
STATUTORY INSTRUMENTS

2008 No. 576

**The Agriculture and Horticulture
Development Board Order 2008**

Title, commencement and extent

1.—(1) This Order may be cited as the Agriculture and Horticulture Development Board Order 2008.

(2) Articles 1, 2, 3(1) and (2), 4, 5, 8, 9 and 10, Schedule 2 and paragraphs 1 to 5 of Schedule 5 (and article 18 so far as relating to those paragraphs) come into force the day after this Order is made.

(3) The remainder of the Order comes into force on 1st April 2008.

(4) Except as provided by paragraph (5), this Order extends to England and Wales, Scotland and Northern Ireland.

(5) Any amendment, repeal or revocation made by this Order has the same extent as the provision to which it relates.

Scope

2.—(1) This Order relates to—

- (a) the beef and sheep industry in England;
- (b) the cereal and oilseed industries in the United Kingdom;
- (c) the horticulture industry in Great Britain;
- (d) the milk industry in Great Britain;
- (e) the pig industry in England; and
- (f) the potato industry in Great Britain.

(2) For these purposes—

“beef and sheep industry” means all the activities comprised in the production, marketing and distribution of—

- (a) cattle and sheep, including the carrying on of slaughterhouses and cattle and sheep auctions and markets;
- (b) meat and meat products (other than milk and milk products) from cattle and sheep;

“cereal and oilseed industries” means the industries comprising the activities of growers and persons trading as wholesale buyers or sellers of cereal or oilseed, or processing cereal, and—

- (c) “cereal” means wheat (including durum wheat), barley, oats, rye, maize, triticale or any two or more of such cereals grown as one crop; and
- (d) “oilseed” means rapeseed, linseed, soyabean or sunflowerseed or any two or more of such oilseeds grown as one crop;

“horticulture industry” means the growing of the horticultural products listed in Part 4 of Schedule 3 by way of business;

“milk industry” means the industry comprising the activities of producers in producing cows’ milk or milk products and selling them by way of business;

“pig industry” means all the activities comprised in the production, marketing and distribution of pigs or pig products, including the carrying on of slaughterhouses and pig auctions and markets;

“potato industry” means the activities of persons in growing, selling, buying or in any way dealing in potatoes, whether raw or processed, by way of business.

- (3) A reference in this Order to “industry” is a reference to one or more of these industries.

Establishment of the Agriculture and Horticulture Development Board

3.—(1) A body called the Agriculture and Horticulture Development Board is established.

(2) Its purposes are—

- (a) increasing efficiency or productivity in the industry;
- (b) improving marketing in the industry;
- (c) improving or developing services that the industry provides or could provide to the community; and
- (d) improving the ways in which the industry contributes to sustainable development.

(3) Its functions are the provision of any of the services specified in Schedule 1.

Constitution etc. of the Board

4. Schedule 2 (constitution and proceedings of the Agriculture and Horticulture Development Board) has effect.

Acting through subsidiaries

5.—(1) The Agriculture and Horticulture Development Board may establish a subsidiary company for each of the industries within the scope of this Order and may establish such other subsidiary companies as may be conducive or incidental to its functions, and a reference to a subsidiary company in this Order is a reference to such a company.

(2) The Board may delegate any of its functions to a subsidiary company, but may continue to carry out any function it has delegated.

(3) A subsidiary company must carry out the functions in Schedule 1 that the Board delegates to it.

Levies

6.—(1) The Agriculture and Horticulture Development Board must impose a levy to enable it to provide services for each industry covered by this Order, and Schedule 3 has effect.

(2) All figures in that Schedule exclude VAT.

(3) The levies are to enable the Board to—

- (a) cover its costs in providing any of the services specified in Schedule 1;
- (b) meet its administrative expenses;
- (c) further a purpose in article 3(2); and
- (d) establish a reserve fund.

(4) The rate of levy (and any higher rate for late payment of the levy) must be approved annually by the appropriate authority.

- (5) The Board may delegate the collection of levy to a subsidiary company.
- (6) Levy raised in relation to an industry may only be used in relation to that industry.

Estimates

7.—(1) If any person liable to pay levy fails to notify the Agriculture and Horticulture Development Board or a subsidiary company of the information specified in Schedule 3 by the due date specified in that Schedule, the Board or the subsidiary company may estimate the amount that should have been notified, and notify the person of the estimate.

(2) If the person fails to make a return within 28 days of notification of the estimate he becomes liable to pay levy on that estimate.

(3) The Board may provide that a higher rate of levy is payable on the estimated amount, but that higher rate may not exceed the maximum rates provided for in Schedule 3.

Charges for services

8. The Agriculture and Horticulture Development Board, or any subsidiary company, may make such charges for any services in addition to the services referred to in article 6 as appear to the Board or subsidiary company to be reasonable.

Reserve funds etc.

9. The Agriculture and Horticulture Development Board may—
- (a) establish and maintain a reserve fund for the purposes of its functions; and
 - (b) borrow money and charge property.

Incidental Powers

10.—(1) The Agriculture and Horticulture Development Board may do anything that appears to it to be conducive or incidental to the discharge of its functions.

- (2) In particular it may—
- (a) enter into agreements;
 - (b) acquire or dispose of property;
 - (c) raise funds by means of voluntary contributions; and
 - (d) accept gifts.

Ballots

11.—(1) The Agriculture and Horticulture Development Board may hold a ballot at any time on whether or not a levy should continue.

- (2) It must do so if directed by the appropriate authority.
- (3) It must do so if it receives within a three month period one or more requests for a ballot signed by at least 5% of persons entitled to vote in a ballot.
- (4) The three month period is calculated from the first day of any month.
- (5) The maximum frequency with which ballots for the same levy can be held at the request of persons entitled to vote is 5 years.
- (6) A request for a ballot is not valid if it is made before 1st April 2012.

(7) The Board must immediately inform the appropriate authority of the result of a ballot, but the appropriate authority is not bound by the result.

Who can vote

12.—(1) The following are entitled to vote in relation to the levy.

Voters

<i>Levy</i>	<i>Voters and categories</i>
Pigs	Any person who keeps pigs in England
	Any person who slaughters or exports pigs in England
Cattle	Any person who keeps cattle in England
	Any person who slaughters or exports cattle in England
Sheep	Any person who keeps sheep in England
	Any person who slaughters or exports sheep in England
Milk	Any milk producer in Great Britain
Horticulture	Any person who pays horticulture levy
Potato	Any person who pays the potato grower levy
	Any person who pays the potato buyer levy
Cereal	Any person who pays the cereal buyer levy
	Any person who pays the cereal processor levy
	Any person who pays the cereal grower levy
Oilseeds	Any person who pays the oilseed grower levy

(2) The qualification for voting must be satisfied in the twelve months preceding the ballot.

(3) Each person entitled to vote has one vote (if there is a partnership each partnership has one vote).

(4) Separate ballots may be held for different categories of voters.

Report and accounts

13.—(1) For each financial year, the Agriculture and Horticulture Development Board must—

- (a) prepare an annual report on how it has discharged its functions during the year, and
- (b) send a copy of the report to the Secretary of State, the Scottish Ministers, the Welsh Ministers and the relevant Northern Ireland department within such period as the appropriate authority directs.

(2) In this article, “financial year” means—

- (a) the period beginning with the day on which the Board is established and ending with the next 31st March, and
- (b) each subsequent period of 12 months ending with 31st March.

(3) The Board must keep proper accounts and records.

- (4) For each financial year, it must—
 - (a) prepare a statement of accounts in respect of that financial year, and
 - (b) send copies to the Secretary of State and the Comptroller and Auditor General within such period as the appropriate authority directs.
- (5) The statement must be in such form as the appropriate authority, with the approval of the Treasury, directs.
- (6) The Comptroller and Auditor General must—
 - (a) examine, certify and report on the statement, and
 - (b) send a copy of the certified statement of accounts and of his report to the Secretary of State, Scottish Ministers, Welsh Ministers and the relevant Northern Ireland department as soon as possible.
- (7) When the Secretary of State receives the annual report and the certified statement of accounts he must lay them before each House of Parliament.
- (8) When the Scottish Ministers receive them they must lay them before the Scottish Parliament.
- (9) When the Welsh Ministers receive them they must lay them before the National Assembly for Wales.
- (10) When the relevant Northern Ireland department receives them it must lay them before the Northern Ireland Assembly.

Provision of information by the Board

14.—(1) The Agriculture and Horticulture Development Board must provide the appropriate authority with such information as it may require relating to its property or to the discharge or proposed discharge of its functions.

- (2) The Board must also—
 - (a) permit any person authorised by the appropriate authority to inspect and make copies of its accounts or other documents, and
 - (b) provide such explanation of them as that person or the appropriate authority may require.

Provision of information to the Board

15.—(1) It is an offence knowingly to provide false or misleading information relating to the requirements of this Order to the Agriculture and Horticulture Development Board or a subsidiary company.

(2) Any person obliged to pay levy under this Order must keep sufficient records to enable the Board or a subsidiary company to establish how much levy is due, and must produce them to an officer of the Board or a subsidiary company on demand; and failure to comply with this paragraph is an offence.

Penalties and proceedings

16.—(1) A person guilty of an offence under this Order is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Proceedings for an offence under this Order may be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge, provided that the commencement of such proceedings is not more than 2 years after the date on which the offence was committed.

(3) Where a body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar person of the body corporate; or
- (b) any person who was purporting to act in any such capacity,

that person is guilty of the offence as well as the body corporate.

(4) For the purposes of this article “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(5) Where an offence under this Order that has been committed by a Scottish partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership is guilty of the offence.

Dissolution of existing bodies

17.—(1) The following bodies are dissolved—

- (a) the British Potato Council;
- (b) the Home-Grown Cereals Authority;
- (c) the Horticultural Development Council;
- (d) the Meat and Livestock Commission; and
- (e) the Milk Development Council.

(2) All property, rights and liabilities of the dissolved bodies are transferred to the Agriculture and Horticulture Development Board in accordance with Schedule 4 (provisions relating to the transfer).

Repeals, etc.

18. Schedule 5 (consequential amendments, transitional provisions, repeals and revocations) has effect.

15th January 2008

Jeff Rooker
Minister of State
Department for Environment, Food and Rural
Affairs

28th February 2008

Richard Lockhead
Authorised by the Scottish Ministers

25th January 2008

Elin Jones
Authorised by the Welsh Ministers

24th January 2008

John Speers
The Department of Agriculture and Rural
Development in Northern Ireland