

STATUTORY INSTRUMENTS

1977 No. 1280

AGRICULTURE

The Hops Marketing Scheme (Amendment) Order 1977

Made - - - - 26th July 1977

Whereas the Hops Marketing Board duly submitted to the Minister of Agriculture, Fisheries and Food (hereinafter called "the Minister") certain amendments of the Hops Marketing Scheme 1932(a), as amended (b), which amendments, as subsequently modified by the Minister, are set forth in the Schedule hereto:

And Whereas the Minister laid before each House of Parliament the amendments set forth in the said Schedule and the House of Commons resolved on 19th July 1977 and the House of Lords resolved on 22nd July 1977 that they should be approved:

Now, therefore, the Minister in pursuance of section 2 of the Agricultural Marketing Act 1958(c) and Schedule 1 to that Act, hereby makes the following order:—

1. This order may be cited as the Hops Marketing Scheme (Amendment) Order 1977.

2. The amendments of the Hops Marketing Scheme 1932, as amended, which are set forth in the Schedule hereto are hereby approved and shall come into operation on 15th August 1977.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 26th July 1977.

(L.S.)

John Silkin,

Minister of Agriculture, Fisheries and Food.

(a) S.R. & O. 1932/505 (Rev. I, p. 203: 1932, p. 24).

(b) S.R. & O. 1934/841, 1939/444, 1945/1486, S.I. 1948/642 (Rev. I, p. 204: 1934 I.p. 14; 1939 I, p. 24; 1945 I, p. 1; 1948 I, p. 23), S.I. 1949/2456, 1950/655, 1955/464, 1965/406, 1972/1427, 1974/2030 (1949 I, p. 54; 1950 I, p. 38; 1955 I, p. 124; 1965 I, p. 1113; 1972 III, p. 4295; 1974 III, p. 7857).

(c) 1958 c. 47.

SCHEDULE

The Hops Marketing Scheme 1932, as amended, shall be further amended as follows:—

1. By inserting in sub-paragraph (b) of paragraph 35 thereof after the words “hop plants”, in both places where those words occur, the words “and hop baling presses”;

2. By inserting immediately after paragraph 38 thereof the following paragraph:—

“38A.—(1) The provisions of paragraphs 39, 40, 41 and 42 of this Scheme shall have no effect in respect of hops harvested after 31st December 1976.

(2) The provisions of the Fourth Schedule to this Scheme shall have effect only in respect of hops harvested after 31st December 1976.”;

3. By substituting in sub-paragraph (2) of paragraph 54 thereof for the words “the Permanent Joint Hops Committee or with such other” the word “such”;

4. By substituting for paragraph 75 thereof the following paragraph:—

“75. Any producer who is aggrieved by any act or omission of the Board may refer the matter to the arbitration of a single arbitrator to be agreed between him and the Board or in default of agreement to be nominated by the Minister, and the arbitrator may make such order in the matter as he thinks just:

Provided that for the purposes of any arbitration under this paragraph, every notice purporting to be given under paragraph 39 of, or paragraphs 2, 3 or 4 of the Fourth Schedule to, this Scheme and every allotment of a Basic Quota purporting to be made under Part VII of this Scheme, shall be conclusively presumed to have been correct, unless the claim to refer the matter to arbitration was received by the Board on or before the twenty-eighth day after the day on which the claimant first had notice of the weight, grading or valuation or the allotment.

The Arbitration Act 1950(a), or any amendment or re-enactment thereof for the time being in force shall apply in relation to the reference.”;

5. By inserting at the end thereof the following Schedule:—

“The Fourth Schedule

1.—(1) The Board may at any time sell or otherwise deal with any hops accepted by the Board notwithstanding that they have not been weighed, graded or valued, or that notices have not been sent, in accordance with any provision of this Scheme.

(2) If the total quantity of hops of any season accepted by the Board from a registered producer does not exceed his annual quota for that season as ascertained under Part VII of this Scheme, all the hops of that season accepted by the Board from him shall (except as otherwise provided in the Scheme as respects insufficiently cured hops) be treated as for ‘quota account’.

(3) If the total quantity of hops of any season accepted by the Board from a registered producer exceeds his annual quota for that season as ascertained as aforesaid, then, of the hops so accepted, a quantity equal to the amount of that annual quota shall (except as otherwise provided in the Scheme as respects insufficiently cured hops) be treated as for ‘quota account’ and the remainder shall be treated as for ‘non-quota account’.

Payment for hops on a category pool basis:

2.—(1) The following definitions shall apply for the purposes of this and the two immediately following paragraphs of this Schedule:

“available sum” in relation to any season, means the sum realised by the Board in respect of the sale of hops harvested in that season after deducting any sum set aside in accordance with sub-paragraph (3) of paragraph 5 of this Schedule or payable in accordance with paragraph 8 of this Schedule;

“category” means any category of hops prescribed by the Board by reference to variety, grade, description (which term shall include description by reference to the area, district, locality or place in which they were harvested), alpha acid content, seed content, or any other factor or factors which shall be specified in the prescription;

“Forward Contract Plan” has the meaning ascribed to it in sub-paragraph (4)(b) of paragraph 3 of this Schedule;

“hops to be treated as for non-quota account” in relation to any season shall include any hops harvested in that season which are in the opinion of the Board insufficiently cured:

Provided that, if the Board by resolution so determine, such hops may be treated as for ‘quota account’ in any season when, in the opinion of the Board, the supply of hops accepted by the Board is less than the demand;

“provisional valuation” means any valuation determined by the Board in accordance with sub-paragraph (6) of this paragraph or sub-paragraph (1) of paragraph 4 of this Schedule;

“relevant sum” means that part of the available sum which is realised by the Board in respect of the sale of hops of a particular category;

“revised valuation” means any valuation arrived at in accordance with sub-paragraph (9) of this paragraph or sub-paragraph (2) of paragraph 4 of this Schedule.

(2) If the Board shall, not later than 31st August 1977 and not later than 1st April in any subsequent calendar year, send notice to registered producers that the Board will pay on a category pool basis for hops harvested in the forthcoming season, then sub-paragraphs (3) to (9) of this paragraph, and the whole of the next following paragraph, shall apply to such hops.

(3) The Board shall, not later than 1st September in the year in which the hops are to be harvested, prescribe categories of hops and send notice to registered producers accordingly:

Provided that:

- (i) the Board may, not later than the 31st March of the year next following the said year, vary any such prescription by reference to alpha acid content, seed content, market requirement or any other factor which could not, in the opinion of the Board, reasonably have been prescribed by 1st September in the year in which the hops were to be harvested;
- (ii) the categories shall be so prescribed that any hops which are accepted by the Board (other than seedless hops in respect of which the Board decide to make payments in accordance with paragraph 8 of this Schedule) shall be capable of being allocated to one, but not more than one, of the categories.

(4) The Board shall cause all hops accepted from any registered producer to be weighed and graded and shall, as soon as the relevant matters have been determined, allocate them to the appropriate category or categories and shall send notice of these matters to the registered producer.

(5) The Board shall, for each grade of hops included in any category, determine a provisional price per 50 kilograms on such basis as shall ensure, in the opinion of the Board, that the relationship among provisional prices reflects the relative market values of the grades of hops concerned:

Provided that the Board may fix provisional prices for lower grade hops falling within any category according to their estimate of the quality of such hops.

(6) The Board shall use the provisional prices determined in accordance with sub-paragraph (5) of this paragraph to establish a separate provisional valuation for the total quantity of each registered producer's hops which has been allocated by the Board to each category.

(7) The Board shall send to each registered producer concerned notice of the provisional prices and any provisional valuations determined in accordance with the foregoing provisions of this paragraph.

(8) When sales by the Board of hops allocated to any category are, in the opinion of the Board, substantially complete, the Board shall reduce or increase the provisional prices determined in accordance with sub-paragraph (5) of this paragraph having regard to the provisions of any Forward Contract Plan for the time being in force and in the light of the actual prices realised by the Board for hops in that category.

(9) The Board shall use the revised prices arrived at in accordance with sub-paragraph (8) of this paragraph to establish a separate revised valuation for the total quantity of each registered producer's hops which has been allocated to each category.

3.—(1) The Board shall determine for each registered producer which of the hops valued in accordance with sub-paragraph (9) of the foregoing paragraph are to be treated as for quota and non-quota account respectively, subject to exercise by the registered producer of any rights under sub-paragraph (ii) of the proviso to paragraph 52 of this Scheme, and shall send notice to the registered producer concerned of this determination, and of the revised valuations of all such hops.

(2) Subject to the provisions of any Forward Contract Plan for the time being in force, the Board shall exercise their power under sub-paragraph (1) of this paragraph in such a way as will in the opinion of the Board maximise the payment made to any registered producer.

(3) The Board shall modify any determination made in accordance with sub-paragraph (1) of this paragraph to take account of any exercise by any registered producer concerned of his rights under sub-paragraph (ii) of the proviso to paragraph 52 of this Scheme:

Provided that this sub-paragraph shall apply only where particulars of such exercise of rights are notified to the Board by such date as the Board shall prescribe.

(4) (a) If the Board shall have established a Forward Contract Plan for any season, in accordance with the next following sub-paragraph 3(4)(b), applicable to any category, then the Board shall first divide the relevant sum in respect of that season for that category among registered producers who have contracted with the Board under such Plan until there has been appropriated to each of them an amount equal to the entitlement (if any) of such producer under the terms of such Plan in respect of that category.

(b) For the purposes of this paragraph a Forward Contract Plan is a Plan established by resolution of the Board, primarily in order the better to secure that the Board will be in a position to fulfil their own commitments to sell hops under forward contracts and which shall define in respect of any season:

(i) the terms and conditions upon which the Board may enter into an agreement with any registered producer under which that producer would undertake specified obligations as to the quantity of hops of specified categories produced by him (being hops of a specified season which are to be treated as for quota account) which he will consign to the Board and the Board would undertake specified obligations as to the payments to be made to such producer in respect of the actual consignment of all or part of such hops to the Board;

(ii) a date (not being later than 31st December immediately preceding the season (or the earliest season) in respect of which the said agreements are to operate) before which notice giving particulars of the Plan for that season shall have been sent by the Board to each registered producer.

(5) If any balance of the relevant sum for any category then remains, then (after taking any action affecting the same which they consider appropriate under sub-paragraph (6) of this paragraph) the Board shall divide such sum among registered producers in proportion to their respective revised valuations for hops in that category which are to be treated as for quota account, other than those hops in respect of which an appropriation has been made under sub-paragraph (4)(a) above until there has been appropriated to each of them an amount equal to such valuation, or, if the relevant sum is insufficient for that purpose, until it has been exhausted.

(6) Where, in the opinion of the Board, the relevant sum relating to a category of hops comprising varieties of hops which the Board regard as trial varieties is insufficient to encourage the continued supply of such varieties, the Board may, if and to the extent that they think fit, supplement the relevant sum out of the balance of the relevant sum for any other category remaining after the appropriations provided for in sub-paragraphs (4) and (5) of this paragraph have been made, or (if for special reasons the Board consider it desirable to do so) then out of such last-mentioned relevant sum before such appropriations have been made.

(7) If, after the Board have acted in accordance with sub-paragraphs (4) and (5) of this paragraph, and taken any action which they consider appropriate under sub-paragraph (6) of this paragraph, in respect of any category, and a balance still remains of the relevant sum for that category, the Board shall divide such balance, on such basis as they think fit, among registered producers having revised valuations for hops in the category to which the relevant sum relates which are to be treated as for non-quota account, but so that the Board shall be under no obligation to pay for such hops for non-quota account as are not sold by the Board.

(8) When the Board have determined, under sub-paragraphs (4), (5), (6) and (7) of this paragraph, the sums which, apart from this sub-paragraph, would be payable to any registered producer, the Board shall deduct from the aggregate of such sums such amounts as are provided for under paragraph 6 of this Schedule and shall pay the balance of such aggregate sum to the registered producer concerned.

Payment for hops not on a category pool basis:

4.—(1) If in relation to the hops harvested in any season the Board shall not have sent notice to registered producers as provided in sub-paragraph (2) of paragraph 2 of this Schedule the Board shall weigh all such hops tendered to them by any registered producer and accepted by them, shall provisionally value such hops having regard to the principles set out in sub-paragraph (5) of paragraph 2 of this Schedule as the Board consider appropriate and shall send notice to the producer of the weights so found, and of the provisional valuation.

(2) When sales of hops harvested in that season are, in the opinion of the Board, substantially complete, the Board shall reduce or increase the provisional valuations made in accordance with sub-paragraph (1) of this paragraph in the light of the prices realised by the Board for hops so harvested and the proportion of such hops which have been sold, to arrive at revised valuations.

(3) The Board shall determine for each registered producer which of the hops valued in accordance with sub-paragraph (1) of this paragraph are to be treated as for quota and non-quota account respectively, subject to exercise by the registered producer of any rights under sub-paragraph (ii) of the proviso to paragraph 52 of this Scheme, and shall send notice to the registered producers concerned of this determination and of the revised valuations of all such hops:

Provided that:

- (i) the Board shall exercise their power under this sub-paragraph in such a way as will in the opinion of the Board maximise the payment made to any registered producer in respect of hops treated as for quota account;

- (ii) the Board shall modify any determination made in accordance with this sub-paragraph to take account of any exercise by any registered producer concerned of his rights under sub-paragraph (ii) of the proviso to paragraph 52 of this Scheme:

Provided that this sub-paragraph (ii) shall apply only where particulars of such exercise of rights are notified to the Board by such date as the Board shall prescribe.

(4) If all hops valued in accordance with sub-paragraph (1) of this paragraph are sold by the Board, then the Board shall divide the available sum among registered producers in proportion to their respective revised valuations determined in accordance with sub-paragraph (2) of this paragraph.

(5) If some part of the hops referred to in sub-paragraph (1) of this paragraph remain unsold when sales are, in the opinion of the Board, substantially complete, then the Board shall divide the available sum among registered producers:

(a) in proportion to their respective revised valuations, determined in accordance with sub-paragraph (2) of this paragraph, of hops to be treated as for quota account, until there has been divided among them an amount equal to the total of such valuations;

(b) as respects any balance, on such basis as the Board consider appropriate but so that the Board shall be under no obligation to pay for such hops for non-quota account as are not sold by the Board.

(6) When the Board have determined, under sub-paragraphs (4) and (5) of this paragraph, the sums which, apart from this sub-paragraph, would be payable to any registered producer, the Board shall deduct from the aggregate of such sums such amounts as are provided for under paragraph 6 of this Schedule and shall pay the balance of such aggregate sum to the registered producer concerned.

Incentive Fund:

5.—(1) The following definitions shall apply for the purposes of this paragraph:

“designated amount” means the amount or maximum amount of the incentive payment for each 50 kilograms of hops designated by the Board;

“designated hops” means hops of the season and description designated by the Board in accordance with sub-paragraph (2) of this paragraph;

“Incentive Fund” means the total sum set aside by the Board in accordance with sub-paragraph (3) of this paragraph.

(2) The Board may, not later than 30th November in any calendar year, send to each registered producer a notice designating hops of the forthcoming season, by reference to variety, place of harvesting, grade or any other description which may be designated in the notice as hops for which an incentive payment of a designated amount shall be paid by the Board:

Provided that, where hops are designated wholly, or partly, by reference to alpha acid content or seed content, the Board need not designate the qualifying content until, in the opinion of the Board, the relevant facts have been established after harvesting.

(3) If the Board have exercised their power under sub-paragraph (2) of this paragraph in relation to hops of any season, then the Board shall set aside, out of the sum realised by the Board in respect of hops harvested in that season, such sum as shall, in the opinion of the Board, suffice to enable the Board to pay the designated amounts on all designated hops accepted by the Board from registered producers, whether for quota account only or for quota account and non-quota account, as the Board may prescribe.

(4) The Board shall pay to each registered producer the appropriate designated amount or, if the appropriate designated amount is a maximum amount, such part thereof as the Board shall think fit, for each 50 kilograms of designated hops accepted from him by the Board:

Provided that if the Incentive Fund proves insufficient to make payments as provided for in this sub-paragraph, the Board may draw from their reserves such further sum as may be required for this purpose.

(5) If any balance of the Incentive Fund then remains the Board may retain it for similar use in a subsequent season or may treat it as part of the general funds of the Board, as they shall think fit.

Deductions to be made by the Board:

6. The deductions to which reference is made in sub-paragraph (8) of paragraph 3, and sub-paragraph (6) of paragraph 4 of this Schedule shall be such sums as the Board shall determine:

- (a) as commission on such basis as the Board consider appropriate in the light of charges made to the Board for relevant services;
- (b) in order to provide:
 - (i) for the expenses of the Board (other than commission) in respect of hops of the relevant season;
 - (ii) a contribution to the fund required to enable the Board to meet their general expenses and liabilities (including any liability to pay compensation under this Scheme) and, if they think fit, provide reserves:

Provided that any deduction under sub-paragraph (b) of this paragraph shall be determined, in either case, at the same rate for each 50 kilograms of hops accepted by the Board;

- (c) as a deduction which shall in the opinion of the Board be just, having regard to the circumstances of any case where hops are found to be contaminated after acceptance by the Board:

Provided always that the amount to be deducted as aforesaid from any sum payable to a registered producer shall under no circumstances exceed the sum payable.

Notices:

7.—(1) The information contained in any notice of weight, grading or valuation sent in accordance with paragraphs 2, 3 or 4 of this Schedule shall be final and conclusive unless and until varied by agreement between the Board and the producer concerned or by an award under Part X of this Scheme.

(2) Neither the accidental omission by the Board to send to or serve on any registered producer any notice or notification as required by any provision of this Scheme (except paragraph 48), nor the non-receipt thereof by any registered producer, shall invalidate any act of the Board.

Seedless Hops:

8. Notwithstanding any other provision in this Scheme, where in the opinion of the Board it would be impracticable or inappropriate for registered producers of seedless hops to receive payment in respect thereof in accordance with the provisions of this Scheme, other than this paragraph, then the Board shall out of the available sum (as defined in sub-paragraph (1) of paragraph 2 of this Schedule), make such payments as they consider appropriate in respect of such hops. In this paragraph the expression "seedless hops" includes hops of which the seed content does not exceed a maximum prescribed by the Board and which are grown on sites specified and approved by the Board."

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order approves the amendments to the Hops Marketing Scheme 1932, as amended, which are set forth in the Schedule. The amendments provide, in respect of hops harvested after 31st December 1976, for Varietal Pools and a Forward Contract Plan and bring up to date the existing provisions relating to the Incentive Fund. The amendments make also minor and consequential changes to the Scheme.

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