
Changes to legislation: There are currently no known outstanding effects for the Agriculture Act 1993, Cross Heading: Restraints on alienation etc.. (See end of Document for details)

SCHEDULES

SCHEDULE 2

PROVISIONS RELATING TO CARRYING OUT OF APPROVED SCHEME OF REORGANISATION

PART II

OTHER PROVISIONS

Restraints on alienation etc.

- 38 (1) No right of pre-emption or other like right affecting any property or rights of a milk marketing board, or of a subsidiary of such a board, shall be exercisable by virtue of the making of any application under section 2 or 5 above.
- (2) Sub-paragraph (1) above 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.
- 39 (1) Any provision which imposes a prohibition (whether absolute or qualified) on the transfer of any property or rights of a milk marketing board, or of a subsidiary of such a board, shall be treated as not applying in the case of a transfer under section 11 above.
- (2) Sub-paragraph (1) above shall not apply in the case of a provision which is formulated specifically with reference to the possibility of the undertaking of a milk marketing board being transferred otherwise than to a board constituted by a scheme under Part I of ^{M1}the Agricultural Marketing Act 1958.
- (3) For the purposes of this paragraph, any provision which has the effect of penalising a transfer shall be treated as prohibiting it.

Marginal Citations

M1 1958 c. 47.

- 40 (1) Any provision which imposes a prohibition (whether absolute or qualified) on the transfer of any property or rights of a milk marketing board, or of a subsidiary of such a 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 section 11 above.
- (2) Sub-paragraph (1) above shall not apply in the case of a provision which is formulated specifically with reference to the possibility of the undertaking of a milk marketing board being transferred otherwise than to a board constituted by a scheme under Part I of the Agricultural ^{M2}Marketing Act 1958.

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

Marginal Citations

M2 1958 c. 47.

- 41 (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 a milk marketing board, or of a subsidiary of such a 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) below, be treated as not applying in the case of a transaction effected under an approved scheme.
- (3) Sub-paragraph (2) above shall not apply in the case of a provision which is formulated specifically with reference to the possibility of the undertaking of a milk marketing board being transferred otherwise than to a board constituted by a scheme under Part I of the Agricultural Marketing Act 1958.
- (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.
- 42 (1) If any person suffers a diminution in the value of any property or interest in consequence of the operation of paragraph 40 or 41 above or, where sub-paragraph (2) below applies, paragraph 39 above, 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—
- (a) in the case of a dispute concerning anything which takes place under a scheme relating to the England and Wales Milk Marketing Board, in accordance with regulations made by the Minister of Agriculture, Fisheries and Food and the Secretary of State acting jointly, and
- (b) in any other case, in accordance with regulations made by the Secretary of State.
- 43 (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 a milk marketing board, or of a subsidiary of such a board, and
- (b) the prohibition which it imposes is imposed for purposes other than public purposes.
- (2) Where an approved scheme—
- (a) identifies a qualifying provision as one to which this paragraph applies, and

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- (b) specifies one of the relevant bodies as the body against which any claim under paragraph 44 below, in relation to the identified provision, is to be made,
- that provision shall, subject to any provision of regulations under sub-paragraph (3) (c) below, be treated as not applying in the case of a transaction effected under the scheme.
- (3) The appropriate authority 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 authority of a certificate of compliance in relation to the giving of notice under paragraph (a) above, and
 - (c) excluding sub-paragraph (2) above where no certificate of compliance under paragraph (b) above has been given at the time that a transaction is effected.
- (4) Sub-paragraph (2) above shall not apply in the case of a provision which is formulated specifically with reference to the possibility of the undertaking of a milk marketing board being transferred otherwise than to a board constituted by a scheme under Part I of ^{M3}the Agricultural Marketing Act 1958.
- (5) In sub-paragraph (2)(b) above, the reference to the relevant bodies is to—
- (a) the milk marketing board to which the scheme relates, and
 - (b) the body or bodies to which property, rights or liabilities of that board are, under the scheme, to be transferred under section 11 above.
- (6) In sub-paragraph (3) above, “appropriate authority” means—
- (a) in the case of an approved scheme relating to the England and Wales Milk Marketing Board, the Minister of Agriculture, Fisheries and Food and the Secretary of State acting jointly, and
 - (b) in any other case, the Secretary of State.
- (7) 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.

Marginal Citations

M3 1958 c. 47.

- 44 (1) If any person suffers a diminution in the value of any property or interest in consequence of the operation of paragraph 43 above 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—
- (a) in the case of a dispute concerning anything which takes place under a scheme relating to the England and Wales Milk Marketing Board, in accordance with regulations made by the Minister of Agriculture, Fisheries and Food and the Secretary of State acting jointly, and
 - (b) in any other case, in accordance with regulations made by the Secretary of State.

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

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