, except in a case where the board is dissolved under sub-paragraph (1) without winding up, so much of the scheme as relates to the winding up of the board shall continue in force notwithstanding the revocation.

### SCHEDULE 3

Articles 15 (1) and 39.

#### ANNUAL STATEMENT AS TO EMOLUMENTS OF MEMBERS AND EMPLOYEES OF BOARDS

1.—(1) In a statement under this Schedule there shall be shown, so far as the information is contained in the board's books and papers or the board has the right to obtain it from the persons concerned,—

- (a) the aggregate amount of the members' emoluments;
- (b) with respect to all the members, the number (if any) who had no emoluments or whose several emoluments amounted to not more than £5,000 and, by reference to each pair of adjacent points on a scale whereon the lowest point is £5,000 and the succeeding ones are successive integral multiples of £5,000, the number (if any) whose several emoluments exceeded the lower point but did not exceed the higher;
- (c) the aggregate amount of the emoluments of persons in the board's employment;
- (d) by reference to each pair of adjacent points on a scale whereon the lowest point is £10,000 and the succeeding ones are successive integral multiples of £5,000 beginning with that in the case of which the multiplier is three, the number (if any) of persons in the board's employment whose several emoluments exceeded the lower point but did not exceed the higher.

(2) The Department may by order amend sub-paragraph (1) by substituting for any sum of money for the time being mentioned therein such other sum as may be specified in the order.

2. The amounts to be shown under heads (a) and (b) of paragraph 1 (1)—

- (a) shall include any emoluments paid to or receivable by any person in respect of his services as a member or in respect of his services, while a member, as a director of any subsidiary or otherwise in connection with the management of the affairs of the board or any subsidiary thereof; and
- (b) shall include all relevant sums paid by or receivable from—
  - (i) the board; and
  - (ii) the board's subsidiaries; and
  - (iii) any other person;except sums to be accounted for to the board or any of its subsidiaries.

3. The amounts to be shown under heads (c) and (d) of paragraph 1 (1)—

- (a) shall include any emoluments paid to or receivable by any person in respect of his services as a person in the employment of the board or a subsidiary thereof or as a director of a subsidiary thereof; and
- (b) shall include all relevant sums paid or receivable from—
  - (i) the board; and
  - (ii) the board's subsidiaries; and

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(iii) any other person;

except sums to be accounted for to the board or any of its subsidiaries.

4. The amounts to be shown under this Schedule for any year shall be the sums receivable in respect of that year, whenever paid, or, in the case of sums not receivable in respect of a period, the sums paid during that year.

5. Where it is necessary so to do for the purpose of making any distinction required by this Schedule in any amount to be shown thereunder, the board may apportion any payments between the matters in respect of which they have been paid or are receivable in such manner as it thinks appropriate.

6. In this Schedule—

“emoluments”, in relation to a member or a person in the employment of the board, includes fees and percentages, any sums paid by way of expenses allowance in so far as those sums are charged to United Kingdom income tax and the estimated money value of any other benefits received by him otherwise than in cash;

“subsidiary” means a body corporate in which the board holds more than half in nominal value of the equity share capital.

#### SCHEDULE 4

Articles 33 (4) and 34 (4)

##### PROCEDURE TO BE FOLLOWED BEFORE MAKING OF ORDERS UNDER ARTICLE 33 OR 34

1. Before making an order approving a scheme submitted under Article 33 or an amendment submitted under Article 34, 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 or amendment has been submitted to it;
- (b) specifying the place where copies of the scheme or amendment 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 or amendment 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. After considering any scheme duly submitted to it under Article 33 or any amendment duly submitted under Article 34 and any objections and representations duly made with respect thereto and after holding such consultations as it thinks fit, the Department may, subject to paragraph 4, make such modifications in the scheme or amendment as it thinks proper.

4. Before making any modifications under paragraph 3 the Department shall give notice of the proposed modifications to the board or boards concerned and unless, within four weeks after notice has been so given or such longer time as the Department may allow, the board or boards notify the Department that they assent to the modifications the Department shall take no further action in the matter.

## SCHEDULE 5

Article 34(6).

### REVOCATION OF AGRICULTURAL MARKETING SERVICE SCHEMES

1.—(1) If a demand for a poll on the question whether a scheme shall be revoked is made to the board in the prescribed manner and by the prescribed number or the prescribed proportion, as the case may be, of the enrolled producers, the board shall, subject to sub#paragraph (2), forthwith cause a poll of the enrolled producers to be taken on that question, and if the result of the poll shows that there have voted in favour of the revocation of the scheme—

- (a) more than half the total number of enrolled producers voting on the poll, and
- (b) such number of enrolled producers as have together, within such period as may be specified by the scheme, sold to the board more than half the quantity of the specified product which the board has bought from enrolled producers voting on the poll within that period

the board shall, as soon as practicable after the declaration of the result of the poll, communicate the result thereof to the Department, and the Department shall thereupon by order revoke the scheme.

(2) Without the consent of the board, no poll shall be taken under this paragraph within the prescribed period after the date of the declaration of the result of any previous poll taken under this paragraph.

(3) In this paragraph “prescribed” means prescribed by the scheme.

2. A scheme may be revoked by a subsequent scheme, and where a scheme is so revoked the subsequent scheme may provide for the transfer to the new board of the whole or any part of the property, rights and liabilities of the existing board and for the continuation by or against the new board of any legal proceedings pending by or against the existing board.

In this paragraph “new board” means the board administering the subsequent scheme, and “existing board” means the board administering the scheme revoked.

3. The Department shall by order revoke a scheme if an order is made for the winding up of the board.

4. Without prejudice to any other powers conferred on it by this Order, the Department, if it is of opinion that any provision of a scheme or any act or omission of a board—

- (a) is contrary to the interests of consumers of the specified product, or
- (b) is contrary to the interests of a substantial number of persons affected by the scheme and is not in the public interest,

may lay before the Assembly a draft of an order revoking the scheme, and if the Assembly resolves that the order shall be approved, the Department shall make the order to take effect on such date as may be specified in the order, being a date after that on which the Assembly resolves that the order shall be approved.

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## SCHEDULE 6

Article 35 (2).

### PROVISIONS AS TO THE INCORPORATION, CONSTITUTION, REGISTRATION AND WINDING UP OF AGRICULTURAL MARKETING BOARDS UNDER PART III

#### *Incorporation*

1. A board shall be constituted by the scheme as a body corporate and, subject to the provisions of this Order and of the scheme, section 19 of the Interpretation Act (Northern Ireland) 1954 shall apply to the board.

#### *Constitution*

2.—(1) The composition of a board shall be such as may be prescribed by the scheme.

(2) Subject to sub-paragraph (3), the scheme shall be so framed as to secure that the board shall be composed of such number of members as the scheme may prescribe, of whom—

- (a) all except those appointed under head (b) shall be persons elected in accordance with the scheme by enrolled producers;
- (b) not less than two shall be persons appointed by the members elected under head (a) as being persons qualified for appointment as having had experience and shown capacity in commerce, finance, administration, public affairs, or the organisation of workers, or as being specially conversant with the interests of consumers of the specified product.

(3) Notwithstanding anything in sub-paragraph (2), provision may be made by a scheme—

- (a) for the composition of the board during such period, not being longer than four years from the day on which the scheme comes into force, as may be specified in the scheme to be determined in accordance with such transitional provisions as may be prescribed by the scheme;
- (b) for the board acting notwithstanding any vacancy in the membership thereof; and
- (c) for the filling of casual vacancies.

3. Every scheme shall provide for—

- (a) the term during which members of the board are to hold office;
- (b) the resignation of office by any member;
- (c) the payment by the board to the members thereof of such remuneration and allowances as may be determined by the annual general meeting of enrolled producers held in pursuance of Article 38(2);
- (d) the election of officers of the board;
- (e) the appointment of committees and the delegation to such committees of such functions as the board may decide.

#### *Registration*

4. Every scheme shall provide for notification to the Department of the address of the office of the board at which communications and notices will at all times be received, and of any change in that address.

#### *Winding up*

5.—(1) Every scheme shall provide for the winding up of the board, and for that purpose may apply<sup>F2</sup> Part VI of the Insolvency (Northern Ireland) Order 1989] (which contains provisions for the winding up of unregistered companies), subject to the modifications set out in this paragraph.



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(2) For the purpose of<sup>[F2</sup> Articles 185, 186 and 188 of the Insolvency (Northern Ireland) Order 1989], the principal place of business of the board shall be deemed to be the office of the board the address of which is notified to the Department under paragraph 4.

(3) <sup>[F2</sup>Article 187 of the Insolvency (Northern Ireland) Order 1989 shall not apply and Article 188(1)(b)] shall apply as if the words “or any member thereof as such” were omitted.

(4) A petition for winding up a board may be presented by the Department as well as by any person authorised under<sup>[F2</sup> Part V of the Insolvency (Northern Ireland) Order 1989] to present a petition for winding up a company.

(5) In the event of the winding up of a board, every person who at any time during the relevant period was an enrolled producer shall be liable to contribute to the payment of the debts and liabilities of the board and to the payment of the costs, charges and expenses of the winding up an amount assessed in such manner and subject to such limitations as may be provided by the scheme, but save as aforesaid no person shall be liable to contribute to the assets of the board in the winding up by reason only of his being or having been an enrolled producer or a member of the board.

(6) Except as provided by paragraph 6, any assets of the board remaining after the discharge of the debts and liabilities of the board and the payment of the costs, charges and expenses incurred in the winding up shall be distributed by the court among the persons who at any time during the relevant period were enrolled producers.

(7) In this paragraph “the relevant period” means—

- (a) in a case where, before the commencement of the winding up, the scheme has been revoked, the year immediately before the revocation of the scheme;
- (b) in any other case, the year immediately before the commencement of the winding up.

**F2** 1989 NI 19

**6.—**(1) Subject to sub-paragraphs (2) to (4), the board may at any time before a petition for the winding up of the board is presented pass a resolution providing for the disposal on the winding up of the board of any assets of the board remaining after the discharge of the debts and liabilities of the board and the payment of the costs, charges and expenses incurred in the winding up.

(2) A resolution under this paragraph may provide—

- (a) for the transferring of so much of those assets as may be specified in the resolution to a person or persons so specified for use by those persons for purposes so specified, being purposes which appear to the board to be for the general benefit of persons engaged by way of business in the production of the specified product; and
- (b) for the distribution of so much those of assets as may be specified in the resolution among such of the persons enrolled as producers under the scheme as may be so specified in such proportions as may be so specified,

and any such resolution may make different provision according to the amount of those assets to be disposed of.

(3) where such a resolution has been passed by the board, then, notwithstanding anything in the Companies Act (Northern Ireland) 1960, the assets remaining as aforesaid shall be disposed of in accordance with the resolution.

(4) The board may not pass a resolution under this paragraph unless—

- (a) it has first caused a poll of enrolled producers to be taken on the question whether such a resolution should be passed; and
- (b) the result of the poll shows that the requisite majority of those producers has voted in favour of passing such a resolution.

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7.—(1) Where a scheme is revoked by a subsequent scheme, the subsequent scheme may provide for the dissolution, without winding up, of the board administering the scheme revoked.

(2) The board administering a scheme shall not be deemed to be dissolved by reason only that the scheme has been revoked and, except in a case where the board is dissolved under sub-paragraph (1) without winding up, so much of the scheme as relates to the winding up of the board shall continue in force notwithstanding the revocation.

*Schedule 7—Amendments*

*Schedule 8—Amendments*

*Schedule 9—Repeals*

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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\(2\)\(c\)](#)
- [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](#)