

1989 No. 2277

INDUSTRIAL ORGANISATION AND DEVELOPMENT

The Apple and Pear Research Council Order 1989

Made - - - - 3rd December 1989

Coming into force in accordance with article 1

The Minister of Agriculture, Fisheries and Food and the Secretary of State acting jointly in exercise of the powers conferred by sections 1, 2, 3, 4, 5, 6 and 14 of the Industrial Organisation and Development Act 1947(a) and now vested in them(b), and of all other powers enabling them in that behalf, after consultation with the organisations appearing to them to be representative of substantial numbers of persons carrying on business in the industry and with the organisation representative of persons employed in the industry appearing to them to be appropriate, being satisfied that the establishment of a development council for the industry is desired by a substantial number of persons engaged in the industry, and having satisfied themselves that the incidence of charges as between different classes of undertakings in the industry will be in accordance with a fair principle, hereby make the following Order, a draft of which has been laid before and approved by resolution of each House of Parliament:—

Title and commencement

1. This Order may be cited as the Apple and Pear Research Council Order 1989 and shall come into force on the eighth day after the day on which it is made.

Interpretation

2.—(1) In this Order, unless the context otherwise requires—

“the Act” means the Industrial Organisation and Development Act 1947;

“apples and pears” means apples and pears other than “cider apples” and “perry pears”;

“apple or pear tree” means any plant grown for the commercial production of apples and pears other than nursery stock;

“cider apples” and “perry pears” mean respectively apples and pears of the varieties specified in Schedule 1;

“the Council” means the Apple and Pear Research Council established under the provisions of this Order;

“grower” means a person who carries on business in the industry and occupies land in England and Wales of two hectares or more planted with 50 or more apple or pear trees;

“the industry” means the growing of apples and pears in England and Wales for sale or for processing into an apple or pear product with a view to its sale, by way of trade or business;

(a) 1947 c.40, which is to be read with section 40 of the Criminal Justice Act 1982 (c.48) and S.I. 1984/447.

(b) By virtue of S.I. 1978/272.

“the Minister” means the Minister of Agriculture, Fisheries and Food; and
“sale” includes storage or preparation with a view to subsequent sale.

(2) In this Order, unless the context otherwise requires, any reference to a numbered article or Schedule is a reference to the article or Schedule so numbered in this Order.

Establishment of Development Council

3.—(1) There shall be established a development council for the industry, to be known as the Apple and Pear Research Council, and there shall be assigned to it the functions specified in Schedule 2.

(2) The Council shall exercise their functions in such manner as appears to them to be likely to increase efficiency and productivity in the industry, to improve and develop the service that the industry renders or could render to the community and to enable the industry to render that service more economically.

(3) The Council may enter into such agreements, acquire such property and do such things, as may in the opinion of the Council be necessary or desirable for the exercise of any of their functions and may dispose of as they think fit of any property acquired by them.

Constitution of Council

4. The Council shall consist of the following members appointed by the Minister, that is to say:

- (1) five persons capable of representing the interests of growers;
- (2) one person capable of representing the interests of people employed in the industry;
- (3) two persons as to whom the Minister is satisfied that they have no such financial or industrial interest as is likely to affect them in the discharge of their functions as members of the Council (hereinafter referred to as “independent members”); and
- (4) one person having special knowledge of matters relating to the marketing and distribution of products of the industry.

Membership and proceedings of council

5. The provisions of Schedule 3 shall have effect in relation to the membership and proceedings of the Council.

Register of growers

6.—(1) The Council shall keep a register of growers and shall enter in it the name and address of every person who applies to the Council in writing to be registered.

(2) The Council may enter in the register, in addition to the name and address of any registered person, any business name under which and the address of any place at which he carries on the business in the industry, and the names of his partners in any such business, but no other information.

(3) Any person whose name is entered in the register shall notify the Council forthwith in writing of any matter rendering the entry in the register relating to him inaccurate or incomplete.

(4) The Council shall amend the register in accordance with any such notification as is referred to in paragraph (3) above, on its receipt.

(5) Any registered person may apply in writing to the Council for the removal of his name from the register and if the Council are satisfied that such person no longer carries on business in the industry they may remove his name forthwith.

(6) The Council may, if they have reasonable cause to believe that any person whose name is entered in the register no longer carries on a business in the industry, by notice in writing inform that person of their intention to remove his name from the register unless within one month from the date of the notice he gives notice in writing to the Council that he is a person carrying on such a business and, if no such notice is received by the Council

within the said period, the Council may on the expiration of that period remove his name from the register.

(7) The register shall be kept at the office of the Council and any person shall, on the payment of a fee not exceeding one pound, be entitled to inspect the register during normal business hours and to take, or be supplied with, a copy of the entries relating to any one registered person.

Registration of growers

7.—(1) Every person who on or after the day on which this Order comes into force becomes a grower shall within the month thereafter apply in writing to the Council to be registered.

(2) Where two or more persons jointly carry on business in the industry they shall, for the purpose of registration, be treated as constituting a single person.

Returns and information

8.—(1) Subject to paragraph (2) below, the Council may require any registered grower to furnish such returns and information relating to activities carried on by him and comprised in the industry, including information with respect to the productive capacity, capital assets, staff, output, orders, sales, deliveries, stocks and costs as appear to the Council to be required for the exercise of any of their functions.

(2) The Council shall not exercise the powers conferred upon them under this article generally as regards the industry or any section thereof unless the Minister has consented to such exercise and has approved the form in which the returns or other information will be required to be furnished.

Charges for expenses

9.—(1) For the purposes of enabling them to meet their administrative and other expenses incurred or to be incurred in the exercise of their functions the Council may, with the approval of the Minister and subject to paragraph (2) below, impose on every grower—

- (a) an annual charge at a rate not exceeding twenty-five pounds in respect of each hectare of land occupied by him for the purpose of business in the industry and planted with apple or pear trees, or,
- (b) where the average density of planting on such land is less than 125 trees per hectare and the grower so elects, an annual charge in respect of every 50 trees at the rate of two fifths of the charge imposed under the preceding sub paragraph.

(2) For the purpose of computing amounts payable under paragraph (1) above headlands shall be included but fractions of less than each complete one-tenth of a hectare or any remainder after the number of trees have been divided by 50 shall be ignored.

(3) Where two or more persons jointly carry on business in the industry, they shall, for the purpose of calculating any charge payable by them in respect of land used in the joint business, be treated as constituting a single person.

(4) Every charge imposed in accordance with the provisions of this article shall be payable on such date or dates as the Council may determine at the office of the Council, and it shall be a debt due to the Council and shall be recoverable as such.

Borrowing and investment of money

10.—(1) The Council may borrow money and pledge, mortgage or charge any of their property (including the proceeds of the charges imposed in accordance with the provisions of article 9) for the purpose of defraying any expenses incurred or to be incurred in the discharge of their functions.

(2) The Council may establish and thereafter maintain a reserve fund for the purposes of their functions.

(3) Any moneys for the time being comprised in a reserve fund maintained under this article, and any other moneys of the Council which are not for the time being required for any other purpose, may be invested in accordance with paragraph (4) below.

(4) Sections 1, 2, 5, 6, 12 and 13 of the Trustee Investments Act 1961 (a) (which relate to the investment powers of trustees) shall have effect in relation to any such moneys, and in relation to any investments or other property for the time being representing any such moneys, as if they constituted a trust fund and the Council were the trustees of that trust fund.

Returns of orchard area and other matters

11.—(1) For the purposes of the imposition or recovery of their charges, the Council may from time to time require by notice in writing any person carrying on business in the industry to furnish to the Council a written return, in such form, within such period and showing such information as may be specified in the notice, or to produce for examination at such time as may be specified in the notice books or other documents or records in the custody or under the control of that person, or to keep records and produce them for examination as aforesaid.

(2) The Council shall ensure that the returns to be furnished in accordance with the provisions of article 8 or the returns to be furnished or the books or other documents or other records to be produced in accordance with the provisions of this article shall be examined only by the independent members of the Council or by officers of the Council specially authorised for that purpose by the Council.

(3) A person who uses in his business what he claims to be a secret process that ought not to be disclosed on the ground of risk of prejudice to his business shall not be required by anything in this article or in article 8 to disclose particulars relating to the process unless the requirement and the form thereof have been approved by the Minister after consideration of his claim.

Offences

12.—(1) If any grower continues his business in the industry after the expiration of the period within which he is required by article 7(1) to apply to be registered without having so applied he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) If any person required to furnish returns or information or to keep records or to produce for examination books or other documents or records under this Order fails to furnish, keep or produce them in accordance with the requirement he shall, unless he proves that he had reasonable excuse for the failure, be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) If any person who is convicted of an offence under paragraph (1) above continues his business in the industry after the expiration of 21 days commencing with the date of the conviction without having applied for registration he shall be guilty of a further and continuing offence and shall be liable on summary conviction to a fine not exceeding five pounds in respect of each day during which he continues such business without having applied for registration.

(4) If any person who is convicted of an offence under paragraph (2) above, fails without reasonable excuse to furnish such returns or to produce for examination such books, other documents or records to the Council within 21 days after such conviction he shall be guilty of a further and continuing offence and shall be liable on summary conviction to a fine not exceeding five pounds in respect of each day during which such failure continues.

(5) If any person knowingly or recklessly makes any statement, in compliance with a notice under the provisions of article 8 or 11, which is false in a material particular, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(a) 1961 c.62.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 3rd December 1989.



John Selwyn Gummer
Minister of Agriculture, Fisheries and Food

Peter Walker
Secretary of State for Wales

30th November 1989

SCHEDULE 1

Article 2

CIDER APPLES AND PERRY PEARS

The following varieties of apples are cider apples—

Abondance
Allens Sweet
Amer de Berthecourt
Amer de Torentice
Argile Grise
Ashton Bitter
Ashton Brown Jersey
Ball's Bitter Sweet
Barbarie Blanche
Bedan
Belle de Douai
Belle Norman
Bergere
Binet Rouge
Black Foxwhelp
Black Norman
Blanc Mollet
Bloody Turk
Bouteille de Caen
Bramtot
Bran Rose
Breakwell's Seedling
Broadleaf Norman
Broadley Jersey
Brown Jersey
Brown Snout
Brown Thorn
Brown's Apple
Bulmer's Norman
Camelot
Cherry Norman
Cherry Pearmain
Chisel Jersey
Churchill
Cider Lady's Finger
Cimetiere
Collington Bitter Sweet
Compton Drum
Cool Jersey
Court Royal
Cow Apple
Cowarne Red
Crimson King
Croix de Bouelles

Crummy Norman
Dabinett
De Boutteville
Des Domaines
Doux Amer
Doux Lazon
Dove
Dymock Red
Early David
Ecarlatine
Eggleton Styne
Ellis Bitter
Fair Maid of Devon
Fillbarrel
Foxwhelp
Franqueville
Frederick
Frequin Audievre
Frequin Tardif
Gilbert
Goddard
Green Norman
Grosse Launette
Hagloe Crab
Hangdown
Harnette
Harry Masters Jersey
Honeystring
Improved Dove
Improved Hangdown
Improved Kingston Black
Improved Lambrook Pippin
Improved Pound
Jackson
Jambe de Lievre
Jolly Rouge
Killerton Sweet
Kingston Black
Knotted Kernel
Lavignee
Lorna Doone
Loyal Drain
Major
Marechal
Medaille d'Or 1
Medaille d'Or 2
Michelin
Morgan Sweet
Moulin à Vent
Nehou
Neverblight
Oakham Green
Oisier
Old Pound
Omont
Peau de Blaireau
Peau de Vache
Pennard Bitter
Pomme Mettais
Porter's Perfection
Port Wine
Red Foxwhelp
Red Jersey
Red Norman
Red Streak
Reine des Hâtives

Reine des Pommes
Reinette D'Obry
Rouge Bruyere
Rougette Douce
Royal Jersey
Royal Wilding
St Laurent
Sandford Jersey
Scudamores Crab
Sherrington Norman
Silver Cup
Skyrmes Kernel
Slack My Girdle
Somerset Brown Jersey
Somerset Red Streak
Stable Jersey
Stembridge Jersey
Stoke Red
Strawberry Norman
Sweet Alford
Sweet Blenheim
Sweet Copping
Tanners Red
Taunton Fair Maid
Thomas Hunt
Tom Putt
Tremlett's Bitter
Upright French
Upright Styre
Vagnon Archer
Vilberie
Wellings Bitter Sweet
White Alphington
White Close Pippin
White Frequin
White Jersey
White Norman
Woodbine
Yarlington Mill
Yellow Redstreak
Yellow Styre

The following varieties of pears are perry pears—

<i>Variety</i>	<i>Synonym(s)</i>
Arlingham Squash	Squash Pear, Old Squash, Old Taynton Squash
Barland	
Barnet	Barn Pear, Brown Thorn Pear, Hedgehog Pear
Bartestree Squash	
Bastard Longdon	
Bastard Sack	
Billy Williams	
Black Huffcap	Black Pear
Blacksmith	
Blakeney Red	Blakeney, Red Pear, Circus Pear, Painted Lady, Painted Pear
Bloody Bastard	
Bosbury Scarlet	
Boy Pear	
Brandy	
Brockhill	
Brown Bess	Brown Bessie
Brown Russet	
Butt	Norton Butt
Cannock	
Chaceley Green	Chaseley Green
Claret	
Clipper Dick	
Clusters	
Coppy	Coppice
Cowslip	
Deadboy	
Ducksbarn	Duckbarn, Ducksbourne
Early Blet	
Early Griffin	Griffin's Early
Early Hay Pear	Hay Pear
Early Longdon	
Early Treacle	
Flakey Bark	
Forrest Pear	
Gin	
Golden Balls	
Goldings	
Grandfather Tum(p)	
Green Horse	Horse Pear
Green Longdon	Brown Longdon, Longdon, Longland(s), Old Fashioned Longdon, Russet Longdon
Gregg's Pit	
Hampton Rough	Roughs
Harley Gum	Arlingham
Hartpury Green	
Hastings	
Hatherley Squash	
Hellens Early	Sweet Huffcap
Hellens Green	
Hendre Huffcap	Yellow Huffcap
Heydon	
High Pear	
Hillend Green	Ford's Green Huffcap
Holmer	Cluster Top, Startle Cock
Honey Knob	
Iron Sides	
Jenkins' Red	
Judge Amphlett	
Knapper	Napper
Late Hay Pear	Hay Pear
Late Treacle	
Lullam	

The following varieties of pears are perry pears—

<i>Variety</i>	<i>Synonym(s)</i>
Lumber	Lumber Reds, Steelyard Balls, Steelyer Balls, Swaycots, Cumber
Margaret	
Merrylegs	
Moorcroft	Malvern Hills, Stinking Bishop, Choke Pear, Chokers
Murrell	
Nailer	Billy Williams
Newbridge	White Moorcroft
New Meadow	Lintot, Yokehouse
Oldfield	Ollville, Oleville, Offfield, Awrel, Hawfield
Painted Lady	
Parsonage	
Pig Pear	
Pine	
Pint	Pine
Potato Pear	
Red Huffcap	Huffcap, Uffcap, Uffcup
Red Longdon	Red Longley, Red Longney, Brockle, Brockhill, Cider Pear
Red Pear	Aylton Red, Blunt Red, Red Horse
Rock	Mad Pear, Mad Cap, Black Huffcap, Brown Huffcap, Red Huffcap, Huffcap, Uffcap, Uffcup
Rumblers	Jug Rumbles, Rumble Jumble
Sack	
Sickle Pear	American Sickle
Silver Pear	Summer Pear
Snake Pole	
Sow Pear	
Speart Pear	
Staunton Squash	Squash Pear, White Squash
Stinking Bishop	
Swan Egg	Swan
Taynton Squash	
Teddington Green	Teddingtons
Thorn	
Thurston's Red	Dymock Red, Billy Thurston
Tumper	Tum, Tom, Tump
Turner's Barn	Longstalk
White Bache	Bache's White, Beech White, White Beech
White Longdon	Longdon, Longland(s), Bastard Barland, Dandoe, Garradine, Port
Winnal's Longdon	Longdon, Longland(s)
Yellow Huffcap	Huffcap, Uffcap, Uffcup, Brown Huffcap, Black Huffcap, Green Huffcap, Kings Arms, Yellow Longdon, Yellow Longland(s), Chandos Huffcap
Young Heydon	

FUNCTIONS OF THE APPLE AND PEAR RESEARCH COUNCIL

1. Promoting or undertaking scientific research.
2. Promoting or undertaking inquiry as to materials and equipment and as to methods of production, management and labour utilisation, including the discovery and development of new materials, equipment and methods and of improvements in those already in use, the assessment of the advantages of different alternatives, and the conduct of experimental establishments and of tests on a commercial scale.
3. Promoting or undertaking the collection and formulation of statistics.
4. Undertaking arrangements for making available informations obtained, and for advising on matters with which the Council are concerned in the exercise of any of their functions.
5. Promoting or undertaking arrangements for better acquainting the public in the United Kingdom, in relation to technical matters, with the products of the industry and methods of using them.

SCHEDULE 3

PROCEEDINGS OF THE COUNCIL

1. The members of the Council shall hold office for such term not exceeding four years as the Minister may determine and on the expiry of their term of office shall be eligible for reappointment.
2. If a member appointed as an independent member—
 - (a) commences or resumes carrying on a business in the industry or acts in the management of any undertaking the owner of which carries on business in the industry, or
 - (b) refuses to sell or dispose of any interest or security held directly or indirectly for his benefit and the retention of which he has been informed by the Minister to be in his opinion likely to affect him in the discharge of his functions or fails to sell or dispose of any such interest or security within one month after having been requested by the Minister so to do,the Minister may declare the office of such member to be vacant.
3. A quorum of the Council shall be such number as the Council may decide not being less than five.
4. The Council may appoint committees of their members and may determine the quorum and procedure of any such committee.
5. The seal of the Council shall not be applied to any document except by the authority of the Council or a duly authorised committee of members of the Council and the application of the seal shall be authenticated by the signatures of two members of the Council.
6. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Council by any person generally or specially authorised by them for the purpose.
7. Every document purporting to be a document duly executed or issued either under the seal of the Council authenticated in the manner provided by this Schedule or on behalf of the Council, or purporting to be signed by the secretary or any person authorised to act in that behalf, shall, until the contrary be proved, be deemed to be a document so executed or issued or so signed as the case may be.

8. The Council may pay their members any expenses properly incurred by them in the business of the Council and may pay such remuneration and allowances to any of the members of the Council as the Minister may determine. The Council may also pay on the retirement or death of any of their members as to whom it may be determined by the Minister to make such provision, such pensions and gratuities by reference to their service as may be so determined.

9. The validity of any proceedings of the Council shall not be affected by any vacancy amongst its members.

10. Minutes shall be kept of the proceedings of the Council and any such minutes shall, if signed by any person purporting to have acted as chairman of the meeting or at a meeting at which they were read, be evidence of the proceedings at the first mentioned meeting, and a meeting to which any such minutes relate shall, unless the contrary is proved, be taken to have been regularly convened and constituted.

11.—(1) A member of the Council shall, if he is in any way directly or indirectly interested in a contract made or proposed to be made by the Council, disclose the nature of his interest at a meeting of the Council as soon as possible after the relevant circumstances have come to his knowledge.

(2) Any disclosure made by a member under the foregoing sub-paragraph shall be recorded in the minutes of the Council, and that member shall not take part after the disclosure in any deliberation or decision of the Council with respect to that contract, but may, nevertheless, be taken into account for the purpose of constituting a quorum of the Council.

12. The Council shall have an office at which communications and notices will at all times be received and shall notify the Minister of that address and any change of that address.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order establishes a development Council for the apple and pear growing industry in England and Wales to be known as the Apple and Pear Research Council.

In particular the Order—

- (a) assigns functions to the Council (article 3);
- (b) provides for the appointment of members and the proceedings of the Council (articles 4, 5 and Schedule 3);
- (c) provides for the keeping of a register of growers (articles 6 and 7);
- (d) empowers the Council to require registered growers to furnish returns and information (articles 8 and 11);
- (e) provides for the imposition of charges by the Council for their expenses in the exercise of their functions (article 9); and
- (f) prescribes offences and penalties (article 12).

This Order comes into force on the eighth day after the day on which it is made.

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