



Agriculture Act 1993

1993 CHAPTER 37

PART I

MILK MARKETING

Schemes of reorganisation

2 Applications for approval.

- (1) A milk marketing board may, at any time before 1st January 1994, apply to the appropriate authority for approval of a scheme for the reorganisation of the arrangements relating to the marketing of milk in its area (“scheme of reorganisation”).
- (2) An application under this section shall include—
 - (a) a copy of the scheme to which the application relates,
 - (b) a statement of the applicant’s reasons for believing that the scheme is one which ought to be approved,
 - (c) a statement, in relation to each successor body proposed to be engaged in milk trading, of the practices proposed to be adopted by it with respect to such trading, and
 - (d) a statement of the applicant’s reasons for believing that those practices satisfy section 3(2)(a)(iii) below.
- (3) Subject to subsection (4) below, an application under this section may be amended or withdrawn at any time before the appropriate authority has finally determined it.
- (4) An application under this section may not be amended at any time after the authority has given the board notice under section 4(2) or (3) below.
- (5) Where a board has made an application under this section, it may not make a further such application until the previous application has been finally determined or withdrawn.
- (6) No application under this section may be made by a board which has obtained approval of a scheme of reorganisation under this Part of this Act.

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- (7) The appropriate authority may by order extend the period for making applications under this section.
- (8) In subsection (2)(c) above, “successor body” means a body to which property, rights or liabilities of a milk marketing board are, under the scheme to which the application relates, proposed to be transferred under section 11 below.

3 Determination of applications.

- (1) This section applies where a milk marketing board makes an application under section 2 above for approval of a scheme of reorganisation.
- (2) The authority to which the application is made 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 to this Act, and
 - (iii) that the practices contained in the statement mentioned in section 2(2)(c) above 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 authority 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, section 4 below shall apply.
- (4) In determining for the purposes of subsection (3) above whether the scheme ought to be approved, the authority 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.

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- (6) For the purposes of subsection (5) above, 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 subsection (6)(b) above, 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.

4 Procedure where scheme not one which ought to be approved.

- (1) This section applies where, on an application by a milk marketing board under section 2 above for approval of a scheme of reorganisation, the authority to which the application is made is satisfied as mentioned in subsection (2)(a) of section 3 above, but is not satisfied as mentioned in subsection (3)(a) of that section.
- (2) Where the authority is satisfied that the scheme is not capable of being modified so as to bring it within section 3(3)(a) above, it shall refuse the application, but, before finally concluding that the application should be refused under this subsection, it shall—
 - (a) give the board notice of the conclusions it proposes to reach about the scheme and of the reasons for them,
 - (b) specify in the notice under paragraph (a) above a day, at least 28 days after the date of the notice, on or before which the board may make written representations to the authority about those conclusions, and
 - (c) take into consideration any representations made to it under paragraph (b) above or in response to an invitation by it to the board to make oral representations about those conclusions.
- (3) Where the authority is satisfied that the scheme is capable of being modified so as to bring it within section 3(3)(a) above, it shall give the board notice of—
 - (a) the modifications which it considers would bring it within that provision,
 - (b) the reasons for them, and
 - (c) a day, at least 28 days after the date of the notice, on or before which the board may respond to the proposed modifications.
- (4) If, before the end of the period for responding to the proposed modifications, the board gives the authority notice of its agreement to them, the application shall be treated as relating to the scheme with those modifications.
- (5) If, at the end of the period for responding to the proposed modifications, the board has not—
 - (a) persuaded the authority that no modifications are required,
 - (b) given the authority notice of its agreement to the proposed modifications, or
 - (c) given the authority notice of proposed alternative modifications,the authority shall refuse the application.
- (6) Subsections (7) and (8) below apply where, before the end of the period for responding to the proposed modifications, the board gives the authority notice of proposed alternative modifications.

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- (7) If the authority is satisfied that the proposed alternative modifications would bring the scheme within section 3(3)(a) above, it shall treat the application as relating to the scheme with those modifications.
- (8) If the authority is not so satisfied, it shall refuse the application, but, before finally concluding that the application should be refused under this subsection, it shall—
 - (a) give the board notice of the conclusion it proposes to reach about the proposed alternative modifications and of the reasons for it,
 - (b) specify in the notice under paragraph (a) above a day, at least 28 days after the date of the notice, on or before which the board may make written representations to the authority about that conclusion, and
 - (c) take into consideration any representations made to it under paragraph (b) above or in response to an invitation by it to the board to make oral representations about that conclusion.
- (9) The authority may by notice to the board extend (or further extend) as it thinks fit—
 - (a) the period under subsection (2)(b) above for making representations,
 - (b) the period under subsection (3)(c) above for responding to proposed modifications, or
 - (c) the period under subsection (8)(b) above for making representations.

5 Variation of approved scheme.

- (1) Subject to subsection (2) below, the appropriate authority may approve a variation of an approved scheme on the application of the relevant board made before the vesting day under the scheme.
- (2) The appropriate authority shall not approve a variation of an approved scheme unless—
 - (a) it is satisfied—
 - (i) that the relevant board has taken reasonable steps to bring the principle of the proposed variation to the attention of persons who are registered producers, or
 - (ii) that the proposed variation is not sufficiently important to require the principle of it to be brought to their attention; and
 - (b) it is satisfied that its decisions under section 3(2)(a)(ii) and (3)(a) above would not have been different had the scheme included the proposed variation.
- (3) In this section, “the relevant board”, in relation to an approved scheme, means the milk marketing board to which the scheme relates.

6 Withdrawal of approval.

- (1) The appropriate authority may, on the application of the relevant board before the vesting day under an approved scheme, withdraw the scheme’s approval if it is satisfied that there has been a material change of circumstances since the scheme was approved.
- (2) The appropriate authority shall give an applicant under subsection (1) above notice of its decision in relation to the application.

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- (3) Where approval in relation to a scheme is withdrawn under subsection (1) above, it shall cease to be an approved scheme with effect from the date of the notice under subsection (2) above.
- (4) Where a scheme ceases under this section to be an approved scheme, it shall be disregarded for the purposes of section 2(6) above.
- (5) Where the period within which an application under section 2 above may be made has expired before the date on which a scheme ceases under this section to be an approved scheme, the milk marketing board concerned may, subject to subsection (6) below, make an application under that section at any time before the end of the period of three months beginning with that date.
- (6) A milk marketing board may not make an application by virtue of subsection (5) above within the period of 3 months immediately preceding the day on which the marketing scheme administered by the board will, under subsection (2) of section 1 above, be revoked by subsection (1) of that section.
- (7) In this section, “the relevant board”, in relation to an approved scheme, means the milk marketing board to which the scheme relates.

7 Information.

- (1) The authority to which an application under section 2, 5 or 6 above is made may by notice require any person to supply to it such information as may be specified in the notice, being information the supply of which the authority considers necessary or desirable for the purpose of enabling it to carry out its functions in relation to the application.
- (2) A notice under subsection (1) above shall require the information to be supplied within such period as may be specified in the notice, being not less than 21 days from the date of the notice.
- (3) Where the authority to which an application under section 2, 5 or 6 above is made gives a notice under subsection (1) above to the applicant, the applicant shall be treated as having withdrawn the application unless—
 - (a) it complies with the notice, or
 - (b) before the end of the period allowed for compliance, it shows to the satisfaction of the authority that it has reasonable grounds for not complying with it.
- (4) Where—
 - (a) the authority to which an application under section 2, 5 or 6 above is made gives a notice under subsection (1) above to the applicant,
 - (b) the applicant purports to comply with the notice, and
 - (c) it becomes apparent to the authority after the time allowed for compliance with the notice and before the application has been finally determined that the applicant has not in fact complied with it,the authority shall give the applicant notice of that fact.
- (5) Where, within 14 days of the date of a notice under subsection (4) above, the person to whom the notice is given shows to the satisfaction of the authority by which it is given that the failure to comply with the notice under subsection (1) above was accidental

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and not attributable to a failure to take reasonable care, subsection (3) above shall be treated as never having had any application in relation to it.

- (6) If any person other than the applicant under section 2, 5 or 6 above fails without reasonable excuse to comply with a notice under subsection (1) above, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (7) If any person, in purported compliance with a notice under subsection (1) above, knowingly or recklessly supplies information which is false or misleading in a material respect, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (8) Where an application under section 2, 5 or 6 above is made to the Minister of Agriculture, Fisheries and Food and the Secretary of State, the powers conferred by this section shall be exercisable by those ministers acting jointly.

8 Publicity for determinations.

- (1) As soon as reasonably practicable after granting an application under section 2 or 5 above, the authority granting the application shall make public in such manner as it thinks fit—
 - (a) the fact that it has granted the application, and
 - (b) the principles of the approved scheme or, as the case may be, of the approved variation.
- (2) As soon as reasonably practicable after deciding under section 6 above to withdraw an approved scheme's approval, the authority making the decision shall make its decision public in such manner as it thinks fit.

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