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STATUTORY INSTRUMENTS

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**1993 No. 2665 (N.I. 10)**

**NORTHERN IRELAND**

**The Agriculture (Northern Ireland) Order 1993**

*Made - - - - 27th October 1993*

*Laid before Parliament 28th October 1993*

*Coming into operation in accordance with Article 1(2)*

At the Court at Buckingham Palace, the 27th day of October 1993

Present,

The Queen's Most Excellent Majesty in Council

Whereas this Order is made only for purposes corresponding to those of the provisions of the Agriculture Act 1993(1) mentioned in section 63 of that Act:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974(2) (as modified by section 63 of the said Act of 1993) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

**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.

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(1) 1993 c. 37

(2) 1974 c. 28

### **General interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954<sup>(3)</sup> 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.

## **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<sup>(4)</sup>; and

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

#### *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<sup>(5)</sup>, is hereby revoked.

(2) Subject to paragraphs (3) and (4), paragraph (1) shall come into operation on 1st April 1994.

(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.

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<sup>(3)</sup> 1954 c. 33 (N.I.)

<sup>(4)</sup> 1986 NI 6

<sup>(5)</sup> 1982 NI 12

### *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, subject to paragraph (6), make an application under that Article at any time before the end of the period of 3 months beginning with that date.

(6) The Board may not make an application by virtue of paragraph (5) within the period of 3 months immediately preceding the day on which the 1989 Scheme will, under paragraph (2) of Article 4, be revoked by paragraph (1) of that Article.

**Information**

10.—(1) Where the Board makes an application to the Department under Article 5, 8 or 9, the Department may by notice require any person to supply to it such information as may be specified in the notice, being information the supply of which the Department considers necessary or desirable for the purpose of enabling it to carry out its functions in relation to the application.

(2) A notice under paragraph (1) shall require the information to be supplied within such period as may be specified in the notice, being not less than 21 days from the date of the notice.

(3) Where the Department gives a notice under paragraph (1) to the Board, the Board shall be treated as having withdrawn the application unless—

- (a) it complies with the notice; or
- (b) before the end of the period allowed for compliance, it shows to the satisfaction of the Department that it has reasonable grounds for not complying with it.

(4) Where—

- (a) the Department gives a notice under paragraph (1) to the Board;
- (b) the Board purports to comply with the notice; and
- (c) it becomes apparent to the Department after the time allowed for compliance with the notice and before the application has been finally determined that the Board has not in fact complied with it,

the Department shall give the Board notice of that fact.

(5) Where, within 14 days of the date of a notice under paragraph (4), the person to whom the notice is given shows to the satisfaction of the Department that the failure to comply with the notice under paragraph (1) was accidental and not attributable to a failure to take reasonable care, paragraph (3) shall be treated as never having had any application in relation to it.

(6) If any person other than the Board fails without reasonable excuse to comply with a notice under paragraph (1), he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(7) If any person, in purported compliance with a notice under paragraph (1), knowingly or recklessly supplies information which is false or misleading in a material respect, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **Publicity for determinations**

**11.**—(1) As soon as reasonably practicable after granting an application under Article 5 or 8, the Department shall make public in such manner as it thinks fit—

- (a) the fact that it has granted the application; and
- (b) the principles of the approved scheme or, as the case may be, of the approved variation.

(2) As soon as reasonably practicable after deciding under Article 9 to withdraw an approved scheme's approval, the Department shall make its decision public in such manner as it thinks fit.

### *Carrying out of approved scheme*

### **Functions of the Board**

**12.** The Board may do whatever is necessary for, or conducive to, the carrying out of an approved scheme in the period up to and including the vesting day under the scheme.

### **Functions of the Department**

**13.**—(1) The Department shall satisfy itself, in relation to an approved scheme—

- (a) that so much of the scheme as relates to the period prior to the vesting day under the scheme is duly carried out; and
- (b) that it does not, during that period, become expedient, by virtue of a change of circumstances, that there should be an increase in the provision made by the scheme for meeting liabilities retained by the Board after the transfer under Article 14.

(2) The Department may by notice require the Board to supply to it such information as may be specified in the notice, being information which the Department considers necessary or desirable for the purpose of enabling it to discharge its functions under paragraph (1).

(3) A notice under paragraph (2) shall require the information to be supplied within such period as may be specified in the notice, being not less than 7 days from the date of the notice.

(4) If, at any time before the vesting day under an approved scheme, it appears to the Department—

- (a) that the Board has—
  - (i) failed to supply information required by a notice under paragraph (2); or
  - (ii) failed in a material respect to carry out the scheme; or
- (b) that, by virtue of a change of circumstances, it is expedient that there should be such an increase as is mentioned in paragraph (1)(b),

it may give the Board notice of that fact and of the reasons for it.

(5) No notice under paragraph (4) may be given by virtue of sub-paragraph (a)(i) of that paragraph more than 28 days after the Board has purported to comply with the notice under paragraph (2).

(6) The Department shall by notice to the Board withdraw a notice under paragraph (4) if it is satisfied—

- (a) that there is no longer any ground for it; and
- (b) that it continues to be practicable for the scheme to be carried out.

(7) If the Board, in purported compliance with a notice under paragraph (2), knowingly or recklessly supplies information which is false or misleading in a material respect, it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **Statutory transfer on vesting day**

**14.**—(1) On the vesting day under an approved scheme, any transfer under the scheme which—

- (a) is a qualifying transfer; and
- (b) is a transfer which the scheme provides is to have effect under this Article,

shall have effect by virtue of this Order.

(2) Paragraph (1) shall not apply if—

- (a) a notice under paragraph (4) of Article 13 has been given in respect of the scheme; and
- (b) the notice has not been withdrawn under paragraph (6) of that Article.

(3) For the purposes of paragraph (1)(a), a transfer is a qualifying transfer if it is—

- (a) a transfer of property, rights or liabilities of—
  - (i) the Board; or
  - (ii) a subsidiary of the Board,

to a body which is a qualifying body; or

- (b) a transfer of property, rights or liabilities of a subsidiary of the Board to the Board.

(4) For the purposes of paragraph (3), a body is a qualifying body if it is—

- (a) a society registered under the Industrial and Provident Societies Act (Northern Ireland) 1969<sup>(6)</sup> which has not previously traded;
- (b) a company registered under the Companies (Northern Ireland) Order 1986<sup>(7)</sup> which has not previously traded; or
- (c) a company registered under that Order which was a subsidiary of the Board immediately before the day on which this Order is made.

### **Other provisions**

**15.** Schedule 2 (which makes provision in relation to or in connection with the carrying out of an approved scheme) shall have effect.

### *Position of the Board post-revocation*

#### **General**

**16.** The Board shall not be deemed to be dissolved by reason of the revocation of the 1989 Scheme by Article 4(1) and so much of that scheme as relates to the winding up of the Board shall (subject to any provision of regulations under Article 17(2)) continue in force notwithstanding the revocation.

#### **Position following reorganisation**

**17.**—(1) Paragraphs (2) to (5) apply where property, rights or liabilities of the Board are transferred under Article 14 under an approved scheme.

(2) The Department—

<sup>(6)</sup> 1969 c. 24 (N.I.)

<sup>(7)</sup> 1986 NI 6



- (a) shall by regulations make such provision as it thinks fit for the purpose of giving effect to so much of the approved scheme as relates to the Board in the period after the transfer under that Article; and
- (b) may by regulations make such provision as it thinks fit—
  - (i) in relation to the constitution of the Board; or
  - (ii) for the purpose of enabling the Board to wind up its affairs.
- (3) Regulations under paragraph (2) may—
  - (a) provide that, notwithstanding Article 4(1), such provisions of the 1989 Scheme as are specified in the regulations shall continue to have effect, subject to such modifications as may be so specified; or
  - (b) make such new provision as appears to the Department to be necessary or expedient.
- (4) Regulations under paragraph (2) may not confer a power to raise compulsory levies.
- (5) As soon as the Department is satisfied that the Board has carried out any remaining functions, and on being given notice by the Board that it has wound up its affairs, the Department shall, after consultation with the Board, make an order dissolving the Board on such date as is specified in the order.
- (6) Regulations under paragraph (2) may be made in anticipation of the application of that paragraph.

#### **Position in the absence of reorganisation**

**18.**—(1) This Article applies where the revocation of the 1989 Scheme by Article 4(1) takes place without property, rights or liabilities of the Board having been transferred under Article 14.

(2) The Department shall present a petition for the winding up of the Board in accordance with the 1989 Scheme and Schedule 2 to the Agricultural Marketing (Northern Ireland) Order 1982(8).

(3) If, in the event of the Board being so wound up, any assets of the Board remain after the discharge of its debts and liabilities and the payment of the costs and expenses incurred in the winding up, those assets shall be distributed to the producers who would have been by virtue of paragraph 6(5) of Schedule 2 to the Agricultural Marketing (Northern Ireland) Order 1982 liable to contribute in the winding up, and shall be so distributed in proportion to their respective liabilities in that behalf.

#### *Miscellaneous*

#### **Membership of the Board**

**19.**—(1) No election of members of the Board, or of a committee under the 1989 Scheme (other than an election for the purpose of filling a casual vacancy) shall be held after 31st December 1993 or such later day as the Department may by order specify.

(2) The term of office of any member of the Board, or of a committee under the 1989 Scheme shall, instead of expiring at any other time, expire—

- (a) where property, rights or liabilities of the Board are transferred under Article 14, on the day of the transfer; and
- (b) where the 1989 Scheme is revoked by Article 4(1) without property, rights or liabilities of the Board having been transferred under Article 14, at such time as the Board is dissolved in consequence of being wound up under Article 18(2).

## Levies

**20.**—(1) This Article applies where—

- (a) property, rights or liabilities of the Board are transferred under Article 14 in accordance with an approved scheme; and
- (b) under the scheme, any liabilities of the Board are excepted from transfer under that Article.

(2) The Department may, on the application of the Board, by order give effect to a scheme enabling the Board to require eligible producers to make contributions for the purpose of enabling it to meet its liabilities.

(3) The Department shall not make an order under paragraph (2) unless it is satisfied—

- (a) that the Board's assets are insufficient to meet its liabilities;
- (b) that the Board has taken all reasonable steps to minimise the amount required to meet its liabilities;
- (c) that there is no other reasonably practicable way of discharging its liabilities;
- (d) that the amount proposed to be raised under the scheme is reasonable; and
- (e) that the basis on which contributions are to be assessed under the scheme is reasonable.

(4) In paragraph (2), the reference to eligible producers is to the persons who, under the approved scheme, are entitled to participate in the distribution of assets of the Board by virtue of their being, or having been, registered producers.

## Overriding nature of functions under Part II

**21.** Nothing done in pursuance of this Part by the Board, or by any member or officer of the Board, shall be taken to constitute a breach of any duty owed, apart from the provisions of this Part, to persons who are registered producers.

## Functions of certain bodies in relation to agricultural marketing schemes

**22.** The functions—

- (a) of a committee appointed under Article 21 of the Agricultural Marketing (Northern Ireland) Order 1982<sup>(9)</sup> (committees of investigation); and
- (b) of the General Consumer Council for Northern Ireland under Article 7 of the General Consumer Council (Northern Ireland) Order 1984<sup>(10)</sup>,

shall not include the consideration of anything done by the Board—

- (i) by way of preparing for the coming into operation of this Part; or
- (ii) in connection with an application under this Part or the carrying out of an approved scheme.

## Restriction of the Agricultural Marketing (Northern Ireland) Order 1982

**23.**—(1) Part II, except Article 26, of the Agricultural Marketing (Northern Ireland) Order 1982 shall cease to have effect in relation to milk.

(2) Paragraph (1) shall come into operation on the day on which Article 4(1) comes into operation.

(3) The Department shall by order certify the date of coming into operation of paragraph (1).

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<sup>(9)</sup> 1982 NI 12

<sup>(10)</sup> 1984 NI 12

### *Supplementary*

#### **Service of documents**

**24.**—(1) Section 24 of the Interpretation Act (Northern Ireland) 1954(**11**) shall, in its application to the service of documents under this Part, be subject to the following modification.

(2) If a person to be served with any document under this Part by another has specified to that other an address in Northern Ireland other than his proper address (as determined under section 24 of the Interpretation Act (Northern Ireland) 1954) as the one at which he or someone on his behalf will accept documents of the same description as that document, that address shall also be treated as his proper address for the purposes of that section.

#### **Consequential amendments**

**25.** The Department may by order make such modifications of any statutory provision passed or made before the day on which Article 4(1) comes into operation, as appears to it necessary or expedient in consequence of the coming into operation of that Article.

## **PART III**

### **GRANTS FOR MARKETING**

#### **Grants**

**26.**—(1) The Department may, by a scheme made with the approval of the Department of Finance and Personnel, make provision for the payment by the Department of grants towards expenditure which has been, or is to be, incurred in carrying out proposals to which this Article applies.

(2) This Article applies to proposals for the organisation, promotion, encouragement, development, co-ordination or facilitation of the marketing in Northern Ireland or elsewhere of—

- (a) the produce of agriculture (including horticulture);
  - (b) the produce of fish farming;
  - (c) the produce of an activity specified for the purposes of this paragraph by order made by the Department; or
  - (d) anything derived from produce falling within any of sub-paragraphs (a) to (c).
- (3) Without prejudice to the generality of paragraph (1), a scheme under this Article may—
- (a) provide for the payment of grant by reference to proposals which have been approved by the Department after submission to and recommendation by such person as may be specified in the scheme;
  - (b) authorise the approval of proposals to be varied or withdrawn with the written consent of the person making the proposals;
  - (c) authorise the reduction or withholding of grant where assistance in respect of expenditure for which the grant is made is given under any statutory provision other than this Article;
  - (d) confer a discretion on the Department as to the payment of grant, as to the manner and timing of payment of grant and as to the amount of grant;
  - (e) make the payment of grant subject to such conditions as may be specified in or determined under the scheme;

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(11) 1954 c. 33 (N.I.)

- (f) provide for functions in connection with the administration of the scheme to be carried out, subject to such conditions as may be specified in the scheme, by such person as may be so specified;
- (g) provide for any discretion conferred by or under the scheme to be exercisable in such circumstances and by reference to such matters as may be specified in or determined under the scheme; and
- (h) contain such supplementary and consequential provision as the Department thinks fit.
- (4) A scheme under this Article may, in relation to any discretion under the scheme, include provision for such person as may be specified in the scheme to be, to such extent and subject to such conditions as may be so specified, the delegate of the Department.
- (5) If at any time after the approval of proposals under a scheme under this Article (and whether before or after the proposals have been fully carried out) it appears to the Department—
- (a) that any condition imposed under the scheme in relation to the proposals has not been complied with; or
- (b) that in connection with the submission of the proposals the person submitting them gave information on any matter which was false or misleading in a material respect,
- the Department may, subject to paragraph (6), on demand recover any grant or any part of a grant paid with reference to the proposals, and may revoke the approval in whole or in part.
- (6) The Department may not make a demand or revoke an approval under paragraph (5) unless it has given at least 30 days' written notice of the reasons for the proposed action to any person to whom any payment by way of a grant in relation to the proposals would be payable, or from whom any such payment would be recoverable.
- (7) Where a scheme under this Article provides for functions under the scheme to be carried out by any body created by a statutory provision, the Department may, after consultation with the body, by regulations modify or add to its constitution or powers for the purpose of enabling it to carry them out.
- (8) A scheme under this Article shall be subject to negative resolution.
- (9) In this Article—
- “agriculture” has the meaning given in section 43(1) of the Agriculture Act (Northern Ireland) 1949<sup>(12)</sup> and includes the use of land as osier land;
- “fish farming” means the breeding, rearing or cultivating of fish (including shellfish) whether or not for the purpose of producing food for human consumption;
- “shellfish” includes crustaceans and molluscs of any kind.
- (10) In Schedule 2 to the Statutory Rules (Northern Ireland) Order 1979<sup>(13)</sup> (schemes which are statutory rules), at the end there shall be added the following entry—

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“The Agriculture (Northern Ireland) Order 1993, Article 26.	Grants for marketing agricultural produce, etc.”
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### **False statements to obtain payments**

**27.** Any person who, for the purpose of obtaining a payment under a scheme under Article 26 for himself or another, knowingly or recklessly makes a statement which is false or misleading in a material respect shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months or to both.

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<sup>(12)</sup> 1949 c. 7 (N.I.)

<sup>(13)</sup> 1979 NI 12

### **Time limit for prosecutions**

**28.**—(1) Notwithstanding anything in any other statutory provision, proceedings for an offence under this Part may, subject to paragraph (2), be commenced within the period of 6 months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge.

(2) No such proceedings shall be commenced by virtue of this Article more than 3 years after the commission of the offence.

(3) For the purposes of this Article, a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact.

(4) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

## **PART IV**

### **TERMINATION OF THE POTATO GUARANTEE**

#### **Termination of the potato guarantee**

**29.**—(1) Part II of the Agriculture and Fisheries (Financial Assistance) (Northern Ireland) Order 1987(14) shall cease to have effect as from 30th June 1994.

(2) Paragraph (1) shall not affect the operation of that Order on or after that date in relation to any period before that date.

## **PART V**

### **SUPPLEMENTARY**

#### **Orders and regulations**

**30.** An order or regulations under this Order—

- (a) shall be subject to negative resolution; and
- (b) may include such supplementary, incidental, consequential or transitional provisions as appear to the Department to be necessary or expedient.

*N. H. Nicholls*  
Clerk of the Privy Council

## SCHEDULES

### SCHEDULE 1

Article 6.

#### QUALIFYING SCHEME OF REORGANISATION

##### *Introductory*

1. A scheme of reorganisation is a qualifying scheme if it meets the following requirements.

##### *Form*

2. The scheme must be in writing.

##### *Vesting day*

3.—(1) The scheme must specify a day (“the vesting day”) on which any transfers under the scheme to be effected under Article 14 are to take place and on or before which any other steps necessary to give effect to the reorganisation are to be taken.

(2) The vesting day must not be later than the day which, under paragraph (2) of Article 4, is the day on which paragraph (1) of that Article is to come into operation.

##### *Disposition of property, rights and liabilities*

4.—(1) The scheme must specify, in relation to the property, rights and liabilities of the Board on the vesting day—

- (a) which are to be transferred; and
- (b) which are to be retained by the Board.

(2) The scheme must not provide for the transfer of any right of the Board against a milk producer, being a right arising out of dairy production.

(3) The scheme must not provide for the transfer of any right or liability of the Board arising in connection with payment for milk supplied before the vesting day.

(4) The scheme must not provide for the transfer of any right or liability of the Board with respect to the supply of milk on or after the vesting day.

5. The scheme must specify what property, rights or liabilities of the Board are to be transferred, for the purposes of the reorganisation, before the vesting day.

6. The scheme must specify what property, rights or liabilities of a subsidiary of the Board are to be transferred for the purposes of the reorganisation, and whether on or before the vesting day.

7.—(1) The scheme must, in relation to each transfer for the purposes of the reorganisation of property, rights or liabilities of the Board, or of a subsidiary of the Board, specify (either individually or by reference to membership of a class) to whom the transfer is to be made.

(2) The scheme must not provide for the transfer of property, rights or liabilities of the Board, or of a subsidiary of the Board, to anyone who is not an eligible transferee.

(3) For the purposes of sub-paragraph (2), the following are eligible transferees—

- (a) in relation to property, rights and liabilities of the Board, any body falling within Article 14(4)(a), (b) or (c);
- (b) in relation to property, rights and liabilities of a subsidiary of the Board—
  - (i) any body falling within Article 14(4)(a), (b) or (c); and
  - (ii) the Board;
- (c) in relation to property and rights of the Board, or of a subsidiary of the Board, persons who are, or have been, registered producers.

**8.** The scheme must specify which transfers of property, rights or liabilities of the Board, or of a subsidiary of the Board, are to have effect under Article 14.

**9.** The scheme must specify when any transfer for the purposes of the reorganisation of property, rights or liabilities of the Board, or of a subsidiary of the Board, is to take place if otherwise than on the vesting day.

**10.** Where the scheme provides for the Board to retain any property or rights after the vesting day, it must make provision for any surplus assets of the Board remaining on the winding up of its affairs to be distributed to the persons who, under the scheme, are entitled to participate in the distribution of assets of the Board by virtue of their being, or having been, registered producers.

#### *Transfer of Board's undertaking*

**11.** The scheme must make provision for the transfer under Article 14 of all the property, rights and liabilities to which the Board is entitled or subject on the vesting day, other than—

- (a) any property or rights to be transferred to persons by reference to their being, or having been, registered producers;
- (b) any liabilities to be retained by the Board;
- (c) any property or rights to be retained by the Board for the purpose of meeting retained liabilities or otherwise in connection with the carrying out by it of functions after the transfer under that Article; and
- (d) any property or rights whose transfer would involve a breach by the Board of the restriction imposed by Article 29(2) of the Agricultural Marketing (Northern Ireland) Order 1982<sup>(15)</sup> (restriction on disclosure of information obtained under that Order).

#### *Nature of new successor bodies*

**12.** The scheme must specify in relation to any body which falls within Article 14(4)(a) or (b) and to which property, rights or liabilities fall to be transferred under the scheme—

- (a) its name, or proposed name;
- (b) the legislation under which it is, or is proposed to be, registered; and
- (c) its constitution, or proposed constitution.

#### *Other disposals*

**13.** The scheme must include particulars of—

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- (a) any other disposals (including part disposals) proposed to be made for the purposes of the reorganisation by the Board or a subsidiary of the Board; and
- (b) any issue of shares or securities proposed to be made for the purposes of the reorganisation.

*Rights of existing participants*

**14.** The scheme must specify what rights, if any, will be conferred under the new arrangements contemplated by the scheme on those who, under the existing arrangements, would be entitled to share in any surplus assets on a winding up of the Board.

*Disclosure of information*

**15.—(1)** The scheme must specify what information to which this sub-paragraph applies is to be disclosed by the Board for the purposes of the scheme and to whom.

(2) Sub-paragraph (1) applies to information the disclosure of which is (apart from paragraph 1 of Schedule 2) restricted by Article 29(2) of the Agricultural Marketing (Northern Ireland) Order 1982<sup>(16)</sup>.

(3) Where information specified under sub-paragraph (1) identifies a person as a purchaser of milk from the Board, the scheme must provide for the information to be disclosed only with his written consent.

*Residual functions*

**16.—(1)** The scheme must specify what functions are intended to be carried out by the Board after the vesting day and, in relation to any such functions, include provision with respect to the arrangements for meeting any expenses which may be incurred by the Board in carrying them out.

(2) The scheme must not include provision for the carrying out by the Board after the vesting day of any functions other than—

- (a) functions in relation to retained assets and liabilities or the winding up of its affairs; or
- (b) functions ancillary or incidental to the functions mentioned in paragraph (a).

(3) The functions mentioned in sub-paragraphs (2)(a) and (b) shall not include the purchase or sale of milk.

SCHEDULE 2

Article 15.

PROVISIONS RELATING TO CARRYING OUT  
OF APPROVED SCHEME OF REORGANISATION

*Disclosure of information*

**1.** Nothing in Article 29(2) of the Agricultural Marketing (Northern Ireland) Order 1982<sup>(17)</sup> (restriction on disclosure of information obtained under that Order, shall restrict the disclosure of information by the Board in accordance with the provisions of an approved scheme.

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<sup>(16)</sup> 1982 NI 12

<sup>(17)</sup> Article 15.



*Application of Trustee Investments Act 1961 to allocated shares*

2. Where, under an approved scheme, shares are issued or transferred to a trustee, the shares issued or transferred to him shall, so far as concerns his powers, not be treated as excluded by virtue of paragraph 3(b) of Part IV of Schedule 1 to the Trustee Investments Act 1961<sup>(18)</sup> (exclusion of shares of a company which has not paid a dividend for each of the last 5 years), as applied in Northern Ireland by the Trustee Acts (Northern Ireland) 1958<sup>(19)</sup> and 1962<sup>(20)</sup>, from paragraph 1 of Part III of that Schedule (wider-range investments).

*Application of Transfer of Undertakings (Protection of Employment) Regulations 1981*

3. The Transfer of Undertakings (Protection of Employment) Regulations 1981<sup>(21)</sup> (in so far as they extend to Northern Ireland) shall apply to any transfer under an approved scheme of the whole or any part of the undertaking of the Board, or of a subsidiary of the Board, whether or not that undertaking would, apart from this provision, be treated as an undertaking in the nature of a commercial venture for the purposes of those Regulations.

*Pension schemes*

4.—(1) Sub-paragraph (2) applies to any occupational pension scheme operated by the Board or a subsidiary of the Board.

(2) Any power under the scheme to change the identity of the principal employer shall not be treated as improperly exercised by virtue only of the fact that it is used to substitute for the existing principal employer a body—

- (a) which already participates in the scheme; or
- (b) to which property, rights or liabilities of the existing principal employer are transferred under Article 14.

(3) Sub-paragraph (2) shall not apply if the substitution is made otherwise than in connection with the carrying out of an approved scheme.

*Statutory accounts*

5.—(1) The following provisions of this paragraph have effect for the purpose of any statutory accounts of a successor body, that is to say, a body to which property, rights or liabilities of the Board are transferred under Article 14.

(2) The transfer to the successor body under Article 14 shall be taken to have been effected immediately after the end of the last complete accounting period of the Board to end before the date of the transfer under that Article and—

- (a) in a case where all the property, rights and liabilities of the Board are transferred to the successor body under that Article, to have been a transfer of all the property, rights and liabilities to which the Board was entitled or subject immediately before the end of that period;
- (b) in any other case, to have been a transfer of such of the property, rights and liabilities to which the Board was so entitled or subject as are determined by or under the scheme of reorganisation.

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(18) 1961 c. 62  
(19) 1958 c. 23 (N.I.)  
(20) 1962 c. 10 (N.I.)  
(21) S.I.1981/1794

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- (3) The value of any asset and the amount of any liability which is taken by virtue of sub-paragraph (2) to have been transferred to the successor body shall be taken to have been—
- (a) in a case where all the property, rights and liabilities of the Board are transferred to the successor body under Article 14, the value or amount assigned to the asset or liability for the purposes of the statement of accounts prepared by the Board in respect of the last complete accounting period of the Board to end before the date of the transfer under that Article;
  - (b) in any other case, the value or amount so assigned or, if the asset or liability is part only of an asset or liability to which a value or amount is so assigned, so much of that value or amount as may be determined by or under the scheme of reorganisation.
- (4) The amount to be included in respect of any item shall be determined—
- (a) where all the property, rights and liabilities of the Board are transferred to the successor body under Article 14, as if anything done by the Board (whether by way of acquiring, revaluing or disposing of any asset or incurring, revaluing or discharging any liability, or by carrying any amount to any provision or reserve, or otherwise) had been done by the successor body;
  - (b) in any other case, as if so much of anything done by the Board (as mentioned in paragraph (a)) as may be determined by or under the scheme of reorganisation had been done by the successor body.
- (5) Without prejudice to the generality of the preceding provisions, the amount to be included from time to time in any reserves of the successor body as representing its accumulated realised profits shall be determined—
- (a) where all the property, rights and liabilities of the Board are transferred to the successor body under Article 14, as if any profits realised and retained by the Board had been realised and retained by the successor body;
  - (b) in any other case, as if such proportion of any such profits as is determined by or under the scheme of reorganisation had been realised and retained by the successor body.
- (6) In this paragraph—
- “accounting period”, in relation to the Board, means the period by reference to which it prepares accounts under the 1989 Scheme;
  - “the scheme of reorganisation” means the scheme of reorganisation under which the transfer to the successor body takes place;
  - “statutory accounts” in relation to a successor body, means any accounts prepared for the purpose of any provision of the legislation under which the body is registered.

*Restraints on alienation etc.*

6.—(1) No right of pre-emption or other like right affecting any property or rights of the Board, or of a subsidiary of the Board, shall be exercisable by virtue of the making of any application under Article 5 or 8.

(2) Sub-paragraph (1) shall not apply where the making of such an application is specifically identified by the right of pre-emption or other like right as a circumstance in which the right is exercisable.

7.—(1) Any provision which imposes a prohibition (whether absolute or qualified) on the transfer of any property or rights of the Board, or of a subsidiary of the Board, shall be treated as not applying in the case of a transfer under Article 14.

(2) Sub-paragraph (1) shall not apply in the case of a provision which is formulated specifically with reference to the possibility of the undertaking of the Board being transferred otherwise than to a board constituted by a scheme under Part II of the Agricultural Marketing (Northern Ireland) Order 1982<sup>(22)</sup>.

(3) For the purposes of this paragraph, any provision which has the effect of penalising a transfer, shall be treated as prohibiting it.

**8.—**(1) Any provision which imposes a prohibition (whether absolute or qualified) on the transfer of any property or rights of the Board, or of a subsidiary of the Board, shall, unless the prohibition is imposed for public purposes, be treated as not applying in the case of a transfer under an approved scheme otherwise than under Article 14.

(2) Sub-paragraph (1) shall not apply in the case of a provision which is formulated specifically with reference to the possibility of the undertaking of the Board being transferred otherwise than to a board constituted by a scheme under Part II of the Agricultural Marketing (Northern Ireland) Order 1982<sup>(23)</sup>.

(3) For the purposes of this paragraph, any provision which has the effect of penalising a transfer shall be treated as prohibiting it.

**9.—**(1) This paragraph applies to any provision which imposes a qualified prohibition on the effecting of any description of transaction, other than a transfer, with respect to any property or rights of the Board or of a subsidiary of the Board.

(2) Where the prohibition imposed by a provision to which this paragraph applies is imposed for purposes other than public purposes, it shall, subject to sub-paragraph (3), be treated as not applying in the case of a transaction effected under an approved scheme.

(3) Sub-paragraph (2) shall not apply in the case of a provision which is formulated specifically with reference to the possibility of the undertaking of the Board being transferred otherwise than to a board constituted by a scheme under Part II of the Agricultural Marketing (Northern Ireland) Order 1982.

(4) For the purposes of this paragraph, any provision which has the effect of penalising the effecting of any description of transaction shall be treated as prohibiting it.

**10.—**(1) If any person suffers a diminution in the value of any property or interest in consequence of the operation of paragraph 8 or 9 or, where sub-paragraph (2) applies, paragraph 7, such compensation as may be just shall be paid to that person by one or more of the parties to the transfer or other transaction.

(2) This sub-paragraph applies where the effect of the transfer is to sever the ownership of the property or rights to which the provision concerned relates.

(3) Any dispute as to whether, and if so how much, compensation is payable under this paragraph, or as to the person by whom it shall be paid, shall be referred to and determined by an arbitrator appointed in accordance with regulations made by the Department.

**11.—**(1) For the purposes of this paragraph, a provision is a qualifying provision if—

- (a) it imposes an absolute prohibition on the effecting of any description of transaction, other than a transfer, with respect to any property or rights of the Board, or of a subsidiary of the Board;
- (b) the prohibition which it imposes is imposed for purposes other than public purposes.

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<sup>(22)</sup> 1982 NI 12

<sup>(23)</sup> 1982 NI 12

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(2) Where an approved scheme—

- (a) identifies a qualifying provision as one to which this paragraph applies; and
- (b) specifies one of the relevant bodies as the body against which any claim under paragraph 12 in relation to the identified provision is to be made,

that provision shall, subject to any provision of regulations under sub-paragraph (3)(c), be treated as not applying in the case of a transaction effected under the scheme.

(3) The Department may make regulations—

- (a) with respect to the giving of notice of a provision of an approved scheme which identifies a qualifying provision as one to which this paragraph applies;
- (b) with respect to the giving by the Department of a certificate of compliance in relation to the giving of notice under paragraph (a); and
- (c) excluding sub-paragraph (2) where no certificate of compliance under paragraph (b) has been given at the time that a transaction is effected.

(4) Sub-paragraph (2) shall not apply in the case of a provision which is formulated specifically with reference to the possibility of the undertaking of the Board being transferred otherwise than to a board constituted by a scheme under Part II of the Agricultural Marketing (Northern Ireland) Order 1982(24).

(5) In sub-paragraph (2)(b), the reference to the relevant bodies is to—

- (a) the Board; and
- (b) the body or bodies to which property, rights or liabilities of the Board are, under the scheme, to be transferred under Article 14.

(6) For the purposes of this paragraph, any provision which has the effect of penalising the effecting of a description of transaction shall be treated as prohibiting it.

**12.**—(1) If any person suffers a diminution in the value of any property or interest in consequence of the operation of paragraph 11 in relation to any provision, such compensation as may be just shall be paid to him by the nominated body.

(2) Any dispute as to whether, and, if so, how much, compensation is payable under this paragraph shall be referred to and determined by an arbitrator appointed in accordance with regulations made by the Department.

(3) In sub-paragraph (1), the reference to the nominated body is to the body specified by the approved scheme as the body against which any claim for compensation under this paragraph in relation to the provision concerned is to be made.

#### *Restrictions on change of location*

**13.**—(1) For the purposes of this paragraph, a provision is a qualifying provision if—

- (a) it is contained in a qualifying agreement;
- (b) it imposes an absolute or qualified prohibition on the movement outside a specified area of property to which the agreement relates; and
- (c) the prohibition which it imposes is imposed for purposes other than public purposes.

(2) For the purposes of sub-paragraph (1), an agreement is a qualifying agreement if—

- (a) it is an agreement under which moveable property is leased to the Board or to a subsidiary of the Board; and

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(b) an approved scheme makes provision for the transfer of rights and liabilities of the lessee under the agreement.

(3) Where an approved scheme—

- (a) identifies a qualifying provision as one to which this paragraph applies;
- (b) specifies a relevant modification in relation to that provision;
- (c) specifies a commencement date in relation to the modification; and
- (d) specifies one of the relevant bodies as the body against which any claim under paragraph 14, in relation to that provision, is to be made,

then, subject to any provision of regulations under sub-paragraph (4)(c), that provision shall have effect subject to the specified modification on and after the commencement date specified in relation to it.

(4) The Department may make regulations—

- (a) with respect to the giving of notice of a provision of an approved scheme which does any of the things mentioned in paragraphs (a) to (c) of sub-paragraph (3);
- (b) with respect to the giving by the Department of a certificate of compliance in relation to the giving of notice under paragraph (a); and
- (c) excluding sub-paragraph (3) where no certificate of compliance under paragraph (b) has been given before such date as may be specified in the regulations.

(5) Where by virtue of sub-paragraph (3) a qualifying provision is modified in its application to any property, the fact that, at any time in the week beginning with the date on which the modification first has effect, that property is outside the permitted area shall not be treated as constituting a breach of the provision if the property—

- (a) is in the area which was the permitted area before the modification had effect; or
- (b) is in transit from that area to the permitted area.

(6) In sub-paragraph (3)(b), “relevant modification”, in relation to a qualifying provision, means a change, in relation to any of the property to which the provision applies, in the area by reference to which the qualifying provision has effect.

(7) In sub-paragraph (3)(d), the reference to the relevant bodies is to—

- (a) the Board; and
- (b) the body or bodies to which property, rights or liabilities of the Board are, under the scheme, to be transferred under Article 14.

(8) For the purposes of this paragraph, any provision which has the effect of penalising the movement of property outside a specified area shall be treated as prohibiting it.

**14.** Paragraph 12 shall apply in relation to a person who suffers a diminution in the value of any property or interest in consequence of the operation of paragraph 13 as it applies in relation to a person who suffers a diminution in the value of any property or interest in consequence of the operation of paragraph 11.

#### *Transfers relevant to flotation*

**15.—(1)** Where an approved scheme provides for rights and liabilities of a lessee under a qualifying agreement to be transferred to a company on a day earlier than the vesting day under the scheme, the provision shall have effect by virtue of this paragraph if, immediately before the day of the transfer, the company is a qualifying transferee.

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(2) In sub-paragraph (1), “qualifying agreement” means an agreement under which moveable property is leased to the Board or to a subsidiary of the Board.

- (3) For the purposes of sub-paragraph (1), a company is a qualifying transferee if it is—
- (a) a company in relation to which the scheme provides for the taking of steps with a view to securing its quotation on the Stock Exchange;
  - (b) a subsidiary of a company falling within paragraph (a); or
  - (c) a company which, if the scheme is carried out, will become a subsidiary of a company falling within paragraph (a) before that company is quoted on the Stock Exchange.

**16.—(1) Where—**

(a) an approved scheme provides for the taking of steps with a view to securing the quotation of a company on the Stock Exchange; and

(b) the Board makes under the scheme a qualifying transfer of shares in a subsidiary of its, then, if the shares transferred were subject in the hands of the Board to a resulting or constructive trust, they shall by virtue of the transfer cease to be subject to that trust.

(2) For the purposes of sub-paragraph (1), a transfer is a qualifying transfer if—

- (a) it takes place in connection with the carrying out of the provision mentioned in paragraph (a) of that sub-paragraph; or
- (b) the transferee is a qualifying person and the shares transferred are of the same class as other shares in the subsidiary which fall to be transferred as mentioned in that paragraph.

(3) For the purposes of sub-paragraph (2), the transferee is a qualifying person if the shares are transferred to him—

- (a) by virtue of his being, or having been, a registered producer; or
- (b) as trustee for persons who are entitled to participate in the trust by virtue of their being, or having been, registered producers.

(4) For the purposes of this paragraph, shares of a company shall not be treated as being of the same class unless they are so treated by the practice of the Stock Exchange or would be so treated if dealt with on the Stock Exchange.

### *Certificates of vesting*

**17.—(1) Where Article 14(1) applies on the vesting day under an approved scheme, the Department shall give to each person identified by the scheme as a person to whom any property, right or liability of the Board is to be transferred under Article 14 (“a relevant transferee”) a certificate (“qualification certificate”) stating—**

- (a) that he is identified by the scheme as a relevant transferee;
- (b) whether the concurrence of any person is required to the issue by him of a certificate of vesting in relation to the Board; and
- (c) if it is, whose concurrence is so required.

(2) For the purposes of sub-paragraph (1), the following are the persons whose concurrence is required to the issue of a certificate of vesting in relation to the Board by the person to whom a qualification certificate is given—

- (a) where the scheme identifies anyone other than that person as a relevant transferee, that other person, or, if more than one, each of those other persons; and
- (b) where the scheme does not provide for all the property, rights and liabilities to which the Board is entitled or subject on the vesting day to be transferred under Article 14, the Board.

(3) Where a person to whom a qualification certificate is given issues a certificate of vesting in relation to the Board, then, subject to sub-paragraphs (4) to (6), it shall be conclusive evidence for all purposes of any fact stated in it with respect to the effect of Article 14 in relation to any property, right or liability of the Board.

(4) Where a qualification certificate states that the concurrence of one or more persons is required to the issue of a certificate of vesting in relation to the Board, sub-paragraph (3) shall not apply in relation to such a certificate issued by the person to whom the qualification certificate is given unless it is issued with the concurrence of the person, or each of the persons, identified by the qualification certificate as a person whose concurrence is required.

(5) Sub-paragraph (3) shall not apply to a certificate of vesting in relation to the Board to the extent that the certificate relates to land which is registered land at the time the certificate is issued if a person has, at that time, been registered as the owner of the land in reliance on the operation of Article 14 in relation to it.

(6) Sub-paragraph (3) shall cease to apply to a certificate of vesting in relation to the Board—

- (a) to the extent that the certificate relates to land which is not registered land at the time the certificate is issued, on the land becoming registered land; and
- (b) to the extent that the certificate relates to land which is registered land at the time the certificate is issued, on a person being registered as the owner of the land in reliance on the operation of Article 14 in relation to it.

(7) In this paragraph references to a certificate of vesting in relation to the Board are to a certificate with respect to the effect of Article 14 in relation to any property, right or liability of the Board.

**18.—**(1) This paragraph applies where an approved scheme includes provision for any property, right or liability of a subsidiary of the Board to which the scheme relates to be transferred under Article 14.

(2) Where paragraph (1) of that Article applies on the vesting day under the scheme, the Department shall give to each person identified by the scheme as a person to whom any property, right or liability of the subsidiary is to be transferred under that Article (“a relevant transferee”) a certificate (“qualification certificate”) stating—

- (a) that he is identified by the scheme as a relevant transferee;
- (b) whether the concurrence of any person is required to the issue by him of a certificate of vesting in relation to the subsidiary; and
- (c) if it is, whose concurrence is so required.

(3) For the purposes of sub-paragraph (2), the following are the persons whose concurrence is required to the issue of a certificate of vesting in relation to the subsidiary by the person to whom a qualification certificate is given—

- (a) where the scheme identifies anyone other than that person as a relevant transferee, that other person, or, if more than one, each of those other persons; and
- (b) where the scheme does not provide for all the property, rights and liabilities to which the subsidiary is entitled or subject on the vesting day to be transferred under Article 14, the subsidiary.

(4) Where a person to whom a qualification certificate is given issues a certificate of vesting in relation to the subsidiary, then, subject to sub-paragraphs (5) to (7), it shall be conclusive evidence for all purposes of any fact stated in it with respect to the effect of Article 14 in relation to any property, right or liability of the subsidiary.

(5) Where a qualification certificate states that the concurrence of one or more persons is required to the issue of a certificate of vesting in relation to the subsidiary, sub-paragraph (4) shall not apply in relation to such a certificate issued by the person to whom the qualification certificate is given unless

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it is issued with the concurrence of the person, or each of the persons, identified by the qualification certificate as a person whose concurrence is required.

(6) Sub-paragraph (4) shall not apply to a certificate of vesting in relation to the subsidiary to the extent that the certificate relates to land which is registered land at the time the certificate is issued if a person has, at that time, been registered as the owner of the land in reliance on the operation of Article 14 in relation to it.

(7) Sub-paragraph (4) shall cease to apply to a certificate of vesting in relation to the subsidiary—

- (a) to the extent that the certificate relates to land which is not registered land at the time the certificate is issued, on the land becoming registered land; and
- (b) to the extent that the certificate relates to land which is registered land at the time the certificate is issued, on a person being registered as the owner of the land in reliance on the operation of Article 14 in relation to it.

(8) In this paragraph references to a certificate of vesting in relation to the subsidiary are to a certificate with respect to the effect of Article 14 in relation to any property, right or liability of the subsidiary.

#### *Land registration*

**19.**—(1) Where Article 14(1) applies on the vesting day under an approved scheme, the Department shall—

- (a) give a copy of the order under Article 4(5) to each person from or to whom property, rights or liabilities are transferred under Article 14 in accordance with the scheme; and
- (b) annex to the copy order a copy of the scheme certified by it to be a true copy.

(2) A copy of the scheme given under sub-paragraph (1) shall be treated for land registration purposes as conclusive evidence of the terms of the scheme.

**20.**—(1) This paragraph applies where any registered land is transferred under Article 14.

(2) The transferee shall be entitled to be registered, in accordance with Land Registry Rules, as owner in place of the transferor on an application in that behalf made to the Registrar of Titles.

(3) On an application under sub-paragraph (2), the transferee shall supply to the Registrar of Titles such information and produce to him such documents as he may require for the purpose of enabling him to deal with the application.

(4) Paragraphs (4) and (5) of section 34 of the Land Registration Act (Northern Ireland) 1970<sup>(25)</sup> (effect of registration of a transferee) shall apply as if the transfer were made without valuable consideration.

(5) Expressions used in this paragraph and paragraph 21 and defined in the Land Registration Act (Northern Ireland) 1970 shall have the meanings given in that Act.

**21.**—(1) This paragraph applies where any freehold estate or leasehold estate in unregistered land, being an estate (other than a mortgage) which is capable of being registered in the title register, is transferred by virtue of Article 14.

(2) Unless the transferee, or his successor in title or assign, has before the end of 6 months from the date of the transfer applied to be registered as owner of the estate, Article 14 shall be deemed never to have had effect to transfer the estate.

(3) In paragraphs (1) and (2) the expressions “freehold estate” and “leasehold estate” have the same meanings as in section 10 of the Land Registration Act (Northern Ireland) 1970.

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<sup>(25)</sup> 1970 c. 18 (N.I.)



(4) The power conferred by Part II of Schedule 2 to the Land Registration Act (Northern Ireland) 1970 (power of the Registrar of Titles to extend the period within which an application for first registration must be made) shall also apply in relation to the period mentioned in sub-paragraph (2).

(5) On an application for first registration under this paragraph, the applicant shall supply to the Registrar of Titles such information and produce to him such documents as he may require for the purpose of enabling him to deal with the application.

*Statutory transfers: transition*

**22.**—(1) Any agreement, transaction or other thing which—

- (a) is made, effected or done with respect to anything transferred under Article 14 or paragraph 15 in accordance with an approved scheme;
- (b) is made, effected or done by, to or in relation to the Board; and
- (c) is in force or effective immediately before the day of the transfer under the scheme,

shall, on and after that day, have effect as if made, effected or done by, to or in relation to the transferee in all respects as if the transferee were the same person in law as the Board.

(2) Sub-paragraph (1) shall not affect the construction of any provision which is formulated specifically with reference to the possibility of the undertaking of the Board being transferred otherwise than to a board constituted by a scheme under Part II of the Agricultural Marketing (Northern Ireland) Order 1982<sup>(26)</sup>.

*Provisions of scheme effective on statutory vesting*

**23.**—(1) Where Article 14(1) applies on the vesting day under an approved scheme, the provisions of the scheme shall, to the extent that they fall within sub-paragraph (2), have effect by virtue of this paragraph.

(2) The provisions of an approved scheme fall within this sub-paragraph to the extent that they purport—

- (a) to impose on one of the relevant bodies an obligation on or after the vesting day under the scheme to enter into a written agreement with, or execute an instrument in favour of, another of the relevant bodies;
- (b) to create for one of the relevant bodies, on the vesting day under the scheme, an interest in or right over property transferred under Article 14 to another of the relevant bodies; or
- (c) to adapt, with effect from the vesting day under the scheme, references to members or officers of the Board in a document or oral agreement relating to anything transferred under Article 14 to a successor body.

(3) The provisions of an approved scheme only fall within sub-paragraph (2) by virtue of paragraph (c) of that sub-paragraph to the extent that their purpose is to prevent, so far as reasonably possible, the effect of the provisions in which the references concerned occur being materially altered as a result of the transfer.

(4) For the purposes of sub-paragraph (2), the relevant bodies are—

- (a) the Board; and
- (b) a successor body.

(5) In this paragraph “successor body” means any body to which property, rights or liabilities are transferred under Article 14, in accordance with an approved scheme.

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*Status: This is the original version (as it was originally made).*

24.—(1) Where Article 14(1) applies on the vesting day under an approved scheme, the provisions of the scheme shall, to the extent that they fall within sub-paragraph (2), have effect by virtue of this paragraph.

(2) The provisions of an approved scheme fall within this sub-paragraph to the extent that they purport—

(a) to impose on—

(i) the Board; or

(ii) all or any of the bodies to which property, rights or liabilities of the Board are transferred under Article 14 (“the successor bodies”),

duties to take, on or after the vesting day under the scheme, such steps as may be requisite to secure that the vesting under Article 14 of any foreign property, right or liability of the Board in any of those bodies is effective under the relevant foreign law;

(b) to impose on the Board a duty, in relation to any foreign property, right or liability of its which is transferred under Article 14, to hold that property or right for the benefit of, or discharge that liability on behalf of, the body to which it is so transferred, until the vesting of that property, right or liability in that body is effective under the relevant foreign law;

(c) to require a body to which any foreign property, right or liability of the Board is transferred under Article 14 to act on behalf of the Board (so far as possible) for the purposes of, or in connection with, the performance of any duty of the Board under the scheme in relation to any foreign property, right or liability of its so transferred to that body; or

(d) to require any of the successor bodies to meet expenses incurred by the Board in consequence of provisions of the scheme which fall within this sub-paragraph by virtue of paragraph (a) or (b).

(3) Nothing in any provision which has effect by virtue of this paragraph shall be taken as prejudicing the effect, under the law of Northern Ireland of the vesting under Article 14 of any foreign property, right or liability in any of the successor bodies.

(4) Where provisions of an approved scheme have effect by virtue of this paragraph, the Board shall have all such powers as may be requisite for the performance of any duty to which it is subject as a result.

(5) In this paragraph references to any foreign property, right or liability are to any property, right or liability as respects which any issue arising in any proceedings would have to be determined (in accordance with the rules of private international law) by reference to the law of a country or territory outside the United Kingdom.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order is made only for purposes corresponding to those of Part I (except section 12 (so far as relating to Part I of Schedule 2) and section 18), Part III and section 55 of the Agriculture Act 1993.

Part II of the Order provides for the ending of the Milk Marketing Scheme (Northern Ireland) 1989 and the facilitation of the transfer of the Milk Marketing Board’s property, rights and liabilities. Part III of the Order empowers the Department to make grants for the marketing of agricultural,

horticultural and other produce. Part IV of the Order provides for the termination of the potato guarantee as from 30th June 1994.