



# Natural Environment and Rural Communities Act 2006

## 2006 CHAPTER 16

### PART 8

#### FLEXIBLE ADMINISTRATIVE ARRANGEMENTS

#### CHAPTER 1

#### AGREEMENTS WITH DESIGNATED BODIES

#### *Powers to enter into agreements*

#### **78 Agreement between Secretary of State and designated body**

- (1) The Secretary of State may enter into an agreement with a designated body authorising that body to perform a DEFRA function—
  - (a) either in relation to the whole of England or in relation to specified areas in England;
  - (b) subject to paragraph (a), either generally or in specified cases.  
“Specified” means specified in the agreement.
- (2) An agreement under this section—
  - (a) may be cancelled by the Secretary of State at any time, and
  - (b) does not prevent the Secretary of State from performing a function to which the agreement relates.
- (3) This section is subject to sections 81 and 82 (reserved functions and maximum duration of agreement).

## **79 Agreement between designated bodies**

- (1) A designated body (“A”) may, with the approval of the Secretary of State, enter into an agreement with another designated body (“B”) authorising B to perform a function of A that is related to or connected with a DEFRA function—
  - (a) either in relation to the whole of England or in relation to specified areas in England;
  - (b) subject to paragraph (a), either generally or in specified cases.  
“Specified” means specified in the agreement.
- (2) The Secretary of State’s approval may be given—
  - (a) in relation to a particular agreement or in relation to a description of agreements;
  - (b) unconditionally or subject to conditions specified in the approval.
- (3) Subject to subsection (5), the Secretary of State—
  - (a) must review an agreement under this section no later than the end of the period of 5 years beginning with the date on which the agreement was entered into or was last reviewed by the Secretary of State, and
  - (b) if it appears appropriate to do so in the light of the review, may cancel the agreement.
- (4) Subject to subsection (5), an agreement under this section may not be varied except—
  - (a) by agreement between A and B, and
  - (b) with the approval of the Secretary of State.
- (5) An approval given under subsection (1) may provide that subsection (3) or (4) does not apply (or that both of them do not apply).
- (6) This section is subject to sections 81 and 82 (reserved functions and maximum duration of agreement).

## **80 Designated bodies**

- (1) In this Chapter “designated body” means a body listed in Schedule 7.
- (2) The Secretary of State may by order amend Schedule 7 so as to—
  - (a) add a body to the list, or
  - (b) remove a body from it.
- (3) But the Secretary of State may not exercise the power conferred by subsection (2)(a) unless satisfied that at least one of the purposes or functions of the body to be added to the list is related to or connected with a DEFRA function.
- (4) A body to be added to the list need not be a public body.
- (5) The power to make an order under subsection (2) is exercisable by statutory instrument.
- (6) A statutory instrument containing an order under subsection (2) is subject to annulment in pursuance of a resolution of either House of Parliament.

## 81 Reserved functions

- (1) An agreement may not authorise a designated body to perform a reserved function.
- (2) The reserved functions are—
  - (a) any function whose performance by the designated body would be incompatible with the purposes for which the body was established;
  - (b) any power of a Minister of the Crown to make or terminate appointments or lay reports or accounts;
  - (c) any power to make subordinate legislation, give directions or guidance or issue codes of practice (or to vary or revoke any of those things);
  - (d) any power to fix fees or charges other than a power prescribed for the purposes of this section by an order made by the Secretary of State;
  - (e) any function of an accounting officer in his capacity as such;
  - (f) except in relation to an agreement authorising a public body to perform functions—
    - (i) any power to enter, inspect, take samples or seize anything, and
    - (ii) any other power exercisable in connection with suspected offences;
  - (g) any function of the Secretary of State under the Water Industry Act 1991 or under any subordinate legislation made under that Act.
- (3) The power to make an order under subsection (2)(d) is exercisable by statutory instrument.
- (4) A statutory instrument containing an order under subsection (2)(d) is subject to annulment in pursuance of a resolution of either House of Parliament.

## 82 Maximum duration of agreement

The maximum period for which an agreement may authorise a designated body to perform—

- (a) a DEFRA function, or
  - (b) a function that is related to or connected with a DEFRA function,
- is 20 years.

### *Supplementary*

## 83 Particular powers

- (1) The fact that a function is conferred by or under this Act or an Act passed after the passing of this Act does not prevent it from being the subject of an agreement.
- (2) The Secretary of State or a designated body (“A”) may, under an agreement, authorise a designated body (“B”) to perform a function even though under the relevant enactments or subordinate legislation—
  - (a) the function is conferred on A by reference to specified circumstances or cases and the same type of function is conferred on B in different specified circumstances or cases,
  - (b) the function is exercisable by A and B jointly,
  - (c) B is required to be, or may be, consulted about the function (whether generally or in specified circumstances), or

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- (d) B is required to consent to the exercise of the function (whether generally or in specified circumstances).
- (3) An agreement may provide—
  - (a) for the performance of a function to be subject to the fulfilment of conditions;
  - (b) for payments to be made in respect of the performance of the function.
- (4) A designated body which is authorised under an agreement to perform a function—
  - (a) is to be treated as having power to do so;
  - (b) may, unless (or except to the extent that) the agreement provides for this paragraph not to apply—
    - (i) authorise a committee, sub-committee, member, officer or employee of the body to perform the function on its behalf;
    - (ii) form a body corporate and authorise that body to perform the function on its behalf.
- (5) However, where the designated body is a local authority—
  - (a) subsection (4)(a) is subject to section 84(5)(a), and
  - (b) section 84 applies in place of subsection (4)(b).
- (6) Subject to subsection (4)(b) and section 84, a designated body which is authorised under an agreement to perform a function may not authorise any other body or other person to perform that function.

## **84 Agreements with local authorities**

- (1) This section applies where a local authority is authorised under an agreement to perform a function.
- (2) Subject to subsection (5), the function that the local authority is authorised to perform is to be treated as a function of the local authority for the purposes of—
  - (a) any power of a local authority to arrange for the discharge of the function by any person mentioned in subsection (3), and
  - (b) any power of a person mentioned in subsection (3) to arrange for the discharge of a function by any other person mentioned there.
- (3) The persons are any committee, sub-committee, member, officer or employee of the local authority.
- (4) “Committee” does not include a joint committee of two or more local authorities.
- (5) If the local authority is operating executive arrangements—
  - (a) the function is to be treated as a function of the local authority for the purposes of section 13 of the Local Government Act 2000 (c. 22), and
  - (b) if (or to the extent that) the function is the responsibility of the executive of the local authority—
    - (i) subsection (2) does not apply, and
    - (ii) sections 14 to 16 of the 2000 Act, and any regulations made under sections 17 and 18 of the 2000 Act, apply.
- (6) “Executive arrangements” and “executive” have the same meaning as in Part 2 of the 2000 Act.

- (7) An agreement may provide that the provisions of subsection (2) or those mentioned in subsection (5)(b)(ii) do not apply (or do not apply to a specified extent).

## **85 Supplementary provisions with respect to agreements**

- (1) An agreement, and any approval given by the Secretary of State under section 79, must be in writing.
- (2) The Secretary of State must arrange for a copy of an agreement to be published in a way that the Secretary of State thinks is suitable for bringing it to the attention of persons likely to be affected by it.
- (3) No power of a Minister of the Crown under any enactment to give directions to a statutory body extends to giving a direction—
- (a) requiring it to enter into an agreement;
  - (b) prohibiting it from entering into an agreement;
  - (c) requiring it to include, or prohibiting it from including, particular terms;
  - (d) requiring it to negotiate, or prohibiting it from negotiating, a variation or termination of an agreement.
- (4) Schedule 15 to the Deregulation and Contracting Out Act 1994 (c. 40) (restrictions on disclosure of information) applies in relation to an authorisation by a designated body under this Chapter as it applies in relation to an authorisation under section 69 of that Act by an office-holder.

## **86 Interpretation**

- (1) In sections 81 to 85 “agreement” means an agreement under section 78 or 79.
- (2) In this Chapter “DEFRA function” means a function which at the material time falls to be performed by or through the Department for Environment, Food and Rural Affairs.
- (3) A certificate issued by the Secretary of State that a function falls to be performed as mentioned in subsection (2) is conclusive evidence of that fact.
- (4) In this Chapter—
- “designated body” has the meaning given by section 80;
  - “local authority” means—
    - (a) a local authority as defined in section 1(a) of the Local Government Act 2000 (c. 22), and
    - (b) the Greater London Authority;
  - “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 (c. 26);
  - “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30).

## CHAPTER 2

### POWERS TO REFORM AGRICULTURAL ETC. BODIES

#### *Power to create boards*

#### **87 Power to establish boards**

- (1) The appropriate authority may by order—
  - (a) establish a body for a purpose or purposes falling within section 88, and
  - (b) assign to it a function or functions falling within section 89.
- (2) The order must specify the area or areas in relation to which assigned functions are exercisable.
- (3) The areas which may be specified under subsection (2) are—
  - (a) England or an area in England;
  - (b) Wales or an area in Wales;
  - (c) Scotland or an area in Scotland;
  - (d) Northern Ireland or an area in Northern Ireland;
  - (e) any combination of any of the areas mentioned in paragraphs (a) to (d).
- (4) In this Chapter—
  - “the appropriate authority” has the meaning given by section 96;
  - “board” means a body established by an order under this section;
  - “section 87 order” means an order under this section.
- (5) A board is to be known by a name specified in the order.
- (6) Schedule 8 contains provisions about the constitution of boards and related matters.

#### **88 Permissible purposes of boards**

- (1) The purposes referred to in section 87(1)(a) are—
  - (a) increasing efficiency or productivity in an agricultural or related industry;
  - (b) improving marketing in an agricultural or related industry;
  - (c) improving or developing services that an agricultural or related industry provides or could provide to the community;
  - (d) improving the ways in which an agricultural or related industry contributes to sustainable development.
- (2) A section 87 order must specify—
  - (a) the purpose or purposes for which the board is established, and
  - (b) the industry to which the order relates.
- (3) For the purposes of subsection (2)(b), it does not matter whether the specified industry is regarded for any other purpose as—
  - (a) an industry,
  - (b) a group of industries, or
  - (c) a sector or sectors of an industry.

- (4) “Agriculture” includes horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, and the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds.
- (5) “Related industry” means an industry which is concerned with the production, processing, manufacture, marketing or distribution of—
  - (a) anything (including any creature alive or dead) produced in the course of agriculture, and
  - (b) any product which is derived to any substantial extent from anything so produced.
- (6) “Services” includes environmental and educational services.

## **89 Permissible functions of boards**

- (1) The functions referred to in section 87(1)(b) are—
  - (a) a function specified in Schedule 9 (a “Schedule 9 function”);
  - (b) a function which, immediately before the commencement of the section 87 order, is a function of an existing levy body (“an existing function”);
  - (c) a function which is a more limited version of a Schedule 9 function or an existing function;
  - (d) a function which is a combination of two or more Schedule 9 functions or existing functions;
  - (e) any additional function, if it appears to the appropriate authority—
    - (i) to be related or similar to, or connected with, any function being assigned by virtue of any of paragraphs (a) to (d), or
    - (ii) to be capable of being conveniently exercised in association with any function being so assigned.
- (2) In this Chapter “existing levy body” means—
  - (a) the British Potato Council;
  - (b) the Home-Grown Cereals Authority;
  - (c) the Horticultural Development Council;
  - (d) the Meat and Livestock Commission;
  - (e) the Milk Development Council.

## **90 Ancillary provisions**

Schedule 10 makes further provision about the contents of a section 87 order.

### *Power to dissolve existing levy bodies and boards*

## **91 Power to dissolve existing levy bodies**

- (1) The appropriate authority may by order provide for the dissolution of any or all of the existing levy bodies.
- (2) If an order is made providing for the dissolution of the Home-Grown Cereals Authority, the order must provide for the Cereals Marketing Act 1965 (c. 14) to cease to have effect.

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- (3) If an order is made providing for the dissolution of the Meat and Livestock Commission, the order must provide for the relevant provisions of the Agriculture Act 1967 (c. 22) to cease to have effect.
- (4) The relevant provisions of the 1967 Act are—  
 Part 1 (livestock and meat marketing);  
 Schedule 1 (the Meat and Livestock Commission);  
 Schedule 2 (supplementary provisions with respect to development schemes).
- (5) If an order is made providing for the dissolution of—  
 (a) the British Potato Council,  
 (b) the Horticultural Development Council, or  
 (c) the Milk Development Council,  
 the order must provide for the revocation of the development council order establishing the Council.
- (6) “Development council order” has the meaning given by section 1(2) of the Industrial Organisation and Development Act 1947 (c. 40) (power to establish development councils etc.).

## **92 Power to dissolve board**

- (1) The appropriate authority may by order provide for the dissolution of a board.
- (2) An order under this section must provide for the revocation of the section 87 order.

## **93 Dissolution: supplementary**

- (1) Subsection (2) applies if an order is made providing for—  
 (a) the dissolution of an existing levy body, or  
 (b) the dissolution of a board.
- (2) The order may provide for the transfer of any property, rights or liabilities of the existing levy body or board.
- (3) Subsection (4) applies if an order is made providing for—  
 (a) the dissolution of an existing levy body, or  
 (b) the dissolution of a board in relation to which provision has been made by virtue of paragraph 5 of Schedule 10 (levies).
- (4) The order must provide for the application of any surplus—  
 (a) for the purposes for which the existing levy body or board was established, or  
 (b) for connected purposes.
- (5) “Surplus” means an amount by which the assets of the existing levy body or board exceeds its liabilities and expenses.



### *Powers of appropriate authority*

#### **94 Grants**

- (1) The appropriate authority may make grants to a board of such amounts as the appropriate authority thinks fit.
- (2) A grant under this section may be made subject to such conditions as the appropriate authority thinks fit.

#### **95 Directions**

- (1) The appropriate authority may give a board general or specific directions as to the exercise of its functions.
- (2) The appropriate authority must publish any directions given under this section as soon as is reasonably practicable after giving the directions.
- (3) The power to give directions under this section includes power to vary or revoke the directions.
- (4) A board must comply with any directions given under this section.

### *Supplementary*

#### **96 “The appropriate authority”**

- (1) In this Chapter “the appropriate authority” means—
  - (a) in relation to matters concerning England only, the Secretary of State;
  - (b) in relation to matters concerning Wales only, the National Assembly for Wales;
  - (c) in relation to matters concerning Scotland only, the Scottish Ministers;
  - (d) in relation to matters concerning Northern Ireland only, the relevant Northern Ireland department;
  - (e) in relation to the matters mentioned in subsection (2), the Secretary of State acting with the approval of the National Assembly for Wales, the Scottish Ministers or (as the case may be) the relevant Northern Ireland department.
- (2) The matters referred to are—
  - (a) making a section 87 order establishing a board which has cross-border functions;
  - (b) making an order under section 91 or 92 dissolving an existing levy body or such a board;
  - (c) making appointments to such a board or exercising other powers in relation to a cross-border function of a board.
- (3) “Cross-border functions” means functions relating to—
  - (a) England, and
  - (b) Wales, Scotland or Northern Ireland.
- (4) The Scottish Ministers may not give their approval for the purposes of subsection (1)
  - (e) to the making of—

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- (a) an order establishing a board whose cross-border functions include functions relating to Scotland, or
- (b) an order dissolving an existing levy body or a board whose cross-border functions include functions relating to Scotland,

unless a draft of the order has been laid before, and approved by a resolution of, the Scottish Parliament.

- (5) In this Chapter “the relevant Northern Ireland department” means the Department of Agriculture and Rural Development in Northern Ireland.

## 97 Orders: procedure etc.

- (1) An order under this Chapter may include supplementary, incidental, consequential, transitory, transitional or saving provision.
- (2) An order under this Chapter making provision of a description referred to in subsection (1) may—
  - (a) amend or repeal any enactment, or
  - (b) amend or revoke any subordinate legislation,
 whenever passed or made.
- (3) “Enactment” includes Acts of the Scottish Parliament and Northern Ireland legislation.
- (4) “Subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30), except that it includes any instrument made under an Act of the Scottish Parliament and any instrument within the meaning of section 1(c) of the Interpretation Act (Northern Ireland) 1954 (c. 33 N.I.).
- (5) Before making any order under this Chapter the appropriate authority must consult such organisations as appear to it to be representative of interests substantially affected by the proposed order.
- (6) Subject to subsection (7), any power to make an order under this Chapter is exercisable by statutory instrument.
- (7) Any power of the relevant Northern Ireland department to make an order under this Chapter is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I.12)).
- (8) An order under this Chapter may not be made—
  - (a) by the Secretary of State, unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament;
  - (b) by the Scottish Ministers, unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, the Scottish Parliament;
  - (c) by the relevant Northern Ireland department, unless a draft of the statutory rule containing the order has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

## CHAPTER 3

### FINANCIAL ASSISTANCE

#### 98 Financial assistance

- (1) The Secretary of State may give or arrange for the giving of financial assistance in respect of expenditure incurred or to be incurred in any matter related to or connected with a DEFRA function.
- (2) Financial assistance under this section may be given in any form, and may in particular be given by way of a grant, a loan or a guarantee.
- (3) Financial assistance under this section may be given subject to such conditions as may be determined by, or in accordance with arrangements made by, the Secretary of State.
- (4) The conditions may, in particular, include (in the case of a grant) conditions for repayment in specified circumstances.
- (5) “DEFRA function” means a function which falls to be performed by or through the Department for Environment, Food and Rural Affairs.
- (6) A certificate issued by the Secretary of State that a function falls to be performed as mentioned in subsection (5) is conclusive evidence of that fact.
- (7) The power to give financial assistance under this section may be exercised even though a more specific power to give financial assistance exists.