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STATUTORY INSTRUMENTS

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**2003 No. 908**

**The Horticultural Development  
Council (Amendment) Order 2003**

**Title and commencement**

1.—(1) This Order may be cited as the Horticultural Development Council (Amendment) Order 2003, and shall come into force on 1st April 2003.

(2) In this Order “the principal Order” means the Horticultural Development Council Order 1986(1).

**Amendment of the principal Order**

2. The principal Order shall be amended in accordance with the following provisions of this Order.

3. In article 2 (interpretation), in paragraph (1)—

(a) there shall be inserted before the definition of “compost” the following definitions—

““apple” and “pear” mean respectively any apple other than the varieties listed in Part I of Schedule I and any pear other than the varieties listed in Part II of that Schedule;

“apple or pear grower” means a person who carries on the trade or business of growing apples or pears for sale or for processing into an apple or pear product with a view to its sale, and occupies land of at least two hectares planted with at least 50 trees (whether apple or pear or both);”;

(b) there shall be substituted for the definition of “grower” the following definition—

““grower” means—

(a) a person, other than an apple or pear grower, who grows horticultural produce (excluding mushrooms) for sale, whose sales of such produce (excluding Value Added Tax and the cost of haulage and packing materials and, in those cases where the produce is prepared for market in rateable packhouses, any rates levied in respect of such packhouses) were not less than £25,000 during his relevant accounting year;

(b) a mushroom grower; and

(c) an apple or pear grower;”;

(c) in the definition of “horticultural produce”, there shall be inserted before the words “Schedule 1” the words “Part III of”.

4. In article 4 (constitution of Council), in paragraph (1) there shall be substituted for the word “eleven” the word “twelve”.

5. In article 6 (register of growers), for paragraph (2) there shall be substituted the following paragraph—

“(2) The Council may enter on the register, in addition to the name and address of any registered grower—

- (a) any business name under which and the address of any place at which he carries on business in the industry, and the names of his partners in any such business,; and
- (b) where the registered grower is a company, the names and addresses of any directors of the company.

but no other information.”.

6. There shall be substituted for article 7 (registration of growers) the following article—

“7.—(1) Every person who was registered as a grower under the Apple and Pear Research Council Order 1989 immediately before the dissolution of the Apple and Pear Research Council shall be registered as a grower in the register kept by the Horticultural Development Council.

(2) Every person who on or after 31st March 2003 becomes a grower shall apply in writing to the Council to be registered within two months of the day on which he became a grower.

(3) 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.”(2).

7. In article 9 (charges for expenses)—

(a) there shall be substituted for paragraph (1) the following paragraph—

“(1) For the purposes of enabling it to meet its expenses in the exercise of its functions and its administrative expenses the Council may, with the approval of the Ministers and subject to paragraphs (2), (3) and (3A), impose—

- (a) on each grower, other than an apple or pear grower or a mushroom grower, a charge for any levy period at a rate not exceeding 0.5 per cent of the value (excluding Value Added Tax) of his sales of horticultural produce during his relevant accounting year;
- (b) on each apple or pear grower either—
  - (i) a charge for any levy period at a rate not exceeding £35 in respect of each hectare of land occupied by him during all or any part of that period for the purpose of business in the industry and planted with apple or pear trees, or
  - (ii) where the average density of planting on any land so occupied is less than 125 trees per hectare and the grower so elects, a charge for any levy period in respect of every 50 trees at the rate of two-fifths of the charge which would otherwise be imposed under paragraph (i) of this sub-paragraph; and
- (c) on each mushroom grower a charge for any levy period at a rate not exceeding 15 pence per litre of spawn purchased for use in compost during his relevant accounting year.”;

(b) after paragraph (3) there shall be inserted the following paragraph—

“(3A) For the purpose of calculating a charge imposed under paragraph (1)(b), headlands shall be included but fractions of less than one-tenth of a hectare or any remainder after the number of trees has been divided by 50 shall be ignored.”

8. In article 12 (offences), in paragraph (1) there shall be inserted after the words “article 7(1)”, the words “or (2)”.

9. For Schedule 1 to the principal Order there shall be substituted the Schedule set out in the Schedule to this Order.

10. In Schedule 2 (functions of the Horticultural Development Council), after paragraph 3 there shall be added the following paragraphs—

“4. Promoting the adoption of measures for securing safer and better working conditions, and the provision and improvement of amenities for persons employed, and promoting or undertaking inquiry as to such measures.

5. Promoting the production and marketing of standard products.

6. Promoting or undertaking research for improving arrangements for marketing and distributing products.

7. Promoting or undertaking research into matters relating to the consumption or use of goods and services supplied by the industry.

8. Promoting or undertaking arrangements for better acquainting the public in the United Kingdom with the goods and services supplied by the industry and methods of using them.”.

### **Saving**

11.—(1) Notwithstanding the provisions of this Order, the provisions of the principal Order in force prior to the coming into force of this Order shall continue to apply in respect of levy periods ending prior to the coming into force of this Order.

(2) In paragraph (1), “levy period” has the same meaning as in the principal Order.

27th March 2003

*Whitty*  
Parliamentary Under Secretary of State,  
Department for Environment, Food and Rural  
Affairs

25th March 2003

*D. Elis Thomas*  
Signed on behalf of the National Assembly for  
Wales, Presiding Officer

We consent

26th March 2003

*Ross Finnie*  
A member of the Scottish Executive