
STATUTORY INSTRUMENTS

1993 No. 2665

The Agriculture (Northern Ireland) Order 1993

PART II

MILK MARKETING

Scheme of reorganisation

Determination of applications

6.—(1) This Article applies where the Board makes an application under Article 5 for approval of a scheme of reorganisation.

(2) The Department shall not grant the application unless—

(a) it is satisfied—

- (i) that the Board has taken reasonable steps to bring the principles of the scheme to the attention of persons who are registered producers;
- (ii) that the scheme is a qualifying scheme under Schedule 1; and
- (iii) that the practices contained in the statement mentioned in Article 5(2)(c) take account of the interests of purchasers of milk; and

(b) it has consulted about the principles of the scheme such persons appearing to it to be representative of the interests of producers, purchasers, retailers and consumers of milk as it considers appropriate.

(3) Subject to that—

- (a) if the Department is satisfied that the scheme is one which ought to be approved, it shall grant the application; and
- (b) if it is not so satisfied, Article 7 shall apply.

(4) In determining for the purposes of paragraph (3) whether the scheme ought to be approved, the Department shall have regard to all the circumstances and, in particular, to—

- (a) whether the scheme takes account of the interests of consumers of milk and producers of milk;
- (b) whether the scheme makes reasonable provision for the distribution of assets to persons by reference to their being, or having been, registered producers;
- (c) whether it is unlikely that any person to whom a liability is transferred under the scheme will be unable to meet it;
- (d) whether it is unlikely that the Board will be unable to meet retained liabilities out of retained assets; and
- (e) whether the structure of the new arrangements contemplated by the scheme is such as to allow for the development of competition in milk marketing.

(5) The scheme shall not be taken to be unreasonable in its treatment of the distribution of assets to persons by reference to their being, or having been, registered producers by virtue only of the fact that it—

- (a) specifies a date by reference to which any such distribution is to be made; or
- (b) provides for any such distribution to be made by reference to the occurrence in a specified period (being a period of at least a year) of any relevant matter,

provided the specified date or, as the case may be, the end of the specified period, is not earlier than 31st March 1993 and not later than the vesting day under the scheme.

(6) For the purposes of paragraph (5), the following are relevant matters—

- (a) the production of milk; and
- (b) the sale of milk by the person responsible for producing it.

(7) For the purposes of paragraph (6)(b), milk shall be treated as sold if it is sold in the form of milk or in the form of a product which is wholly or partly derived from milk or which includes milk as an ingredient.