
STATUTORY INSTRUMENTS

2003 No. 908

**INDUSTRIAL ORGANISATION
AND DEVELOPMENT**

**The Horticultural Development
Council (Amendment) Order 2003**

Made - - - - 27th March 2003

Coming into force - - 1st April 2003

The Secretary of State and the National Assembly for Wales, acting concurrently, in exercise of the powers conferred by sections 1 to 4, 6, 8(1) and 14(2) of the Industrial Organisation and Development Act 1947(1), and now vested in them(2), and with the consent of the Scottish Ministers(3), and after consultation, in accordance with section 8(1) of the said Act, with the Horticultural Development Council and with organisations appearing to them to be representative of substantial numbers of persons carrying on business in the horticultural industry and with such organisations representative of persons employed in that industry as appear to them to be appropriate, and having satisfied themselves (as required by section 4(3) of the said Act) that the incidence of charges as between different classes of undertakings in that industry will be in accordance with a fair principle, make the following Order a draft of which has been laid before and approved by a resolution of each House of Parliament—

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- (1) 1947 c. 40: section 4 was modified, in the case of any development council order relating to agriculture, by section 60 of the Agriculture Act 1993 (c. 37).
- (2) In respect of the Secretary of State, by virtue of S.I. 1955/554, 1978/272, 1999/672, 1999/3141 and 2002/794; in respect of the National Assembly for Wales by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) (“the 1999 Order”), in so far as they are exercisable in relation to Wales. The Horticultural Development Council is a cross-border body as defined in Schedule 3, paragraph 3(2), to the Government of Wales Act 1998 (c. 38). By virtue of article 2(c) of the 1999 Order, functions under the Industrial Organisation and Development Act 1947 which are exercisable in relation to a cross-border body, and which cannot be specifically exercised in relation to Wales, are exercisable by the National Assembly for Wales in relation to that body concurrently with the specified Minister of the Crown.
- (3) By the Scotland Act 1998 (Cross-Border Public Authorities) (Specification) Order 1999 (S.I. 1999/1319), made under section 88(5) of the Scotland Act 1998 (c. 46), the Horticultural Development Council was specified as a cross-border public authority for the purposes of that Act. By article 3 of, and paragraph 3 of Schedule 14, to the Scotland Act 1998 (Cross-Border Public Authorities) (Adaptation of Functions etc.) Order 1999 (S.I. 1999/1747) it was provided, in respect of any function exercisable by a Minister of the Crown under the Industrial Organisation and Development Act 1947 to modify the Horticultural Development Council Order 1986 (S.I. 1986/1110), that the Secretary of State for Scotland should cease to be such a Minister of the Crown, and that any such function should now be exercisable only with the consent of the Scottish Ministers.

Title and commencement

1.—(1) This Order may be cited as the Horticultural Development Council (Amendment) Order 2003, and shall come into force on 1st April 2003.

(2) In this Order “the principal Order” means the Horticultural Development Council Order 1986(4).

Amendment of the principal Order

2. The principal Order shall be amended in accordance with the following provisions of this Order.

3. In article 2 (interpretation), in paragraph (1)—

(a) there shall be inserted before the definition of “compost” the following definitions—

““apple” and “pear” mean respectively any apple other than the varieties listed in Part I of Schedule I and any pear other than the varieties listed in Part II of that Schedule;

“apple or pear grower” means a person who carries on the trade or business of growing apples or pears for sale or for processing into an apple or pear product with a view to its sale, and occupies land of at least two hectares planted with at least 50 trees (whether apple or pear or both);”;

(b) there shall be substituted for the definition of “grower” the following definition—

““grower” means—

(a) a person, other than an apple or pear grower, who grows horticultural produce (excluding mushrooms) for sale, whose sales of such produce (excluding Value Added Tax and the cost of haulage and packing materials and, in those cases where the produce is prepared for market in rateable packhouses, any rates levied in respect of such packhouses) were not less than £25,000 during his relevant accounting year;

(b) a mushroom grower; and

(c) an apple or pear grower;”;

(c) in the definition of “horticultural produce”, there shall be inserted before the words “Schedule 1” the words “Part III of”.

4. In article 4 (constitution of Council), in paragraph (1) there shall be substituted for the word “eleven” the word “twelve”.

5. In article 6 (register of growers), for paragraph (2) there shall be substituted the following paragraph—

“(2) The Council may enter on the register, in addition to the name and address of any registered grower—

(a) any business name under which and the address of any place at which he carries on business in the industry, and the names of his partners in any such business; and

(b) where the registered grower is a company, the names and addresses of any directors of the company.

but no other information.”.

6. There shall be substituted for article 7 (registration of growers) the following article—

(4) S.I. 1986/1110, was amended by S.I. 1990/454, 1992/1836, 2000/1975 and 2002/1676.

“7.—(1) Every person who was registered as a grower under the Apple and Pear Research Council Order 1989 immediately before the dissolution of the Apple and Pear Research Council shall be registered as a grower in the register kept by the Horticultural Development Council.

(2) Every person who on or after 31st March 2003 becomes a grower shall apply in writing to the Council to be registered within two months of the day on which he became a grower.

(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.”(5).

7. In article 9 (charges for expenses)—

(a) there shall be substituted for paragraph (1) the following paragraph—

“(1) For the purposes of enabling it to meet its expenses in the exercise of its functions and its administrative expenses the Council may, with the approval of the Ministers and subject to paragraphs (2), (3) and (3A), impose—

(a) on each grower, other than an apple or pear grower or a mushroom grower, a charge for any levy period at a rate not exceeding 0.5 per cent of the value (excluding Value Added Tax) of his sales of horticultural produce during his relevant accounting year;

(b) on each apple or pear grower either—

- (i) a charge for any levy period at a rate not exceeding £35 in respect of each hectare of land occupied by him during all or any part of that period for the purpose of business in the industry and planted with apple or pear trees, or
- (ii) where the average density of planting on any land so occupied is less than 125 trees per hectare and the grower so elects, a charge for any levy period in respect of every 50 trees at the rate of two-fifths of the charge which would otherwise be imposed under paragraph (i) of this sub-paragraph; and

(c) on each mushroom grower a charge for any levy period at a rate not exceeding 15 pence per litre of spawn purchased for use in compost during his relevant accounting year.”;

(b) after paragraph (3) there shall be inserted the following paragraph—

“(3A) For the purpose of calculating a charge imposed under paragraph (1)(b), headlands shall be included but fractions of less than one-tenth of a hectare or any remainder after the number of trees has been divided by 50 shall be ignored.”

8. In article 12 (offences), in paragraph (1) there shall be inserted after the words “article 7(1)”, the words “or (2)”.

9. For Schedule 1 to the principal Order there shall be substituted the Schedule set out in the Schedule to this Order.

10. In Schedule 2 (functions of the Horticultural Development Council), after paragraph 3 there shall be added the following paragraphs—

“4. Promoting the adoption of measures for securing safer and better working conditions, and the provision and improvement of amenities for persons employed, and promoting or undertaking inquiry as to such measures.

5. Promoting the production and marketing of standard products.

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6. Promoting or undertaking research for improving arrangements for marketing and distributing products.

7. Promoting or undertaking research into matters relating to the consumption or use of goods and services supplied by the industry.

8. Promoting or undertaking arrangements for better acquainting the public in the United Kingdom with the goods and services supplied by the industry and methods of using them.”.

Saving

11.—(1) Notwithstanding the provisions of this Order, the provisions of the principal Order in force prior to the coming into force of this Order shall continue to apply in respect of levy periods ending prior to the coming into force of this Order.

(2) In paragraph (1), “levy period” has the same meaning as in the principal Order.

27th March 2003

Whitty
Parliamentary Under Secretary of State,
Department for Environment, Food and Rural
Affairs

25th March 2003

D. Elis Thomas
Signed on behalf of the National Assembly for
Wales, Presiding Officer

We consent

26th March 2003

Ross Finnie
A member of the Scottish Executive

SCHEDULE

Article 9

“SCHEDULE 1

Article 2(1)

PART I

EXCLUDED VARIETIES OF APPLES

Abondance	Bulmer’s Norman	EB 54
Allens Sweet	Burrowhill Early	Ecarlatine
Amer de Berthecourt	Camelot	Eggleton Styne
Amer de Torentice	Captain Broad	Ellis Bitter
Argile Grise	Cherry Norman	Fair Maid of Devon
Ashton Bitter	Cherry Pearmain	Fillbarrel
Ashton Brown Jersey	Chisel Jersey	Four Square
Backwell Red	Churchill	Foxwhelp
Ball’s Bitter Sweet	Cider Lady’s Finger	Franqueville
Barbarie Blanche	Cimetiere	Frederick
Bedan	Coat Jersey	Frequin Audievre
Belle de Douai	Collington Bitter Sweet	Frequin Tardif
Belle Fille de la Manche	Compton Drum	Frequin Tardive de la Sarthe
Belle Norman	Cool Jersey	Genet Moyle
Bergere	Court Royal	Gilbert
Binet Rouge	Cow Apple	Goddard
Black Dabinett	Cowarne Red	Green Norman
Black Foxwhelp	Crimson King	Gros Doux Blanc
Black Norman	Crimson Victoria	Grosse Launette
Black Valls	Croix de Bouelles	Hagloe Crab
Blanc Mollet	Crummy Norman	Hangdown
Bloody Turk	Dabinett	Harnette
Bouteille de Caen	De Boutteville	Harry Masters Jersey
Bramtot	Des Domaines	Hereford Broadleaf
Bran Rose	Doux Amer	Hereford White
Breakwell’s Seedling	Doux Lazon	Honeystring
Brimley Bittersweet	Doux Normandie	Improved Dove
Brown Thorn	Dove	Improved Hangdown
Brown’s Apple	Dufflin	Improved Kingston Black

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Broadleaf Norman	Dunkerton Late	Improved Lambrook Pippin
Broadley Jersey	Dunkerton's Sweet	Improved Pound
Brown Jersey	Dymock Red	Improved Redstreak
Brown Snout	Early David	Jackson
Broxwood Foxwhelp	EB 52	Jambe de Lievre
John Broad	Pomme Mettais	Stoke Red
Jolly Rouge	Port Wine	Stawberry Norman
Killerton Sweet	Porter's Perfection	Sweet Alford
Kingston Black	Red Foxwhelp	Sweet Blenheim
Knotted Kernel	Red Jersey	Sweet Copping
Langworthy	Red Norman	Tale Sweet
Lavignee	Red Streak	Tan Harvey
Le Bret	Redstrake	Tanners Red
Lorna Doone	Reine de Hatives	Tardive Forestier
Loyal Drain	Reine des Pommes	Taunton Fair Maid
Major	Reinette D'Orby	Taylor's
Marechal	Rouge Bruyere	Ten Commandments
Maundy	Rougette Douce	Thomas Hunt
Medaille d'Or 1	Royal Jersey	Tom Putt
Medaille d'Or 2	Royal Somerset	Tremlett's Bitter
Michelin	Royal Wilding	Upright French
Morgan Sweet	Sandford Jersey	Upright Styre
Moulin a Vent	Sauvageon	Vagnon Archer
Muscadet de Dieppe	Scudamore Crab	Vagon Archer
Nehou	Severn Bank	Vilberie
Neverblight	Sherrington Norman	Wellings Bitter Sweet
Northwood	Silver Cup	White Alphington
Oakham Green	Skyrmes Kernel	White Close Pippin
Oisier	Slack My Girdle	White Frequin
Old Pound	Somerset Brown Jersey	White Jersey
Omont	Somerset Red Streak	White Norman
Peau de Blaireau	Sops in Wine	Woodbine
Peau de Vache	St Laurent	Yarlington Mill
Pennard Bitter	Stable Jersey	Yellow Redstreak
Pethyre	Stembridge Cluster	Yellow Styre

Pig's Snout

Stembridge Jersey

PART II
EXCLUDED VARIETIES OF PEARS

Arlingham Squash	Flakey Bark	Painted Lady
Barland	Forrest Pear	Parsonage
Barnet	Gin	Pig Pear
Bartestree Squash	Golden Balls	Pine
Bastard Longdon	Goldings	Pint
Bastard Sack	Grandfather Tum(p)	Potato Pear
Billy Williams	Green Horse	Red Huffcap
Black Huffcap	Green Longdon	Red Longdon
Blacksmith	Harley Gum	Red Pear
Blakeney Red	Hartpury Green	Rock
Bloody Bastard	Hastings	Rumblers
Bosbury Scarlet	Hatherley Squash	Sack
Boy Pear	Hellens Early	Sickle Pear
Brandy	Hellens Green	Silver Pear
Brockhill	Hendre Huffcap	Snake Pole
Brown Bess	Heydon	Sow Pear
Brown Russet	High Pear	Speart Pear
Butt	Hillend Green	Staunton Squash
Cannock	Holmer	Stinking Bishop
Chaceley Green	Honey Knob	Swan Egg
Claret	Iron Sides	Taynton Squash
Clipper Dick	Jenkins' Red	Teddington Green
Clusters	Judge Amphlett	Thorn
Coppy	Knapper	Thurston's Red
Cowslip	Lullam	Tumper
Deadboy	Merrylegs	Turner's Barn
Ducksbarn	Moorcroft	Teddington Green
Early Blet	Murrell	White Bache
Early Griffin	Nailer	White Longdon
Early Hay Pear	New Meadow	Winnal's Longdon

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Early Longdon	Newbridge	Yellow Huffcap
Early Treacle	Oldfield	Young Heydon

PART III HORTICULTURAL PRODUCE

Vegetables grown in the open

All vegetables sold for human consumption, including watercress but excluding potatoes.

Fruit

All soft fruit and orchard fruit including nuts but excluding—

- (a) the varieties listed in Parts I and II of this Schedule;
- (b) hops; and
- (c) grapes.

Flowers and bulbs

All flowers whether cut or in pot, foliage, flower bulbs, corms, tubers and rhizomes.

Hardy and other nursery stock

All hardy nursery stock including—

- (a) fruit trees, bushes and canes, strawberries for runner production and other fruit stock for transplanting;
- (b) roses (including stock for budding);
- (c) shrubs and hedging plants;
- (d) ornamental trees and trees for sale for amenity purposes;
- (e) perennial herbaceous plants;
- (f) aquatic plants.

All other nursery stock, seedlings and cuttings for propagation.

Protected crops

All crops grown in glasshouses and other forms of protection including pot plants, bedding plants and plants being propagated for growing elsewhere.

Mushrooms

All species of mushrooms.

Herbs

All species of herbs.”

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which comes into force on 1st April 2003, applies throughout Great Britain and further amends the Horticultural Development Council Order 1986 (S.I. 1986/1110) (“the principal Order”).

The Order adds five new functions of the Horticultural Development Council established under the principal Order (article 10). It also provides for any person who grows apples or pears (other than certain excluded varieties) for sale or processing into an apple or pear product and who occupies at least two hectares of land planted with at least 50 trees to be included in the definition of “grower” in the principal Order (article 3). Such growers were subject to a charge by the Apple and Pear Research Council until its dissolution by the Apple and Pear Research Council Dissolution Order (S.I.No.2003/909).

Article 7 sets a maximum charge of £35 per hectare for such growers, and Article 6 provides for their inclusion in the register kept by the Council. Article 4 provides for the membership of the Council to be increased by one to fifteen. Article 5 enables the Council to record the names and addresses of the directors of companies on the register.