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STATUTORY INSTRUMENTS

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**1989 No. 2277**

**The Apple and Pear Research Council Order 1989**

**Title and commencement**

1. This Order may be cited as the Apple and Pear Research Council Order 1989 and shall come into force on the eighth day after the day on which it is made.

**Interpretation**

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

“the Act” means the Industrial Organisation and Development Act 1947;

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

“apple or pear tree” means any plant grown for the commercial production of apples and pears other than nursery stock;

“cider apples” and “perry pears” mean respectively apples and pears of the varieties specified in Schedule 1;

“the Council” means the Apple and Pear Research 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 two hectares or more planted with 50 or more apple or pear trees;

“the industry” means the growing of apples and pears in England and Wales for sale or for processing into an apple or pear product with a view to its sale, by way of trade or business;

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

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

(2) In this Order, unless the context otherwise requires, any reference to a numbered article or Schedule is a reference to the article or Schedule so numbered in this Order.

**Establishment of Development Council**

3.—(1) There shall be established a development council for the industry, to be known as the Apple and Pear Research Council, and there shall be assigned to it the functions specified in Schedule 2.

(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 the industry renders or could render to the community and to enable the industry 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 of 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) five persons capable of representing the interests of growers;
  - (2) one person capable of representing the interests of people employed in the industry;
  - (3) two 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) one person having special knowledge of matters relating to the marketing and distribution of products of the industry.

### **Membership and proceedings of council**

5. The provisions of Schedule 3 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 in it 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 and the address of any place at which he carries on the business in the industry, and the names of his partners in any such business, 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 amend the register in accordance with any such notification as is referred to in paragraph (3) above, on its receipt.
- (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 not exceeding one pound, 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 on or after the day on which this Order comes into force becomes a grower shall within the month thereafter apply in writing to the Council to be registered.
- (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.

### **Returns and information**

8.—(1) Subject to paragraph (2) below, 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.

(2) 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**

9.—(1) For the purposes of enabling them to meet their administrative and other expenses incurred or to be incurred in the exercise of their functions the Council may, with the approval of the Minister and subject to paragraph (2) below, impose on every grower—

- (a) an annual charge at a rate not exceeding twenty-five pounds in respect of each hectare of land occupied by him for the purpose of business in the industry and planted with apple or pear trees, or,
- (b) where the average density of planting on such land is less than 125 trees per hectare and the grower so elects, an annual charge in respect of every 50 trees at the rate of two fifths of the charge imposed under the preceding sub paragraph.

(2) For the purpose of computing amounts payable under paragraph (1) above headlands shall be included but fractions of less than each complete one-tenth of a hectare 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 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**

10.—(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 9) 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 paragraph (4) below.

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

**11.**—(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 8 or the returns to be furnished or the books or other documents or other 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 8 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**

**12.**—(1) If any grower continues his business in the industry after the expiration of the period within which he is required by article 7(1) to apply to be registered without having so applied he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(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 guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) If any person who is convicted of an offence under paragraph (1) above 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) above, fails without reasonable excuse to furnish such returns 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 five 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 8 or 11, which is false in a material particular, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 3rd December 1989.

L.S.

*John Selwyn Gummer*  
Minister of Agriculture, Fisheries and Food

30th November 1989

*Peter Walker*  
Secretary of State for Wales