

SCHEDULE 3

Regulation 3

PROVISIONS OF THE OLD MARKETING SCHEME
PRESERVED, INSERTED OR CONTINUING IN FORCE
THE MILK MARKETING SCHEME 1933

PART I.

PRELIMINARY

- 3.—(1) Except where the context otherwise requires, a reference in this Scheme to a paragraph—
- (a) shall be construed as a reference to a paragraph in this Scheme where that paragraph is preserved or continues in force in, or has been inserted into, this Scheme;
 - (b) shall be construed as a reference to a paragraph formerly in this Scheme where that paragraph is not one to which paragraph (a) of this sub-paragraph applies.
- (2) In this Scheme, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:

“commercial activities”—

- (a) in relation to the final trading period, means the following activities—
 - (i) processing milk or producing commodities from milk or commodities of which milk is a substantial ingredient;
 - (ii) selling, grading, packing, storing, adapting for sale, insuring and advertising milk so processed or such commodities;
 - (iii) transporting milk or such commodities;
 - (iv) other activities reasonably incidental to those specified above, and
- (b) in relation to the period beginning on Vesting Day, means the following activities—
 - (i) buying and selling milk carried out by Dairy Crest Limited;
 - (ii) processing milk and producing from milk, or from products derived from milk, commodities or products of which milk, or a product derived from milk, is an ingredient;
 - (iii) selling milk so processed or such commodities or such products;
 - (iv) grading, packing, storing, adapting for sale, insuring and advertising milk or milk so processed or such commodities or such products;
 - (v) transporting milk or milk so processed or such commodities or such products;
 - (vi) other activities falling within the objects of Dairy Crest Limited as set out in provisions of the approved scheme relating to the proposed constitution of Dairy Crest Limited, as may be varied from time to time by Dairy Crest Limited with the prior approval of the Board;
 - (vii) collecting milk samples and data relating to milch cows, testing milk samples and providing a service in the supply of resulting data and collecting, processing and publishing dairy management information;
 - (viii) other activities reasonably incidental to those specified above;

“company” has the same meaning as in section 735(1)(a) of the Companies Act 1985;

“Minister” means the Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales acting jointly;

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“milch cow” means a cow kept for milking purposes whether dry or in milk, but does not include a heifer which has never calved;

“milk” means cows' milk produced in England and Wales;

“prescription” means a determination by the Board made by means of a prescriptive resolution, and “prescribe” shall be construed accordingly;

“prescriptive resolution” means a resolution of the Board made prior to Vesting Day, embodying a determination of the Board, which was recorded in the record then provided for by paragraph 96;

“producer” means a producer of milk;

“retail” and “semi-retail” in relation to sales of milk mean respectively such class or classes of milk as may from time to time have been prescribed and defined by the Board as such;

“secretary” includes any person for the time being authorised by the Board to act as secretary;

“subsidiary” has the same meaning as it has for the purposes of section 736 of the Companies Act 1985.

(3) Other expressions used in this Scheme have, in so far as the context admits, the same meanings as in the Milk Marketing Board (Residuary Functions) Regulations 1994, any reference in this Scheme to a numbered regulation shall be construed as a reference to the regulation so numbered in those Regulations, any reference in this Scheme to “this Scheme” shall be construed as including a reference to those Regulations and those Regulations shall be read with this Scheme as if they and this Scheme formed a single instrument.

PART II.

THE BOARD AND COMMITTEES

THE BOARD AND THEIR GENERAL POWERS

6.—(2) The Board shall have an office at which communications and notices will at all times be received and shall notify the Minister of the address and of any change in the address thereof.

7. The Board may employ a secretary and such other officers and employees and engage the services of such persons as they think fit and may enter into such agreements, acquire such property and do such things as may, in their opinion, be necessary or desirable for the purpose of discharging any of their functions and may sell or otherwise dispose of any property acquired by them which they do not need for such purpose and, without prejudice to the generality of this provision, may—

- (a) acquire any interest in a body corporate;
- (b) form or take part in forming a body corporate;
- (c) transfer to any such body corporate any of their assets and arrange for it to discharge any of their liabilities.

8. The Board may pay to any member of the Board any such travelling and out-of-pocket expenses as have, in the opinion of the Board, been reasonably incurred by him in connection with the business of the Board.

8A. The Board, to the intent that so far as practicable their commercial activities may be put on an equal footing with the activities of independent commercial undertakings, shall place their commercial activities under a system of financial management and administration which is separately accountable from the system of financial management and administration for the Board's other activities.

OTHER COMMITTEES

20. The Board may appoint committees consisting of such members of the Board and such other persons as they may determine and, subject to the provisions of this Scheme with respect to the application of the common seal of the Board, may delegate to any committee appointed by them any of the powers of the Board, except a power in connection with the borrowing of money.

PROCEEDINGS OF THE BOARD

25. All acts done at any meeting of the Board or of any committee appointed by them shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment, election or qualification of a person purporting to be a member of the Board or of the committee, or that a member of the Board had voted upon any question upon which he was not entitled to vote, be as valid as if that defect had not existed or such member had been entitled to vote.

MINUTES

26. Minutes shall be kept of the proceedings of the Board and of every committee thereof, and any such minutes shall, if signed by a person purporting to have acted as chairman of the meeting to which the minutes relate or of a meeting at which they were read, be evidence of the proceedings at the first-mentioned meeting, and the meeting to which any such minutes related shall be presumed, until the contrary is proved, to have been regularly convened and constituted.

27. For the purpose of any proceedings a copy, purporting to be certified in writing by the chairman or vice-chairman or secretary of the Board to be a true copy, of the minutes or any parts of the minutes of any meeting of the Board or any committee of the Board shall be evidence of such of the proceedings at the said meeting as such minutes or parts of the minutes purport to relate to and, until the contrary be proved, the meeting shall be presumed to have been regularly convened and constituted.

THE SEAL

28. The common seal of the Board shall not be applied to any document except by the authority of the Board, and the application of the seal shall be attested by the chairman, or vice-chairman, and at least one other member of the Board and by the Secretary.

CONTRACTS

29. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed on behalf of the Board by any person authorised by them in that behalf, either generally or specially.

30. No contract to which the Board is a party shall be avoided by reason only that a member of the Board is also a party thereto or is interested therein, and a member of the Board who is a party to, or interested in, such a contract shall not, by reason only that he is a member of the Board, be liable to account to the Board for any profit realised by him by reason of the contract; but a member of the Board must forthwith disclose to the Board any interest which he has or acquires in any contract whatsoever, if such interest in any way conflicts with his duty as a member of the Board, and shall not vote upon any question relating to the contract, and if he does vote, his vote shall not be counted; but he shall, nevertheless, be taken into account for the purpose of constituting a quorum of the Board or of any committee appointed by them:

Provided that a member of the Board shall not be precluded from voting on a question relating to—

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- (a) the general policy of the Board with respect to any matter by reason only that the determination of that question will or may affect contracts which have been, or may thereafter be, entered into by him with the Board;
- (b) any contract for the provision of remuneration, allowances or gratuities which the Board are empowered to effect by virtue of regulation 8(3).

PART III.

REGISTER OF PRODUCERS

39.—(1) Any person shall be entitled, on payment of the cost of postage and such fee not exceeding one pound per entry as the Board may determine, to be supplied with a copy of any entry in the register.

(2) Notwithstanding sub-paragraph (1) above, a registered producer on written application to the Board shall be entitled to be supplied with a copy of the entry which relates to him free of charge.

41.—(1) Registration of the name or style under which two or more persons carry on business in partnership as producers shall operate as the registration of all partners for the time being so however that (a) for the purposes of the provisions of this Scheme which relate to voting at meetings and assessment of contributions from relevant producers all the partners shall be regarded as constituting together a single registered producer or a single relevant producer (as the case may be) and (b) a person registered as a partner as aforesaid shall not be deemed to be registered as a producer except in respect of transactions which form part of the partnership business.

(2) Subject to sub-paragraphs (3) and (4) below, where by reason of a registered producer dying or becoming subject to some legal disability or entering into a composition or scheme of arrangement with his creditors, the property in, or the control of, any business of producing milk is transferred from him to a personal representative, trustee, committee or other person, the personal representative, trustee, committee or other person shall, until he has disposed of the property in or control of such business of producing milk be deemed to be a registered producer for all the purposes of this Scheme.

(3) On the day of the transfer and for three months, or such longer period as the Board may determine, thereafter only, the personal representative, trustee, committee, or other person may do, without being registered under sub-paragraph (4) below, anything for the purposes of this Scheme in relation to the business so transferred which the registered producer might have done.

(4) Registration under this sub-paragraph shall be effected by notification to the Board in accordance with Schedule 2 to the Milk Marketing Board (Residuary Functions) Regulations 1994.

PART V.

FINANCIAL PROVISIONS

52. The Board may, for the purpose of exercising any of their functions, borrow money in such manner, on such terms, and on such security, as may be arranged by them with the person from whom the money is borrowed.

52A. The Board shall not make money or other financial benefits available for use in their commercial activities except on the market terms then prevailing.

53.—(1) The Board shall keep proper and separate accounts and records in respect of:

- (a) their commercial activities; and

(b) their non-commercial activities,

and in particular shall annually make out for their commercial activities and for their non-commercial activities (other than their non-commercial activities in relation to the final trading period) separate cash flow accounts, balance sheets and income and expenditure accounts, and if the Board trade for profit, separate profit and loss accounts. Such accounts shall be in a form which shall be in accordance with accounting principles which are generally accepted in the United Kingdom. Consolidated accounts comprising all of the Board's activities or in respect of their commercial activities as a whole need not be prepared. The accounts in respect of their non-commercial activities shall in particular include a statement of accounting policy and such schedules and notes as the Board consider appropriate but shall in any case include schedules specifying—

- (i) the movement and amount of moneys in the B Reserve Fund;
- (ii) payments made to end year producers and other relevant producers under regulation 21(1)(e);
- (iii) interim distributions;
- (iv) collections of contributions from eligible producers under regulation 21(1)(h);
- (v) final distributions.

(1A) In sub-paragraph (1) above the expression “annually” means in any twelve month period and in making out their annual accounts under that sub-paragraph the Board may—

- (a) determine in respect of their accounts for their commercial activities an accounting period which differs from such period in respect of their accounts for their non-commercial activities, and
- (b) determine accounting periods of any duration, commencing immediately after the end of the previous one.

(1B) The Board shall make out for their non-commercial activities in the final trading period special cash flow accounts, balance sheets and income and expenditure accounts, and if the Board trade for profit, separate profit and loss accounts. Such accounts shall be in a form which shall be in accordance with accounting principles which are generally accepted in the United Kingdom. Consolidated accounts comprising all of the Board's non-commercial activities need not be prepared. The accounts shall in particular include a statement of accounting policy and such schedules and notes as the Board consider appropriate.

(2) The Board shall charge to their commercial activities such proportion of the Board's general administrative expenses as is fairly attributable to their commercial activities.

(3) The Board shall cause all their accounts and balance sheets prepared pursuant to sub-paragraph (1) or (1B) above to be audited by a member of, or a firm of accountants containing a member of, the Institute of Chartered Accountants in England and Wales or of the Association of Certified Accountants appointed (in the case of accounts and balance sheets which do not fall to be noted at their first annual general meeting after Vesting Day) by the registered producers in general meeting or (in the case of other accounts and balance sheets) either by the registered producers in general meeting or by relevant producers at the last general meeting before Vesting Day on which such an appointment was made. As soon as may be after the auditor has reported thereon, and in any case within nine months from the close of the period covered by any profit and loss account or income and expenditure account, the Board shall send to the Minister and to every registered producer a copy of the account and balance sheet and of the report of the auditor thereon, and also a report by the Board as to the discharge of their functions in the period covered by the profit and loss or income and expenditure account, which shall include a statement of the manner in which any moneys are invested.

The report of the Board mentioned in the preceding paragraph of this sub-paragraph which relates to the Board's accounts and balance sheets for their non-commercial activities in the final trading

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period (prepared pursuant to sub-paragraph (1B) above) shall include such information relating to the Board's commercial activities during that period as the Board think appropriate.

The Board shall on the demand of any person and on payment by him of such fee, not exceeding one pound, as may be fixed by the Board furnish to him a copy of any of their balance sheets.

(4) The Board shall furnish the Minister with such information as he may from time to time require concerning any of the Board's activities. The Board shall also permit any person duly authorised in writing by the Minister, on production of his authority, to inspect such of the Board's accounts and records as he may reasonably require to satisfy himself that the Board are complying with the requirements of paragraph 8A, of this Part of this Scheme, of Council Regulation (EEC) No. 1422/78(1) and of Commission Regulation (EEC) No. 1565/79(2).

(5) In this paragraph "non-commercial activities" means activities of the Board which are not commercial activities.

PART VI.

PRINCIPAL POWERS OF THE BOARD

MISCELLANEOUS POWERS

59A.—(1) For the purpose of complying with paragraph 8A, the Board may if it thinks fit and with the approval of the Minister—

- (a) set up a company to carry out commercial activities or to form a subsidiary to carry out commercial activities;
- (b) transfer to that company such assets or liabilities as are necessary;
- (c) make available to or for that company or that subsidiary on prevailing market terms loans, guarantees or other financial benefits;
- (d) on prevailing market terms grant security over their assets in support of borrowings undertaken by that company or that subsidiary.

(2) For so long as and to the extent that any commercial activities of the Board are, under paragraph 59A, carried out by a company or subsidiary of the company—

- (a) they shall be the activities of that company or that subsidiary;
- (b) reference to their commercial activities in paragraphs 52A and 53 shall be construed accordingly; and
- (c) reference to the Board's accounts and records in paragraph 53(4) of this Scheme shall be construed as including a reference to that company's accounts and records and, if applicable, that subsidiary's accounts and records.

59B. The Board shall ensure that moneys received in payment for milk supplied by them are not used in their commercial activities, except as permitted in paragraph 59A(1)(c) and (d).

ASSESSMENTS OF SALES

- (a) **71.** (2) (a) If the Board are unable to obtain from any relevant producer a sufficient return showing the number of litres of milk sold by him during any accounting period he shall if the Board think fit be treated as having sold on each day during that period such

(1) OJ No. L171, 28.6.78, p.14.

(2) OJ No. L188, 26.7.79, p.29.

number of litres of milk as the Board may think proper in respect of every cow which he had in his possession the first day of that period.

- (b) If the Board are unable to obtain from any relevant producer a sufficient return showing the number of cows in his possession on the said date, he shall if the Board think fit be treated as having in his possession on that date such number of milch cows as was shown in any return or written statement previously made by him to the Board as having been in his possession on any previous date.

(5) In this paragraph the expression “accounting period” means such periods as the Board may from time to time determine.

INFORMATION AND INSPECTION

75. The Board may, whenever they consider it necessary for the discharge of their functions so to do, serve on any relevant producer a demand in writing requiring him to furnish to them such returns and other information relating to milk produced by him at any time prior to Vesting Day as may be specified in the demand.

CONTRAVENTIONS

- (a) 77. (1) (a) If any relevant producer—
- (i) has before Vesting Day contravened any prescription of the Board under paragraph 60 or 61, or
- (ii) has before Vesting Day sold milk in contravention of a direction of the Board given under paragraph 63,

the Board may recover from him such financial contribution (not exceeding £1,000 plus half the price for which the milk to which the contravention relates was sold) as they may determine.

- (b) If any relevant producer has before Vesting Day sold milk by retail or by semi-retail in contravention of any prescription of the Board under paragraph 69, the Board may recover from him such financial contribution (not exceeding £1,000) as they may determine.
- (c) If any relevant producer fails without reasonable excuse to comply with any demand made by the Board under paragraph 75, or knowingly makes any false statement in reply thereto, then the Board may recover from him such financial contribution (not exceeding £200) as they may determine.
- (ca) If any relevant producer who has before Vesting Day withheld milk for the purposes of paragraph 56A(1)(iv) (for sale to an exempt producer⁽³⁾) has before Vesting Day failed without reasonable excuse to comply with any requirement of paragraph 56A(4)(b) or in purported compliance with any such requirement has before Vesting Day knowingly made any false return or has before Vesting Day knowingly given any false information, then the Board may recover from him such financial contribution (not exceeding £200) as they may determine.
- (d) No such contribution may be recovered in respect of such a contravention as aforesaid which would constitute an offence under any Act other than the 1958 Act.

(3) As soon as may be after the Board have made any determination under sub-paragraph (1) above, written notice of their decision shall be sent to the relevant producer in question and he may, on or before the fourteenth day after the date on which the notice was sent to him, give notice to the Board requiring the Board to refer the matter to arbitration under the provisions of this Scheme,

(3) Paragraph 56 of the old marketing scheme made provision for the exemption of producers from the operation of certain provisions of Part VI of that scheme.

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and if that notice is given to the Board and is not withdrawn, no proceedings shall be taken by the Board otherwise than for the purposes of arbitration or to enforce the award of the arbitrator; and the arbitrator may award payment by the producer of such contribution or other sums as he thinks just but not exceeding the maximum contribution which could have been required by the Board.

(4) The Board shall have the power to reconsider any determination under sub-paragraph (1) above in relation to the case of any producer if, upon considering any written application in that behalf by the relevant producer in question made within three months after the date of the determination, the Board is satisfied that—

- (a) there may be facts relevant to the case other than the facts which were before the Board at the time of the determination,
- (b) if such other facts had been previously known to the Board, their decision would have been influenced thereby, and
- (c) the matter has not been referred to arbitration pursuant to sub-paragraph (3) above.

(a) (5) (a) If the Board determine pursuant to sub-paragraph (4) above to reconsider any case, and if, as a result, that it is proper to vary their first determination in that case, they shall vary that determination.

(b) The provisions of sub-paragraph (3) above shall apply to every such varied determination in like manner as it applies to an initial determination of the Board.

(6) Subject as aforesaid, every contribution required to be paid by a decision of the Board shall be a debt due to the Board and recoverable accordingly.

(7) A person whose name appeared upon the register of relevant producers at the date when he contravened any provision of this Scheme or of the old marketing scheme shall, notwithstanding that his name has since been removed from the Board's register, be deemed to remain a relevant producer for the purpose of this paragraph.

PART VII.

MEETINGS OF REGISTERED PRODUCERS

78.—(1) Subject to paragraph (3) below, the Board shall at such time as they think fit in each calendar year starting with 1995 hold a general meeting of registered producers as their annual general meeting and shall specify the meeting as such in the notices calling it, and not more than fifteen months shall elapse between the date of one annual general meeting and the next.

(1A) At any annual general meeting of the Board after 31st December 1995 the questions to be put before the meeting for a decision shall be limited to the noting of the Board's accounts, determination of the remuneration of members of the Board and appointment of the Board's auditors and at any such general meeting of the Board before 1st January 1996 the questions to be put before the meeting for a decision shall be limited to the noting of the Board's accounts and appointment of the Board's auditors.

(1B) At every annual general meeting of registered producers after 31st December 1995, the procedure specified in paragraph 78A shall apply in respect of the remuneration of the members of the Board.

(2) The Board may hold other general meetings of registered producers at such times as the Board think fit, but the remuneration of the members of the Board shall not be a matter for determination at any such other general meeting.

78A.—(1) The procedure referred to in paragraph 78(1B) shall operate in accordance with the remainder of this paragraph, and the remuneration of the members of the Board shall be regarded

as determined in accordance with that procedure when specified in a proposal approved under this paragraph.

(2) The Board shall prepare a proposal for such remuneration as they shall have determined is appropriate and shall bring it to the attention of registered producers as provided for in paragraph 80.

(3) Any registered producer may make an alternative proposal for the remuneration of the members of the Board (in this paragraph referred to as a “qualifying alternative proposal”) provided that it is—

- (a) supported by the signatures of persons representing no less than one per cent of all registered producers, and
- (b) lodged in writing with the Board not later than the seventh day before the day fixed for the holding of the annual general meeting.

(4) The Board shall bring all qualifying alternative proposals to the attention of registered producers by publishing notice of them as soon as is reasonably practicable before the day fixed for the holding of the annual general meeting in the London Gazette and in one or more newspapers or journals circulating in England and Wales.

(5) The chairman of the meeting shall submit the Board’s proposal for the remuneration to the meeting for a vote and if (in accordance with the voting rules contained in this Part of the Scheme) it is not approved, he shall, subject to sub-paragraph (7) below, submit any qualifying alternative proposal to the meeting for a vote.

(6) If (in accordance with the voting rules contained in this Part of the Scheme) any qualifying alternative proposal submitted to the meeting is not approved, the chairman of the meeting shall, subject to sub-paragraph (7) below, submit another qualifying alternative proposal (if any) to the meeting for a vote.

(7) In determining in which order to submit the qualifying alternative proposals (if there are more than one) to a vote, the chairman’s discretion shall be absolute.

(8) Without prejudice to the provisions set out in this Part of the Scheme for the adjournment of any general meeting or the demanding of a formal vote, the procedure described in sub-paragraph (6) above shall continue until—

- (a) a qualifying alternative proposal has been approved, or
- (b) all the qualifying alternative proposals have been rejected.

(9) Where a qualifying alternative proposal has been approved, the Board may no later than the twenty-eighth day after the date of that approval apply to the Minister for the Minister to substitute in place of the remuneration for the members of the Board specified in the approved proposal such remuneration as the Minister considers to be at a level below which it would not be reasonable to expect the functions exercisable by the members of the Board to be discharged efficiently, and on receipt of such an application by the Minister—

- (a) the Minister shall proceed, taking such steps in doing so as he thinks fit, to determine that level of remuneration (whether higher than, lower than or equal to the remuneration specified in the approved proposal), and
- (b) the level of that remuneration so determined shall be treated for the purposes of this Scheme to be the remuneration specified in the approved proposal at the time the proposal was approved.

79.—(1) Subject to sub-paragraph (2) below, the chairman of every meeting of registered producers shall be the chairman of the Board if present or, in his absence, the vice-chairman unless absent.

(2) In the absence of the chairman and vice-chairman of the Board, the chairman of any meeting of registered producers shall be appointed by the meeting.

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80. Not later than the twenty-first day before the day fixed for the holding of an annual general meeting, and not later than the fourteenth day before the day fixed for the holding of any other meeting of registered producers, the Board shall send to every registered producer who is entitled to vote at the meeting a proxy form and a notice stating:—

- (a) the time and place appointed for the holding of the meeting;
- (b) the business to be transacted (which, at every annual general meeting after 31st December 1995 shall include a statement of the Board's proposal for the remuneration of the members of the Board).

80A.—(1) Notwithstanding having published notice of a general meeting under paragraph 80 and notwithstanding any such meeting having commenced, the Board shall have the power to adjourn that meeting if they think fit and shall publish notice of the adjourned meeting in the London Gazette and in one or more newspapers or journals circulating in England and Wales.

(2) The notice mentioned in sub-paragraph (1) above shall be published not later than the times, and shall contain the information, as are specified in paragraph 80 of this Scheme together with the address from which proxy forms may be obtained.

81. At a meeting of registered producers no business shall be transacted other than the business of which notice has been given as aforesaid by the Board.

81A. Paragraph 81 shall not restrict any registered producer at any general meeting of registered producers from raising any matter relating to the activities of the Board but, except to the extent that it is a matter specified in paragraph 78(1A), any matter so raised may not be put before the meeting for a decision.

82. At a general meeting every registered producer shall be entitled to vote.

83. At any meeting of registered producers the producers entitled to vote thereat may vote either personally or by proxy. The instrument appointing a proxy shall be in writing in such form as the Board may require, under the hand of the registered producer or his agent whose signature the Board have been authorised and requested by the registered producer in writing to accept, or, if the registered producer is a corporation aggregate, either under its seal or under the hand of a member of the board of directors or other governing body of the corporation or of its secretary or other permanent officer. The said instrument and the authority (if any) under which it is signed (or a notarially certified copy thereof) shall be deposited with the Board at such place as may be indicated in the form not later than 6 pm on the third day before the day fixed for the meeting, and in default the instrument shall be treated as invalid. A proxy shall be entitled to participate in the meeting only to the extent necessary to enable him to exercise his right to vote and to demand a formal vote.

A proxy need not be a registered producer, but shall not be a person employed on the staff of the Board.

84. Every question put before a meeting of registered producers shall be decided on a show of hands (a proxy may show his hand) unless, either before or immediately after the declaration of the result of the show of hands, a formal vote is demanded by the Board or by or on behalf of at least one third of those registered producers present in person or by proxy entitled to vote. On a formal vote the Board shall determine the form of the voting paper and shall cause to be sent to every registered producer along with the voting paper such directions for the guidance of registered producers in voting as they may determine. The voting paper shall be sent by post to the registered producers concerned as soon as practicable after the meeting at which the formal vote is demanded. The Board shall determine the last date for the receipt of completed voting papers, how the votes shall be counted, and the manner in which registered producers shall be informed of the result of the vote.

85. On a show of hands and also on a formal vote every registered producer entitled to vote shall have one vote.

87. Without prejudice to the provisions of this Part of this Scheme relating to proxies, a registered producer being a corporation aggregate may exercise any of its rights at a meeting of registered producers by a member of the board of directors or other governing body of the corporation, or by its secretary or other permanent officer, and a registered producer who is a partnership may exercise any of their rights at such a meeting by any of their partners.

88. At any meeting of registered producers the declaration of the chairman as to the result of any show of hands shall be final. In the event of an equality of votes, whether on a show of hands or on a formal vote, the chairman of the meeting at which the show of hands took place or at which a formal vote was demanded (as the case may require) shall be entitled to an additional or casting vote.

PART VIII.

AMENDMENT AND REVOCATION OF SCHEME AND WINDING UP OF THE BOARD

91. Part V of the 1986 Act (which relates to the winding up of unregistered companies) shall apply in relation to the Board subject to the modifications set out in paragraphs 91A and 91B.

91A.—(1) A petition for winding up of the Board may be presented by the Minister as well as any person authorised by section 124(1) of the 1986 Act (as applied in relation to the Board by section 222(1) of that Act) to present a petition for winding up of the Board.

(2) Sections 202, 203 and 205 of the 1986 Act shall not apply in relation to the Board.

(3) For the purposes of sections 221, 222 and 224 of the 1986 Act, the principal place of business of the Board is deemed to be the office of the Board the address of which has been notified to the Minister under paragraph 6(2).

(4) Section 221 of the 1986 Act shall apply in relation to the Board as if paragraph (a) of subsection (5) of that section were omitted.

(5) Section 223 of the 1986 Act shall not apply in relation to the Board.

(6) Section 224 of the 1986 Act shall apply in relation to the Board as if the words “or any member of it as such” were omitted.

91B. In the event of the final liquidation of the Board under the 1986 Act and for the purposes of section 226 of the 1986 Act, and whether or not the powers conferred on the Board and the Minister by section 17 of the Act have been exercised, every eligible producer shall be liable to contribute to the payment of the debts and liabilities of the Board and to the payment of the costs and expenses of the winding up and his liability shall be an amount assessed in the manner and subject to the limitations which are provided for in paragraph 92 but save as aforesaid no person shall be liable to contribute to the assets of the Board in the winding up by reason only of his being or having been a producer registered with the Board or a member of the Board.

92. Contributions under paragraph 91B shall be assessed, in relation to each contributor, proportionately to the maximum number of milch cows which were in his possession in England and Wales at any one time during the year immediately before the presentation of the petition for winding up, and shall not in any case exceed one pound sterling per cow.

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PART IX.

MISCELLANEOUS

93.—(1) Any relevant producer who is aggrieved by an act or omission of the Board arising in the period prior to Vesting Day or by any assessment made by the Board under paragraph 71(2) may refer the matter to the arbitration of a single arbitrator to be agreed upon between the producer and the Board or, in default of agreement, to be nominated by the Minister on the application of either party, and the arbitrator may make such order in the matter as he thinks just.

(2) Where any relevant producer gives notice to the Board under paragraph 77(3), that notice shall be treated for the purposes of this paragraph as requiring the Board to make the reference to which sub-paragraph (1) above refers.

(3) The Arbitration Act 1950⁽⁴⁾ shall apply to every arbitration consequent on a reference under this paragraph.

94. Any requirement of this Scheme that a document shall be sent to, or served on, a person by the Board shall be deemed to have been complied with if, within the period (if any) limited for the sending or service of the document, the document is despatched to him by post, to his address as the same appears in the register and with the postage pre-paid.

95. For the purposes of this Scheme except paragraph 69A every cow which is for the time being upon premises occupied by a producer shall, unless the contrary be proved, be deemed to be in the possession of that producer.

(4) 1950 c. 27.