

2001 No. 935

AGRICULTURE

**The Pig Industry Development Scheme 2000
(Confirmation) Order 2001**

Approved by both Houses of Parliament

Made - - - - - 13th March 2001

Coming into force - - - - - 14th March 2001

Whereas the Meat and Livestock Commission (“the Commission”) established by the Agriculture Act 1967 (“the Act”)(a) have published their intention to submit a Development Scheme (within the meaning of section 9 of the Act) to the Minister of Agriculture, Fisheries and Food (“the Minister”), the Scottish Ministers and the National Assembly for Wales (“the National Assembly”) by a notice in the London Gazette and the Edinburgh Gazette and in such other manner as they think best adapted for informing persons affected in accordance with paragraph 1 of Schedule 2 to the Act;

Whereas all objections made thereto have been withdrawn with one exception;

Whereas, with respect to the objection not withdrawn (“the Objection”), the Commission have afforded to the objector an opportunity of appearing before and being heard by a person appointed by the Commission for the purpose, and have taken into consideration the Objection and the report of that person (“the Report”);

Whereas, in accordance with section 9 of the Act, the Commission have submitted to the Minister, the Scottish Ministers and the National Assembly a Development Scheme for the purpose of conducing to the better organisation, development or regulation of the section of the livestock industry concerned with pig production, together with the Objection and the Report, and whereas the Minister and the National Assembly have considered the Objection and the Report and are satisfied that the bringing into force of the Development Scheme so submitted will conduce to the purposes aforesaid;

Now therefore the Minister and the National Assembly acting jointly, in exercise of the powers conferred by section 9(12) of, and paragraph 5 of Schedule 2, to the Act and now vested in them(b), and of all other powers enabling them in that behalf, with the consent of the Scottish Ministers(c), hereby make the following Order, a draft whereof has been laid before and approved by a resolution of each House of Parliament—

(a) c. 22.

(b) The functions of “the Ministers” (as defined by section 25(1) of the Agriculture Act 1967) conferred by paragraph 5(1) of Schedule 2 to the Act, in so far as exercisable in relation to Wales, are by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) exercisable by the National Assembly for Wales jointly with the Minister of Agriculture, Fisheries and Food. The Secretary of State for Scotland’s share in the joint function ceased by virtue of article 3 of and Schedule 16, paragraph 3(2), to the Scotland Act 1998 (Cross-Border Public Authorities) (Adaptation of Functions etc.) Order 1999 (S.I. 1999/1747), and did not transfer to the Scottish Ministers: section 88(1) of the Scotland Act 1998 (c. 46).

(c) The consent of the Scottish Ministers is required by virtue of article 3 of and Schedule 16, paragraph 3(3), to the Scotland Act 1998 (Cross-Border Public Authorities) (Adaptation of Functions etc.) Order 1999.

Title and commencement

1. This Order may be cited as the Pig Industry Development Scheme 2000 (Confirmation) Order 2001 and shall come into force on the day after the day on which it is made.

Confirmation of the Development Scheme

2. The Development Scheme, which is set out in the Schedule to this Order, is hereby confirmed and shall come into force on the day after the day on which this Order comes into force.

8th March 2001 *Joyce Quin*
Minister of State,
Ministry of Agriculture, Fisheries and Food

Signed on behalf of the National Assembly for Wales:

13th March 2001 *Elis Thomas*
Presiding Officer

We consent,

12th March 2001 *Ross Finnie*
A member of the Scottish Executive

1. Definitions

This scheme may be cited as the Pig Industry Development Scheme 2000 and applies in Great Britain.

2. In this scheme, except where the context otherwise requires—
- “the 1967 Act” means the Agriculture Act 1967;
 - “the 1981 Act” means the Animal Health Act 1981;
 - “the Appropriate Authority” means—
 - (a) in relation to England, the Minister;
 - (b) in relation to Scotland, the Scottish Minister; and
 - (c) in relation to Wales, the National Assembly for Wales;
 - “BPEX” means the British Pig Executive, a Committee of the Commission;
 - “the Board” means the Pig Industry Risk Management Development Board which shall be a Committee of the Commission;
 - “the Commission” means the Meat and Livestock Commission established under the 1967 Act;
 - “the Fund” means the fund established pursuant to paragraph 13;
 - “the Minister” means the Minister of Agriculture, Fisheries and Food;
 - “pig disease” means any infectious disease affecting pigs;
 - “the pig industry” means any part of the livestock industry that is concerned with pigs;
 - “the pig levy scheme” means the levy scheme set out in Schedule 2 to this scheme;
 - “pig producer” means a person who rears or keeps pigs, by way of business for the purpose of selling them;
 - “pig product” means any livestock product derived from pigs;
 - “the pig products industry” means any part of the livestock products industry that is concerned with pig products;
 - “slaughterer” means, in relation to pigs, any person (including a local authority) having the control and management of a slaughterhouse in which pigs are slaughtered, and includes a local authority providing slaughterhouse facilities under Part I of the Slaughterhouses Act 1974 or the Slaughter of Animals (Scotland) Act 1980, or providing any similar facilities under any local enactment; and
 - “slaughterhouse” has, in England and Wales, the meaning given by section 34 of the Slaughterhouses Act 1974 and, in Scotland, the meaning given by section 22 of the Slaughter of Animals (Scotland) Act 1980.

3. Objective

The purpose of this scheme is to make provision for such facilities or services, and the giving of such financial assistance, as the Commission shall determine, for the purpose of the better organisation and development of the pig industry in dealing with—

- 3.1 the risk of the herds of any pig producers that are kept in Great Britain contracting any pig disease; and
 - 3.2 the financial consequences for the businesses of pig producers, insofar as incurred in Great Britain, of any incidence of pig disease.
4. For the purpose of carrying out the general objective in paragraph 3, the Commission shall have the particular functions specified in Schedule 1 to this scheme.
5. The Commission shall in its discretion determine—
- 5.1 whether any facilities or services are to be provided in relation to any particular matter, and the nature of any such facilities or services;
 - 5.2 whether any financial assistance is to be given in respect of any particular matter, the criteria for determining eligibility for such assistance and the amounts or criteria for calculating the amounts of such assistance; and
 - 5.3 the relative priority of any purposes for which they may exercise their functions.
6. It shall not be the function of the Commission under this scheme to give financial assistance by way of compensation for pigs slaughtered or anything seized under the Animal Health Act 1981.

7. Board and Committees

The Commission shall, no later than 30 days after the entry into force of this scheme, establish a Board which shall be a Committee of the Commission. The Board shall administer the scheme on behalf of the Commission. The Board shall consist of a Chairman and six other members. The Chairman and the members of the Board shall be appointed by the Commission after consultation with BPEX. The Board shall be at liberty to appoint a management committee.

8. The Board shall have all the powers of the Commission conferred by this scheme.

9. The Board on behalf of the Commission may enter into such agreements, acquire such property and do such things as may in the opinion of the Commission be necessary or desirable for the exercise of any of its functions pursuant to Schedule 1 to this scheme and may dispose of any property acquired by it on behalf of the Commission as it thinks fit.

10. The Board may act on behalf of the Commission in employing such staff as may be necessary to enable the functions of the Committee conferred by this scheme to be carried out.

11. The Board may perform its duties through agents and Commission employees and shall be entitled to rely on any communication, documentation or information (whether provided in writing or orally) reasonably believed by them in good faith to be genuine and correct and shall be entitled to rely upon the advice of or information obtained from any professional adviser or other person (whether instructed by them or not) reasonably believed by them in good faith to be competent.

12. Paragraphs 3, 4(1) and (2), 5, 6 and 7(1) of Part II of Schedule 1 to the 1967 Act shall have effect with respect to the Board as they have effect with respect to the Commission.

13. Charges and Expenses

The Commission shall establish a fund (in this scheme referred to as “the Fund”) which shall be administered by the Board. The provisions of Schedule 2 shall have effect with respect to the pig levy scheme. Any monies received by the Commission pursuant to the pig levy scheme shall be paid into the Fund and any monies required by the Board for the operation of this scheme, including any administrative and other reasonable expenses incurred by it in the exercise of the Commission’s functions pursuant to this scheme, shall be paid out of the Fund.

14. Sections 14(2) and (3) (offences in relation to registration, returns and records), 23 (powers of entry) and 24 (disclosure of information) of the 1967 Act shall apply for the purposes of the pig levy scheme as they apply for the purposes of a levy scheme under section 13 of that Act except that—

14.1 any person who commits an offence in contravention of sections 14(3) and 24(3) shall not be liable save on summary conviction to a fine not exceeding the prescribed sum or to a maximum term of imprisonment not exceeding three months or both; and

14.2 references in section 23 to livestock shall be read as references to pigs.

15. The Board may on behalf of the Commission, but only with the prior written consent of the Commission, borrow money in such manner, and on such terms and may give such security as may be arranged with the lender.

16. General

The Board shall carry out the obligations of the Commission under section 19 of the 1967 Act in so far as they relate to this scheme.

17. If, at any time after the Board on behalf of the Commission has authorised financial assistance to be given to a pig producer, it appears to the Board that such pig producer with a view to obtaining financial assistance under this scheme has made any statement or furnished any information which is false or misleading in a material respect, the Board may—

17.1 reduce or withhold any financial assistance to the pig producer; and

17.2 recover from such pig producer an amount equal to any financial assistance given under this scheme or such part thereof as the Board may specify.

SCHEDULE 1

FUNCTIONS OF THE COMMISSION

1. Giving advice, assistance and/or information to pig producers in relation to—
 - 1.1 measures to prevent and/or limit the spread of any pig disease, including structure and/or other changes to their business premises and/or practices;
 - 1.2 techniques including contingency planning to alleviate the consequences for their businesses of any pig disease; and
 - 1.3 matters relating to restrictions on the movement of pigs imposed by the Appropriate Authority pursuant to the 1981 Act.
2. Investigating, and to the extent possible, arranging or facilitating the provision of insurance cover for loss and damage to the pig industry and pig products industry arising out of any incidence of pig disease.
3. Giving appropriate financial assistance to pig producers to make structural and/or other changes to their business premises and/or practices to prevent, and/or to limit the spread of, any incidence of pig disease.
4. Giving appropriate financial assistance to pig producers to undergo skills training and to make contingency plans in relation to the prevention or consequences of any pig disease.
5. Giving appropriate financial assistance to pig producers who have transferred ownership of their pigs to the Intervention Board for Agricultural Produce pursuant to the Pig Welfare (Disposal) scheme announced by the Minister on 29th August 2000.
6. Giving appropriate financial assistance to pig producers who are affected by restrictions on the movement of their pigs imposed by the Appropriate Authority pursuant to the 1981 Act having regard in particular to—
 - 6.1 the duration of any restrictions;
 - 6.2 the extent of the geographical area affected by any restrictions;
 - 6.3 the number of pigs affected by any restrictions;
 - 6.4 the extent of financial disruption caused by the restrictions; and
 - 6.5 the state of the market in pigs and pig products,including any such producers who participate in any scheme established for the purpose of alleviating an excessive concentration of pigs in any given place where any such concentration would be prejudicial to the welfare of the pigs kept in that place.
7. Giving appropriate financial assistance to pig producers who are affected by the incidence of any pig disease (otherwise than by restrictions on the movement of their pigs by the Appropriate Authority pursuant to the 1981 Act), having regard in particular to—
 - 7.1 the duration of any pig disease;
 - 7.2 the geographical area affected by the incidence of any pig disease;
 - 7.3 the number of pigs affected by any pig disease;
 - 7.4 the extent of the financial disruption caused by any pig disease; and
 - 7.5 the state of the market in pigs and pig products.
8. Any functions incidental or ancillary to any of the functions specified above or to the attainment of the objective described in paragraph 3 of this scheme.
9. In paragraphs 3 to 7 above, giving “appropriate financial assistance” means giving such financial assistance as the Commission may determine to be appropriate, having regard to the funds available to it for that purpose and in accordance with such criteria as the Commission may determine for the purposes of assessing the eligibility of such producers and calculating the amounts to be paid to them by way of such assistance.

SCHEDULE 2

PIG LEVY SCHEME

1.—(1) The persons on whom charges may be imposed under this levy scheme are slaughterers of pigs. Charges shall be leviable on pigs slaughtered in a slaughterhouse and shall be recoverable by the Commission from the slaughterer having the control and management of the slaughterhouse where the pigs are slaughtered.

(2) The maximum charge in respect of each pig for which charges are leviable under this levy scheme shall not exceed £1. Subject to sub-paragraphs (1) and (4), the Commission may, after consultation with BPEX, levy such amounts as it thinks fit from time to time or suspend the levy for any period.

(3) Without prejudice to the generality of sub-paragraph (2) of this paragraph (but subject to sub-paragraphs (1) and (4)), the Commission may impose charges of different amounts according to the weight, quality or value of the pigs in respect of which the charges are imposed; provided that no charges shall be levied under this levy scheme in respect of livestock slaughtered under the Animal Health Act 1981.

(4) The Commission shall not levy any charge under this levy scheme in respect of any pig which they are satisfied was not born or reared or fattened in Great Britain. For this purpose, the Commission shall be satisfied if the slaughterer is so satisfied, on the basis of such evidence as the Commission shall determine.

2.—(1) Any charge duly levied under this levy scheme shall, subject as mentioned in sub-paragraph (3), be payable to the Commission on such date or dates and at such place or places as the Commission may from time to time require and shall be recoverable as a debt due to the Commission from the slaughterer.

(2)(a) Subject to sub-paragraph (b)—

(i) where the slaughterer slaughters a pig which he has purchased, or of which he has agreed to purchase all or part of the carcass after slaughter, the Commission may determine that there shall be recoverable as a debt due to him from the person from whom he has purchased the pig or has agreed to purchase all or part of the carcass (as the case may be) the whole of any sum paid by the slaughterer under this levy scheme in respect of that pig;

provided that where the purchase was at auction the slaughterer is hereby authorised to recover from the auctioneer instead of from the person from whom he purchased;

(ii) where the slaughterer slaughters a pig (not being a pig which the slaughterer has purchased or of which he has agreed to purchase all or part of the carcass after slaughter) on the instructions of another person, the Commission may determine that there shall be recoverable on demand as a debt due to him from that person the whole of any sum paid by the said slaughterer under this levy scheme by reference to that pig;

(iii) where an auctioneer auctions a pig which is then slaughtered by any purchaser who is entitled to claim from the auctioneer any sum paid under the levy scheme, the Commission may determine that any such sum which is claimed by the purchaser from the auctioneer shall be recoverable on demand as a debt due to the auctioneer from the person for whom he auctioned the pig.

(b) Sub-paragraph (a) shall apply only where the person from whom the slaughterer is authorised to recover is a person engaged in the production, marketing (including marketing by a person concerned otherwise than as a buyer or seller), or distribution of pigs or pig products.

(3) The Commission may in its absolute discretion determine that the slaughterer shall be entitled to make deductions from his payments to the Commission in respect of his expenses in exercising his right of recovery under sub-paragraph (2) of this paragraph or in ascertaining whether a charge is leviable under this levy scheme in respect of any pig slaughtered by him, but such deduction shall not exceed such amount as the Commission may from time to time determine as being reasonable.

(4) Where the slaughterer defaults in payment to the Commission of any sum due from him under this levy scheme and would, if he had made payment, have been authorised to recover such sum from another person in accordance with sub-paragraph (2) of this paragraph, the Commission are authorised, if they think fit, to recover directly from the last-mentioned person as a debt due from him to the Commission the amount which would have been payable indirectly if the default had not occurred;

provided that this sub-paragraph shall not apply where the last-mentioned person satisfies the Commission that he has made payment to the slaughterer.

(5) Where in the opinion of the Commission any sum which a slaughterer is authorised by sub-paragraph (2) to recover from another person ought reasonably to be treated as irrecoverable by the slaughterer, the Commission shall afford him relief either by permitting him to deduct such sum from payments to the Commission or by way of refund whichever the Commission shall decide.

(6) Where a slaughterer has not made payment of a charge due to the Commission under this levy scheme within 21 days of a written request for the charge concerned being made, then, in order to enable the Commission to meet their expenses of administering the Scheme, interest will become payable (after as well as before judgment) on the amount of the unpaid charge from the date of the written request and will be charged at the rate of one per cent above the London Interbank Offer Rate offered for a three month deposit in Sterling and will accrue daily until the charge is paid.

(7) Any sum recovered as a debt by a slaughterer pursuant to paragraph 2(2)(a) shall be deemed to be received by him in trust for the Commission.

3.—(1) So far as necessary for determining the liability of slaughterers to charges under this levy scheme, the Commission may, by notice published in at least one newspaper having a national circulation in England and Wales and at least one newspaper having a national circulation in Scotland and in such other newspapers and other periodicals as the Commission consider appropriate to bring the matter to the notice of persons affected, from time to time require every slaughterer (or any class or classes of slaughterers specified in the notice) to be registered in a register kept for the purpose by the Commission.

(2) Without prejudice to the preceding sub-paragraph, the Commission may (so far as is necessary for the purpose mentioned in that sub-paragraph) by notice in writing served upon any slaughterer require him to be registered as aforesaid.

(3) Any slaughterer who is required to be registered as aforesaid shall apply to the Commission to be registered upon such form as the Commission may from time to time prescribe; and any person so registered who has ceased to be a slaughterer and who desires that his name shall be removed from the register shall apply for such removal upon such form as the Commission may from time to time prescribe.

4. So far as is necessary for determining the liability of any slaughterer to charges under this levy scheme, the Commission may from time to time by notice in writing served upon any slaughterer require him—

- (a) to keep an accurate record in writing, to be duly completed and signed and dated each day, specifying—
 - (i) for each pig slaughtered on the instructions of another person, the name and sufficient other information to identify that person and a sufficient description of the animal to enable the charge payable in respect of it to be ascertained;
 - (ii) the total number of pigs slaughtered each day and sufficient information to enable the charges payable in respect thereof to be ascertained;
- (b) to retain any such record for such period (not exceeding two years) as may be specified in the notice;
- (c) to produce for examination on demand by a person authorised for that purpose by the Commission any such record and any other books or documents in the possession or under the control of the slaughterer; and
- (d) to furnish to the Commission at such address and at such time or times and in such form as may be specified in the notice such returns and other information as may be so specified.

5. A person authorised to act in the exercise of the power conferred by paragraph 4(c) shall carry a warrant of his authority so to act and shall produce the same on demand.

6. For the purpose of establishing the liability of any person under this levy scheme, the production of a certificate purporting to be signed by the Director General or other officer of the Commission authorised to give the certificate specifying the amounts levied by the Commission for any period shall be sufficient evidence of the facts so specified.

EXPLANATORY NOTE

(This note is not part of the Order)

By this Order the Minister of Agriculture, Fisheries and Food and the National Assembly for Wales, acting jointly, and with the consent of the Scottish Ministers, confirm the Pig Industry Development Scheme (2000) (“the Development Scheme”).

The Development Scheme, which applies to Great Britain and is made by the Meat and Livestock Commission (“the Commission”) under section 9 of the Agriculture Act 1967 (c. 22) (“the Act”) has as its objective the provision of such facilities or services, and the giving of such financial assistance, as the Commission shall determine for the purpose of the better organisation and development of the pig industry in dealing with the risk of pig herds contracting an infectious disease and the financial consequences for the businesses of pig producers, in so far as incurred in Great Britain, of any such disease. For this purpose, the Commission are given the functions set out in Schedule 1 to the Development Scheme.

Paragraph 13 of the Development Scheme provides for the Commission to establish a fund for the operation of the Development Scheme, and Schedule 2 to the Development Scheme provides for contributions to that fund to be made from charges levied on slaughterers of pigs which are slaughtered in a slaughter house. The maximum charge per pig is specified as £1. Provision is made for the Commission to determine that such charges shall be recoverable from the person from whom the slaughterer has purchased the pig or on whose instructions the pig has been slaughtered, and, where such charges are recoverable from an auctioneer, for the charges to be recoverable by the auctioneer in turn from the person for whom he auctioned the pig.

The Development Scheme enables the Commission to require slaughterers to be registered in a register kept by the Commission, and to keep accurate records relating to pigs slaughtered.

The Development Scheme applies the offences in section 14(2) and (3) in relation to the levy scheme set out in Schedule 2, and also applies for the purposes of that levy scheme the powers of entry conferred by section 23 of the Act and the restrictions on disclosure of information in section 24 of the Act.

A Regulatory Impact Assessment has been prepared in respect of this Order and has been deposited in the library of both Houses of Parliament.

£2.00

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