

1990 No. 454

**INDUSTRIAL ORGANISATION AND
DEVELOPMENT**

**The Horticultural Development Council (Amendment)
Order 1990**

Made - - - - 6th March 1990

Coming into force in accordance with article 1

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland and the Secretary of State for Wales, acting jointly, in exercise of the powers conferred by section 8(1) of the Industrial Organisation and Development Act 1947(a), and now vested in them(b), and of all other powers enabling them in that behalf, after consultation with the Horticultural Development Council (established under the said Act by the Horticultural Development Council Order 1986(c)) with the organisations appearing to them to be representative of substantial numbers of persons carrying on business in the industry and with the organisation representative of persons employed in the industry appearing to them to be appropriate, hereby make the following Order, a draft of which has been laid before and approved by resolution of each House of Parliament—

Title and commencement

1. This Order may be cited as the Horticultural Development Council (Amendment) Order 1990 and shall come into force on the day immediately following the day on which it is made.

Amendment of the Horticultural Development Council Order 1986

2. The Horticultural Development Council Order 1986 (hereinafter called “the principal Order”) shall be amended in accordance with the following provisions of this Order.

3. In article 2(1) of the principal Order—

(a) there shall be inserted before the definition of “the Council” the following definition:

“‘compost’ means any growing medium used in the production of mushrooms;”

(a) 1947 c.40; which is to be read, as regards England and Wales, with section 40 of the Criminal Justice Act 1982 (c.48) and S.I. 1984/447; and as regards Scotland, with sections 289F and 289G of the Criminal Procedure (Scotland) Act 1975 (c.21), as inserted by section 54 of the Criminal Justice Act 1982 (c.48), and S.I. 1984/526.

(b) By virtue of S.I. 1978/272.

(c) S.I. 1986/1110.

- (b) there shall be substituted for the definition of "grower" the following definition:
 "grower" means a mushroom grower or a person who grows horticultural produce other than mushrooms for sale, whose sales of such produce (excluding Value Added Tax and the cost of haulage and packing materials, and in those cases where the produce is prepared for market in rateable packhouses costs associated with such preparation) were not less than £25000 during his relevant accounting year;";
- (c) there shall be inserted after the definition of "the Ministers" the following definition:
 "mushroom grower" means a person who purchases mushroom spawn for use in compost whose purchases of such spawn exceeded 700 litres—
 (i) during the period of 12 months ending on 30th September 1989; or
 (ii) thereafter during any relevant accounting year;";
- (d) there shall be substituted for the definition of "relevant accounting year" the following definition:
 "relevant accounting year" means:—
 (a) in the case of a grower, other than a mushroom grower, in respect of the levy period specified in column (1) of part A of the table in paragraph (2) of this article, the accounting year specified in respect thereof in column (2) of that part, and
 (b) in the case of a mushroom grower in respect of the levy period specified in column (1) of part B of the table in paragraph (2) of this article, the accounting year specified in respect thereof in column (2) of that part.'.

4. For article 2(2) of the principal Order there shall be substituted the following paragraph:

"(2)

Part A

<i>Column 1</i>	<i>Column 2</i>
The period of 12 months commencing on 1st October in any year.	the accounting year ending in the calendar year preceding the end of the levy period.

Part B

<i>Column 1</i>	<i>Column 2</i>
(a) the period starting on the commencement day of this Order and ending on 30th September 1990.	(a) the period of 6 months ending on 30th September 1989.
(b) any subsequent period of 12 months commencing on 1st October in any year.	(b) the period of 12 months ending on 30th September preceding the commencement of the levy period.

5. In article 4 of the principal Order there shall be substituted for sub-paragraph (1) the following sub-paragraph:

"(1) sixteen persons capable of representing the interests of growers;".

6. For article 7 of the principal Order there shall be substituted the following article:

“Registration of growers

7.—(1) Every person who is a mushroom grower on the day on which the Horticultural Development Council (Amendment) Order 1990 comes into force shall within two months thereafter apply in writing to the Council to be registered and any other person who on or after that day becomes a grower shall so apply within two months of the day on which he became a grower.

(2) Where two or more persons jointly carry on business in the industry they shall, for the purpose of registration, be treated as constituting a single person.”.

7. For paragraphs (1), (2) and (3) of article 9 of the principal Order there shall be substituted the following paragraphs:

“(1) For the purposes of enabling them to meet their expenses in the exercise of their functions and their administrative expenses the Council may with the approval of the Ministers and subject to paragraphs (2) and (3) of this article impose:—

(a) on each grower, other than a mushroom grower, a charge for any levy period at a rate not exceeding 0.5% of the value (excluding Value Added Tax) of his sales of horticultural produce during his relevant accounting year; and

(b) on each mushroom grower a charge for any levy period at a rate not exceeding 7 pence per litre of spawn purchased for use in compost during his relevant accounting year.

(2) For the purpose of calculating a charge imposed under paragraph (1)(a) above for any levy period, there shall be deducted from the value of a grower’s sales during his relevant accounting year—

(a) the cost to the grower of any horticultural produce which he had bought in, grown on and resold;

(b) the cost of haulage and packing materials and, in those cases where the produce is prepared for market in rateable packhouses, costs associated with such preparation; and

(c) the value added to horticultural produce by any processing carried out by or on behalf of the grower.

(3) A grower shall be exempt from a charge imposed under paragraph (1)(a) above for any levy period if a deduction made under paragraph (2) above reduces the value of the grower’s sales during his relevant accounting year to less than £25000 (excluding Value Added Tax).”.

8. For the references to “a fine not exceeding £400” in article 12(1), (2) and (3) of the principal Order there shall be substituted references to “a fine not exceeding level 3 on the standard scale”.

9. For Schedule 1 to the principal Order there shall be substituted the Schedule to this Order.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 28th February 1990.



John Selwyn Gummer
Minister of Agriculture, Fisheries and Food

26th February 1990

Sanderson of Bowden
Secretary of State for Scotland

6th March 1990

Peter Walker
Secretary of State for Wales

SCHEDULE

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SCHEDULE 1

Article 2

VEGETABLES GROWN IN THE OPEN

All vegetables sold for human consumption including herbs and watercress, but excluding potatoes.

FRUIT

All soft fruit and orchard fruit including nuts but excluding all types of apples and pears. Hops and grapes are not included.

FLOWERS AND BULBS

All flowers whether cut or in pot, foliage, flower bulbs, corms, tubers and rhizomes.

HARDY AND OTHER NURSERY STOCK

All hardy nursery stock including

- fruit trees (including apples and pears), bushes and canes, strawberries for runner production and other fruit stock for transplanting
- roses (including stock for budding)
- shrubs and hedging plants
- ornamental trees and trees for sale for amenity purposes
- perennial herbaceous plants

All other nursery stock, seedlings and cuttings for propagation.

PROTECTED CROPS

All crops grown in glasshouses and other forms of protection including pot plants, bedding plants and plants being propagated for growing elsewhere.

MUSHROOMS

All species of mushrooms.”

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which comes into force on 7th March 1990, amends the Horticultural Development Council Order 1986.

The principal changes are that the Order—

- (a) includes mushrooms and trees for sale for amenity purposes in the list of products defined as being horticultural produce for the purposes of the industry and excludes grapes from that list;
- (b) extends the definition of “grower” to include mushroom growers and extends the definition of “relevant accounting year” to make provision for an assessment period for the annual charge imposed on mushroom growers;
- (c) raises the maximum rate of charge on growers, other than mushroom growers, to 0.5% from 0.25% of the value of his sales and imposes a charge on mushroom growers at a maximum rate of 7 pence per litre of mushroom spawn purchased;
- (d) increases the number of members of the Council capable of representing the interests of growers from 14 to 16; and
- (e) removes conifers and Christmas trees from the list of products defined as being horticultural produce.

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