

1999 No. 1413

**INDUSTRIAL ORGANISATION AND
DEVELOPMENT**

**The Potato Industry Development Council (Amendment)
Order 1999**

Approved by both Houses of Parliament

Made - - - - 24th May 1999

Coming into force 1st July 1999

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 sections 1, 4 and 8 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 in accordance with section 8(1) of the said Act with the British Potato Council and, in accordance with sections 1(3) and 8(1) of the said Act, with organisations appearing to them to be representative of substantial numbers of persons carrying on business in the potato industry and with such organisations representative of persons employed in the industry as appear to them to be appropriate, and having satisfied themselves (as required by section 4(3) of the said Act) that the incidence of the charges as between different classes of undertakings in the industry will be in accordance with a fair principle, hereby make the following Order, a draft of which has been laid before and approved by a resolution of each House of Parliament—

Title, commencement and interpretation

1.—(1) This Order may be cited as the Potato Industry Development Council (Amendment) Order 1999 and shall come into force on 1st July 1999.

(2) In this Order “the principal Order” means the Potato Industry Development Council Order 1997(c).

Amendment of the principal Order

2. The principal Order shall be amended in accordance with articles 3 to 8 of this Order.

3. In article 2 (interpretation), in paragraph (1)—

(a) immediately after the definition of “the Act” there shall be inserted the following definition—

““catering establishment” means a restaurant, canteen, club, public house, school, hospital or similar establishment (including a vehicle or a fixed or mobile stall) where, in the course of a business, food is prepared for delivery to the ultimate consumer and is ready for consumption without further preparation;”;

(a) 1947 c. 40; section 4 was modified, in the case of any development council order relating to agriculture, by section 60 of the Agriculture Act 1993 (c. 37).

(b) By virtue of S.I. 1955/554, 1978/272.

(c) S.I. 1997/266.

- (b) the definition of “first point of sale” shall be deleted;
 - (c) immediately after the definition of “the Ministers” there shall be inserted the following definition–
 - “ “point of sale” means the point at which a person carrying on business in the industry takes delivery of potatoes, with or without the exchange of monies, either as a first purchaser or as a subsequent purchaser;”;
 - (d) for the definition of “processing” there shall be substituted the following definition–
 - “ “processing”, in relation to raw potatoes, means an operation carried out upon raw potatoes which includes peeling, slicing, heating, pasteurising, canning, freezing, drying, or any other similar operation which alters the raw potatoes, and “processed” and “processes” shall be construed accordingly;”;
 - (e) immediately after the definition of “producers’ co-operative” there shall be inserted the following definition–
 - “ “subsequent purchaser” means a person, not being a first purchaser, who would be a first purchaser of raw potatoes if the words “where those potatoes have not previously been sold or delivered to an agent” were omitted from the definition of “first purchaser”, but does not include–
 - (a) a catering establishment, or
 - (b) a retail seller of potatoes;”.
4. In article 6 (register of producers and first purchasers)–
- (a) in paragraph (2), immediately after the words “first purchasers” there shall be inserted the words “and subsequent purchasers”;
 - (b) in paragraph (3), immediately after the word “Order” there shall be inserted the following words–
 - “or who is a subsequent purchaser at the time of coming into force of the Potato Industry Development Council (Amendment) Order 1999(a);”;
 - (c) in paragraph (5), immediately after the words “first purchaser” there shall be inserted the words “or subsequent purchaser”.
5. In article 7 (registration of producers and first purchasers)–
- (a) in paragraph (1), immediately after the words “comes into force” there shall be inserted the following words–
 - “, or as a subsequent purchaser at the time at which the Potato Industry Development Council (Amendment) Order 1999 comes into force;”;
 - (b) in paragraph (2), immediately after the words “comes into force” there shall be inserted the following words–
 - “, or as a subsequent purchaser after the Potato Industry Development Council (Amendment) Order 1999 comes into force;”;
 - (c) in both paragraphs (3) and (4), immediately after the words “first purchaser” there shall be inserted the words “or subsequent purchaser”.
6. In article 8 (returns and information)–
- (a) in paragraph (2), immediately after the words “first purchaser” there shall be inserted the words “and each subsequent purchaser”;

(a) S.I. 1999/1413.

- (b) in paragraph (4)–
 - (i) in sub-paragraph (e), for the word “shall”, and
 - (ii) in sub-paragraph (f)(ii), for the word “will”,
 there shall be substituted the words “may, if the Council so decides.”;
 - (c) in paragraph (5)–
 - (i) immediately after the words “first purchaser”, in each place where it occurs, there shall be inserted the words “or, as the case may be, subsequent purchaser”;
 - (ii) in sub-paragraph (f), for the word “shall” there shall be substituted the words “may, if the Council so decides.”;
 - (iii) in sub-paragraph (g)–
 - (aa) for the word “producer” there shall be substituted the words “first purchaser or, as the case may be, subsequent purchaser”, and
 - (bb) in paragraph (ii), for the word “will” there shall be substituted the words “may, if the Council so decides”.
7. In article 9 (charges for expenses)–
- (a) in paragraph (1), for the words “or a first purchaser or both” there shall be substituted the following words–

“, as a first purchaser or as a subsequent purchaser, or as both a producer and either a first purchaser or a subsequent purchaser”;
 - (b) for paragraph (4) there shall be substituted the following paragraph–

“(4) Any first purchaser who buys or takes delivery of potatoes or any subsequent purchaser who buys or takes delivery of raw potatoes, in either case for human consumption, shall pay a charge per tonne at the point of sale not exceeding 25p per tonne.”;
 - (c) in paragraph (5)(b), immediately after the words “first purchasers” there shall be inserted the words “and subsequent purchasers”;
 - (d) paragraph (7) shall be deleted;
 - (e) in paragraph (8)(b), immediately after the words “first purchaser” there shall be inserted the words “or as a subsequent purchaser”.
8. Immediately after article 12 there shall be inserted the following article–

“Evidence

13. For the purpose of any proceedings arising under this Order, a document in whatever form, purporting to be issued by the Ministers, and confirming that they have given any approval or consent required by this Order shall be–

- (a) treated as having been so issued unless the contrary is proved; and
- (b) evidence, and in Scotland sufficient evidence, of the giving of such approval or consent.”.

19th May 1999

Donoghue
Parliamentary Secretary,
Ministry of Agriculture, Fisheries and Food

19th May 1999

Sewel
Parliamentary Under Secretary of State,
Scottish Office

Signed by authority of the Secretary of State for Wales

24th May 1999

Jon Owen Jones
Parliamentary Under Secretary of State,
Welsh Office

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which comes into force on 1st July 1999, amends the Potato Industry Development Council Order 1997 (S.I. 1997/266) (“the principal Order”). The principal Order established a development council (“the Council”) for the potato industry in Great Britain. The Council’s functions include the keeping of a register of producers and first purchasers, the receipt of annual returns from producers and first purchasers, and the levying of certain charges upon producers and first purchasers.

The main change effected by the present Order is to extend the obligations and responsibilities of first purchasers under the principal Order to anyone now qualifying as a “subsequent purchaser” (*articles 4, 5, 6 and 7*). For this purpose a subsequent purchaser is anyone carrying on business in the potato industry who buys in a year at least 100 tonnes of raw potatoes where those potatoes have previously been sold or delivered to an agent, but does not include either a catering establishment or a retail seller of potatoes (*article 3*). In addition, this Order introduces an evidential presumption of the validity of an approval or consent given by Ministers for the purposes of the principal Order where there is certain documentary confirmation that it was given by them (*article 8*).

No Regulatory Impact Assessment has been prepared in respect of these Regulations.

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