Draft Order laid before Parliament under section 1(6) of the Industrial Organisation and Development Act 1947, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2004 No.

INDUSTRIAL ORGANISATION AND DEVELOPMENT

The Milk Development Council (Amendment) Order 2004

Made - - - -	*2004*
Coming into force - -	*1st April 2004*

The Secretary of State and the National Assembly for Wales, acting concurrently, in exercise of the powers conferred by sections 1, 3, 4 and 8 of the Industrial Organisation and Development Act 1947(**1**), and now vested in them(**2**), and with the consent of the Scottish Ministers(**3**), and after consultation, in accordance with sections 1(3) and 8(1) of that Act, with the Milk Development Council, with organisations appearing to them to be representative of substantial numbers of persons carrying on business in the milk industry and with such organisations representative of persons employed in that industry as appear to them to be appropriate, and having satisfied themselves (as required by section 4(3) of that Act) that the incidence of the charges as between different classes of undertakings in the milk 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:

(**1**) 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).

(**2**) In respect of the Secretary of State, by virtue of S.I. 1955/554, 1978/272, 1999/672, 3141 and 2002/794; in respect of the National Assembly for Wales, by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) ("the 1999 Order"), in so far as they are exercisable in relation to Wales. The Milk Development Council is a cross-border body as defined in Schedule 3, paragraph 3(2), to the Government of Wales Act 1998 (c. 38). By virtue of article 2(c) of the 1999 Order, functions under the Industrial Organisation and Development Act 1947 which are exercisable in relation to a cross-border body, and which cannot be specifically exercised in relation to Wales, are exercisable by the National Assembly for Wales in relation to that body concurrently with the specified Minister of the Crown.

(**3**) By the Scotland Act 1998 (Cross-Border Public Authorities) (Specification) Order 1999 (S.I. 1999/1319), made under section 88(5) of the Scotland Act 1998 (c. 46), the Milk Development Council was specified as a cross-border public authority for the purposes of that Act. By article 3 of, and paragraph 3 of Schedule 17 to, the Scotland Act 1998 (Cross-Border Public Authorities) (Adaptation of Functions etc.) Order 1999 (S.I. 1999/1747) it was provided, in respect of any function exercisable by a Minister of the Crown under the Industrial Organisation and Development Act 1947 to modify the Milk Development Council Order 1995 (S.I. 1995/356), that the Secretary of State for Scotland should cease to be such a Minister of the Crown, and that any such function should now be exercisable only with the consent of the Scottish Ministers.

Title, commencement and interpretation

1.—(1) This Order may be cited as the Milk Development Council (Amendment) Order 2004 and shall come into force on 1st April 2004.

(2) In this Order "the principal Order" means the Milk Development Council Order 1995(**4**).

Amendment of the principal Order

2. The principal Order shall be amended in accordance with the following provisions of this Order.

3. In article 2 (interpretation), in paragraph (1) after the definition of "producer", there shall be inserted the following definition—

> ""production year" means a period of 12 months starting on 1st April and ending on 31st March;".

4. For article 8 (returns and information) there shall be substituted the following article—

> "**Returns and information**
>
> **8.**—(1) Subject to paragraph (4), the Council may require any registered producer to furnish such returns and information relating to activities carried out as part of his business and comprised in the industry as appear to the Council to be required for the exercise of any of their functions.
>
> (2) Paragraph (3) applies where the Council, pursuant to paragraph (1), requires any Case B producer to make a return to the Council for any production year within one month after the end of that production year.
>
> (3) Where a Case B producer fails to make a return within the period mentioned in paragraph (2), the following procedure shall apply—
>
> (a) the Council shall make an estimate of the producer's milk production in the relevant production year by reference to information which is available to the Council concerning the extent of that production;
>
> (b) where such information is not available to the Council, they shall make an estimate of the extent of the producer's milk production by reference to the quota registered in his name on 31st March in the production year pursuant to the Dairy Produce Quotas Regulations 2002(**5**), the Dairy Produce Quotas (Wales) Regulations 2002(**6**) or the Dairy Produce Quotas (Scotland) Regulations 2002(**7**), and any other relevant information which is available to the Council;
>
> (c) where an estimate is made under sub-paragraph (b), the amount of the estimate may be increased by up to 10% where it appears to the Council that the total milk production in the United Kingdom in the production year may exceed the total quota registered in that year pursuant to the Regulations referred to in sub-paragraph (b) above and the Dairy Produce Quotas Regulations (Northern Ireland) 2002(**8**);
>
> (d) the Council shall then give the producer notice in writing—
>
> (i) that they have made such an estimate and the amount of it; and

(**4**) S.I. 1995/356 as amended by S.I. 2000/878.
(**5**) S.I. 2002/457.
(**6**) S.I. 2002/897 (W.103).
(**7**) S.S.I. 2002/110 as amended by S.S.I. 2002/228.
(**8**) S.R. (NI) 2002 No 88.