Changes to legislation: *The Agricultural Marketing (Northern Ireland) Order 1982 is up to date with all changes known to be in force on or before 06 March 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

1982 No. 1080 (N.I. 12)

The Agricultural Marketing (Northern Ireland) Order 1982

- - - - - - *30th July 1982*

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Agricultural Marketing (Northern Ireland) Order 1982.

(2) Except as provided by Article 46(3), this Order shall come into operation on the expiration of six weeks from the date on which it is made.

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—

"agricultural product" includes—

(a) any product of agriculture or horticulture;

(b) any article of food or drink wholly or partly manufactured or derived from any such product; and

(c) fleeces (including all kinds of wool, whether from a living animal or from a dead animal or from the skin of a dead animal) and the skins of animals;

"board" means—

(a) in Part II, a board administering an agricultural marketing scheme and, in relation to any such scheme, the board administering that scheme;

(b) in Part III, a board administering an agricultural marketing service scheme and, in relation to any such scheme, the board administering that scheme;

"the Department" means the Department of Agriculture;

"enrolled producer" means, in relation to any agricultural marketing service scheme, a producer enrolled under the scheme;

"initial poll", in relation to an agricultural marketing scheme, means the first poll of registered producers taken on the question whether the scheme shall remain in force;

"producer" means—

(a) in Part II, in relation to any agricultural marketing scheme, any person who produces the regulated product;

(b) in Part III, in relation to any agricultural marketing service scheme, any person who produces the specified product;

"registered producer" means, in relation to any agricultural marketing scheme, a producer registered under the scheme;

"regulated product" means, in relation to any agricultural marketing scheme, any agricultural product the marketing of which is regulated by the scheme;

"requisite majority" means—

(a) in relation to a poll of registered producers, a majority comprising—

(i) not less than two-thirds of the total number of registered producers voting on the poll, and

(ii) such number of registered producers as are together capable of producing not less than two-thirds of the quantity of the regulated product which all the registered producers voting on the poll are together capable of producing;

(b) in relation to a poll of enrolled producers, a majority comprising—

(i) not less than two-thirds of the total number of enrolled producers voting on the poll, and

(ii) such number of enrolled producers as have together, within such period as may be specified by the scheme, sold to the board not less than two-thirds of the quantity of the specified product which the board has bought from enrolled producers voting on the poll within that period;

"scheme" means—

(a) in Part II, an agricultural marketing scheme under that Part;

(b) in Part III, an agricultural marketing service scheme under that Part;

"specified product" means, in relation to any agricultural marketing service scheme, any agricultural product for the marketing of which the scheme is made;

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

"substitutional scheme" means—

(a) in Part II, an agricultural marketing scheme which revokes one or more existing agricultural marketing schemes, and is such that at the time when it comes into force—

(i) every person is entitled to be registered as a producer thereunder who was entitled to be registered as a producer under the existing scheme or one or more of the existing schemes; and

(ii) no person is entitled to be registered as a producer thereunder who was not entitled to be registered as a producer under the existing scheme or any of the existing schemes;

(b) in Part III, an agricultural marketing service scheme which revokes one or more existing agricultural marketing service schemes, and is such that at the time when it comes into force—

(i) every person is entitled to be enrolled as a producer thereunder who was entitled to be enrolled as a producer under the existing scheme or one or more of the existing schemes; and

(ii) no person is entitled to be enrolled as a producer thereunder who was not entitled to be enrolled as a producer under the existing scheme or any of the existing schemes;

"suspensory period", in relation to an agricultural marketing scheme, means a period beginning on the date when the scheme is approved and ending at the expiration of such period (not being less than one month or more than two months) beginning on the date of the declaration of the result of the initial poll, as may be provided by the scheme.

(3) A declaration by the Department, contained in an order approving a scheme under Part II or III, that the scheme is a substitutional scheme shall be conclusive evidence of that fact.

(4) For the purposes of a scheme under Part II or III, every person whose business it is to keep livestock for the purpose of breeding from it or selling it in an improved condition shall, except in so far as the scheme otherwise provides, be deemed to produce it.

(5) References in this Order to the interests of consumers of a regulated or a specified product shall be construed as references to the interests of persons who purchase the product, or goods produced wholly or partly therefrom, for their own consumption or use and not to the interests of persons who purchase the product, or such goods as aforesaid, for the purpose of any trade or industry carried on by them.

F1 1954 c. 33 (NI)

PART II

AGRICULTURAL MARKETING SCHEMES

Submission and approval of schemes and procedure for determining whether scheme to remain in force

Submission of agricultural marketing schemes

3 [F2]**.**—(1) An agricultural marketing scheme regulating the marketing of an agricultural product by the producers thereof, other than a substitutional scheme, may be submitted to the Department for its approval by any persons who satisfy the Department that they are substantially representative of the persons who produce that product.

(2) Subject to paragraphs (5) and (6), a substitutional scheme may be submitted to the Department for its approval by the board or boards administering the scheme or schemes revoked by the substitutional scheme.

(3) The application of a scheme shall not be restricted to any particular part or parts of Northern Ireland.

(4) For the purpose of satisfying itself as mentioned in paragraph (1), the Department shall have regard both to the number of persons represented and to the quantity of the agricultural product to which the scheme relates produced by them during some recent period before the scheme is submitted.

(5) Before a substitutional scheme is submitted to the Department under paragraph (2) it shall be published in the prescribed manner to all producers registered under the scheme or schemes revoked by it.

(6) If, within the prescribed period after it has been so published to producers registered under a scheme revoked by it, a poll on the question whether it shall be submitted to the Department is demanded by the prescribed number or the prescribed proportion, as the case may be, of the

producers registered under the scheme revoked, the substitutional scheme shall not be submitted to the Department unless a poll on that question has been taken and the result thereof shows that the requisite majority of those producers has voted in favour on its submission.

(7) In paragraphs (5) and (6) "prescribed" means, in relation to a scheme revoked by a substitutional scheme, prescribed by the scheme revoked.

F2 mod. by 1984 NI 12, SR 1995/103

Approval of schemes

4 [F3]**.**—(1) Before approving a scheme submitted under Article 3, the Department shall cause to be published, in the Belfast Gazette and in such other manner as it thinks best for informing persons affected, a notice—

(a) stating that the scheme has been submitted to it;

(b) specifying the place where copies of the scheme may be obtained, on payment of such fee as may be specified in the notice, and inspected; and

(c) specifying the period, which shall not be less than six weeks after the date of publication of the notice in the Belfast Gazette, within which objections and representations with respect to the scheme may be made.

(2) Every objection shall be made to the Department in writing and shall state the grounds of objection and the specific modifications required.

(3) Where an objection has been duly made to a scheme by a person affected thereby and has not been withdrawn, the Department, unless it considers the objection to be frivolous, or unless it proposes to modify the scheme to meet the objection, shall, before taking any further action under this Article, direct a public inquiry to be held and consider the report of the person who held the inquiry.

(4) After considering any scheme duly submitted to it under Article 3 and any objections and representations duly made with respect thereto, and after holding such inquiries, if any, as it thinks fit or is required to hold under this Article, the Department may, subject to paragraph (5), make such modifications in the scheme as it thinks proper.

(5) Before making any modifications in a scheme, the Department shall give notice of the proposed modifications to such persons (not being less than nine nor more than twenty-one) as may be nominated for the purpose, at the time of the submission of the scheme, by the persons submitting the scheme, and unless, within four weeks after notice has been so given or such longer time as the Department may allow, more than half the persons so nominated notify the Department that they assent to the modifications, the Department shall take no further action under this Article.

(6) If the Department after making such modifications, if any, as aforesaid, is satisfied that the scheme will conduce to the more efficient production and marketing of the regulated product, it may lay before the Assembly a draft of the scheme, and if the Assembly resolves that the scheme shall be approved the Department shall make an order approving the scheme in terms of the draft.

(7) The Department, on laying before the Assembly a draft of a scheme under paragraph (6), shall at the same time lay before the Assembly—

(a) if the scheme is not a substitutional scheme, a report as to the evidence by which it has been satisfied for the purposes of Article 3(1) that the persons submitting the scheme were duly representative; or

(b) if the scheme is a substitutional scheme, a report showing that the provisions of Article 3(5) and (6) have been complied with.

(8) Where the Department has made an order under paragraph (6) approving a scheme, the scheme shall, subject to paragraph (9), come into force on such date as may be specified in the order, being a date after that on which the Assembly resolves that the scheme shall be approved.

(9) Except in the case of a substitutional scheme, the operation of any provision of a scheme made in pursuance of Article 8(1), (2) or (3), 9, 10(2), 11(2), 15(1)(b) or (c) or (3) or 16(1) shall be suspended until the expiration of the suspensory period.

(10) The Department may by regulations subject to negative resolution provide for such matters as it thinks necessary regarding an inquiry held under paragraph (3); and**[**[F4] Schedule A1 to the Interpretation Act (Northern Ireland) 1954 shall, in its application to any such inquiry by virtue of section 23 of that Act,**]** be subject to the provisions of any regulations made under this paragraph.

(11) Such expenses of any inquiry under this Article as may be incurred by the Department with the approval of the Department of Finance and Personnel shall be defrayed out of moneys appropriated by Measure.

(12) A scheme may be amended or revoked in accordance with the provisions of Schedule 1.

F3 mod. by 1984 NI 12, SR 1995/103
F4 2005 c. 12

Constitution of boards to administer schemes

5 [F5]**.**—(1) Every scheme shall constitute a board to administer the scheme.

(2) The provisions of Schedule 2 shall have effect with respect to the incorporation, constitution, registration and winding up of boards.

F5 mod. by 1984 NI 12, SR 1995/103

Registration of producers and taking of poll of registered producers on question whether scheme to remain in force

6 [F6]**.**—(1) Every scheme shall provide for the registration of any producer who makes application for that purpose.

(2) Every scheme, other than a substitutional scheme, shall require a poll of the registered producers to be taken, within such time as may be specified in the scheme, on the question whether the scheme shall remain in force.

(3) Subject to paragraph (4), if the poll aforesaid shows that the requisite majority of registered producers has voted in favour of the scheme remaining in force, the provisions of the scheme, the operation of which are by virtue of Article 4(9) suspended until the expiration of the suspensory period, shall come into force at the expiration of that period; but in any other case the scheme shall cease to have effect at the date on which the result of the poll is declared and the provisions of paragraph 8(2) of Schedule 2 shall apply as if the scheme had been revoked.

(4) If it is proved to the satisfaction of the Department at any time before the expiration of the suspensory period that the number of producers voting on the poll was less than half the total number of producers (excluding producers exempted, or entitled to exemption, from registration by or under the provisions of the scheme), it shall forthwith by order revoke the scheme.

(5) Every scheme shall provide for the manner in which polls are to be taken for the purposes of this Part, and in particular but without prejudice to the generality of the foregoing provision—