

Order made by the Minister of Agriculture, Fisheries and Food, the Secretaries of State respectively concerned with agriculture in Scotland and Northern Ireland and the Secretary of State for Wales, laid before Parliament under section 16(5) of the Cereals Marketing Act 1965, for approval by resolution of each House of Parliament.

STATUTORY INSTRUMENTS

1987 No. 671

**AGRICULTURE
CEREALS MARKETING**

**The Home-Grown Cereals Authority
Levy Scheme (Approval) Order 1987**

<i>Made</i>	- - - -	<i>6th April 1987</i>
<i>Laid before Parliament</i>		<i>8th April 1987</i>
<i>Coming into force</i>	- -	<i>1st August 1987</i>

Whereas the Home-Grown Cereals Authority, established by the Cereals Marketing Act 1965(1), have prepared, pursuant to sections 16 and 23(1) of that Act, and, after consultation in accordance with section 16(1A) of that Act with such persons or organisations as appear to them to represent the interests concerned, have submitted to the Ministers hereinafter named, a Scheme (hereinafter called “the Scheme”) for imposing levy on persons specified in the Scheme who are growers or processors of, or dealers in home-grown cereals of a kind so specified, or who in the course of their business act as intermediaries in the selling and buying of such cereals:

Now, therefore, the Minister of Agriculture, Fisheries and Food, the Secretaries of State respectively concerned with agriculture in Scotland and Northern Ireland and the Secretary of State for Wales, acting jointly in exercise of the powers conferred by sections 16(4) and 23(1) of that Act, and now vested in them(2) and of all other powers enabling them in that behalf, after consultation in accordance with section 16(4) of that Act with such persons or organisations as appear to them to represent the interests concerned, hereby make the following Order:—

(1) 1965 c. 14; sections 1, 6, 12, 13, 16 and 24 were amended by the Agriculture Act 1986 (c. 49). In addition section 16 was amended by the Agriculture (Miscellaneous Provisions) Act 1972 (c. 62), section 24 was amended by the Cereals Marketing Act 1965 (Amendment) Regulations 1977 (S.I. 1977/181) and sections 13 and 16 were amended by the Cereals Marketing Act 1965 (Amendment) Regulations 1979 (S.I. 1979/26).

(2) In the case of the Secretary of State for Wales by virtue of S.I. 1969/388 and 1978/282.

Title and commencement

1. This Order may be cited as the Home-Grown Cereals Authority Levy Scheme (Approval) Order 1987, and shall come into force on 1st August 1987.

Approval of Scheme under section 16 of the Cereals Marketing Act 1965

2. The Scheme is approved with the following modifications:—
- (a) in paragraph 6(3) thereof—
 - (i) there shall be substituted for the words “does not apply an industrial process to, but sells, the cereals” the words “sells or otherwise disposes of the cereals without applying an industrial process to them”;
 - (ii) there shall be inserted after the word “delivered” the words “or disposed of”;
 - (b) in paragraph 7(4) thereof there shall be added after the words “the processor” the words “or the cereals are otherwise disposed of”.
3. The Scheme as so modified and approved is set out in the Schedule to this Order.

Revocation

4. The Home-Grown Cereals Authority Levy Scheme (Approval) Order 1974(3) is revoked.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 5th April 1987.

L.S.

Michael Jopling
Minister of Agriculture, Fisheries and Food

John J. Mackay
Parliamentary Under-Secretary of State, Scottish
Office

1st April 1987

Tom King
Secretary of State for Northern Ireland

6th April 1987

Nicholas Edwards
Secretary of State for Wales

30th March 1987

SCHEDULE

Article 3

HOME-GROWN CEREALS AUTHORITY LEVY SCHEME

Title and commencement

1. This Scheme may be cited as the Home-Grown Cereals Authority Levy Scheme 1987 and shall come into force on 1st August 1987.

Interpretation

2.—(1) In this Scheme:—

“the Act” means the Cereals Marketing Act 1965;

“agent intermediary” means any person with a place of business in the United Kingdom acting as agent for a grower, dealer, processor or overseas purchaser;

“the Authority” means the Home-Grown Cereals Authority as established under Part I of the Act;

“cereals” means cereals grown in the United Kingdom being wheat (including durum wheat), barley, oats, rye, maize, triticale or any two or more of such cereals grown as one crop;

“dealer” means any person (other than an overseas purchaser or the Intervention Board) trading as a wholesale buyer or seller of cereals;

“dealer levy” means the levy imposed by paragraph 4;

“financial intermediary” means any person other than a grower, dealer, processor, overseas purchaser or agent intermediary who in the course of his business acts as an intermediary in the buying and selling of cereals;

“grower” means any person who grows cereals;

“grower levy” means the levy imposed by paragraph 5;

“Intervention Board” means the Intervention Board for Agricultural Produce established under the European Communities Act 1972(4);

“levy” means a levy imposed by this Scheme;

“month” means a calendar month;

“overseas purchaser” means any person who trades as a wholesale buyer of cereals and who does not have a place of business in the United Kingdom;

“processor” means a person who applies an industrial process to cereals (other than cereals grown by him) in the course of a business carried on by him;

“processor levy” means the levy imposed by paragraph 6;

“quarter” means a period of three consecutive calendar months ending on 31st October, 31st January, 30th April or 31st July;

“registrable person” means a dealer, a processor, an agent intermediary or a financial intermediary;

“year” means a period of twelve months beginning with 1st August and ending on 31st July in any calendar year.

(2) Any reference in this Scheme to a numbered paragraph shall be construed as a reference to the paragraph bearing that number in the Scheme.

(4) 1972 c. 68.

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Register of dealers, processors and intermediaries

3.—(1) From 1st August 1987, the Authority shall keep a register of registrable persons and shall enter therein the name and address of any person who carries on business as a registrable person.

(2) Subject to paragraph 3(3), every registrable person shall, within one month of 1st August 1987, apply to the Authority to be registered.

(3) Every person who on or after 1st August 1987 commences trading as a registrable person shall, within one month of the date on which he commenced trading, apply to the Authority to be registered.

(4) Every application for registration shall be made in such form and manner as the Authority may prescribe.

(5) As soon as practicable after registration the Authority shall provide the applicant with a certificate of registration bearing the date of registration and a registration number.

(6) Any registrable person may apply to the Authority for removal of his name from the register and the Authority shall, if satisfied that such person has ceased to carry on business as a registrable person, remove his name from the register.

Dealer levy

4.—(1) Dealer levy shall be payable to the Authority in respect of cereals sold by a grower (directly or through an agent intermediary acting on his behalf) to a dealer or to a processor (directly or through an agent intermediary acting on behalf of the dealer or processor) or to an overseas purchaser (directly or through an agent intermediary acting on behalf of the purchaser).

(2) In the case of sales by a grower to a dealer or to a processor, dealer levy shall be imposed on the purchaser except that if the purchaser buys through an agent intermediary acting on his behalf, dealer levy shall be imposed on such agent intermediary.

(3) In the case of sales by a grower to an overseas purchaser, dealer levy shall be imposed as follows:—

- (a) if the overseas purchaser buys through an agent intermediary acting on his behalf, on such agent intermediary;
- (b) subject to paragraph 4(3)(a), if the grower sells through an agent intermediary acting on his behalf, on such agent intermediary;
- (c) otherwise, on the grower.

(4) Notwithstanding paragraph 4(1), 4(2) and 4(3), a person shall be exempt from dealer levy in respect of any year if the quantity of cereals purchased (in the case of paragraph 4(2) or 4(3)(a)) or sold (in the case of paragraph 4(3)(b) or 4(3)(c)) by him in that year is less than 40 tonnes.

(5) A person upon whom dealer levy is imposed by paragraph 4(2) or 4(3)(a) shall be entitled to recover a contribution equal to the grower levy as follows:—

- (a) if the grower has sold through an agent intermediary acting on his behalf, from such agent intermediary;
- (b) otherwise, from the grower.

(6) A person who, pursuant to paragraph 4(5), has a right to recover a contribution to levy payable by him, shall, in respect of expenses incurred by him in exercising that right, be entitled to deduct from the levy payable by him in relation to any quarter an amount equal to 5 per cent of the levy or £1 whichever is the greater.

Grower levy

5.—(1) Grower levy shall be payable to the Authority in respect of cereals sold to the Intervention Board other than cereals in respect of which dealer levy has been imposed.

(2) Grower levy shall be imposed on the grower, agent intermediary or financial intermediary who makes the offer to the Intervention Board.

Processor levy

6.—(1) Processor levy shall be payable to the Authority in respect of cereals sold and delivered by any person to a processor and shall be imposed on the processor in respect of the quantity of cereals delivered.

(2) Notwithstanding paragraph 6(1), a person shall be exempt from processor levy in respect of any year if the quantity of cereals delivered to him in that year is less than 200 tonnes.

(3) If the processor sells or otherwise disposes of the cereals without applying an industrial process to them, he shall be entitled to claim from the Authority a rebate equal to the processor levy paid by him in respect of the quantity of cereals delivered or disposed of by him.

Payment of levy

7.—(1) In the case of grower levy and dealer levy, liability to make payment shall arise when property in the cereals passes to the purchaser.

(2) In the case of dealer levy, the right to recover a contribution pursuant to paragraph 4(5) shall arise when the person upon whom levy is imposed becomes liable to make payment of levy.

(3) In the case of processor levy, liability to make payment shall arise when the cereals are delivered to the processor.

(4) In the case of processor levy, the right to claim a rebate pursuant to paragraph 6(3) shall arise when property in the cereals passes to the purchaser from the processor or the cereals are otherwise disposed of.

Recovery of levy and contribution to dealer levy

8.—(1) In the event of any default in respect of any payment in relation to:—

- (a) levy required to be paid to the Authority under this Scheme, or
- (b) contribution to dealer levy pursuant to paragraph 4(5),

any such payment shall be recoverable by the Authority or by the person entitled to recover such contribution, as the case may be, summarily as a civil debt.

(2) Where a person, who is liable in respect of dealer levy and is entitled to recover a contribution from an agent intermediary or a grower pursuant to paragraph 4(5), defaults in respect of such dealer levy, any unpaid contribution due to him in respect of that dealer levy shall be recoverable from the agent intermediary or grower, as the case may be, by the Authority, summarily as a civil debt.

Returns and information

9.—(1) The Authority may require any grower or registrable person to keep or cause to be kept records as follows:—

- (a) the name and address of persons who have purchased cereals from or through him;
- (b) the name and address of persons who have sold cereals to or through him;
- (c) the date of each sale and purchase and, in relation to processor levy, the date of delivery to or by the processor;

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- (d) the quantity and kind of cereals sold and purchased and, in relation to processor levy, the quantity and kind of cereals delivered to or by the processor;
 - (e) the name and address of any principal (in the case of an agent intermediary).
- (2) The Authority may require any grower or registrable person to submit to the Authority returns giving such information as the Authority may require.
- (3) Each grower or registrable person shall retain any records required to be kept under paragraph 9(1) for two calendar years from the end of the year to which those records relate.
- (4) Each grower or registrable person shall produce for inspection on demand by an authorised officer of the Authority any records required to be kept under paragraph 9(1).
- (5) An authorised officer acting in exercise of the power conferred by paragraph 9(4) shall carry a warrant of his authority so to act and shall produce the same on demand.

Transitional provisions

10. If a dealer or a processor has been or is liable to pay a contribution to levy pursuant to paragraph 7(b) of the Home-Grown Cereals Authority Levy Scheme 1974 in respect of cereals and on or after 1st August 1987 either the property in those cereals pursuant to a sale passes from him or the property in those cereals pursuant to a purchase passes to him he shall be entitled to claim from the Authority a rebate equal to such contribution paid by him.

EXPLANATORY NOTE

(This note is not part of the Order)

By this Order the Ministers approve, with modifications, a Scheme which revokes and replaces that approved by the Home-Grown Cereals Authority Levy Scheme (Approval) Order 1974 (S.I.1974/2083). The Scheme is for the purpose of financing the Authority, applies throughout the United Kingdom and comes into force on 1st August 1987.

The Scheme provides for—

- (a) dealer levy in respect of cereals sold by growers to dealers, processors or overseas purchasers (paragraph 4),
- (b) grower levy in respect of cereals sold into intervention (except where dealer levy has already been imposed) (paragraph 5), and
- (c) processor levy in respect of cereals sold and delivered to a processor (paragraph 6).

In each case the Scheme specifies the persons upon whom liability to pay levy is imposed (paragraphs 4(2) and 4(3), 5(2) and 6(1)) and who may now include agent intermediaries and financial intermediaries.

There are exemptions in respect of dealer levy where the quantity purchased in any year is less than 40 tonnes (paragraph 4(4)) and in respect of processor levy where the quantity delivered in any year is less than 200 tonnes (paragraph 6(2)). Provision is made in respect of dealer levy for recovery of contributions equal to grower levy from growers or their agents (paragraph 4(5)) and in respect of processor levy for recovery of rebate from the Authority (paragraph 6(3)).

The modifications to the Scheme extend the right to claim rebate of processor levy to all cases where cereals are disposed of unprocessed.

The Scheme also provides for the registration of dealers, processors, agent intermediaries and financial intermediaries and for them and for growers to be required to keep records of purchases, sales and processing of cereals (paragraphs 3 and 9).

Paragraph 10 of the Scheme makes transitional provision in respect of contribution by dealers and processors to levy under the Home-Grown Cereals Authority Levy Scheme 1974.

The principal changes made by the Scheme are—

- (a) dealer, grower and processor levies replace the single levy imposed on dealers and processors and the contributions to that levy made by growers from whom they bought and dealers and processors to whom they sold,
- (b) sales to the Intervention Board for Agricultural Produce may attract grower levy,
- (c) following amendments to the Cereals Marketing Act 1965 made by the Agriculture Act 1986,—
 - (i) “cereals” now includes not only wheat, barley and oats but also durum wheat, rye, maize, triticale and any two or more such cereals grown as one crop,
 - (ii) “dealer” is extended to include persons trading as wholesale buyers or wholesale sellers of cereals,
 - (iii) “processor” is extended to include persons who apply an industrial process to cereals (other than cereals grown by them) in the course of a business whether or not they intend to sell the processed cereals, and
 - (iv) “agent intermediary” and “financial intermediary” are introduced and the persons so defined made liable to levy in specified circumstances.

Penalties are provided for in section 17 of the Cereals Marketing Act 1965 as amended.

A Home-Grown Cereals Authority (Rate of Levy) Order is made annually specifying the rate of levy for each of the kinds of home-grown cereals in respect of which levy is to be imposed.