

*Changes to legislation: There are currently no known outstanding effects
for the Agriculture Act 1993, Part II. (See end of Document for details)*

SCHEDULES

SCHEDULE 2

PROVISIONS RELATING TO CARRYING OUT OF APPROVED SCHEME OF REORGANISATION

PART II

OTHER PROVISIONS

Disclosure of information

- 33 Nothing in section 47(2) of the ^{M1}Agricultural Marketing Act 1958 (restriction on disclosure of information obtained under the Act) shall restrict the disclosure of information by a milk marketing board in accordance with the provisions of an approved scheme or in connection with the establishment of a development council under the ^{M2}Industrial Organisation and Development Act 1947.

Marginal Citations

- M1** 1958 c. 47.
M2 1947 c. 40.

Application of Trustee Investments Act 1961 to allocated shares

- 34 Where, under an approved scheme, shares are issued or transferred to a trustee, the shares issued or transferred to him shall, so far as concerns his powers, not be treated as excluded by virtue of paragraph 3(b) of Part IV of Schedule 1 to the ^{M3}Trustee Investments Act 1961 (exclusion of shares of a company which has not paid a dividend for each of the last five years) from paragraph 1 of Part III of that Schedule (wider-range investments).

Marginal Citations

- M3** 1961 c. 62.

Application of Transfer of Undertakings (Protection of Employment) Regulations 1981

- 35 The ^{M4}Transfer of Undertakings (Protection of Employment) Regulations 1981 shall apply to any transfer under an approved scheme of the whole or any part of the undertaking of a milk marketing board, or of a subsidiary of such a board, whether or not that undertaking would, apart from this provision, be treated as an undertaking in the nature of a commercial venture for the purposes of those Regulations.

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M4 [S.I. 1981/1794](#).

Pension schemes

- 36 (1) Sub-paragraph (2) below applies to any occupational pension scheme operated by a milk marketing board or a subsidiary of such a board.
- (2) Any power under the scheme to change the identity of the principal employer shall not be treated as improperly exercised by virtue only of the fact that it is used to substitute for the existing principal employer a body—
- (a) which already participates in the scheme, or
 - (b) to which property, rights or liabilities of the existing principal employer are transferred under section 11 above.
- (3) Sub-paragraph (2) above shall not apply if the substitution is made otherwise than in connection with the carrying out of an approved scheme.

Statutory accounts

- 37 (1) The following provisions of this paragraph have effect for the purpose of any statutory accounts of a successor body, that is to say, a body to which property, rights or liabilities of a milk marketing board are transferred under section 11 above.
- (2) The transfer to the successor body under section 11 above shall be taken to have been effected immediately after the end of the last complete accounting period of the transferor to end before the date of the transfer under that section and—
- (a) in a case where all the property, rights and liabilities of the transferor are transferred to the successor body under that section, to have been a transfer of all the property, rights and liabilities to which the transferor was entitled or subject immediately before the end of that period;
 - (b) in any other case, to have been a transfer of such of the property, rights and liabilities to which the transferor was so entitled or subject as are determined by or under the relevant scheme of reorganisation.
- (3) The value of any asset and the amount of any liability which is taken by virtue of sub-paragraph (2) above to have been transferred to the successor body shall be taken to have been—
- (a) in a case where all the property, rights and liabilities of the transferor are transferred to the successor body under section 11 above, the value or amount assigned to the asset or liability for the purposes of the statement of accounts prepared by the transferor in respect of the last complete accounting period of the transferor to end before the date of the transfer under that section;
 - (b) in any other case, the value or amount so assigned or, if the asset or liability is part only of an asset or liability to which a value or amount is so assigned, so much of that value or amount as may be determined by or under the relevant scheme of reorganisation.
- (4) The amount to be included in respect of any item shall be determined—
- (a) where all the property, rights and liabilities of the transferor are transferred to the successor body under section 11 above, as if anything done by the

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transferor (whether by way of acquiring, revaluing or disposing of any asset or incurring, revaluing or discharging any liability, or by carrying any amount to any provision or reserve, or otherwise) had been done by the successor body;

(b) in any other case, as if so much of anything done by the transferor (as mentioned in paragraph (a) above) as may be determined by or under the relevant scheme of reorganisation had been done by the successor body.

(5) Without prejudice to the generality of the preceding provisions, the amount to be included from time to time in any reserves of the successor body as representing its accumulated realised profits shall be determined—

(a) where all the property, rights and liabilities of the transferor are transferred to the successor body under section 11 above, as if any profits realised and retained by the transferor had been realised and retained by the successor body;

(b) in any other case, as if such proportion of any such profits as is determined by or under the relevant scheme of reorganisation had been realised and retained by the successor body.

(6) In this paragraph—

“accounting period”, in relation to the transferor, means the period by reference to which it prepares accounts under the marketing scheme which it administers;

“relevant scheme of reorganisation” means the scheme of reorganisation under which the transfer to the successor body takes place; and

“statutory accounts”, in relation to a successor body, means any accounts prepared for the purpose of any provision of the legislation under which the body is registered.

Restraints on alienation etc.

38 (1) No right of pre-emption or other like right affecting any property or rights of a milk marketing board, or of a subsidiary of such a board, shall be exercisable by virtue of the making of any application under section 2 or 5 above.

(2) Sub-paragraph (1) above shall not apply where the making of such an application is specifically identified by the right of pre-emption or other like right as a circumstance in which the right is exercisable.

39 (1) Any provision which imposes a prohibition (whether absolute or qualified) on the transfer of any property or rights of a milk marketing board, or of a subsidiary of such a board, shall be treated as not applying in the case of a transfer under section 11 above.

(2) Sub-paragraph (1) above shall not apply in the case of a provision which is formulated specifically with reference to the possibility of the undertaking of a milk marketing board being transferred otherwise than to a board constituted by a scheme under Part I of ^{M5}the Agricultural Marketing Act 1958.

(3) For the purposes of this paragraph, any provision which has the effect of penalising a transfer shall be treated as prohibiting it.

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M5 1958 c. 47.

- 40 (1) Any provision which imposes a prohibition (whether absolute or qualified) on the transfer of any property or rights of a milk marketing board, or of a subsidiary of such a board, shall, unless the prohibition is imposed for public purposes, be treated as not applying in the case of a transfer under an approved scheme otherwise than under section 11 above.
- (2) Sub-paragraph (1) above shall not apply in the case of a provision which is formulated specifically with reference to the possibility of the undertaking of a milk marketing board being transferred otherwise than to a board constituted by a scheme under Part I of the Agricultural ^{M6}Marketing Act 1958.
- (3) For the purposes of this paragraph, any provision which has the effect of penalising a transfer shall be treated as prohibiting it.

Marginal Citations

M6 1958 c. 47.

- 41 (1) This paragraph applies to any provision which imposes a qualified prohibition on the effecting of any description of transaction, other than a transfer, with respect to any property or rights of a milk marketing board, or of a subsidiary of such a board.
- (2) Where the prohibition imposed by a provision to which this paragraph applies is imposed for purposes other than public purposes, it shall, subject to sub-paragraph (3) below, be treated as not applying in the case of a transaction effected under an approved scheme.
- (3) Sub-paragraph (2) above shall not apply in the case of a provision which is formulated specifically with reference to the possibility of the undertaking of a milk marketing board being transferred otherwise than to a board constituted by a scheme under Part I of the Agricultural Marketing Act 1958.
- (4) For the purposes of this paragraph, any provision which has the effect of penalising the effecting of any description of transaction shall be treated as prohibiting it.
- 42 (1) If any person suffers a diminution in the value of any property or interest in consequence of the operation of paragraph 40 or 41 above or, where sub-paragraph (2) below applies, paragraph 39 above, such compensation as may be just shall be paid to that person by one or more of the parties to the transfer or other transaction.
- (2) This sub-paragraph applies where the effect of the transfer is to sever the ownership of the property or rights to which the provision concerned relates.
- (3) Any dispute as to whether, and, if so, how much, compensation is payable under this paragraph, or as to the person by whom it shall be paid, shall be referred to and determined by an arbitrator appointed—
- (a) in the case of a dispute concerning anything which takes place under a scheme relating to the England and Wales Milk Marketing Board, in

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- accordance with regulations made by the Minister of Agriculture, Fisheries and Food and the Secretary of State acting jointly, and
- (b) in any other case, in accordance with regulations made by the Secretary of State.
- 43 (1) For the purposes of this paragraph, a provision is a qualifying provision if—
- (a) it imposes an absolute prohibition on the effecting of any description of transaction, other than a transfer, with respect to any property or rights of a milk marketing board, or of a subsidiary of such a board, and
- (b) the prohibition which it imposes is imposed for purposes other than public purposes.
- (2) Where an approved scheme—
- (a) identifies a qualifying provision as one to which this paragraph applies, and
- (b) specifies one of the relevant bodies as the body against which any claim under paragraph 44 below, in relation to the identified provision, is to be made,
- that provision shall, subject to any provision of regulations under sub-paragraph (3) (c) below, be treated as not applying in the case of a transaction effected under the scheme.
- (3) The appropriate authority may make regulations—
- (a) with respect to the giving of notice of a provision of an approved scheme which identifies a qualifying provision as one to which this paragraph applies,
- (b) with respect to the giving by the authority of a certificate of compliance in relation to the giving of notice under paragraph (a) above, and
- (c) excluding sub-paragraph (2) above where no certificate of compliance under paragraph (b) above has been given at the time that a transaction is effected.
- (4) Sub-paragraph (2) above shall not apply in the case of a provision which is formulated specifically with reference to the possibility of the undertaking of a milk marketing board being transferred otherwise than to a board constituted by a scheme under Part I of ^{M7}the Agricultural Marketing Act 1958.
- (5) In sub-paragraph (2)(b) above, the reference to the relevant bodies is to—
- (a) the milk marketing board to which the scheme relates, and
- (b) the body or bodies to which property, rights or liabilities of that board are, under the scheme, to be transferred under section 11 above.
- (6) In sub-paragraph (3) above, “appropriate authority” means—
- (a) in the case of an approved scheme relating to the England and Wales Milk Marketing Board, the Minister of Agriculture, Fisheries and Food and the Secretary of State acting jointly, and
- (b) in any other case, the Secretary of State.
- (7) For the purposes of this paragraph, any provision which has the effect of penalising the effecting of a description of transaction shall be treated as prohibiting it.

Marginal Citations

M7 1958 c. 47.

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- 44 (1) If any person suffers a diminution in the value of any property or interest in consequence of the operation of paragraph 43 above in relation to any provision, such compensation as may be just shall be paid to him by the nominated body.
- (2) Any dispute as to whether, and, if so, how much, compensation is payable under this paragraph shall be referred to and determined by an arbitrator appointed—
- (a) in the case of a dispute concerning anything which takes place under a scheme relating to the England and Wales Milk Marketing Board, in accordance with regulations made by the Minister of Agriculture, Fisheries and Food and the Secretary of State acting jointly, and
 - (b) in any other case, in accordance with regulations made by the Secretary of State.
- (3) In sub-paragraph (1) above, the reference to the nominated body is to the body specified by the approved scheme concerned as the body against which any claim for compensation under this paragraph, in relation to the provision concerned, is to be made.

Restrictions on change of location

- 45 (1) For the purposes of this paragraph, a provision is a qualifying provision if—
- (a) it is contained in a qualifying agreement,
 - (b) it imposes an absolute or qualified prohibition on the movement outside a specified area of property to which the agreement relates, and
 - (c) the prohibition which it imposes is imposed for purposes other than public purposes.
- (2) For the purposes of sub-paragraph (1) above, an agreement is a qualifying agreement if—
- (a) it is an agreement under which moveable property is leased to a milk marketing board or to a subsidiary of such a board, and
 - (b) an approved scheme makes provision for the transfer of rights and liabilities of the lessee under the agreement.
- (3) Where an approved scheme—
- (a) identifies a qualifying provision as one to which this paragraph applies,
 - (b) specifies a relevant modification in relation to that provision,
 - (c) specifies a commencement date in relation to the modification, and
 - (d) specifies one of the relevant bodies as the body against which any claim under paragraph 46 below, in relation to that provision, is to be made,
- then, subject to any provision of regulations under sub-paragraph (4)(c) below, that provision shall have effect subject to the specified modification on and after the commencement date specified in relation to it.
- (4) The appropriate authority may make regulations—
- (a) with respect to the giving of notice of a provision of an approved scheme which does any of the things mentioned in paragraphs (a) to (c) of sub-paragraph (3) above,
 - (b) with respect to the giving by the authority of a certificate of compliance in relation to the giving of notice under paragraph (a) above, and

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- (c) excluding sub-paragraph (3) above where no certificate of compliance under paragraph (b) above has been given before such date as may be specified in the regulations.
- (5) Where by virtue of sub-paragraph (3) above a qualifying provision is modified in its application to any property, the fact that, at any time in the week beginning with the date on which the modification first has effect, that property is outside the permitted area shall not be treated as constituting a breach of the provision if the property—
- (a) is in the area which was the permitted area before the modification had effect, or
 - (b) is in transit from that area to the permitted area.
- (6) In sub-paragraph (3)(b) above, “relevant modification”, in relation to a qualifying provision, means a change, in relation to any of the property to which the provision applies, in the area by reference to which the qualifying provision has effect.
- (7) In sub-paragraph (3)(d) above, the reference to the relevant bodies is to—
- (a) the milk marketing board to which the scheme relates, and
 - (b) the body or bodies to which property, rights or liabilities of that board are, under the scheme, to be transferred under section 11 above.
- (8) In sub-paragraph (4) above, “appropriate authority” means—
- (a) in the case of an approved scheme relating to the England and Wales Milk Marketing Board, the Minister of Agriculture, Fisheries and Food and the Secretary of State acting jointly, and
 - (b) in any other case, the Secretary of State.
- (9) For the purposes of this paragraph, any provision which has the effect of penalising the movement of property outside a specified area shall be treated as prohibiting it.
- 46 Paragraph 44 above shall apply in relation to a person who suffers a diminution in the value of any property or interest in consequence of the operation of paragraph 45 above as it applies in relation to a person who suffers a diminution in the value of any property or interest in consequence of the operation of paragraph 43 above.

Transfers relevant to flotation

- 47 (1) Where an approved scheme provides for rights and liabilities of a lessee under a qualifying agreement to be transferred to a company on a day earlier than the vesting day under the scheme, the provision shall have effect by virtue of this paragraph if, immediately before the day of the transfer, the company is a qualifying transferee.
- (2) In sub-paragraph (1) above, “qualifying agreement” means an agreement under which moveable property is leased to the board to which the scheme relates or to a subsidiary of that board.
- (3) For the purposes of sub-paragraph (1) above, a company is a qualifying transferee if it is—
- (a) a company in relation to which the scheme provides for the taking of steps with a view to securing its quotation on the Stock Exchange,
 - (b) a subsidiary of a company falling within paragraph (a) above, or
 - (c) a company which, if the scheme is carried out, will become a subsidiary of a company falling within paragraph (a) above before that company is quoted on the Stock Exchange.

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- 48 (1) Where—
- (a) an approved scheme provides for the taking of steps with a view to securing the quotation of a company on the Stock Exchange, and
 - (b) the board to which the scheme relates makes under the scheme a qualifying transfer of shares in a subsidiary of its,
- then, if the shares transferred were subject in the hands of that board to a resulting or constructive trust, they shall by virtue of the transfer cease to be subject to that trust.
- (2) For the purposes of sub-paragraph (1) above, a transfer is a qualifying transfer if—
- (a) it takes place in connection with the carrying out of the provision mentioned in paragraph (a) of that sub-paragraph, or
 - (b) the transferee is a qualifying person and the shares transferred are of the same class as other shares in the subsidiary which fall to be transferred as mentioned in that paragraph.
- (3) For the purposes of sub-paragraph (2) above, the transferee is a qualifying person if the shares are transferred to him—
- (a) by virtue of his being, or having been, a registered producer, or
 - (b) as trustee for persons who are entitled to participate in the trust by virtue of their being, or having been, registered producers.
- (4) For the purposes of this paragraph, shares of a company shall not be treated as being of the same class unless they are so treated by the practice of the Stock Exchange or would be so treated if dealt with on the Stock Exchange.

Certificates of vesting

- 49 (1) Where section 11(1) above applies on the vesting day under an approved scheme, the authority which approved the scheme shall give to each person identified by the scheme as a person to whom any property, right or liability of the relevant board is to be transferred under section 11 above (“a relevant transferee”) a certificate (“qualification certificate”) stating—
- (a) that he is identified by the scheme as a relevant transferee,
 - (b) whether the concurrence of any person is required to the issue by him of a certificate of vesting in relation to the relevant board, and
 - (c) if it is, whose concurrence is so required.
- (2) For the purposes of sub-paragraph (1) above, the following are the persons whose concurrence is required to the issue of a certificate of vesting in relation to the relevant board by the person to whom a qualification certificate is given—
- (a) where the scheme identifies anyone other than that person as a relevant transferee, that other person, or, if more than one, each of those other persons, and
 - (b) where the scheme does not provide for all the property, rights and liabilities to which the relevant board is entitled or subject on the vesting day to be transferred under section 11 above, that board.
- (3) Where a person to whom a qualification certificate is given issues a certificate of vesting in relation to the relevant board, then, subject to sub-paragraphs (4) to (6) below, it shall be conclusive evidence for all purposes of any fact stated in it with respect to the effect of section 11 above in relation to any property, right or liability of the relevant board.

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- (4) Where a qualification certificate states that the concurrence of one or more persons is required to the issue of a certificate of vesting in relation to the board, sub-paragraph (3) above shall not apply in relation to such a certificate issued by the person to whom the qualification certificate is given unless it is issued with the concurrence of the person, or each of the persons, identified by the qualification certificate as a person whose concurrence is required.
- (5) Sub-paragraph (3) above shall not apply to a certificate of vesting in relation to the relevant board to the extent that the certificate relates to land which is registered land at the time the certificate is issued if a person has, at that time, been registered as the proprietor of the land in reliance on the operation of section 11 above in relation to it.
- (6) Sub-paragraph (3) above shall cease to apply to a certificate of vesting in relation to the relevant board—
- (a) to the extent that the certificate relates to land which is not registered land at the time the certificate is issued, on the land becoming registered land, and
 - (b) to the extent that the certificate relates to land which is registered land at the time the certificate is issued, on a person being registered as the proprietor of the land in reliance on the operation of section 11 above in relation to it.
- (7) In this paragraph—
- (a) “the relevant board” means the milk marketing board to which the approved scheme relates,
 - (b) references to a certificate of vesting in relation to the relevant board are to a certificate with respect to the effect of section 11 above in relation to any property, right or liability of the relevant board, and
 - (c) references to registered land are to registered land within the meaning of the ^{M8}Land Registration Act 1925.

Marginal Citations

M8 1925 c. 21.

- 50 (1) This paragraph applies where an approved scheme includes provision for any property, right or liability of a subsidiary of the milk marketing board to which the scheme relates to be transferred under section 11 above.
- (2) Where subsection (1) of that section applies on the vesting day under the scheme, the authority which approved the scheme shall give to each person identified by the scheme as a person to whom any property, right or liability of the subsidiary is to be transferred under that section (“a relevant transferee”) a certificate (“qualification certificate”) stating—
- (a) that he is identified by the scheme as a relevant transferee,
 - (b) whether the concurrence of any person is required to the issue by him of a certificate of vesting in relation to the subsidiary, and
 - (c) if it is, whose concurrence is so required.
- (3) For the purposes of sub-paragraph (2) above, the following are the persons whose concurrence is required to the issue of a certificate of vesting in relation to the subsidiary by the person to whom a qualification certificate is given—

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- (a) where the scheme identifies anyone other than that person as a relevant transferee, that other person, or, if more than one, each of those other persons, and
 - (b) where the scheme does not provide for all the property, rights and liabilities to which the subsidiary is entitled or subject on the vesting day to be transferred under section 11 above, the subsidiary.
- (4) Where a person to whom a qualification certificate is given issues a certificate of vesting in relation to the subsidiary, then, subject to sub-paragraphs (5) to (7) below, it shall be conclusive evidence for all purposes of any fact stated in it with respect to the effect of section 11 above in relation to any property, right or liability of the subsidiary.
- (5) Where a qualification certificate states that the concurrence of one or more persons is required to the issue of a certificate of vesting in relation to the subsidiary, sub-paragraph (4) above shall not apply in relation to such a certificate issued by the person to whom the qualification certificate is given unless it is issued with the concurrence of the person, or each of the persons, identified by the qualification certificate as a person whose concurrence is required.
- (6) Sub-paragraph (4) above shall not apply to a certificate of vesting in relation to the subsidiary to the extent that the certificate relates to land which is registered land at the time the certificate is issued if a person has, at that time, been registered as the proprietor of the land in reliance on the operation of section 11 above in relation to it.
- (7) Sub-paragraph (4) above shall cease to apply to a certificate of vesting in relation to the subsidiary—
- (a) to the extent that the certificate relates to land which is not registered land at the time the certificate is issued, on the land becoming registered land, and
 - (b) to the extent that the certificate relates to land which is registered land at the time the certificate is issued, on a person being registered as the proprietor of the land in reliance on the operation of section 11 above in relation to it.
- (8) In this paragraph—
- (a) references to a certificate of vesting in relation to the subsidiary are to a certificate with respect to the effect of section 11 above in relation to any property, right or liability of the subsidiary, and
 - (b) references to registered land are to registered land within the meaning of the ^{M9}Land Registration Act 1925.

Marginal Citations

M9 1925 c. 21.

Land registration

- 51 (1) Where section 11(1) above applies on the vesting day under an approved scheme, the appropriate authority shall—
- (a) give a copy of the order under section 1(5) above to each person from or to whom property, rights or liabilities are transferred under section 11 above in accordance with the scheme, and
 - (b) annex to the copy order a copy of the scheme certified by it to be a true copy.

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- (2) A copy of the scheme given under sub-paragraph (1) above shall be treated for land registration purposes in England and Wales as conclusive evidence of the terms of the scheme.
- 52 (1) This paragraph applies where any registered land in England and Wales is transferred under section 11 above.
- (2) The transferee shall be entitled to be registered as proprietor in place of the transferor on an application in that behalf made to the Chief Land Registrar.
- (3) On an application under sub-paragraph (2) above, the transferee shall supply to the Chief Land Registrar such information and produce to him such documents as he may require for the purpose of enabling him to deal with the application.
- (4) Section 43 of the Land Registration Act 1925 (effect of transmissions) shall apply in relation to any person registered in place of the transferor as it applies in relation to any person registered in place of a deceased or bankrupt proprietor, but with the omission of the words from “upon the trusts” to “applicable by law, and”.
- (5) In this paragraph, “registered land” has the same meaning as in the Land Registration Act 1925.
- 53 (1) This paragraph applies where any land in England and Wales which is not registered land is transferred by virtue of section 11 above.
- (2) Unless the transferee, or his successor in title or assign, has before the end of six months from the date of the transfer applied to be registered as proprietor of the land, section 11 above shall be deemed never to have had effect to transfer the legal estate in the land.
- [^{F1}(3) The Chief Land Registrar may, if satisfied on the application of any interested person that there is good reason for doing so, make an order extending or further extending the period mentioned in sub-paragraph (2); and if he does so at a time when that sub-paragraph has operated to negative the transfer effected by section 11 above, it shall be taken not to have so operated.]
- (4) Any rules made by virtue of [^{F2}section 123A(10)(a)] of the Land Registration Act 1925 shall—
- (a) apply to dealings with the land which may take place between the date of the transfer and the date of the application to register as if the land had been the subject of a conveyance or assignment on the date of the transfer, and
- (b) apply in relation to an application for registration under this paragraph as they apply in relation to an application for registration under [^{F3}section 123A] of that Act.
- (5) On an application for first registration under this paragraph, the applicant shall supply to the Chief Land Registrar such information and produce to him such documents as he may require for the purpose of enabling him to deal with the application.
- (6) In this paragraph, “registered land” has the same meaning as in the ^{M10}Land Registration Act 1925.
- 54 In relation to Scotland, any transfer under an approved scheme shall have effect subject to the provisions of any enactment which provides for transactions of that description to be given effect to by registration in any statutory register.

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Statutory transfers: transition

- 55 (1) Any agreement, transaction or other thing which—
- (a) is made, effected or done with respect to anything transferred under section 11 above or paragraph 47 above in accordance with an approved scheme,
 - (b) is made, effected or done by, to or in relation to the transferor, and
 - (c) is in force or effective immediately before the day of the transfer under the scheme,
- shall, on and after that day, have effect as if made, effected or done by, to or in relation to the transferee in all respects as if the transferee were the same person in law as the transferor.
- (2) Sub-paragraph (1) above shall not affect the construction of any provision which is formulated specifically with reference to the possibility of the undertaking of a milk marketing board being transferred otherwise than to a board constituted by a scheme under Part I of the ^{M11}Agricultural Marketing Act 1958.

Marginal Citations

M11 1958 c. 47.

Provisions of scheme effective on statutory vesting

- 56 (1) Where section 11(1) above applies on the vesting day under an approved scheme, the provisions of the scheme shall, to the extent that they fall within sub-paragraph (2) below, have effect by virtue of this paragraph.
- (2) The provisions of an approved scheme fall within this sub-paragraph to the extent that they purport—
- (a) to impose on one of the relevant bodies an obligation on or after the vesting day under the scheme to enter into a written agreement with, or execute an instrument in favour of, another of the relevant bodies;
 - (b) to create for one of the relevant bodies, on the vesting day under the scheme, an interest in or right over property transferred under section 11 above to another of the relevant bodies; or
 - (c) to adapt, with effect from the vesting day under the scheme, references to members or officers of the relevant board in a document or oral agreement relating to anything transferred under section 11 above to a relevant successor body.
- (3) The provisions of an approved scheme only fall within sub-paragraph (2) above by virtue of paragraph (c) of that sub-paragraph to the extent that their purpose is to prevent, so far as reasonably possible, the effect of the provisions in which the references concerned occur being materially altered as a result of the transfer.
- (4) For the purposes of sub-paragraph (2) above, the relevant bodies, in relation to an approved scheme, are—
- (a) the relevant board, and
 - (b) the relevant successor bodies.
- (5) In this paragraph—

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- (a) “relevant board”, in relation to an approved scheme, means the milk marketing board to which the scheme relates; and
 - (b) “relevant successor body”, in relation to such a scheme, means a body to which property, rights or liabilities are transferred under section 11 above in accordance with the scheme.
- 57 (1) Where section 11(1) above applies on the vesting day under an approved scheme, the provisions of the scheme shall, to the extent that they fall within sub-paragraph (2) below, have effect by virtue of this paragraph.
- (2) The provisions of an approved scheme fall within this sub-paragraph to the extent that they purport—
- (a) to impose on—
 - (i) the relevant board, or
 - (ii) all or any of the bodies to which property, rights or liabilities of the relevant board are transferred under section 11 above (“the relevant successor bodies”),
 duties to take, on or after the vesting day under the scheme, such steps as may be requisite to secure that the vesting under section 11 above of any foreign property, right or liability of the relevant board in any of those bodies is effective under the relevant foreign law;
 - (b) to impose on the relevant board a duty, in relation to any foreign property, right or liability of its which is transferred under section 11 above, to hold that property or right for the benefit of, or discharge that liability on behalf of, the body to which it is so transferred, until the vesting of that property, right or liability in that body is effective under the relevant foreign law;
 - (c) to require a body to which any foreign property, right or liability of the relevant board is transferred under section 11 above to act on behalf of that board (so far as possible) for the purposes of, or in connection with, the performance of any duty of the board under the scheme in relation to any foreign property, right or liability of its so transferred to that body; or
 - (d) to require any of the relevant successor bodies to meet expenses incurred by the relevant board in consequence of provisions of the scheme which fall within this sub-paragraph by virtue of paragraph (a) or (b) above.
- (3) Nothing in any provision which has effect by virtue of this paragraph shall be taken as prejudicing the effect, under the law of any part of the United Kingdom, of the vesting under section 11 above of any foreign property, right or liability in any of the relevant successor bodies.
- (4) Where provisions of an approved scheme have effect by virtue of this paragraph, the relevant board shall have all such powers as may be requisite for the performance of any duty to which it is subject as a result.
- (5) In this paragraph—
- (a) “relevant board”, in relation to an approved scheme, means the milk marketing board to which the scheme relates; and
 - (b) references to any foreign property, right or liability are to any property, right or liability as respects which any issue arising in any proceedings would have to be determined (in accordance with the rules of private international law) by reference to the law of a country or territory outside the United Kingdom.

Changes to legislation:

There are currently no known outstanding effects for the Agriculture Act 1993, Part II.