Draft Order laid before Parliament under section 97(8)(a) of the Natural Environment and Rural Communities Act 2006, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2007 No.

AGRICULTURE

The Agriculture and Horticulture Development Board Order 2007

Made - - - - 2007

Coming into force in accordance with article 1

The Secretary of State makes the following Order in exercise of the powers conferred on him by the following provisions of the Natural Environment and Rural Communities Act 2006(**1**)—

sections 87 to 91, 93, 96 and 97(1) and (2);

paragraphs 5 to 11 of Schedule 8; and

Schedules 9 and 10.

He has consulted with such organisations as appear to him to be representative of interests substantially affected by this Order as required by section 97(5) of that Act.

As required by section 96(1)(e) of that Act, he makes the Order with the approval of—

the Department of Agriculture and Rural Development in Northern Ireland;

the Scottish Ministers (as required by section 96(4) of the Act, a draft of the Order was laid before the Scottish Parliament and approved by resolution before the Scottish Ministers gave their approval); and

the Welsh Ministers.

In accordance with section 97(8)(a) of the Act, a draft of these Regulations has been laid before Parliament and approved by a resolution of each House of Parliament.

Title, commencement and extent

1.—(1) This Order may be cited as the Agriculture and Horticulture Development Board Order 2007.

(**1**) 2006 c. 16. The "appropriate authority" empowered to make an Order is defined in section 96. By virtue of sections 59(1) and 162 of, and paragraphs 28 and 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32), functions conferred on the National Assembly for Wales are exercisable by the Welsh Ministers.

(2) Articles 1, 2, 3(1) and (2), 4, 5, 8, 9 and 10, Schedule 2 and paragraphs 1 to 5 of Schedule 5 (and article 18 so far as relating to those paragraphs) come into force the day after this Order is made.

(3) The remainder of the Order comes into force on 1st April 2008.

(4) Except as provided by paragraph (5), this Order extends to England and Wales, Scotland and Northern Ireland.

(5) Any amendment, repeal or revocation made by this Order has the same extent as the provision to which it relates.

Scope

2.—(1) This Order relates to—

(a) the beef and sheep industry in England;

(b) the cereal and oilseed industries in the United Kingdom;

(c) the horticulture industry in Great Britain;

(d) the milk industry in Great Britain;

(e) the pig industry in England; and

(f) the potato industry in Great Britain.

(2) For these purposes—

"beef and sheep industry" means all the activities comprised in the production, marketing and distribution of—

(a) cattle and sheep, including the carrying on of slaughterhouses and cattle and sheep auctions and markets;

(b) meat and meat products (other than milk and milk products) from cattle and sheep;

"cereal and oilseed industries" means the industries comprising the activities of growers and persons trading as wholesale buyers or sellers of cereal or oilseed, or processing cereal, and—

(a) "cereal" means wheat (including durum wheat), barley, oats, rye, maize, triticale or any two or more of such cereals grown as one crop; and

(b) "oilseed" means rapeseed, linseed, soyabean or sunflowerseed or any two or more of such oilseeds grown as one crop;

"horticulture industry" means the growing of the horticultural products listed in Part 4 of Schedule 3 by way of business;

"milk industry" means the industry comprising the activities of producers in producing cows' milk or milk products and selling them by way of business;

"pig industry" means all the activities comprised in the production, marketing and distribution of pigs or pig products, including the carrying on of slaughterhouses and pig auctions and markets;

"potato industry" means the activities of persons in growing, selling, buying or in any way dealing in potatoes, whether raw or processed, by way of business.

(3) A reference in this Order to "industry" is a reference to one or more of these industries.

Establishment of the Agriculture and Horticulture Development Board

3.—(1) A body called the Agriculture and Horticulture Development Board is established.

(2) Its purposes are—

(a) increasing efficiency or productivity in the industry;

(b) improving marketing in the industry;

(c) improving or developing services that the industry provides or could provide to the community; and

(d) improving the ways in which the industry contributes to sustainable development.

(3) Its functions are the provision of any of the services specified in Schedule 1.

Constitution etc. of the Board

4. Schedule 2 (constitution and proceedings of the Agriculture and Horticulture Development Board) has effect.

Acting through subsidiaries

5.—(1) The Agriculture and Horticulture Development Board may establish a subsidiary company for each of the industries within the scope of this Order and may establish such other subsidiary companies as may be conducive or incidental to its functions, and a reference to a subsidiary company in this Order is a reference to such a company.

(2) The Board may delegate any of its functions to a subsidiary company, but may continue to carry out any function it has delegated.

(3) A subsidiary company must carry out the functions in Schedule 1 that the Board delegates to it.

Levies

6.—(1) The Agriculture and Horticulture Development Board must impose a levy to enable it to provide services for each industry covered by this Order, and Schedule 3 has effect.

(2) All figures in that Schedule exclude VAT.

(3) The levies are to enable the Board to—

(a) cover its costs in providing any of the services specified in Schedule 1;

(b) meet its administrative expenses;

(c) further a purpose in article 3(2); and

(d) establish a reserve fund.

(4) The rate of levy (and any higher rate for late payment of the levy) must be approved annually by the appropriate authority.

(5) The Board may delegate the collection of levy to a subsidiary company.

(6) Levy raised in relation to an industry may only be used in relation to that industry.

Estimates

7.—(1) If any person liable to pay levy fails to notify the Agriculture and Horticulture Development Board or a subsidiary company of the information specified in Schedule 3 by the due date specified in that Schedule, the Board or the subsidiary company may estimate the amount that should have been notified, and notify the person of the estimate.

(2) If the person fails to make a return within 28 days of notification of the estimate he becomes liable to pay levy on that estimate.

(3) The Board may provide that a higher rate of levy is payable on the estimated amount, but that higher rate may not exceed the maximum rates provided for in Schedule 3.

Charges for services

8. The Agriculture and Horticulture Development Board, or any subsidiary company, may make such charges for any services in addition to the services referred to in article 6 as appear to the Board or subsidiary company to be reasonable.

Reserve funds etc.

9. The Agriculture and Horticulture Development Board may—

(a) establish and maintain a reserve fund for the purposes of its functions; and

(b) borrow money and charge property.

Incidental Powers

10.—(1) The Agriculture and Horticulture Development Board may do anything that appears to it to be conducive or incidental to the discharge of its functions.

(2) In particular it may—

(a) enter into agreements;

(b) acquire or dispose of property;

(c) raise funds by means of voluntary contributions; and

(d) accept gifts.

Ballots

11.—(1) The Agriculture and Horticulture Development Board may hold a ballot at any time on whether or not a levy should continue.

(2) It must do so if directed by the appropriate authority.

(3) It must do so if it receives within a three month period one or more requests for a ballot signed by at least 5% of persons entitled to vote in a ballot.

(4) The three month period is calculated from the first day of any month.

(5) The maximum frequency with which ballots for the same levy can be held at the request of persons entitled to vote is 5 years.

(6) A request for a ballot is not valid if it is made before 1st April 2012.

(7) The Board must immediately inform the appropriate authority of the result of a ballot, but the appropriate authority is not bound by the result.

Who can vote

12.—(1) The following are entitled to vote in relation to the levy.

Voters

Levy	*Voters and categories*
Pigs	Any person who keeps pigs in England Any person who slaughters or exports pigs in England
Cattle	Any person who keeps cattle in England

Levy	*Voters and categories*
	Any person who slaughters or exports cattle in England
Sheep	Any person who keeps sheep in England
	Any person who slaughters or exports sheep in England
Milk	Any milk producer in Great Britain
Horticulture	Any person who pays horticulture levy
Potato	Any person who pays the potato grower levy
	Any person who pays the potato buyer levy
Cereal	Any person who pays the cereal buyer levy
	Any person who pays the cereal processor levy
	Any person who pays the cereal grower levy
Oilseeds	Any person who pays the oilseed grower levy

(2) The qualification for voting must be satisfied in the twelve months preceding the ballot.

(3) Each person entitled to vote has one vote (if there is a partnership each partnership has one vote).

(4) Separate ballots may be held for different categories of voters.

Report and accounts

13.—(1) For each financial year, the Agriculture and Horticulture Development Board must—

(a) prepare an annual report on how it has discharged its functions during the year, and

(b) send a copy of the report to the Secretary of State, the Scottish Ministers, the Welsh Ministers and the relevant Northern Ireland department within such period as the appropriate authority directs.

(2) In this article, "financial year" means—

(a) the period beginning with the day on which the Board is established and ending with the next 31st March, and

(b) each subsequent period of 12 months ending with 31st March.

(3) The Board must keep proper accounts and records.

(4) For each financial year, it must—

(a) prepare a statement of accounts in respect of that financial year, and

(b) send copies to the Secretary of State and the Comptroller and Auditor General within such period as the appropriate authority directs.

(5) The statement must be in such form as the appropriate authority, with the approval of the Treasury, directs.

(6) The Comptroller and Auditor General must—

(a) examine, certify and report on the statement, and