STATUTORY INSTRUMENTS

1993 No. 2665 (N.I. 10)

The Agriculture (Northern Ireland) Order 1993

- - - - - - 27th October 1993

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Agriculture (Northern Ireland) Order 1993.

(2) Except as otherwise provided by Articles 4 and 23, this Order shall come into operation on the expiration of 7 days from the day on which it is made.

General interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954[F1] shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

"the Department" means the Department of Agriculture;

"statutory provision" has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

Annotations:
F1 1954 c. 33 (N.I.)

PART II

MILK MARKETING

Introductory

Interpretation of Part II

3. In this Part—

"approved scheme" means a scheme of reorganisation in relation to which an application under Article 5, but no application under Article 9, has been granted (with any variations approved under Article 8);

"the Board" has the meaning given by Article 5(1);

"notice" means notice in writing;

"registered producers" means persons registered as producers under the 1989 Scheme;

"scheme of reorganisation" has the meaning given by Article 5(1);

"subsidiary" has the same meaning as in the Companies (Northern Ireland) Order 1986[F2]; and

"the 1989 Scheme" has the meaning given by Article 4(1).

Annotations:
F2 1986 NI 6

Ending of the Milk Marketing Scheme

Revocation of the Milk Marketing Scheme

4.—(1) The Milk Marketing Scheme (Northern Ireland) 1989 ("the 1989 Scheme"), having effect under the Agricultural Marketing (Northern Ireland) Order 1982[F3], is hereby revoked.

(2) Subject to paragraphs (3) and (4), paragraph (1) shall come into operation on**[**[F4] 1st April 1995.**]**

(3) The Department may by order provide that paragraph (2) shall have effect with the substitution for 1st April 1994 of such later date before 1st January 1996 as may be specified in the order.

(4) Where property, rights or liabilities of the Board are transferred under Article 14 (statutory transfer on vesting day under approved scheme of reorganisation)—

(a) paragraph (2) shall not apply; and

(b) paragraph (1) shall come into operation on the day of the transfer.

(5) Where paragraph (4) applies, the Department shall by order certify the fact and date of its application.

Annotations:
F3 1982 NI 12
F4 SR 1994/340

Scheme of reorganisation

Applications for approval

5.—(1) The Milk Marketing Board for Northern Ireland ("the Board") may, at any time before 1st January 1994, apply to the Department for approval of a scheme for the reorganisation of the arrangements relating to the marketing of milk in Northern Ireland ("scheme of reorganisation").

(2) An application under this Article shall include—

(a) a copy of the scheme to which the application relates;

(b) a statement of the Board's reasons for believing that the scheme is one which ought to be approved;

(c) a statement, in relation to each successor body proposed to be engaged in milk trading, of the practices proposed to be adopted by it with respect to such trading; and

(d) a statement of the Board's reasons for believing that those practices satisfy Article 6(2)(a)(iii).

(3) Subject to paragraph (4), an application under this Article may be amended or withdrawn at any time before the Department has finally determined it.

(4) An application under this Article may not be amended at any time after the Department has given the Board notice under Article 7(2) or (3).

(5) Where the Board has made an application under this Article, it may not make a further such application until the previous application has been finally determined or withdrawn.

(6) No application under this Article may be made by the Board if it has obtained approval of a scheme of reorganisation under this Part.

(7) The Department may by order extend the period for making applications under this Article.

(8) In paragraph (2)(c), "successor body" means a body to which property, rights or liabilities of the Board are, under a scheme of reorganisation, proposed to be transferred under Article 14.

Determination of applications

6.—(1) This Article applies where the Board makes an application under Article 5 for approval of a scheme of reorganisation.

(2) The Department shall not grant the application unless—

(a) it is satisfied—

(i) that the Board has taken reasonable steps to bring the principles of the scheme to the attention of persons who are registered producers;

(ii) that the scheme is a qualifying scheme under Schedule 1; and

(iii) that the practices contained in the statement mentioned in Article 5(2)(c) take account of the interests of purchasers of milk; and

(b) it has consulted about the principles of the scheme such persons appearing to it to be representative of the interests of producers, purchasers, retailers and consumers of milk as it considers appropriate.

(3) Subject to that—

(a) if the Department is satisfied that the scheme is one which ought to be approved, it shall grant the application; and

(b) if it is not so satisfied, Article 7 shall apply.

(4) In determining for the purposes of paragraph (3) whether the scheme ought to be approved, the Department shall have regard to all the circumstances and, in particular, to—

(a) whether the scheme takes account of the interests of consumers of milk and producers of milk;

(b) whether the scheme makes reasonable provision for the distribution of assets to persons by reference to their being, or having been, registered producers;

(c) whether it is unlikely that any person to whom a liability is transferred under the scheme will be unable to meet it;

(d) whether it is unlikely that the Board will be unable to meet retained liabilities out of retained assets; and

(e) whether the structure of the new arrangements contemplated by the scheme is such as to allow for the development of competition in milk marketing.

(5) The scheme shall not be taken to be unreasonable in its treatment of the distribution of assets to persons by reference to their being, or having been, registered producers by virtue only of the fact that it—

(a) specifies a date by reference to which any such distribution is to be made; or

(b) provides for any such distribution to be made by reference to the occurrence in a specified period (being a period of at least a year) of any relevant matter,

provided the specified date or, as the case may be, the end of the specified period, is not earlier than 31st March 1993 and not later than the vesting day under the scheme.

(6) For the purposes of paragraph (5), the following are relevant matters—

(a) the production of milk; and

(b) the sale of milk by the person responsible for producing it.

(7) For the purposes of paragraph (6)(b), milk shall be treated as sold if it is sold in the form of milk or in the form of a product which is wholly or partly derived from milk or which includes milk as an ingredient.

Procedure where scheme not one which ought to be approved

7.—(1) This Article applies where, on an application by the Board under Article 5 for approval of a scheme of reorganisation, the Department is satisfied as mentioned in paragraph (2)(a) of Article 6, but is not satisfied as mentioned in paragraph (3)(a) of that Article.

(2) Where the Department is satisfied that the scheme is not capable of being modified so as to bring it within Article 6(3)(a), it shall refuse the application, but, before finally concluding that the application should be refused under this paragraph, it shall—

(a) give the Board notice of the conclusions it proposes to reach about the scheme and of the reasons for them;

(b) specify in the notice under sub-paragraph (a) a day, at least 28 days after the date of the notice, on or before which the Board may make written representations to the Department about those conclusions; and

(c) take into consideration any representations made to it under sub-paragraph (b) or in response to an invitation by it to the Board to make oral representations about those conclusions.

(3) Where the Department is satisfied that the scheme is capable of being modified so as to bring it within Article 6(3)(a), it shall give the Board notice of—

(a) the modifications which it considers would bring it within that provision;

(b) the reasons for them; and

(c) a day, at least 28 days after the date of the notice, on or before which the Board may respond to the proposed modifications.

(4) If, before the end of the period for responding to the proposed modifications, the Board gives the Department notice of its agreement to them, the application shall be treated as relating to the scheme with those modifications.

(5) If, at the end of the period for responding to the proposed modifications, the Board has not—

(a) persuaded the Department that no modifications are required;

(b) given the Department notice of its agreement to the proposed modifications; or

(c) given the Department notice of proposed alternative modifications,

the Department shall refuse the application.

(6) Paragraphs (7) and (8) apply where, before the end of the period for responding to the proposed modifications, the Board gives the Department notice of proposed alternative modifications.

(7) If the Department is satisfied that the proposed alternative modifications would bring the scheme within Article 6(3)(a), it shall treat the application as relating to the scheme with those modifications.

(8) If the Department is not so satisfied, it shall refuse the application, but, before finally concluding that the application should be refused under this paragraph, it shall—

(a) give the Board notice of the conclusion it proposes to reach about the proposed alternative modifications and of the reasons for it;

(b) specify in the notice under sub-paragraph (a), a day, at least 28 days after the date of the notice, on or before which the Board may make written representations to the Department about that conclusion; and

(c) take into consideration any representations made to it under sub-paragraph (b) or in response to an invitation by it to the Board to make oral representations about that conclusion.

(9) The Department may by notice to the Board extend (or further extend) as it thinks fit—

(a) the period under paragraph (2)(b) for making representations;

(b) the period under paragraph (3)(c) for responding to proposed modifications; or

(c) the period under paragraph (8)(b) for making representations.

Variation of approved scheme

8.—(1) Subject to paragraph (2), the Department may approve a variation of an approved scheme on the application of the Board made before the vesting day under the scheme.

(2) The Department shall not approve a variation of an approved scheme unless—

(a) it is satisfied—

(i) that the Board has taken reasonable steps to bring the principle of the proposed variation to the attention of persons who are registered producers; or

(ii) that the proposed variation is not sufficiently important to require the principle of it to be brought to their attention; and

(b) it is satisfied that its decisions under Article 6(2)(a)(ii) and (3)(a) would not have been different had the scheme included the proposed variation.

Withdrawal of approval

9.—(1) The Department may, on the application of the Board before the vesting day under an approved scheme, withdraw the scheme's approval if it is satisfied that there has been a material change of circumstances since the scheme was approved.

(2) The Department shall give the Board notice of its decision under paragraph (1) in relation to the application.

(3) Where approval in relation to a scheme is withdrawn under paragraph (1), it shall cease to be an approved scheme with effect from the date of the notice under paragraph (2).

(4) Where a scheme ceases under this Article to be an approved scheme, it shall be disregarded for the purposes of Article 5(6).

(5) Where the period within which an application under Article 5 may be made has expired before the date on which a scheme ceases under this Article to be an approved scheme, the Board may,