

STATUTORY RULES AND ORDERS OF A
GENERAL CHARACTER
ISSUED IN 1936.

AGRICULTURAL MARKETING.

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Butter and Cream.

THE BUTTER AND CREAM MARKETING SCHEME (NORTHERN IRELAND) (APPROVAL) ORDER, 1936, DATED 5TH MAY, 1936, MADE BY THE MINISTRY OF AGRICULTURE FOR NORTHERN IRELAND UNDER SECTION 1 (3) OF THE AGRICULTURAL MARKETING ACT (NORTHERN IRELAND), 1933, (23 AND 24 GEO. 5, CH. 22).

1936. No. 55.

Whereas the Ministry of Agriculture for Northern Ireland in exercise of its powers under the Agricultural Marketing Acts (Northern Ireland), 1933 and 1934, framed a Scheme regulating the marketing of butter and cream, as set forth in the schedule hereto :

And whereas in pursuance of the provisions of the First Schedule to the Agricultural Marketing Act (Northern Ireland), 1933, notice of the framing of the said Scheme and of the period during which objections and representations with respect thereto might be made was given in the Belfast Gazette of March 20th, 1936 :

And whereas no objections or representations with respect to the said Scheme were made during the said period :

Now, therefore, the Ministry of Agriculture for Northern Ireland, in exercise of the powers conferred upon it by Section 1 (3) of the Agricultural Marketing Act (Northern Ireland), 1933, hereby makes the following Order :—

1. The said Scheme, as framed, is approved.
2. The said Scheme shall come into force on the date hereof.
3. This Order may be cited as "The Butter and Cream Marketing Scheme (Northern Ireland) (Approval) Order, 1936."

In witness whereof the Official Seal of the Ministry of Agriculture for Northern Ireland is hereunto affixed this fifth day of May, nineteen hundred and thirty-six in the presence of

(L.S.)

G. S. Robertson,
Secretary.

SCHEDULE.

SCHEME FRAMED UNDER THE AGRICULTURAL MARKETING ACTS
(NORTHERN IRELAND), 1933 AND 1934, REGULATING THE
MARKETING OF BUTTER AND CREAM.

PART I.

Preliminary.

1. This Scheme may be cited as the Butter and Cream Marketing Scheme (Northern Ireland), 1936, and applies to Northern Ireland.

2. In this Scheme, except where the context otherwise requires—

“The Act” means the Agricultural Marketing Act (Northern Ireland), 1933 :

“Minister” means the Minister of Agriculture for Northern Ireland :

“Butter” means butter produced at premises registered as a central creamery under Part I. of the Marketing of Dairy Produce Act (Northern Ireland), 1929 :

“Cream” means cream extracted by power driven mechanical separators from the milk supplies of several cow-keepers :

“Producer” means a producer of butter or cream or of both of those products as defined above :

“Calendar year” means a consecutive period of twelve months beginning on the first day of January :

“Registered” means registered under this Scheme and “registration” shall be construed accordingly :

“Secretary” includes any person for the time being authorised by the Board to act as their Secretary.

3. The Interpretation Act, 1921, shall apply for the interpretation of this Scheme as it applies for the interpretation of an Act of the Parliament of Northern Ireland.

PART II.

The Board.

4. The Board to administer this Scheme shall be called the Butter and Cream Marketing Board (Northern Ireland), and shall be a body corporate with a common seal and power to hold land without licence in mortmain.

5. Until the 31st day of March, 1937, the Butter and Cream Marketing Board (Northern Ireland) (hereinafter referred to as "the Board") shall consist of the following persons:—

- H. A. M. BARBOUR, Esq., Strathearne, Dunmurry (Chairman).
- A. M. BULLER, Esq., Cloughmills.
- J. F. GAMBLE, Esq., M.P., Bridgehill, Castlederg.
- D. A. E. HARKNESS, Esq., Ministry of Agriculture, Stormont.
- W. J. M'ALLISTER, Esq., Artigarvan, Strabane.
- R. G. M'CULLAGE, Esq., Springfield, Enniskillen.
- H. O'HARA O'NEILL, Esq., Ministry of Agriculture, Stormont.

Thereafter the Board shall consist of seven members of whom three shall be appointed members, that is to say, they shall be appointed and may be removed by the Minister, and four shall be elected members, that is to say, they shall be elected by registered producers.

6. An election of members shall be held in the year 1937. Two of the members elected in that year shall hold office for one year and two for two years. The two members who shall hold office for one year shall be decided by agreement among the elected members of the Board or failing such agreement by lot. There shall be an election of two members of the Board in the year 1938 and in every calendar year thereafter. All members elected after the year 1937 shall hold office for two years. Every election of members shall be held in the month of March. Every elected member shall, subject to the provisions of this Scheme, hold office until the expiration of the day on which the next election takes place.

7. An elected member of the Board whose term of office expires, or who resigns his office, shall be eligible for election or re-election.

8. An elected member of the Board shall cease to hold office—

- (a) if he delivers to the Board a written resignation of his office and the resignation is accepted by the Board or, if not accepted, is not withdrawn within seven days; or
- (b) if he is detained for more than seven days in any place under any enactment in force in any part of the United Kingdom relating to persons of unsound mind; or
- (c) if he is adjudged bankrupt or enters into a composition with his creditors; or
- (d) if the Board, by resolution, declares that he has been absent from six consecutive meetings of the Board without reasonable excuse; or
- (e) if he is convicted of any offence under sub-section (1) of section sixteen of the Act.

Sub-divisions (b), (c) and (e) of this paragraph shall apply to appointed members of the Board, and sub-division (a) shall apply to those members with the substitution of the Minister for the Board.

9. If an elected member of the Board dies or ceases to hold office under the last preceding paragraph, the Board shall co-opt a person in his place, and any person so co-opted shall, unless he dies or ceases to hold office as aforesaid, hold office for so long as his predecessor would have held office.

10. The Board shall at all times have power to act notwithstanding any vacancy among their members, and may appoint committees out of their own number. The Board shall have the power to co-opt on to any committee established by the Board. The Board shall have power to delegate any of their powers under paragraphs 33 and 34 of this Scheme to one or more of their members for such period as may be determined by the Board.

11. The quorum of the Board and of any Committee thereof shall be such as the Board may from time to time determine, but in the case of the Board, shall, until otherwise determined, be three, and shall not be less than that number. Questions arising at any meeting of the Board or a Committee shall be decided by a majority of the votes of the members present, and in the case of an equality of votes at such a meeting the member acting as chairman shall have a second or casting vote. Three members of the Board may, and the Secretary on the request of any three members of the Board or of the Chairman shall, convene a meeting of the Board.

12. All acts done at any meeting of the Board 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 that a member of the Board has 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.

13. Minutes shall be kept of the proceedings of the Board and any such minutes shall, if signed by a person purporting to have acted as chairman of the meeting to which they relate or of a meeting at which they were read, be evidence of those proceedings, and the meeting to which any such minutes relate shall be presumed, until the contrary is proved, to have been regularly convened and constituted. Two copies of the minutes of each meeting of the Board shall be sent to the Ministry within fourteen days of such meeting.

14. 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 at least two members of the Board authorised in that behalf and by the Secretary.

15. Contracts and instruments which would not in the case of a private person require to be under seal may be entered into or executed on behalf of the Board by any person authorised in that behalf by the Board.

16. The chairman of the Board shall (provided he remains a member of the Board) hold office for a period of two years and shall be eligible for election or re-election.

17. The Board—

- (a) may, subject to the provisions of section ten of the Act, employ a secretary and such other officers, servants and agents as they think fit ;
- (b) shall have an office at which communications and notices will at all times be received, and shall notify the Ministry of the address thereof and of any change in that address ;
- (c) 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 exercising any of their powers or performing any of their duties under this Scheme, and may sell or otherwise dispose of any property acquired by them which they do not need for such purpose.

18. The Board may pay to any member of the Board or of any committee thereof any such travelling and other expenses as have in their opinion been reasonably incurred by such member in connection with the business of the Board. The Board may also pay to any member of the Board or any Committee thereof such remuneration (if any) as may be recommended by them and approved by the Ministry.

19.—(a) A contract entered into by the Board shall not be avoided by reason only that a member of the Board is also a party thereto or is interested therein.

(b) A member of the Board shall not be liable to account to the Board for any profits realised by him out of any contract by reason only of the fact that the Board are also a party to such contract or are interested therein.

(c) A member of the Board shall forthwith disclose to the Board—

- (i) any interest which he has or acquires in any contract to which the Board are a party or in which the Board have or acquire any interest ; and

(ii) any interest which he has or acquires in any other contract whatsoever, if such interest in any way conflicts with his duty as a member of the Board.

(d) A member of the Board shall not vote upon any question relating to any contract to which he is a party or in which he has any interest; and, if he does vote, his vote shall not be counted:

Provided that nothing in this provision contained shall preclude a member of the Board from voting on any question relating to the general policy of the Board.

PART III.

Register of Producers.

20. The Board shall keep a register of producers, and every producer shall, on application to the Board, be entitled to be registered therein.

21. The register of producers shall be open for inspection at the office of the Board from 10 a.m. to 4 p.m. on such days, other than Saturdays, as the office of the Board is open for the transaction of business. Any person shall be entitled to be supplied with a copy of the register on payment of a fee of such amount as may be approved by the Ministry, or to take extracts therefrom for his own use free of charge.

22. Any producer who does not sell butter or cream otherwise than to a creamery registered under the Marketing of Dairy Produce Act (Northern Ireland), 1929, shall be exempt from registration.

23. The Board, on being satisfied that a person who is registered has ceased to be a producer or is exempt from registration, shall remove his name from the register:

Provided that the name of a person shall not be removed from the register without his consent by reason only that he is exempt from registration.

PART IV.

Elections.

24. Nominations of candidates for election to the Board must be lodged with the Ministry not later than the twentieth day of February in the year in which the election is to be held. A candidate for election must be nominated in writing by two registered producers, whose names appeared on the register of producers at the 1st day of February in the said year, as proposer and seconder, and his nomination shall be sent to the Secretary, Ministry of Agriculture, Stormont, Belfast, by registered post.

As soon as possible after the last day for the receipt of nominations the Ministry shall publish the names and addresses of the candidates who have been duly nominated. A candidate may withdraw his candidature by sending to the Secretary, Ministry of Agriculture, Stormont, Belfast, by registered post, not later than the twenty-fifth day of February in the said year, a notice in writing of such withdrawal signed by him.

25. For the purpose of an election the Ministry shall allot to each registered producer a number of votes proportionate to the number of gallons of milk delivered to that registered producer for the purpose of the extraction of cream for sale as such or for manufacture into butter during the calendar year preceding the date of the election at all premises registered as a central creamery or as an auxiliary creamery under the Marketing of Dairy Produce Act (Northern Ireland), 1929, and controlled by that producer on the date of the election and a registered producer shall be entitled to give the number of votes so allotted to him.

26. Nominations of candidates for election and the casting of votes at an election of members to the Board shall be made on behalf of a registered producer by the manager of the creamery owned or occupied by that registered producer.

27. Elections shall be conducted by post and not later than the tenth day of March in the year in which the election is to be held a voting paper shall be sent by post by the Ministry to every producer whose name appeared on the register of producers on the 1st day of February in the said year. Only such of the said voting papers as are properly completed and reach the Ministry on or before the twentieth day of March in the year in which the election is held shall be taken into account.

PART V.

Financial Provisions.

28. There shall be established a fund (in this Scheme referred to as "the fund") which shall be administered and controlled by the Board. All moneys received by the Board shall be paid into the fund, and any moneys required by the Board either for the operation of this Scheme or otherwise for the purposes of the Act in its application to this Scheme, shall be paid out of the fund. Any moneys for the time being standing to the credit of the fund may be left on current or deposit account in any bank or invested in any securities in which a trustee might lawfully invest trust moneys under the powers of the Trustee Act, 1893, as extended by any enactment for the time being in force in Northern Ireland.

29. The Board may, for the purpose of exercising any of their functions under this Scheme, 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.

30.—(a) The Board shall keep proper accounts and in particular shall keep a separate Administrative Account and a separate Trading Account and shall annually make out a balance sheet and either a profit and loss account or, if the Board do not trade for profit, an income and expenditure account, and shall cause them to be audited by a member of the Institute of Chartered Accountants or of the Society of Incorporated Accountants and Auditors or of the Corporation of Accountants, Limited, or of the London Association of Certified Accountants, Limited, and as soon as may be after the auditor has reported thereon and in any case within three months of the close of the period covered by the profit and loss or income and expenditure account, shall send to the Ministry and to every registered producer a copy thereof and of the report of the auditor thereon and also a report by the Board as to the working of this Scheme in the period covered by the profit and loss or income and expenditure account.

(b) If and so long as the Board are under any financial liability to the Ministry of Finance, the audited accounts of the Board, together with such information in relation thereto as the Ministry of Finance may require, shall be furnished to that Ministry.

31. The Board shall, on the demand of any person and on payment by him of a fee of one shilling, furnish to him a copy of their last published accounts.

PART VI.

Provisions as to Marketing and Principal Powers of the Board.

32. Subject to the provisions of the Act with respect to existing contracts a producer who is neither a registered producer nor a person exempted from registration shall not sell any butter or cream.

33. The Board may require registered producers to sell butter or cream, or such description and quantity thereof as may from time to time be determined by the Board, only through the agency of the Board, or through the agency of such persons as the Board may determine.

If any registered producer sells any butter or cream in contravention of any determination under this paragraph, then, subject to the provisions of the Act with respect to existing contracts and to the provisions of this part of this Scheme, the Board shall by resolution impose upon, and shall recover from him such monetary penalty (not exceeding the sum of fifty pounds plus half the price for which the butter or cream in question was sold) as they think just.

34. The Board may from time to time determine the price at, below or above which, and the terms on which butter or cream or any description of butter or cream may be sold.

If any registered producer sells any butter or cream in contravention of any determination under this paragraph, then, subject to the provisions of the Act with respect to existing contracts and to the provisions of this part of this Scheme, the Board shall by resolution impose upon, and shall recover from him such monetary penalty (not exceeding the sum of fifty pounds plus half the price for which the butter or cream in question was sold) as they think just.

35. The following sales shall be exempt from the provisions of paragraphs 33 and 34 of this Scheme :—

- (a) Sales made under a contract between a registered producer and a purchaser provided that the terms of the said contract shall have been submitted to and approved by the Board.
- (b) Sales of such classes or descriptions as may be specified in regulations made by the Ministry under the Act with respect to the removal of any agricultural product from Northern Ireland into Great Britain.

36. The Board may either alone or in co-operation with any other person advertise butter or cream or any description of butter or cream.

37. Every registered producer shall contribute to the fund in respect of every cwt. of butter and of every gallon of cream produced by him and sold otherwise than to a creamery registered under the Marketing of Dairy Produce Act (Northern Ireland), 1929, a contribution of such amount not exceeding 1/- per cwt. of butter and 1d. per gallon of cream as the Board, with the approval of the Ministry, may determine to be necessary for the operation of this Scheme or otherwise for the purposes of the Act in its application to this Scheme. Such contributions shall be payable to the Ministry in respect of every month, within ten days of the following month, and the Ministry shall pay the same to the Board.

38. Any moneys standing to the credit of the fund which are not required for the operation of this Scheme or otherwise for the purposes of the Act in its application to this Scheme shall be distributed among registered producers in proportion to the sales of the regulated products by them in respect of such period as the Board, with the approval of the Ministry may determine.

39. Any registered producer who satisfies the Board, or establishes by arbitration in accordance with Part VII. of this Scheme, that the Board have in any respect given an undue preference to any other registered producer, shall be entitled to

receive from the Board such sums by way of compensation as are in the opinion of the arbitrator necessary to make good any damage suffered by such first-mentioned producer by reason of the undue preference.

40. The Board may, whenever they consider it necessary for the operation of this Scheme so to do, serve on any producer a demand in writing requiring him to furnish to them such estimates, returns, and other information relating to butter and cream as may, with the approval of the Ministry, be specified in the demand.

41. Any person authorised in writing by the Board may, for the purpose of securing compliance with this Scheme, enter and inspect at any reasonable time, and on production of his authority, any part of the land or premises occupied by a registered producer (being a producer specified in the authority) which the person so authorised has reason to believe is used for producing butter or cream or for grading, marking, packing or storing butter or cream or adapting butter or cream for sale.

A registered producer shall permit such entry and inspection as aforesaid.

PART VII.

Miscellaneous.

42. Part X. of the Companies Act (Northern Ireland), 1932 (which relates to the winding-up of unregistered companies) shall apply in relation to the Board, subject to the modifications set out in paragraphs 4, 5, 6, 7 and 8 of the Second Schedule to the Act.

43. Contributions under paragraph 7 of the Second Schedule to the Act shall be assessed proportionately to the total number of hundred-weights of butter and gallons of cream (if any) sold otherwise than to a creamery registered under the Marketing of Dairy Produce Act (Northern Ireland), 1929, by each contributor at any time during the relevant period and shall not in any case exceed 1/- per cwt. of butter or 1d. per gallon of cream.

44. Any producer who is aggrieved by any act or omission of the Board may refer the matter to the arbitration of a single arbitrator to be agreed upon between such producer and the Board or, in default of agreement, to be nominated by the Minister, and the arbitrator may make such order in the matter as he thinks just.

An arbitrator agreed upon or nominated as aforesaid shall have power to award costs, and the expenses of the arbitration shall be defrayed as the arbitrator may direct. The award of the arbitrator may be made a rule of court upon the application of either party under and in accordance with the Common Law Procedure Amendment Act (Ireland), 1856.
