

1966 No. 1579

## INDUSTRIAL ORGANISATION AND DEVELOPMENT

## The Apple and Pear Development Council Order 1966

*Laid before Parliament in draft**Made - - - - 16th December 1966**Coming into Operation 23rd December 1966*

The Minister of Agriculture, Fisheries and Food in exercise of the powers conferred on him by sections 1, 2, 3, 4, 5, 6 and 14 of the Industrial Organisation and Development Act 1947<sup>(a)</sup> and of all other powers enabling him in that behalf, after consultation with the organisations appearing to him to be representative of substantial numbers of persons carrying on business and employed in the industry, being satisfied that the establishment of a development council for the industry is desired by a substantial number of the persons engaged in the industry, and having satisfied himself that the incidence of charges as between different classes of undertakings in the industry will be in accordance with a fair principle, hereby makes the following order a draft whereof has been laid before Parliament and approved by a resolution of each House of Parliament:—

*Citation and commencement*

1. This order may be cited as the Apple and Pear Development Council Order 1966; and shall come into operation at the expiration of seven days beginning with the day on which it is made.

*Interpretation*

2.—(1) In this order, unless the context otherwise requires—

“apples and pears” means apples and pears other than “cider apples” and “perry pears”;

“apple or pear tree” means any plant capable, respectively, of bearing apples or pears in season and of at least five years’ growth after initial budding or grafting;

“cider apples” and “perry pears” mean respectively apples and pears of the varieties specified in Schedule 3 to this order;

“the Council” means the Apple and Pear Development Council established under the provisions of this order;

“grower” means a person who carries on business in the industry and occupies land in England and Wales of five acres or more planted with apple or pear trees;

“the industry” means the growing of apples and pears in England and Wales for sale by way of trade or business;

“the Minister” means the Minister of Agriculture, Fisheries and Food;

“sale” includes storage or preparation with a view to subsequent sale.

(2) The Interpretation Act 1889(a) shall apply to the interpretation of this order as it applies to the interpretation of an Act of Parliament.

#### *Establishment of Development Council*

3.—(1) There shall be established a development council for the industry, to be known as the Apple and Pear Development Council, and there shall be assigned to it the functions specified in Schedule 1 to this order.

(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 it renders or could render to the community and to enable it 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 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 Minister, that is to say:—

(1) Not more than 12 nor less than 10 persons capable of representing the interests of growers;

(2) 3 persons capable of representing the interests of persons employed in the industry;

(3) 3 persons 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

(4) 3 persons having special knowledge of matters relating to the marketing or distribution of products of the industry.

#### *Proceedings of Council*

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

#### *Register of growers*

6.—(1) The Council shall keep a register of growers and shall enter therein the name and address of every person who applies to the Council in writing to be registered.

(2) The Council may enter in the register, in addition to the name and address of any registered person, any business name under which he carries on business in the industry, the address of any place at which he carries on business in the industry and the names of his partners in business in the industry, but no other information.

(3) Any person whose name is entered in the register shall notify the Council forthwith in writing of any matter rendering the entry in the register relating to him inaccurate or incomplete.

(4) The Council shall, on receipt of any such notification as is referred to in paragraph (3) of this article, amend the register in accordance therewith.

(5) 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 no longer carries on business in the industry they may remove his name forthwith.

(6) The Council may, if they have reasonable cause to believe that any person whose name is entered in the register no longer carries on a business in the industry, by notice in writing inform that person of their intention to remove his name from the register unless within one month from the date of the notice he gives notice in writing to the Council that he is a person carrying on such a business, and if no such notice is received by the Council within the said period the Council may on the expiration of that period remove his name from the register.

(7) The register shall be kept at the office of the Council and any person shall, on the payment of a fee of two shillings, 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.

#### *Registration of growers*

7.—(1) Every person who is a grower on the 1st day of April 1967, or on the first day of the fourth month next following the month within which this order comes into operation if that is later, shall within one month thereafter apply in writing to the Council to be registered, and every person who after that day becomes a grower shall so apply within one month of becoming a grower.

(2) 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.

#### *Exemption from registration*

8. If a grower has fewer than 50 apple or pear trees growing on land occupied by him for the purpose of business in the industry, he shall be exempt from registration.

#### *Returns and information*

9. The Council may require any registered grower to furnish such returns and information relating to activities carried on by him and comprised in the industry, including information with respect to the productive capacity, capital assets, staff, output, orders, sales, deliveries, stocks and costs as appear to the Council to be required for the exercise of any of their functions:

Provided that the Council shall not exercise the powers conferred upon them under this article generally as regards the industry or any section thereof unless the Minister has consented to such exercise and has approved the form in which the returns or other information will be required to be furnished.

#### *Charges for expenses*

10.—(1) For the purposes of enabling them to meet administrative and other expenses incurred or to be incurred in the exercise of their functions the Council may, with the approval of the Minister, impose an annual charge at a rate

not exceeding thirty shillings on every registered grower in respect of each acre of land occupied by him for the purpose of business in the industry and planted with apple or pear trees:

Provided that where the average density of planting on the land so occupied by any grower is less than 50 trees per acre such charge shall be payable by that grower, if he so elects, in respect of every 50 trees and not in respect of each acre.

(2) For the purpose of computing the amount payable under paragraph (1) of this article headlands shall be included but fractions of an acre or any remainder after the number of trees have been divided by 50 shall be ignored.

(3) 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 land used in the joint business, be treated as constituting a single person.

(4) Every charge imposed in accordance with the provisions of this article shall be payable on such date or dates as the Council may determine for any year, at the office of the Council, and it shall be a debt due to the Council and shall be recoverable as such.

#### *Borrowing and investment of money*

11.—(1) The Council may borrow money and pledge mortgage or charge any of their property (including the proceeds of the charges imposed in accordance with the provisions of article 10 of this order) 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 purposes of 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 the next following paragraph.

(4) Sections 1, 2, 5, 6, 12 and 13 of the Trustee Investments Act 1961(a) (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 of acreage and other matters*

12.—(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 9 of this order or the returns to be furnished or the books or other documents or the 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 for that purpose 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 9 of this order to disclose particulars relating to the process unless the requirement and the form thereof have been approved by the Minister after consideration of his claim.

### *Offences*

13.—(1) If any grower, not being exempt from registration, continues his business in the industry after the expiration of the period within which he is required by article 7(1) of this order to apply to be registered without having so applied he shall be liable on summary conviction to a fine not exceeding fifty pounds.

(2) If any person required to furnish returns or 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 liable on summary conviction to a fine not exceeding fifty pounds.

(3) If any person who is convicted of an offence under paragraph (1) of this article continues his business in the industry after the expiration of 21 days commencing with the date of the conviction without having applied for registration he shall be guilty of a further and continuing offence and shall be liable on summary conviction to a fine not exceeding five pounds in respect of each day during which he continues such business without having applied for registration.

(4) If any person who is convicted of an offence under paragraph (2) of this article, fails without reasonable excuse to furnish such return or to produce for examination such books, other documents or records to the Council within 21 days after such conviction he shall be guilty of a further and continuing offence and shall be liable on summary conviction to a fine not exceeding two pounds in respect of each day during which such failure continues.

(5) If any person knowingly or recklessly makes any statement, in compliance with a notice under the provisions of article 9 or 12 of this order, which is false in a material particular, he shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds, or on conviction on indictment to imprisonment for a term not exceeding two years or to a fine not exceeding one hundred pounds, or, in either case, to both such imprisonment and such fine.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 16th December 1966.

(L.S.)

*Frederick Peart,*

Minister of Agriculture, Fisheries and Food.

Article 3(1)

SCHEDULE 1

FUNCTIONS OF THE APPLE AND PEAR DEVELOPMENT COUNCIL

1. Promoting the production and marketing of standard products.
2. Promoting the better definition of trade descriptions and consistency in the use thereof.
3. Promoting or undertaking research for improving arrangements for marketing and distributing the products of the industry.
4. Promoting or undertaking research into matters relating to the consumption or use of the products of the industry.
5. Promoting the development of export trade, including promoting or undertaking arrangements for publicity overseas.
6. Promoting or undertaking arrangements for better acquainting the public in the United Kingdom with the products of the industry and methods of using them.
7. Promoting or undertaking the collection and formulation of statistics.
8. Undertaking arrangements for making available information obtained, and for advising, on matters with which the Council are concerned in the exercise of any of their functions.

Article 5

SCHEDULE 2

PROCEEDINGS OF THE COUNCIL

1. The members of the Council shall hold office for such term not exceeding four years as the Minister may determine, so, however, that a member of the Council on vacating his office on the expiration of the term thereof shall be eligible for reappointment.
2. If a member appointed as an independent member—
  - (a) commences or resumes carrying on a business in the industry or acts in the management of any undertaking the owner of which carries on business in the industry, or
  - (b) refuses to sell or dispose of any interest or security held directly or indirectly for his benefit and the retention of which he has been informed by the Minister to be in his opinion likely to affect him in the discharge of his functions or fails to sell or dispose of any such interest or security within one month after having been requested by the Minister so to do, the Minister may declare the office of such member to be vacant.
3. A quorum of the Council shall be such number as the Council may decide not being less than thirteen.
4. The Council may appoint committees of their members and may determine the quorum and procedure of any such committee.
5. The seal of the Council shall not be applied to any document except by the authority of the Council or a duly authorised committee of members of the Council and the application of the seal shall be authenticated by the signatures of two members of the Council.
6. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Council by any person generally or specially authorised by them for the purpose.
7. Every document purporting to be a document duly executed or issued either under the seal of the Council authenticated in the manner provided by this Schedule or on behalf of the Council, or purporting to be signed by the secretary or any person authorised to act in that behalf, shall until the contrary be proved, be deemed to be a document so executed or issued or so signed as the case may be.

8. The Council may pay to their members any expenses properly incurred by them in the business of the Council and may pay such remuneration and allowances to any of the members of the Council as the Minister may determine. The Council may also pay on the retirement or death of any of their members as to whom it may be determined by the Minister to make such provision, such pensions and gratuities by reference to their service as may be so determined.

9. The validity of any proceedings of the Council shall not be affected by any vacancy amongst the members thereof.

10. Minutes shall be kept of the proceedings of the Council and any such minutes shall, if signed by any person purporting to have acted as chairman of the meeting or at a meeting at which they were read, be evidence of the proceedings at the first mentioned meeting, and a meeting to which any such minutes relate shall, unless the contrary is proved, be taken to have been regularly convened and constituted.

11.—(1) A member of the Council shall, if he is in any way directly or indirectly interested in a contract made or proposed to be made by the Council, disclose the nature of his interest at a meeting of the Council as soon as possible after the relevant circumstances have come to his knowledge.

(2) Any disclosure made by a member under the foregoing sub-paragraph shall be recorded in the minutes of the Council, and that member shall not take part after the disclosure in any deliberation or decision of the Council with respect to that contract, but may, nevertheless, be taken into account for the purpose of constituting a quorum of the Council.

12. The Council shall have an office at which communications and notices will at all times be received and shall notify the Minister of the address of that office and any change of that address.

### SCHEDULE 3

### Article 2(1)

#### CIDER APPLES AND PERRY PEARS

The following varieties of apples are cider apples:—

Abondance	Brown's Apple
Allens Sweet	Bulmer's Norman
Amer de Berthecourt	Camelot
Amer de Torentice	Cherry Norman
Argile Grise	Cherry Pearmain
Ashton Brown Jersey	Chisel Jersey
Ball's Bitter Sweet	Churchill
Barbarie Blanche	Cider Lady's Finger
Bedan	Cimetiere
Belle de Douai	Collington Bitter Sweet
Belle Norman	Compton Drum
Bergere	Cool Jersey
Binet Rouge	Court Royal
Black Foxwhelp	Cow Apple
Black Norman	Cowarne Red
Blanc Mollet	Crimson King
Bloody Turk	Croix de Bouelles
Bouteille de Caen	Crummy Norman
Bramtot	Dabinett
Bran Rose	De Boutteville
Breakwell's Seedling	Des Domaines
Broadleaf Norman	Doux Amer
Broadley Jersey	Doux Lazon
Brown Jersey	Dove
Brown Snout	Dymock Red
Brown Thorn	Early David

Ecarlatine	Pomme Mettais
Eggleton Styne	Porter's Perfection
Ellis Bitter	Port Wine
Fair Maid of Devon	Red Foxwhelp
Fillbarrel	Red Jersey
Foxwhelp	Red Norman
Franqueville	Red Streak
Frederick	Reine des Hâtives
Frequin Audievre	Reine des Pommes
Frequin Tardif	Reinette d'Obry
Gilbert	Rouge Bruyere
Goddard	Rougette Douce
Green Norman	Royal Jersey
Grosse Launette	Royal Wilding
Hagloe Crab	St. Laurent
Hangdown	Sandford Jersey
Harnette	Scudamores Crab
Harry Masters Jersey	Sherrington Norman
Honeystring	Silver Cup
Improved Dove	Skyrmes Kernel
Improved Hangdown	Slack My Girdle
Improved Kingston Black	Somerset Brown Jersey
Improved Lambrook Pippin	Somerset Red Streak
Improved Pound	Stable Jersey
Jackson	Stembridge Jersey
Jambe de Lievre	Stoke Red
Jolly Rouge	Strawberry Norman.
Killerton Sweet	Sweet Alford
Kingston Black	Sweet Blenheim
Knotted Kernel	Sweet Copping
Lavignee	Tanners Red
Lorna Doone	Taunton Fair Maid
Loyal Drain	Thomas Hunt
Major	Tom Putt
Marechal	Tremlett's Bitter
Medaille d'Or 1.	Upright French
Medaille d'Or 2.	Upright Styre
Michelin	Vagnon Archer
Morgan Sweet	Vilberie
Moulin à Vent	Wellings Bitter Sweet
Nehou	White Alphington
Neverblight	White Close Pippin
Oakham Green	White Frequin
Oisier	White Jersey
Old Pound	White Norman
Omont	Woodbine
Peau de Blaireau	Yarlington Mill
Peau de Vache	Yellow Redstreak
Pennard Bitter	Yellow Styre

The following varieties of pears are perry pears:—

<i>Variety</i>	<i>Synonym(s)</i>
Arlingham Squash	Squash Pear, Old Squash, Old Taynton Squash
Barland	
Barnet	Barn Pear, Brown Thorn Pear, Hedgehog Pear
Bartestree Squash	
Bastard Longdon	
Bastard Sack	
Billy Williams	
Black Huffcap	Black Pear





<i>Variety</i>	<i>Synonym(s)</i>
Murrell	
Nailer	Billy Williams
Newbridge	White Moorcroft
New Meadow	Lintot, Yokehouse
Oldfield	Ollville, Oleville, Offield, Awrel, Hawfield
Painted Lady	
Parsonage	
Pig Pear	
Pine	
Pint	Pine
Potato Pear	
Red Huffcap	Huffcap, Uffcap, Uffcup
Red Longdon	Red Longley, Red Longney, Brockle, Brockhill, Cider Pear
Red Pear	Aylton Red, Blunt Red, Red Horse
Rock	Mad Pear, Mad Cap, Black Huffcap, Brown Huffcap, Red Huffcap, Huffcap, Uffcap, Uffcup
Rumblers	Jug Rumbles, Rumble Jumble
Sack	
Sickle Pear	American Sickle
Silver Pear	Summer Pear
Snake Pole	
Sow Pear	
Speart Pear	
Staunton Squash	Squash Pear, White Squash
Stinking Bishop	
Swan Egg	Swan
Taynton Squash	
Teddington Green	Teddingtons
Thorn	
Thurston's Red	Dymock Red, Billy Thurston
Tumper	Tum, Tom, Tump
Turner's Barn	Longstalk
White Bache	Bache's White, Beech White, White Beech
White Longdon	Longdon, Longland(s), Bastard Barland, Dandoe, Garradine, Port
Winnal's Longdon	Longdon, Longland(s)
Yellow Huffcap	Huffcap, Uffcap, Uffcup, Brown Huffcap, Black Huffcap, Green Huffcap, Kings Arms, Yellow Longdon, Yellow Longland(s), Chandos Huffcap
Young Heydon	

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#### EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This order which comes into operation on 23rd December 1966 establishes a development council for the apple and pear growing industry in England and Wales, to be known as the Apple and Pear Development Council.

The order specifies the way in which the Council will be constituted, sets out the functions which are assigned to them and contains a definition of the industry to which the order relates. Provision is made for the maintenance of a register of growers, for the collection of information, and for the imposition of a charge for enabling the Council to meet their expenses in the exercise of their functions.