
STATUTORY INSTRUMENTS

1995 No. 356

The Milk Development Council Order 1995

Title and commencement

1. This Order may be cited as the Milk Development Council Order 1995 and shall come into force on the 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;

“the Council” means the Milk Development Council established under the provisions of this Order;

“the industry” means the industry comprising the activities of producers in producing milk in Great Britain and selling it by way of business;

“milk” means cows' milk;

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

“producer” means a person who produces milk in Great Britain and sells it by way of business.

(2) For the purposes of this Order, where a person produces milk, converts it or arranges for it to be converted into another product or part of another product and sells that other product—

(a) he shall be treated as selling the milk at the time that he sells that other product, and

(b) the quantity of milk which he shall be treated as selling shall be the quantity so converted.

(3) 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 Milk Development Council, and there shall be assigned to them the functions specified in Schedule 1.

(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 or 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 Ministers, that is to say:

- (a) not more than six or fewer than two persons capable of representing the interests of producers;
- (b) two persons capable of representing the interests of people employed in the industry;
- (c) two persons (including the chairman) 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
- (d) one person having special knowledge of matters relating to the marketing or distribution of products of the industry.

Membership and Proceedings of Council

5. The provisions of Schedule 2 shall have effect in relation to the membership and proceedings of the Council.

Register of producers

6.—(1) The Council shall, in accordance with the following provisions of this article, maintain a register of producers, referred to in those provisions as “the register”.

(2) The Council shall acquire such information as it is reasonably practicable for them to acquire in order to enter on the register the name and address of each person who is a producer at the time of coming into force of this Order, and shall enter on the register the names and addresses of those whose identity as producers at that time has been ascertained by the Council in acquiring that information.

(3) Within thirty days after making any entry pursuant to paragraph (2) above in respect of any person, the Council shall give written notice to that person of the fact that they have done so and of details of the entry.

(4) The Council shall also enter on the register the name and address of every person who applies to the Council in writing, on the grounds that he is a producer, to have his name and address entered thereon.

(5) The Council may enter on 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.

(6) Any registered person who becomes aware of any matter rendering the entry on the register relating to him inaccurate or incomplete shall give written notice to the Council of that matter within thirty days of his becoming aware of it.

(7) The Council shall amend the register in accordance with any such notification as is referred to in paragraph (6) above, on its receipt.

(8) 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 is not a producer they shall remove his name forthwith.

(9) The Council may, if they have reasonable cause to believe that any registered person is not a producer, by notice in writing inform that person of their intention to remove his name from the register unless within thirty days from the date of the notice he gives notice in writing to the Council that he is a producer and, if no such notice is received by the Council within that period, the Council may on the expiration of that period remove his entry from the register.

(10) 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.

(11) In this article “registered person” means a person whose entry is for the time being on the register.

Registration of producers

7.—(1) Every person who is a producer at the time at which this Order comes into force shall within 120 days thereafter apply for registration in writing to the Council unless he has received a notice given under article 6(3).

(2) Every person who becomes a producer after this Order comes into force shall no later than 30 days after becoming a producer apply for registration in writing to the Council.

(3) 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.

(4) In this article “registration”, in relation to any person, means the entering of his name and address on the register of producers maintained under article 6, and in article 8 “registered” shall be construed accordingly.

Returns and information

8.—(1) Subject to paragraph 2 below, the Council may require any registered producer to furnish such returns and information relating to activities carried out as part of his business and comprised in the industry 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 Ministers have consented to such exercise and have 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 Ministers and subject to paragraph (2) below, impose on every producer a charge at such a rate (not exceeding 0.05 pence per litre) in respect of each litre of milk produced and sold by him as they consider from time to time to be appropriate.

(2) Every charge imposed under this article shall be paid by each producer—

- (a) in case A, to the agent who purchases the milk in respect of which the charge was imposed, the time for payment being the time at which the agent pays the producer for the milk, and
- (b) in case B, to the Council at their office no later than 30 days after the end of the relevant period in which the milk in respect of which the charge was imposed was sold by the producer.

(3) Case A above applies to milk in respect of which—

- (a) the Council have entered into an agreement with the purchaser of the milk from its producer providing for the purchaser to collect the charge from the producer as agent for the Council,
- (b) the Council have given written notice to the producer that they have entered into that agreement and the notice directs him to pay the charge to the purchaser, and
- (c) the notice has not been withdrawn or replaced by a subsequent notice,

and case B above applies to other milk in respect of which a charge is imposed under this article.

(4) 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 milk produced and sold in the joint business, be treated as constituting a single person.

(5) Every charge imposed under this article shall if not paid in accordance with this article be recoverable as a debt.

(6) For the purposes of this article each relevant period except the first is a period of 6 months beginning on 1st April or 1st October and the first begins on the first day of the month immediately following the month on which this Order comes into force and ends immediately before the beginning of the next relevant period.

Borrowing and investment of money

10.—(1) The Council may borrow money and pledge, mortgage or charge or grant standard security over 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 purpose of carrying out 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⁽¹⁾ (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

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 in that behalf 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 Ministers after consideration of his claim.

(4) In this article, “person carrying on business in the industry” includes any person carrying on any business consisting wholly or partly in the production of, or dealing in, any of the materials of the industry.

Offences and penalties

12.—(1) If any producer carries on 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.

(1) 1961 c. 62.

(2) If any person required to furnish returns of 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 required to give notice under article 6(6) fails to do so he shall, unless either—

(a) he has a reasonable excuse, or

(b) he is a recipient of notice given under article 6(3) and can prove that he was not a producer at the time of coming into force of this Order,

be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) If any person knowingly or recklessly makes any statement, in compliance with a requirement 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 5 on the standard scale.

4th February 1995

Michael Jack
Minister of State, Ministry of Agriculture,
Fisheries and Food

2nd February 1995

Hector Monro
Parliamentary Under-Secretary of State, Scottish
Office

6th February 1995

Gwilym Jones
Parliamentary Under-Secretary of State, Welsh
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