STATUTORY INSTRUMENTS

1984 No. 464 (S.44)

AGRICULTURE

The Aberdeen and District Milk Marketing Scheme 1984 Approval Order 1984

Made - - - -	*27th March* 1984
Coming into Operation	*1st April* 1984

WHEREAS by virtue of the powers conferred on it by section 1 of the Agricultural Marketing Act 1958(a) ("the Act") the Aberdeen and District Milk Marketing Board being the board administering the Aberdeen and District Milk Marketing Scheme 1933(b) revoked by the substitutional scheme hereinafter referred to, after publication in the prescribed manner and without a poll in terms of section 1(4) of the Act having been demanded has submitted to me a substitutional scheme regulating the marketing of milk entitled the Aberdeen and District Milk Marketing Scheme 1984 ("the substitutional scheme");

AND WHEREAS in accordance with the provisions of section 2(1) of the Act, I duly caused to be published in The Edinburgh Gazette a notice stating that the substitutional scheme had been submitted to me and specifying (1) the place where copies of the substitutional scheme might be obtained and inspected and (2) the period within which objections and representations with respect to the substitutional scheme might be made;

AND WHEREAS no such objections or representations with respect to the substitutional scheme were duly made;

AND WHEREAS after (1) considering the substitutional scheme duly submitted to me (2) giving notice of proposed modifications in accordance with section 2(6) of the Act and (3) more than half the persons nominated in accordance with the provisions of the said section 2(6) having notified me that they assented to the proposed modifications, by virtue of the powers conferred on me by section 2(4) of the Act, I made certain modifications to the substitutional scheme;

AND WHEREAS being satisfied after making such modifications as aforesaid that the substitutional scheme would conduce to the more efficient production and marketing of milk, I laid before Parliament a report showing that the provisions of section 1(4) of the Act had been complied with together with a draft of the substitutional scheme as set out in the Schedule to this order, which draft was approved by each House of Parliament:

(a) 1958 c. 47 as amended by S.I. 1981/864.
(b) S.R. & O. 1934/309, as amended by S.R. & O. 1939/600, 1940/129, S.I. 1950/2059, 1957/1843, 1964/272, 1967/1346, 1978/583, 1979/319 and 1981/446, 864.

NOW THEREFORE in exercise of the powers conferred on me by the said section 2 and of all other powers enabling me in that behalf, I hereby make the following order:—

Citation and commencement

1. This order may be cited as the Aberdeen and District Milk Marketing Scheme 1984 Approval Order 1984 and shall come into operation on 1st April 1984.

Approval and commencement of the substitutional scheme

2. The Aberdeen and District Milk Marketing Scheme 1984 set out in the Schedule to this order is hereby approved and shall come into force on 1st April 1984.

Declaration

3. The Aberdeen and District Milk Marketing Scheme 1984 set out in the Schedule to this order is hereby declared for the purposes of section 52(2) of the Act to be a substitutional scheme.

George Younger,
One of Her Majesty's Principal
Secretaries of State.

New St Andrew's House,
Edinburgh.
27th March 1984.

SCHEDULE

Article 2

THE ABERDEEN AND DISTRICT MILK MARKETING SCHEME 1984

INDEX

	Section	*Page*
Title of the Scheme, and the regulated product	1	5
Interpretation	2	5
Area of the Scheme	3	6
Board to administer the Scheme	4	6
Title of the Board	5	9
Meetings of the Board	6	9
Executive Committee	7	10
Address of office	8	11
Change of address of office	9	11
Staff	10	11
Auditor	11	11
Registration of producers	12	11
Exemption from registration	13	12
Failure to furnish information	14	12
Determination of capability to produce	15	12
Provisions as to purchase and sale of the regulated product, production of commodities therefrom and for other matters	16	13
Financial management and administration of commercial activities	17	14
Prohibition of sale except through the Board	18	14
Prohibition of sale by unregistered producers not exempted	19	15
Information to be furnished by registered producers	20	15
Conditions of sale of milk	21	15
Notification of certain matters to the Minister	22	15
Haulage	23	16
Milk containers	24	16
Negotiation with buyers' representatives	25	16
Joint committee of Board and haulage contractors	26	19
Financial powers and duties of the Board	27	19
Sales by retail, semi-retail and wholesale	28	23
Contributions by exempt producers	29	25
Liability of the Board for bad debts	30	25
Hospitals and other such institutions which are registered producers—partial exemption	31	25
Exemptions	32	25
Power of inspection of lands and premises of registered producers	33	29
Penalties and the Disciplinary Committee	34	29
Arbitration in cases where producers are aggrieved	35	31
Statutory polls	36	32
Polls taken in accordance with section 41A of the Agricultural Marketing Act 1958	37	33
Corrupt and illegal practices at statutory polls and penalties	38	34
Accounts	39	34
Annual General Meetings	40	35
Notice of General Meetings	41	36
Special General Meetings	42	36
Voting at General Meetings	43	36
Quorum at General Meetings	44	37
Amendment of the Scheme	45	37
Revocation of the Scheme	46	37
Winding-up of the Board, liability of registered producers	47	37
The Common Seal	48	38
Deeds etc	49	38

	Section	*Page*
Proof of posting	50	38
Revocation	51	39
Transitional arrangements	52	39
Schedule (1)—Sitting Members		40
Schedule (2)—Form of Voting Paper for Statutory Polls		41
Schedule (3)—Form of Voting Paper for EEC Polls		42
Schedule (4)—Form of Proxy		43

SCHEME FOR THE REGULATION OF THE MARKETING OF MILK IN ABERDEEN AND DISTRICT UNDER THE AGRICULTURAL MARKETING ACT 1958

1. Title of the Scheme, and the regulated product

(1) The Scheme may be cited as the Aberdeen and District Milk Marketing Scheme 1984.

(2) The agricultural product the marketing of which is regulated by the Scheme is milk.

2. Interpretation

In the Scheme the following expressions have the meanings hereby respectively assigned to them:

"accounting period" means such period comprising twelve consecutive calendar months as shall be determined from time to time by the Board;

"buyer" means a person who buys raw milk in bulk from or through the agency of the Board;

"commercial activities" in relation to the Board means any activities carried out by the Board in exercise of their powers under subsection (1)*(a)* of section 16 of the Scheme to produce commodities from milk and to sell milk (other than raw milk in bulk) and commodities produced from milk and such other of their powers under that subsection as are related thereto;

"cow" means a cow kept for dairy purposes whether dry or in milk, but does not include a heifer which has never calved;

"exempt producer" means a registered producer who is the holder of a certificate of exemption issued under section 32(12) or (15) of the Scheme;

"intervention price equivalent of milk" means the intervention price equivalent of milk calculated pursuant to regulation 5 of the Milk Marketing Boards (Special Conditions) Regulations 1981(**a**);

"milk" means cow's milk;

"producer" means a producer of milk within the area of the Scheme;

"registered producer" means a producer of milk registered under the Scheme;

"statutory poll" means a poll concerning the amendment of revocation of the Scheme, as the case may be;

"the Act" means the Agricultural Marketing Act 1958(**b**);

"the Minister" means the Secretary of State for Scotland; and

"the Scheme" means the Aberdeen and District Milk Marketing Scheme 1984.

(**a**) S.I. 1981/322.
(**b**) 1958 c. 47, as amended by S.I. 1981/864.

3. Area of the Scheme

The Scheme shall apply to the former Counties of Aberdeen, Kincardine and Banff and to all Burghs within these Counties.

4. Board to administer the Scheme

(1) *The Board*

The Scheme shall be administered by a Board which shall be a body corporate with a common seal.

(2) *Composition of the Board*

(a) Subject to the provisions of paragraph *(c)* hereof with regard to sitting members and of subsection (6) hereof with regard to the filling of casual vacancies, the Board shall consist of thirteen members elected in accordance with subsection (4) hereof and two members appointed by the Minister in accordance with paragraph (2)(1)*(b)* of Schedule 2 to the Act;

(b) Of the thirteen Board members—

(i) eleven members shall be representatives of registered producers in a sub-area comprising the former Counties of Aberdeen and Kincardine, eight of whom shall be representatives of ordinary producers and three representatives of producer-retailers, and

(ii) two members shall be representatives of registered producers in a sub-area comprising the former County of Banff, one of whom shall be the representative of ordinary producers and one the representative of producer-retailers;

(c) The thirteen members of the Board duly elected or appointed in accordance with the Aberdeen and District Milk Marketing Scheme 1933(a) and serving immediately prior to 1st April 1984 (herein referred to as the "sitting members") shall be deemed to have been elected for the sub-areas shown opposite their names (or the names of their predecessors) in Schedule (1) to the Scheme;

(d) Each member of the Board shall retire from office on the day prior to the day of election of members to the Board in the fourth year after his election but, subject to the provisions of subsection (3) hereof, shall be eligible for election or re-election. The members to retire shall be those who have been longest in office since their election, and for this purpose service prior to 1st April 1984 shall count (including, in the case of a sitting member elected to fill a casual vacancy, the proportion of the term of office of the member who caused that vacancy);

(e) The day of election of members to the Board shall be the day of the Annual General Meeting in each year.

(3) *Nomination of candidates*

(a) Before each Annual General Meeting the Board shall give notice to every registered producer of any vacancy in the membership of the

(a) S.R. & O. 1934/309, as amended by S.R. & O. 1939/600, 1940/129; S.I. 1950/2059, 1957/1843, 1964/672, 1967/1346, 1978/583, 1979/319, 1981/446,864.

Board due to be filled at the Annual General Meeting (and in the case of election under subsection (6) hereof, the unexpired portion of the term of office of the member causing the casual vacancy), the sub-area for which members are to be elected, the address at which the Board are prepared to receive nominations, and the last date (hereinafter called "the closing date for nominations") on which the Board are prepared to receive them: provided that the period between notification as aforesaid and the closing date for nominations shall not be less than twenty days;

(b) No person shall be nominated to represent a sub-area other than that sub-area where that person is a registered producer;

(c) No person shall be nominated to represent ordinary producers other than a registered ordinary producer;

(d) No person shall be nominated to represent producer-retailers other than a registered producer-retailer. For the purpose of nominations and elections a producer-retailer is defined as a person who has sold by retail, semi-retail or wholesale during the preceding year prior to the 1st April at least one half of the total milk produced at that person's registered farm. A producer-retailer who sold to the Board more than half of the total milk produced on the registered farm, during the same period, shall be deemed to be an ordinary producer;

(e) Candidates to represent either ordinary producers or producer-retailers shall be nominated in writing at least twenty days before the date of the election. The nomination must be signed by at least three registered producers of the same category (ordinary producer or producer-retailer) and in the same sub-area as the person nominated;

(f) Forms for the nomination of candidates shall be available on request from the Secretary of the Board and must be lodged at the Board's head office by fifteen hundred hours on the closing date for nominations specified in the form;

(g) If at the end of the third day after the closing date for nominations there is no duly nominated candidate for the vacancy, the Board shall nominate a candidate for that vacancy.

(4) *Election of members*

(a) Every registered producer shall have one vote in respect of each vacancy: provided that—

(i) a vacancy for an ordinary producer shall only be voted upon by ordinary producers in the same sub-area, and

(ii) a vacancy for a producer-retailer shall only be voted upon by producer-retailers in the same sub-area;

(b) Subject to the provisions in subsection (4)*(g)* hereof, the Board shall, not later than twenty days before the Annual General Meeting, send to every registered producer entitled to vote in the election, a voting paper stating the names of the duly nominated candidates; in the case of an election under subsection (6) the period of office; the address to which the voting paper is to be sent; and the date (not being less than fifteen clear days after the despatch of the voting paper) by which the completed voting paper is to be received by the Board;

(c) A voting paper shall not be counted unless it is received by the Board

at the said address by eighteen hundred hours on the day by which it is required to be received. sufficiently completed and signed;

(d) If any question shall arise as to whether a voting paper is sufficiently completed and signed, the decision of the returning officer shall be final;

(e) The conduct of the voting for Board membership shall be in the hands of the returning officer who will notify the Board of the results of the election at least one clear day before the date of the Annual General Meeting so that the name(s) of the successful candidate(s) who has received the most votes can be declared to have been elected;

(f) The returning officer will be appointed annually by the Board;

(g) In the event of there being only one duly nominated candidate for a vacancy, that candidate shall be deemed to have been elected to the Board. In such event the provisions of subsection (4)*(b)* hereof shall not apply, but the Board shall, not later than the fifteenth day before the Annual General Meeting, notify in writing to every registered producer the name of the candidate duly elected.

(5) *Chairman and Vice-Chairman*

A Chairman and a Vice-Chairman shall be appointed annually by the Board from their own number. The Chairman, or in his absence the Vice-Chairman, shall preside at all General Meetings and at all meetings of the Board. If both are absent from a General Meeting or a meeting of the Board, the Board shall appoint another Chairman of the meeting from their own number.

(6) *Filling of casual vacancy of the Board*

In the case of any of the following events occurring amongst the elected members of the Board, namely:—

(a) the death of any such member;

(b) the resignation of any such member;

(c) the insolvency of any such member;

(d) the insanity of any such member;

(e) the conviction for an indictable offence of any such member,

a vacancy so occurring shall be filled up ad interim by the Board, at a meeting of which the notices stating that the matter is to be dealt with shall be sent out by the Secretary within two weeks of the occurrence of such event, and which shall be held not sooner than five days and not later than ten days from the date of such notice. The member so appointed shall retire from office at the end of the term which would, in normal circumstances, have been served by his predecessor, and shall be eligible for re-election.

(7) *Disqualification of Members of the Board*

Any elected member of the Board who becomes insolvent or insane or is convicted of an indictable offence (or gives the Board notice in writing that he resigns office) shall forthwith cease to be a member of the Board.

(8) *Contracts with Board*

A member of the Board shall not be disqualified by his office as a member of the Board from entering into any contract with the Board either as vendor,

purchaser, or otherwise, nor shall any such contract or any contract entered into by or on behalf of the Board in which a member of the Board shall be in any way interested, be avoided by reason thereof, nor shall a member of the Board so contracting or being so interested be liable to account to the Board for any profit realised by any such contract merely by reason of such member of the Board holding that office or of the fiduciary relations thereby established:

Provided that the nature of the interest of a member of the Board so contracting or being so interested shall be disclosed by him at a meeting of the Board at which the contract is determined on, if his interest then exists, or in any other case at the first meeting of the Board after the acquisition of his interest:

Provided further that a member of the Board shall, unless the Board otherwise determine, withdraw from any meeting of the Board when any question relating to such contract is being considered; he shall not be entitled to vote upon any question relating to such contract and if he does vote his vote shall not be counted. A member of the Board shall not, however, be precluded from voting on a question relating to the manner in which any milk which is the property of the Board is to be dealt with by reason only that he has sold milk to or through the Board, nor shall he be required to withdraw from a meeting of the Board at which such question is being considered.

(9) *Improper disclosure of information by Members of the Board*

Every member of the Board shall, within seven days of his appointment thereto, sign and lodge with the Secretary of the Board a declaration stating that he has read and understands the provisions of section 47 of the Act relating to the improper disclosure of information obtained by him as a member of the Board.

(10) *Remuneration of Members of the Board*

The remuneration of the Board, except that of the Chairman and Vice-Chairman, shall be determined by the Annual General Meeting, and such remuneration shall be divisible amongst the members as the Board may determine. The remuneration of the Chairman and Vice-Chairman shall be determined by the Board.

(11) *Expenses of Members of the Board*

Members of the Board shall be entitled, in the exercise of their duties, to reasonable travelling and subsistence allowances.

5. Title of the Board

The name of the Board shall be "The Aberdeen and District Milk Marketing Board".

6. Meetings of the Board

(1) The Board shall arrange their hours and place of meetings: Provided, however, that the Secretary shall call a meeting of the Board on the requisition in writing of any two members of the Board.

(2) A quorum at meetings of the Board shall consist of six members. The

Board shall at all times have power to act notwithstanding any vacancy among their members.

(3) All questions at meetings of the Board or any committee thereof other than the Disciplinary Committee appointed under section 34 of the Scheme shall be decided by a majority of votes of the members present. Each member present shall have one vote and if there be an equality of votes the Chairman shall, in addition, have a casting vote which he shall be required to exercise.

(4) All acts done at any meetings of the Board or of any committee thereof shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment, election or qualification of any person purporting to be a member of the Board or the committee, be as valid as if that defect had not existed.

(5) The Board shall cause minutes to be made, in books provided for the purpose, of all resolutions and proceedings of meetings of the Board, or any committee thereof, and any such minutes, if signed by the Chairman of the meeting to which they relate, or at which they are read, shall be received as conclusive evidence of the facts therein stated. The meetings to which any such minutes relate shall be presumed, until the contrary is proved, to have been regularly convened and constituted.

7. Executive Committee

(1) The Board shall appoint annually from among the members thereof an Executive Committee consisting of seven persons of whom—

(a) one shall be the Chairman of the Board, and

(b) one shall be one of the persons appointed by the Minister in accordance with sub-paragraph 2(1)*(b)* of Schedule 2 to the Act(a).

(2) All or any of the members of the Executive Committee shall be eligible for reappointment at the end of any year. Any casual vacancy occurring in the Executive Committee shall be filled by the Board at the earliest opportunity.

(3) The Board shall delegate to the Executive Committee all the functions of the Board except those relating to the imposition of penalties, the borrowing of money and the appointment and removal of a Secretary.

(4) The Executive Committee shall arrange their hours and place of meeting and shall meet as often as is found necessary: Provided, however, that the Secretary shall call a meeting of the Executive Committee on the requisition in writing of any two members of the Committee.

(5) A quorum at meetings of the Executive Committee shall consist of three members.

(6) The Executive Committee shall at all times have power to act notwithstanding any vacancy in their number.

(7) The Chairman of the Board shall be the Chairman of the Executive

(a) 1958 c. 47.

Committee. In his absence from a meeting, the Committee shall appoint another Chairman from their own number to preside at the meeting.

8. Address of office

The office of the Board at which communications and notices will at all times be received shall be situated within the area of the Scheme, and the address shall be notified to the Minister by the Board.

9. Change of address of office

In the event of any change in the address of the office, notice of such change shall be sent to the Minister within fourteen days thereafter.

10. Staff

The Board shall appoint and may remove a Secretary and such other employees as they may deem necessary, and shall determine their respective duties and remuneration. Every employee of the Board having charge of any of the moneys of the Board shall, before entering on his duties, give such security as the Board shall deem sufficient.

11. Auditor

The auditor or auditors shall be appointed each year by the Annual General Meeting. No person or firm shall be eligible for appointment as auditor or auditors unless eligible for appointment as auditor or auditors of a public limited liability company in terms of section 161 of the Companies Act 1948(**a**) and section 13 of the Companies Act 1976(**b**). In the case of a vacancy the Board may appoint a person or firm qualified as aforesaid to act as auditor or auditors until the next Annual General Meeting. The auditor or auditors shall not hold any other office in connection with the Scheme.

12. Registration of producers

(1) The Board shall cause a register to be kept in which shall be recorded the name and address and date of registration of every producer who applies to the Board for registration and in the case of a registered producer who ceases to be a registered producer the date of such cessation.

(2) For the purposes of the Scheme, a company incorporated under the Companies Acts 1948 to 1981, a registered society, a regional or district council or other corporate body, institution, or firm, producing milk shall be deemed to be a single producer of the regulated product.

(3) The register shall be open for inspection at the office of the Board at any reasonable time during the days on which the office is open for business.

(4) A copy of the register, or any part thereof, shall be furnished by the

(**a**) 1948 c. 38.
(**b**) 1976 c. 69.

Board to any person demanding it, within a period of ten days from the date on which the demand is received by the Board, on payment to the Board of a fee of one pound and fifty pence.

(5) The Board shall cause to be removed from the register the name of any producer who ceases to produce the regulated product, or who is exempted by the Board from registration, except that the name of a person shall not be removed from the register without his consent by reason only that he is exempted from registration. It shall be conclusive evidence that a producer has ceased to produce milk that he has not sold milk for twelve consecutive months.

(6) In making application for registration, producers shall use the form of application issued by the Board, and shall furnish thereon the following information:

(a) full name and address;

(b) the number of cows in their possession within the area of the Scheme used for dairy purposes, on such date preceding the date of application as may be determined by the Board; and

(c) the address of the farm, farms or other premises on which the dairy cows are kept.

Cows for the use of which a producer pays a consideration, whether in money or in kind, shall be deemed to be in his possession.

13. Exemption from registration

There shall be exempted from registration under the Scheme producers who sell milk only to persons in their employment or to neighbours for their own consumption, provided that the number of such neighbours and the total daily sales to such neighbours do not exceed such number and quantity respectively as the Board may from time to time determine. If any question arises as to whether a producer is exempt under this section such question shall be determined by the Board. Notwithstanding the provisions of this section, the Board shall register any producer who makes application for that purpose.

14. Failure to furnish information

Should any producer fail to furnish the information prescribed in section 12(6) of the Scheme, his vote on any statutory poll under the Scheme shall be rejected.

15. Determination of capability to produce

For the purposes of a poll taken in accordance with section 46 of the Scheme, the basis of determining the capability of registered producers to produce the regulated product, as required by paragraph 2 of Schedule 1 to the Act, shall be the number of cows used for dairy purposes in their possession within the area of the Scheme on such date as the Board, having regard to the date of the poll, may determine. Should the number of cows in the possession of a registered producer on the said date be proved to the satisfaction of the Board to be more or less than his normal stock, the Board may, at their discretion, adjust the number, and for the purposes of the poll such adjusted number of cows shall be deemed to be the number of cows in the possession of the registered producer.

16. Provisions as to purchase and sale of the regulated product, production of commodities therefrom and for other matters

(1) Subject to subsection (2) hereof, the Board shall have power—

(a) to buy milk and to produce any of the commodities as listed in section 25(6) of the Scheme and to sell, grade, pack, store, adapt for sale, insure, advertise and transport milk and any of the commodities referred to in section 25(6) of the Scheme;

(b) subject to section 25 of the Scheme, to determine from time to time the price or prices at which and the terms on which milk of any description or quantity thereof may be sold by the Board or by registered producers for liquid consumption or for manufacture;

(c) to deal in any way, whether by purchase, sale or letting or otherwise, with land or buildings insofar as may in the opinion of the Board be necessary or desirable for the operation of the Scheme;

(d) to manufacture or acquire (whether by purchase or lease) and to sell or let for hire to registered producers and other persons anything (whether heritable or moveable, real or personal) required for the production, grading, packing, storing, adaptation for sale, transport or sale of milk:

Provided that any such thing sold or let for hire shall be sold or let for hire primarily in such circumstances as to be likely to be utilised mainly by registered producers or in connection with milk produced by them;

(e) to co-operate with any person in doing anything which the Board are empowered to do by virtue of paragraphs *(a)* and *(d)* hereof;

(f) to devote such sums as they may from time to time determine for the encouragement of agricultural co-operation, research and education;

(g) to sell semen and to provide services of artificial insemination for cattle, and that whether or not such cattle are owned by producers registered under the Scheme, and to do all things necessary or incidental to the provision of such service;

(h) to enter into agreements in regard to the sale or disposal of milk with any Board operating a scheme under the Act, and with any corporation, company, association or others dealing in milk;

(i) to do all such things as are incidental to or consequential on the powers conferred on the Board by the provisions of the Scheme, including power to enter into contracts and to issue such publications as the Board may deem necessary for the information of registered producers as to the operations of the Scheme and such other matters as may be of interest to registered producers, and to employ legal assistance; and

(j) to render to registered producers and other persons on payment or otherwise any service which is calculated to promote the more efficient production, grading, packing, storing, adaptation for sale, transport or sale of the regulated product:

Provided that any such service rendered shall be rendered primarily in such circumstances as to be likely to be utilised mainly by registered producers or in connection with milk produced by them.

(2) Nothing contained in the Scheme shall entitle the Board to establish or carry on a business of producers of milk.

17. Financial management and administration of commercial activities

The Board, to the intent that so far as practicable their commercial activities shall be put on an equal footing with similar commercial activities carried on by independent commercial undertakings, shall place their commercial activities under a system of financial management and administration which is separately accountable from the system of financial management and administration for the Board's other activities.

18. Prohibition of sale except through the Board

(1) Subject to the provisions of the Scheme, all registered producers shall, except as hereinafter provided, sell milk only to or through the agency of the Board and the Board, subject to the provisions of subsections (2) and (3) hereof, shall be bound to accept all milk legally tendered to them by registered producers and to make payment therefor in manner provided in section 27(9) of the Scheme.

(2) The Board may—

(a) reject or cause to be rejected any consignment or part of any consignment of milk tendered by a registered producer if they are satisfied the milk does not comply with—

(i) any of the standards of quality determined by them with the approval of the Minister and in force for the time being, or

(ii) any warranty subject to which the milk is sold;

(b) for such period as they may in any particular case determine, refuse to accept further consignments of milk from a registered producer who on more than three occasions in any period of thirty days falling within a period of one hundred and twenty days immediately prior to such refusal has had milk rejected under the immediately preceding paragraph:

Provided, however, that before exercising this power of refusal the Board shall notify such registered producer in writing of the action they propose to take under this paragraph and if so requested by the registered producer within seven days of the service of such notification shall give him an opportunity of showing cause why such should not be taken.

(3) The Board shall not be required to accept milk where this cannot reasonably be done on account of industrial dispute, adverse weather or other contingency beyond their control. Any registered producer whose milk has not been accepted under the provisions of this subsection shall, during such a period of non-acceptance, be free to sell milk otherwise than to or through the agency of the Board, but in the event of such producer being unable to sell his milk or any part thereof otherwise than to or through the agency of the Board, the Board may in their absolute discretion make payment for such milk at such reduced price as may be determined in accordance with proviso *(c)* to section 27(9) of the Scheme.

19. Prohibition of sales by unregistered producers not exempted

The sale of milk, either within the area of the Scheme or elsewhere, by any producer who is not either a registered producer or a person exempted from registration by or under the provisions of the Scheme, is prohibited except as provided for by Articles 7 and 8 of Council Regulation (EEC) No. 1422/78(**a**), and section 6(6) of the Act shall apply accordingly.

20. Information to be furnished by registered producers

Every registered producer shall be required to furnish to the Board such estimates, returns, accounts and other information relating to the regulated product for such period or periods as the Board may from time to time consider necessary for the operation of the Scheme.

21. Conditions of sale of milk

(1) Subject to section 25 of the Scheme, the price or prices at which milk or any description or quantity thereof may be sold by the Board or by registered producers for liquid consumption or for manufacture and the terms on which and the persons to or through the agency of whom milk or any description or quantity thereof may be sold shall be determined from time to time by the Board.

(2) Milk shall be sold by the litre but where purchasers are in the habit of ascertaining the amount of milk supplied to them by producers by weighing the milk for this purpose the average weight of a litre of milk may be assumed to be 1.03 kg, it being understood that all machines used for this purpose are subject to the requirements of the Weights and Measures Acts 1963 to 1979(**b**).

(3) Subject to the provisions of sections 28(1) and 32(2) of the Scheme, registered producers shall comply with such invoicing procedure as the Board may from time to time determine.

(4) The Board shall pay the proceeds of all sales of milk by or through the agency of the Board into the fund hereinafter referred to, and thereafter make payment to registered producers in the manner prescribed in section 27 of the Scheme.

(5) Registered producers, other than exempt producers, shall dispose of their milk as directed by the Board, provided that the Board shall not recall for sale for liquid consumption milk which has been allocated to buyers if such milk, whether in unprocessed or processed form, is intended by the buyers for export outside the United Kingdom.

22. Notification of certain matters to the Minister

The Board shall, not less than fourteen days before making any determination under sections 16(1)*(b)*, 21(1) or 27(11) of the Scheme, give notice to the Minister in writing of their proposal to make such a determination:

(**a**) O.J. No. L171, 28.6.78, p. 14.
(**b**) 1963 c. 31, 1976 c. 77, 1979 c. 45.

Provided that—

(a) in cases in which representations are made by the Board to the Minister that the period of fourteen days is excessive, the Minister may fix such period shorter than fourteen days as he may agree with the Board; and

(b) this section shall not apply in such cases or classes of case as the Minister may from time to time specify by notice in writing given to the Board.

23. Haulage

(1) The Board may provide road transport for the haulage of milk, and in the event of the Board so doing, it shall have all the powers necessary or incidental to the provision, operation and maintenance of such road transport. All milk consigned by road transport shall be carried by the Board and/or by haulage contractors approved by the Board, and registered producers shall not consign milk by road transport except by the Board or by haulage contractors so approved. The Board also may specify the place or places at or to which delivery of milk shall be made and the method or methods by which and the person or persons by whom the milk shall be transported.

(2) The Board may determine rates for the haulage of milk by road, and all accounts for the transport, whether by road or otherwise, of milk sold to or through the Board shall be paid by the Board.

(3) In the event of the Board considering that any such collection is unreasonably difficult or unduly onerous or costly (whether by reason of difficulty of access or inconvenience of location, or any other reason) then the Board may, in such a case, assess a Special Collection Charge. The amount of such a charge shall be fairly related to the actual extra cost of the collection compared to the average cost of collection as assessed by the Board, and shall be debited against the account of the individual producer concerned.

24. Milk containers

Each registered producer consigning milk to the Board shall maintain in good condition refrigerated farm tank equipment to permit of his milk being collected at his farm by tanker (unless the Board has determined that some other form of collection will apply).

25. Negotiation with buyers' representatives

(1) A Committee (hereinafter called "the Joint Committee") shall be established which shall consist of members appointed by the Board and members appointed by bodies for the time being representative of buyers of raw milk in bulk from the Board, and agreed by such bodies to be so representative. Failing agreement, the last mentioned members shall be appointed by the body or bodies which appear to the Minister to be representative of such buyers.

(2) The Joint Committee may appoint sub-committees consisting of one or more of their members and such other persons as the Joint Committee may

appoint. Any such sub-committee may be empowered by the Joint Committee to consider any matters referred to it by the Joint Committee.

(3) The Joint Committee may appoint a Chairman who need not be one of their members.

(4) All questions to be decided by the Joint Committee shall be decided by a vote taken on a resolution when the members appointed by the Board and the members representing buyers of milk appointed as in subsection (1) hereof shall each collectively have one vote. The Joint Committee shall not be taken to have agreed unless both such votes have been cast to the same effect.

(5) The parties represented in the Joint Committee shall negotiate the following matters:—

(a) the description of milk to be sold by the Board;

(b) the delivery of milk to be sold by the Board;

(c) the terms on which milk is to be sold by the Board, including the prices thereof;

(d) the amounts of any allowances to be made to buyers;

(e) the classes of persons and premises to whom or in respect of which such allowances are to be made;

(f) the conditions on which such allowances are to be made;

(g) the amounts of any premiums to be paid by buyers and the conditions on which such premiums are to be paid;

(h) the arrangements for making milk available to buyers including the Board's processing and manufacturing enterprises, proposals for which may be submitted to the Joint Committee by a sub-committee set up under the terms of subsection (2) hereof.

(6) Subject to subsection (7) hereof, the price of all milk to be sold by the Board shall be the same for all buyers, except that the Joint Committee may negotiate different prices for milk sold by the Board for use in production of the following commodities:—

(a) cheese, with prices differentiated according to the variety of the cheese;

(b) butter, with prices differentiated according to the type and fat content of the butter;

(c) cream, with prices differentiated according to the type and fat content of the cream;

(d) evaporated milk;

(e) condensed milk;

(f) milk powder;

(g) milk chocolate crumb;

(h) milk puddings;

(i) custard;

(j) ice cream;

(k) cultured milk products;

(l) sauces, desserts, soups, catering products and bakery products, with prices differentiated according to the product; and

(m) subject to the approval of the Minister, other commodities of which milk is an ingredient.

Prices may be further differentiated according to the use of each constituent if whole milk is fractionated and only a part of the solid constituents is utilised in the production of any of the commodities specified above.

(7) The price of milk to be sold by the Board shall be set at the same level for all buyers who intend to use the milk for the same purpose, except that the Joint Committee may negotiate different prices to take account of—

(a) the region or district in which the milk is to be produced, processed or consumed;

(b) the description, quality or condition of the milk;

(c) the period during which, and the dates when deliveries of milk are to be made;

(d) the place of delivery;

(e) the quantity of milk to be delivered;

(f) any special services to be rendered to the buyer, including the delivery of milk in specified quantities at specified times;

(g) subject to the approval of the Minister, any other criteria of an objective nature.

(8) After the end of the calendar month following the month of delivery the Joint Committee shall not agree to any reduction in the prices they have negotiated in accordance with subsections (5), (6), (7), (12) and (13) hereof.

(9) If the Joint Committee fail to agree to a minimum price for any use of milk for manufacture, they shall as soon as is practicable and in any case not later than the twenty-second day of the month following the month of delivery, refer their disagreement to the Arbitration Panel set up under subsection (12) hereof or, if both parties so agree, to a single arbiter. The Arbitration Panel, or the single arbiter, as the case may be, shall decide the final minimum price before the end of the month following the month of delivery of the milk.

(10) Notwithstanding the foregoing provisions of this section, the price of milk sold by the Board shall not be set at such a level that the sale of milk by the Board at that price would contravene Article 9(3) of Council Regulation (EEC) No. 1422/78. In the event of any such contravention the Board shall make such adjustment to its prices for milk so sold or to be sold as the Minister shall require to counteract the effect of such contravention.

(11) The Joint Committee may also discuss any other matters agreed by the Joint Committee to be of mutual interest and arising out of the Community obligations of the United Kingdom.

(12) If the Joint Committee are unable to agree upon any matter which is referred to in subsections (5), (6) and (7) hereof, the matter may be referred by either party to an Arbitration Panel thereon. Such Panel shall consist of four

members, namely a Chairman and three other members (though only three of the four members shall sit on any particular reference) appointed by the Joint Committee and shall include persons who, in the opinion of the Joint Committee or, failing agreement by the Joint Committee, in the opinion of the Minister, are qualified for appointment as having had experience and shown capacity in commerce or in law or in accountancy or economics. If the Joint Committee fail to agree upon all or any of these members, the appointment or appointments shall be made by the Minister. The procedure of a reference to the Arbitration Panel may be varied by agreement within the Joint Committee so that any matter of disagreement may be referred to a single arbiter to be appointed from time to time by the Joint Committee. A decision of such Panel or of such single arbiter shall be binding on the Joint Committee unless the Joint Committee agree not to accept it. The procedure may also be adopted if the Joint Committee so agrees in relation to any matter raised under subsection (11) hereof.

(13) The Joint Committee, or failing agreement, either of the parties represented in the Joint Committee, may invite the Chairman or any other member of the Arbitration Panel to attend all or any of their meetings. If the two parties represented in the Joint Committee cannot agree on which member of the Arbitration Panel should be invited, then the Chairman of the Arbitration Panel shall decide. The Committee may also consult the Chairman or any other member of the Arbitration Panel or seek his advice in relation to any matter which is referred to in subsections (5), (6) and (7) hereof or raised under subsection (11) hereof, provided that, if the Chairman or any other member of the Arbitration Panel attends any meeting of the Joint Committee during discussion of a particular issue or is consulted by the Joint Committee thereon, he shall not sit on the Arbitration Panel if that issue is referred to the Arbitration Panel.

26. Joint committee of Board and haulage contractors

For the purpose of facilitating the determination of any matter mentioned in section 23 of the Scheme, and of promoting harmony in the relations between the Board and persons engaged in the haulage of milk by road, the Board may invite such associations representing those so engaged as may be known to the Board to appoint representatives to a joint committee to which the Board also shall appoint representatives.

27. Financial powers and duties of the Board

(1) The Board shall exercise their powers under this section subject to the provisions of any Order made under Part I of the Agriculture Act 1947(a).

(2) For the purpose of securing for registered producers the benefits of any guarantee under Part I of the Agriculture Act 1947, or benefits under any other enactment, the Board may enter into any agreement with the Minister or his nominee, and pay or receive money in pursuance of any such agreement.

(a) 1947 c. 48.

(3) *The Fund*

The Board shall establish a fund (hereinafter referred to as the "fund"). All moneys received by the Board shall be paid into the fund, and any moneys required by the Board for the operation of the Scheme shall be paid out of the fund:

Provided that—

(a) the moneys payable to the Board for the sale of raw milk and from other non-commercial activities in any accounting period shall be kept separate from the moneys payable to the Board from their commercial activities, and

(b) the Board shall not make moneys held in the fund or due to be paid into the fund, other than moneys arising from their commercial activities, or other financial benefits available for use in their commercial activities except on the market terms then prevailing.

(4) *Payments to producers*

If the Board think fit, having regard to any arrangements which are in operation by virtue of any enactment, including the Scheme, and of which in the opinion of the Board the object or one of the objects is the maintenance of guaranteed prices or an assured market for milk, the Board may pay to registered producers in respect of milk which they have produced and sold, otherwise than to or through the agency of the Board, such sum per litre as the Board may determine, and the Board may determine different sums for different descriptions of milk or classes of sale, and may determine the conditions subject to which any such sums shall be paid.

(5) If a buyer shall have paid the Board a premium for any special service rendered to him by a registered producer, the Board shall pay such premium to that producer.

(6) For the purpose of promoting or maintaining the purity and good quality of milk, the Board may pay premiums or bonuses to registered producers in respect of such descriptions of milk produced and sold by them as the Board may determine. The Board may determine the conditions subject to which such premiums or bonuses will be paid, and may determine different premiums or bonuses and different conditions for different descriptions of milk and for different classes of sale.

(7) The Board may deduct from, or set off against, any sums payable to a registered producer in terms of subsections (4), (5), (6) and (9) hereof any contributions payable by such registered producer under section 28 of the Scheme, and any other sums due to the Board by such registered producer.

(8) *(a)* The Board may from time to time set aside to reserve such sums as they think fit, and may utilise such reserves in the operation of the Scheme at such times and in such manner as they may determine;

(b) In the event of the Board at any time being of the opinion that the moneys set aside to reserve are more than are required for the operation of the Scheme, such sum as the Board may think fit shall be distributed to such persons and in such manner as shall be recommended by the Board and approved by resolution passed at a General Meeting.

(9) The moneys payable to the Board for the sale of raw milk in any accounting period, together with such other moneys (if any) as the Board think fit, but less—

(a) sums payable under subsections (4), (5) and (6) hereof, and

(b) such sums as in the opinion of the Board are required to provide reserves and to pay all or such part as the Board think fit of the Board's expenses, losses and outgoings of every description in respect of that accounting period,

shall be paid by the Board to registered producers, the proceeds of the sale of whose milk during that period are required to be paid into the fund, in proportion to the quantity of milk sold by them to or through the agency of the Board during that accounting period or any part thereof, and that in such amounts and at such times and in such manner as the Board shall from time to time determine, so however that such registered producers, notwithstanding the price at which the milk of any individual registered producer has been disposed of, shall on the occasion of each such payment receive a uniform rate per litre (hereinafter referred to as the "pool price"):

Provided that—

(a) if any such registered producer shall have sold milk which is of a standard of quality lower than that determined by the Board, the Board may pay him in respect of such milk such price lower than the pool price as the Board may determine;

(b) the Board shall where appropriate deduct from the pool price, or the lower price referred to in the foregoing proviso, the Special Collection Charge in accordance with the provisions of section 23 of the Scheme; and

(c) in the event of the Board being prevented from accepting milk of a registered producer or any part thereof due to an industrial dispute, adverse weather or other contingency beyond the control of the Board, the Board may make such deduction from the pool price payable to that producer in respect of such milk as may be determined by the Board.

(10) Any moneys payable to the Board from its commercial activities, together with such other moneys (if any) as the Board think fit, less—

(a) sums set aside by the Board under subsection (8)*(a)* hereof and not deducted under subsection (9) hereof, and

(b) such sums as in the opinion of the Board are required to pay all or such part as the Board think fit, of the Board's expenses, losses and outgoings of every description incurred in respect of that accounting period in relation to the activities from which the moneys payable under this subsection have accrued,

shall be paid by the Board to all registered producers in proportion to the quantity of milk sold by them under the provisions of the Scheme during that accounting period or any part thereof.

(11) *Basic Quantities*

The Board may, by resolution approved by registered producers in General Meeting, provide for the determination from time to time by the Board of an annual basic quantity or annual basic quantities of milk for each registered

producer, or for registered producers of any particular class or of particular classes, and such resolution may also provide for all or any of the following matters, as well as for any other matter necessary for or incidental to the determination of such basic quantity or basic quantities of milk, that is to say:—

(a) any factor or factors of which account is required to be taken in any such determination, and the aggregate quantity of milk produced and sold by all registered producers in such period as may be fixed by the Board;

(b) variation by the Board, on sufficient cause shown, of a registered producer's basic quantity;

(c) special arrangements which may be applied ad interim to a producer making first application for a basic quantity;

(d) the attachment of each basic quantity to the agricultural holding occupied by the registered producer for whom it has been determined and the transmission, suspension and extinction of basic quantities and prevention of manipulation thereof.

(12) *(a)* When the Board has for any year determined in accordance with the provisions of the immediately preceding subsection a basic quantity for each registered producer they shall make payment out of the fund to each registered producer, the proceeds of the sale of whose milk are required to be paid into the fund, calculated in accordance with such prices per litre as may be fixed by the Board being—

(i) a higher price for his basic quantity determined as aforesaid, and

(ii) a lower price for any milk sold by him to or through the agency of the Board in excess of his basic quantity determined as aforesaid,

and that at such times and in such manner as the Board may determine from time to time:

Provided that the Board may make payment to a registered producer making first application for a basic quantity at such lower price or prices as the Board may determine;

(b) Where a producer-retailer or a registered producer licensed by the Board to sell milk by retail, semi-retail or wholesale has sold by retail, semi-retail or wholesale milk of his own production in excess of his basic quantity determined as aforesaid, the Board shall recover from such producer in respect of each litre of such milk an amount equal to the difference between the higher and lower prices fixed by the Board under paragraph *(a)* of this subsection.

(13) *Power to borrow money*

The Board may obtain loans from registered producers and other persons, including loans or advances from banks by way of overdraft on current account, or otherwise, with or without security, and on such terms and conditions as may be arranged.

(14) *Power to invest money*

Any money for the time being standing to the credit of the fund may be left on current or deposit account in any bank, or any money which is not for the time being required for the purposes of the functions of the Board may be invested, but, except with the approval of the Minister, shall not be invested

otherwise than in the investments specified in Part I and Part II of Schedule 1 to the Trustee Investments Act 1961(a).

(15) *Power to lend money to registered producers*

The Board may lend to any registered producer on such terms and conditions as the Board may deem fit, a portion of the amount which the Board estimate that he will receive from the sale of milk produced, or in course of production by him:

Provided, however, that the amount lent by the Board to any registered producer shall at no time exceed one half of the maximum amount which the Board estimate the producer is likely to receive in respect of sales to or through the agency of the Board in any one year from the sale of milk produced.

(16) *Power to raise a capital contribution*

The Board shall have power to require registered producers who sell milk to or through the agency of the Board to make contributions of such amounts as may be necessary for the operation of the Scheme towards the capital expenditure, or other capital purposes, of the Board. These contributions shall be payable in respect of every litre of milk sold by them to or through the agency of the Board during such period or periods and at such rates per litre as the Board may from time to time determine. Such contributions shall be payable on such dates as may be fixed by the Board and shall be a debt due by the registered producer to the Board as recoverable by the Board accordingly. Any contribution so payable by any registered producer may be deducted by the Board from any moneys payable by the Board to that producer.

28. Sales by retail, semi-retail and wholesale

(1) The following provisions of the Scheme shall not apply to milk (whether sold as whole milk or otherwise) sold by retail, semi-retail or wholesale (as hereinafter defined) by registered producers who are licensed by the Board to sell milk by retail, semi-retail or wholesale, *videlicet:* sections 18(1), 21(1), (2) and (3), 23 and 27(9) and (16).

(2) *Contributions to the Board*

(a) Every registered producer shall pay to the Board a contribution of such amount as the Board may from time to time determine in respect of every litre of milk (whether sold as whole milk or otherwise) of his own production which he has sold by retail, by semi-retail or by wholesale. The Board may determine different rates of contribution for different descriptions of milk and for the avoidance of doubt it is hereby declared that the Board may, in exercise of the power conferred upon them by this subsection, for any such rate fixed by them in an accounting period determine during that period that some other rate shall be payable. Such contributions shall be payable monthly, and shall be a debt due by the registered producer to the Board and recoverable by the Board accordingly. In determining the rate of any such contribution the Board shall have regard to the extent to which the prices determined by the Joint Committee for milk (whether sold as whole milk or otherwise) of the same description as

(a) 1961 c. 62.

that sold by the registered producer, for the appropriate accounting period as estimated from time to time by the Board, exceed the pool prices for that period as so estimated with intent that the average rate of contribution for the accounting period shall not be greater than the amount by which the simple average of such prices determined by the Joint Committee exceeds the simple average of such pool prices;

(b) In addition to the contribution determined by the Board under subsection (2)*(a)* hereof, the Board may require registered producers, in respect of every litre of milk (whether sold as whole milk or otherwise) of their own production sold by them by retail, semi-retail or wholesale, to make contributions of such amounts as the Board may from time to time determine, toward the expenses of the Joint Committee referred to in section 25 of the Scheme and towards the cost of advertising milk;

(c) In addition to the powers conferred on the Board under subsections 2*(a)* and *(b)* hereof, the Board shall have power to require registered producers who sell milk (whether sold as whole milk or otherwise) of their own production by retail, semi-retail or wholesale, to make contributions of such amounts as may be necessary for the operation of the Scheme towards the capital expenditure or other capital purposes of the Board. These contributions shall be payable in respect of every litre of milk (whether sold as whole milk or otherwise) of their own production sold by them by retail, semi-retail or wholesale during such period or periods, and at such rates per litre, as the Board may from time to time determine. Such contributions shall be payable on such dates as may be fixed by the Board and shall be a debt due by the registered producer to the Board and shall be recoverable by the Board accordingly. Any contributions so payable by any registered producer may be deducted by the Board from any moneys payable by the Board to that producer;

(d) In addition, where a registered producer licensed by the Board to sell milk by retail, semi-retail or wholesale, has sold milk of his own production in excess of his basic quantity determined under section 27(11), the Board shall recover from such producer in respect of each litre of such milk an amount equal to the difference between the higher and lower prices fixed by the Board.

(3) *Definition of sale by retail, by semi-retail and by wholesale*

(a) Sale by retail means the sale by a registered producer, licensed as aforesaid, of milk (whether sold as whole milk or otherwise) of his own production by his own hand or by the hand of a member of his family or that of a person directly employed by him, to domestic consumers;

(b) Sale by semi-retail means the sale by a registered producer, licensed as aforesaid, of milk (whether sold as whole milk or otherwise) of his own production by his own hand or by the hand of a member of his family or that of a person directly employed by him to a hospital, hotel, restaurant or other such class or classes of buyers (not being domestic consumers or persons carrying on business as distributors of milk or manufacturers of milk products) as the Board may from time to time determine;

(c) Sale by wholesale means the sale by a registered producer, licensed as aforesaid, of milk (whether sold as whole milk or otherwise) of his own production packed on his premises in retail containers and sold

by him to a buyer for subsequent retail sale: Provided that the Board may, at their discretion, and from time to time, fix the quantity of milk (whether sold as whole milk or otherwise) which may be sold by any individual registered producer by wholesale under the provisions of this section.

29. Contributions by exempt producers

The Board may in respect of any accounting period require exempt producers to pay into the fund contributions proportional to the services rendered to them, in respect of milk sold under the terms of their exemption, at such amount per litre as the Board may from time to time determine with the approval of the Minister.

30. Liability of the Board for bad debts

The Board's responsibility for any bad debts that may be contracted in respect of the sale of the regulated product under the provisions of the Scheme, shall apply only to sales, the proceeds of which are required by the provisions of the Scheme to be paid into the fund.

31. Hospitals and other such institutions which are registered producers —partial exemption

The provisions of the Scheme governing the sale of milk shall not apply to milk produced and supplied to inmates and staff by hospitals and such other institutions as are registered producers but shall apply to all sales of milk by such registered producers.

32. Exemptions

(1) The Board shall have power at any time to exempt from any or all of the provisions of the Scheme producers and sales of such classes or descriptions as they may determine, and from time to time to withdraw or vary exemptions granted under this subsection.

(2) The provisions of sections 16(1)(b), 18, 21, 23, 27(6), (11), and (16), and 28(2) of the Scheme shall not apply—

(a) to milk which a registered producer withholds from the Board—

(i) for export, in unprocessed or processed form, outside the United Kingdom; or

(ii) for conversion into butter or skimmed milk powder to be sold to the intervention agency; or

(iii) for sale to an exempt producer; or

(b) to milk produced by an exempt producer.

(3) A registered producer may act jointly with other registered producers or through intermediaries or with and through both for the purposes of subsection (2)*(a)*(i) hereof, but a registered producer who withholds milk for those purposes shall give at least 2 months' prior notice in writing to the Minister and to the Board stating—

(a) the precise or minimum period during which he intends to withhold milk;

(b) whether all milk to be sold by him will be withheld or the quantity of milk which he intends to withhold where this is less than the total amount which he is to sell; and

(c) whether the milk which is to be marketed outside the United Kingdom is to be marketed in unprocessed or processed form.

(4) A registered producer may act jointly with other registered producers or through intermediaries or with and through both for the purposes of subsection (2)*(a)*(ii) hereof, but a registered producer who withholds milk for these purposes shall give at least one month's prior notice in writing to the Minister and to the Board stating—

(a) the precise or likely period during which he intends to withhold milk; and

(b) whether all milk to be sold by him will be withheld or the quantity of milk which he intends to withhold where this is less than the total amount which he is to sell.

(5) Where a registered producer has given the notice referred to in subsection (3) or (4) hereof, the Board shall not be bound to buy from him any milk to which the notice relates until the expiry of the period specified therein; and where a registered producer does not specify the precise period during which he intends to withhold milk, the Board shall not be bound to resume the purchase of such milk from him until the expiry of two months after the Board shall have received notice in writing of his intention to resume sales of such milk to the Board.

(6) A registered producer shall not be entitled to withhold milk under subsection (2)*(a)*(ii) hereof unless—

(a) for a period of five consecutive months in the period of twelve consecutive months immediately preceding the date from which he intends to withhold milk the price paid by the Board to him each month shall have been less than either—

(i) the intervention price equivalent of milk for that month calculated pursuant to regulation 5 of the Milk Marketing Boards (Special Conditions) Regulations 1981(a), or

(ii) an intervention price equivalent of milk for that month calculated as aforesaid but by the registered producer, using the margins and conversion factors applicable to the milk produced by him that month, provided that he is able to satisfy the qualified person specified in the said regulation 5 as to the validity of his calculation; or

(b) during the period of twelve consecutive months immediately preceding the date from which he intends to withhold milk the average price paid by the Board to him shall have been less than the average intervention price equivalent of milk over the same period.

(7) A registered producer may give notice under subsection (4) of his

(a) S.I. 1981/322.

intention to withhold milk under subsection (2)*(a)*(ii) hereof upon receipt of the first payment from one month's supply of milk establishing that the price paid by the Board is less than the intervention price equivalent of milk for that month.

(8) A registered producer shall not be entitled to withhold milk under subsection (2)*(a)*(ii) hereof for more than a period of six consecutive months beyond the period of three consecutive months during which the price paid by the Board to registered producers shall have exceeded the intervention price equivalent of milk.

(9) A registered producer who withholds milk for the purposes of subsection (2)*(a)*(iii) hereof shall give not less than 60 days' prior notice to the Minister and to the Board in writing of his intention to do so.

(10) Every such registered producer as referred to in subsection (9) hereof shall keep such books and records relating to the sale of the said milk as the Board shall reasonably require and shall make such returns and give such information as the Board shall reasonably require to enable the Board, and if he so desires the Minister, to be satisfied that the milk has been sold to an exempt producer, and shall produce such books and records to and give such information to any person authorised in writing by the Board or Minister to inspect them.

(11) Any registered producer who intends to sell milk direct to the final consumer may send to the Board a declaration that from the date specified therein, being a date not less than two months later than the month in which the Board has received the declaration, and for a period specified therein, being a period of not less than five years from the date of the commencement of the exemption, he wishes to be exempted from his obligation to sell milk to the Board and to forego his right to require the Board to buy milk from him.

(12) Subject to the following subsection, the Board shall issue a certificate of exemption to any registered producer from whom such a declaration as referred to in subsection (11) hereof has been received and who—

(a) produces information showing that during the three consecutive years immediately preceding the date of lodging of his declaration with the Board the average annual production of milk from all the cows in his possession has not exceeded 100,000 kilograms; and

(b) intimates that he intends to sell not less than 75% of the annual production of milk from all the cows in his possession directly to the final consumer in the form of liquid milk.

(13) If the board contests the right of any registered producer to become an exempt producer on the grounds that he is unable to fulfil the requirements of subsections (12) amd 16*(c)* hereof, they shall as soon as practicable and in any case not later than 21 days after receipt of the declaration send it with all material documents to the Minister, and shall give to the registered producer written notice of their decision, of the reasons for their decision, and of their having sent his declaration to the Minister.

(14) The Minister shall on receipt of the declaration and documents from the Board invite the registered producer and the Board to make representations to him concerning the exemption and shall consider the exemption having regard to any such representations received by him within the time specified by

him. The provisions of subsections (11) and (12) hereof shall apply to the Minister's consideration of the exemption as if the references in those subsections to the Board were references to the Minister.

(15) If the Minister decides the exemption in favour of the registered producer, or if the Minister within 60 days of the receipt of the declaration by the Board has not sent to the registered producer written notice of his refusal of the exemption with reasons for his decision when he shall be deemed to have acceded to the exemption, the Board shall forthwith issue a certificate of exemption to the registered producer.

(16) Every certificate of exemption—

(a) shall state the period of its validity;

(b) shall record the average annual production from cows in the possession of the exempt producer during the three calendar years immediately preceding the lodging of his declaration with the Board; and

(c) shall be issued subject to the following conditions:—

(i) that the exempt producer shall sell not less than 75% of the annual production of milk from the cows in his possession directly to the final consumer in the form of liquid milk;

(ii) that the exempt producer shall not buy from other registered producers a quantity of milk exceeding in any year 25% of the production of milk in that year from the cows in his possession and shall only sell the milk so bought by him directly to the final consumer in the form of liquid milk;

(iii) that the total amount of milk in liquid form sold by the exempt producer directly to the final consumer in any calendar year shall not exceed double the average annual production recorded in the certificate of exemption; and

(iv) that the exempt producer shall keep such books and records relating to his production, purchase and sales of milk as the Board shall reasonably require and shall make such returns and give such information to the Board as the Board shall reasonably require to enable the Board and, if he so desires the Minister, to be satisfied that the conditions of the certificate of exemption are being complied with, and shall produce such books and records to any person authorised in writing by the Board or the Minister to inspect them.

(17) A certificate of exemption may be revoked by the Minister, whether or not it was issued by him, upon breach of any of its conditions on the part of the exempt producer.

(18) For the purposes of this section a registered producer shall be deemed to have cows in his possession if, but only if, they and the buildings in which they are tended or milked are in his exclusive possession; however, if a registered producer satisfies the Minister that it is necessary for the time being for his cows to be tended or milked in buildings which are not in his exclusive possession, he shall for such period as the Minister may determine be deemed for the purposes of this section to have the cows in his possession.

33. Power of inspection of lands and premises of registered producers

For the purpose of securing compliance with the Scheme any person authorised in writing by the Board may enter and inspect at any reasonable time, and on production of his authority, any part of the land or premises occupied by any registered producer, being a producer specified in the authority, which the person so authorised has reason to believe is used for producing milk, and subject to the provisions of this section any person so authorised may take samples of the milk of any registered producer.

34. Penalties and the Disciplinary Committee

(1) If any person being a registered producer under the Scheme—

(a) sells the regulated product or any description or quantity thereof at a price less than, or in a manner or to a person other than, that determined for the time being by the Board or by the Joint Committee as the case may be;

(b) fails to furnish such information relating to the regulated product produced by him as may be required from time to time by the Board;

(c) wilfully furnishes to the Board information which is false in any material particular;

(d) obstructs or interferes with any person duly authorised by the Board in terms of section 33 of the Scheme in the performance of his duties thereunder; or

(e) withholds milk for the purposes of section 32(2)*(a)*(iii) of the Scheme (for sale to an exempt producer) and fails without reasonable excuse to comply with any of the requirements of section 32(10) of the Scheme,

the Disciplinary Committee hereinafter described shall impose upon such producer, and the Board shall recover from him, such monetary penalty not exceeding £1000 as that Committee think just:

Provided always that no such penalty shall be imposed in respect of such a contravention as aforesaid which constitutes an offence under the Act or any other Act.

(2)*(a)* There shall be a committee of the Board, to be known as the Disciplinary Committee, constituted, at each sitting thereof, of not less than four nor more than six members of the Board, and a chairman who is not a member of the Board but is an independant person who is an advocate of not less than seven years' standing or a solicitor of not less than seven years' standing, and is approved by the Minister;

(b) No penalty shall be imposed on a registered producer under this section except after a hearing by the said Committee and by the decision thereof, taken in accordance with the opinion of all or the majority of the members thereof, provided that if there is an equal division of opinion, the opinion of the chairman shall prevail. At any such hearing the producer shall be entitled to appear and to be heard in person or by counsel or by a solicitor or by any other person authorised by him;

(c) Notice of the time and place of every such hearing and a written statement of the charge against the producer in question shall be

served personally or by registered post on that producer at least fourteen days before the hearing;

(d) No penalty shall be imposed for any contravention which occurred more than six years before the service of the said written statement of the charge;

(e) Where such a written statement of a charge against a producer has been sent to or served on him as aforesaid and the charge is withdrawn or is not substantiated before the said Committee, the Board shall have the power, and, to such extent as the said Committee may decide, the duty, to make payments to the producer in respect of his expenses in connection with the charge;

(f) The said Committee, if they find that a contravention has occurred, may postpone the imposition of a penalty for a period not exceeding twelve months;

(g) Where a contravention of a provision of the Scheme or of a determination of the Board (being a contravention in respect of which the Board have the duty to recover a penalty) causes loss to the Board, the provisions of section 10 of the Act shall apply.

(3) As soon as may be after the Disciplinary Committee have concluded the hearing of a case, written notice of their decision shall be sent to the registered producer in question and he may, on or before the fourteenth day after the date on which the notice was so sent to him, make application to the Board demanding that the matter be referred to an arbiter under the provisions of the Scheme, and, if the matter is so referred, no proceedings shall be taken by the Board otherwise than for the purposes of the arbitration or to enforce the award of the arbiter; and the arbiter may award payment by the producer of such penalty or other sums as he thinks just but not exceeding the maximum penalty or other sums respectively which could have been imposed or required by the Disciplinary Committee.

(4) The said Committee shall have the power and duty to reconsider their decision in relation to the case of any such producer if, upon considering any written application in that behalf by the registered producer in question made within three months after the date of the original hearing by the said Committee, they are satisfied that—

(a) there may be facts relevant to the case other than the facts which were before the Committee at the original hearing; and

(b) if such other facts had been previously known to the Committee, their decision would have been influenced thereby; and

(c) the matter has not been referred to arbitration under subsection (3) hereof.

(5) *(a)* If under the last preceding subsection of this section the said Committee decide to reconsider any case it shall be their duty to rehear the case, and if as a result they are of opinion that a substantial miscarriage of justice has occurred, they shall vary the previous decision of the Committee, and the Board shall thereupon give effect to such variation;

(b) The provisions of subsection (2)*(b)* and (3) hereof shall apply to every such rehearing.

(6) Subject as aforesaid, every penalty imposed and every sum required to be paid by a decision of the Disciplinary Committee shall be a debt due to the Board and recoverable accordingly.

(7) A person whose name appeared upon the register of producers at the date when he contravened any provision of the Scheme shall, notwithstanding that his name has since been removed from the register, be deemed to remain a registered producer for the purpose only of this section.

35. Arbitration in cases where producers are aggrieved

(1) *Arbiter*

In the event of any producer of the regulated product being aggrieved by any act or omission of the Board, he may make application to the Board demanding that the matter be referred to an arbiter appointed by the Department of Agriculture and Fisheries for Scotland, and the Board shall, within fourteen days of the receipt of any such application, apply to the Department for the appointment of an arbiter. If a person appointed dies or is incapable of acting, or for seven days after written notice from either party to the dispute requiring him to act fails to act, a new arbiter may be appointed by the Department as if no arbiter had been appointed.

(2) *Time for Award*

The arbiter shall make and sign his award within twenty-eight days of his appointment.

(3) *Evidence*

(a) The parties to the arbitration, and all persons claiming through them respectively shall, subject to any legal objection, submit to be examined by the arbiter on oath or affirmation in relation to the matters in dispute and shall, subject as aforesaid, produce before the arbiter all samples, books, deeds, papers, accounts, writings and documents within their possession or power respectively which may be required or called for and do all other things which during the proceedings the arbiter may require;

(b) The arbiter shall have power to administer oaths and to take the affirmation of parties and witnesses appearing and witnesses shall, if the arbiter thinks fit, be examined on oath or affirmation.

(4) *The Award*

(a) If the arbiter finds that the Board shall be required to rectify any matter, the subject of the reference, the award shall state the manner in which and the date as and from which the matter shall be rectified by the Board;

(b) The award of the arbiter shall be final and binding on the parties;

(c) The arbiter may correct in an award any clerical mistake or error arising from an accidental slip or omission.

(5) *Expenses*

(a) The expenses of and incidental to the arbitration and award shall be in the discretion of the arbiter who may direct to and by whom and in

what manner and within what time those expenses or any part thereof are to be paid, and the expenses shall be subject to taxation by the auditor of the Sheriff Court of Aberdeen on the application of either party, but that taxation shall be subject to review by the Sheriff whose decision shall be final;

(b) The arbiter shall, in awarding expenses, take into account the reasonableness or unreasonableness of the claim of the producer concerned either in respect of amount or otherwise and any unreasonable demand for particulars or refusal to supply particulars by either party, and generally all the circumstances of the case, and may disallow the expenses of any witness whom he considers to have been called unnecessarily, and any other expenses which he considers to have been incurred unnecessarily.

36. Statutory Polls

(1) A statutory poll under sections 45 and 46 of the Scheme shall be taken in accordance with the provisions of this section.

(2) The returning officer shall be such person as the Minister may, on the application of the Board, appoint. The remuneration and expenses of the returning officer shall be defrayed by the Board.

(3) The returning officer may by writing under his hand appoint any fit person or persons to be his deputy or deputies for all or any of the purposes of the poll. A deputy returning officer shall have the powers and duties of the returning officer in relation to the matters in respect of which he is appointed to act as a deputy.

(4) The Board shall furnish to the returning officer a list of the names and addresses of the registered producers who are entitled to vote on the poll.

(5) The producers who are entitled to vote shall be the producers who are registered on such day (hereinafter referred to as "the qualifying date") as may be determined by the Board.

(6) The poll shall be conducted by post and the returning officer shall, not later than the fourteenth day after the qualifying date, send a voting paper to every producer entitled to vote. In the event of the loss of a voting paper so sent the returning officer may supply a duplicate voting paper.

(7) The voting paper shall be substantially in the form set out in Schedule (2) to the Scheme, and only voting papers which are properly completed and which reach the office of the returning officer on or before six p.m. on the twenty-eighth day after the qualifying date shall be taken into account. Any person who knowingly makes any false statement in a voting paper shall be liable, on summary conviction, to a fine not exceeding fifty pounds.

(8) The votes given on any poll shall be counted by the returning officer and his decision on any question arising with respect to any vote shall be final and conclusive.

(9) The returning officer shall draw up and deliver to the Minister and the Board a certificate showing the result of the poll, and including particulars of the number of voting papers sent out by the returning officer, the number of

voting papers received by him timeously, the number of such papers which were rejected because they were not properly completed, and the number of registered producers who voted in favour of the amendment or revocation, as the case may be, of the Scheme and against it respectively, and the number of cows in their possession respectively in the area of the Scheme at noon on the qualifying date.

(10) The result of the poll as shown in the certificate given by the returning officer shall be published in "The Aberdeen Press & Journal" and such other newspapers as the Board may think fit.

37. Polls taken in accordance with section 41A of the Act

(1) A poll under section 41A of the Act(**a**) shall be taken in accordance with the provisions of this section as read with Article 2(4), (5) and (6) of Council Regulation (EEC) No. 1422/78(**b**).

(2) The returning officer shall be such person as the Minister may, on the application of the Board, appoint. The remuneration and expenses of the returning officer shall be defrayed by the Board.

(3) The returning officer may by writing under his hand appoint any fit person or persons to be his deputy or deputies for any of the purposes of the poll. A deputy returning officer shall have the powers and duties of the returning officer in relation to the matters in respect of which he is appointed to act as a deputy.

(4) No member or servant of the Board and no producer shall be appointed as a returning officer or be appointed to be a deputy of the returning officer.

(5) The Board shall obtain and furnish to the returning officer a list of the names and addresses of the registered producers who are entitled to vote in the poll and such other information as he may require for the purposes of conducting the poll and drawing up the certificate referred to in subsection (10) hereof.

(6) The producers who are entitled to vote shall be the producers who are registered on such day (hereinafter referred to as the "qualifying date") as may be determined by the Minister, but excluding any producer who has sent to the Board the declaration referred to in section 32(11) of the Scheme.

(7) The poll shall be conducted by post and the returning officer shall, not later than the fourteenth day after the qualifying date, send a voting paper to every producer entitled to vote. In the event of the loss of a voting paper so sent the returning officer may supply a duplicate voting paper.

(8) The voting paper shall be substantially in the form set out in Schedule (3) to the Scheme and only voting papers which are properly completed and which reach the office of the returning officer on or before six p.m. on the twenty-eighth day after the qualifying date shall be taken into account.

(**a**) 1958 c. 47; section 41A was inserted by S.I. 1981/864.
(**b**) O.J. No. L171, 28.6.78, p. 14.

(9) The votes cast in any poll shall be counted by the returning officer and his decision on any question arising with respect to any vote shall be final and conclusive.

(10) The returning officer shall draw up and deliver to the Board a certificate showing the result of the poll, and including particulars of—

(a) the number of voting papers sent out by the returning officer and the number of producers and production votes represented by them;

(b) the number of valid voting papers received by him and the number of producer and production votes represented by them;

(c) the number of voting papers received by him and declared not valid and the number of producers and production votes represented by them;

(d) the number of voting papers not returned and the number of producer and production votes represented by them; and

(e) the number of producer votes and production votes cast in favour of the question and against it respectively.

(11) The result of the poll as shown in the certificate given by the returning officer shall be published in "The Aberdeen Press & Journal" and such other newspapers as the Board may think fit.

(12) "Producer vote" and "production vote" have the meanings which they have in Article 2(4) of Council Regulation (EEC) No. 1422/78 concerning the granting of certain rights to milk producers' organisations in the United Kingdom.

38. Corrupt and illegal practices at statutory polls, and penalties

For the purpose of the Scheme, corrupt and illegal practices committed in connection with any statutory poll shall have the meaning assigned to them in the Representation of the People Act 1949(**a**) and any person guilty of any such practices in connection with any such poll shall, on summary conviction, be liable to the appropriate penalty or penalties specified in the said Act.

39. Accounts

(1) The Board shall cause to be kept proper accounting records with respect to—

(a) all sums of money received and expended by the Board;

(b) all sales and purchases by the Board; and

(c) the assets and liabilities of the Board,

and the accounting records with respect to the Board's commercial activities shall be kept separate from the accounting records with respect to the Board's other activities.

(2) The Board shall charge to its commercial activities such proportion of its

(**a**) 1949 c. 68.

general administrative expenses as is fairly attributable to such commercial activities.

(3) *Preparation of accounts*

Following the end of each accounting period, the Board shall prepare, in respect of the accounting period, an income and expenditure account for the fund established in accordance with section 27(3) of the Scheme, and a profit and loss account in respect of the Board's commercial activities. The Board shall also prepare a balance sheet as at the date at which these accounts are made up. The accounts shall make separate provision for the Board's commercial activities and for the Board's other activities, and shall be in a form approved by the Minister.

(4) *Audit of accounts*

The Board shall submit the accounts prepared under subsection (3) hereof for audit to the auditor appointed under section 11 of the Scheme. The auditor shall examine the accounts and shall verify the same with the accounting records relating thereto, and shall either sign the accounts as found by him to show a true view of the state of the Board's affairs and of its results and to be in accordance with law, or shall report to the Board in what respect the accounts do not show a true and fair view of the Board's affairs and results and are not in accordance with law.

(5) *Submission of audited accounts to the Minister and to registered producers*

Once in every year, the Board shall send to the Minister and to every registered producer, along with a notice calling the meeting at which the accounts of the Board are to be submitted, the accounts prepared in accordance with subsection (3) hereof and the report of the auditor thereon, together with a statement of the manner in which any moneys of the Board are invested in accordance with the provision of section 27(14) of the Scheme in the period covered by the accounts as the Board may consider necessary for the information of registered producers.

(6) *Copy of balance sheet to be furnished to any person requiring it*

The Board shall furnish a copy of the balance sheet to any person requiring it on payment of a fee to be determined by the Board which reasonably recompenses the Board for the cost of furnishing such balance sheet.

(7) The Board shall furnish the Minister with such information as he may from time to time require concerning the Board's commercial activities and shall permit any person duly authorised in writing by the Minister, on production of his authority, to inspect such of the Board's accounts and records as he may reasonably require to satisfy himself that the board are complying with the requirements of sections 17 and 27(3) of the Scheme, of Council Regulation (EEC) No. 1422/78, and of Commission Regulation (EEC) No. 1565/79(a).

40. Annual General Meetings

The Board shall call a General Meeting of registered producers once at least

(a) O.J. No. L188, 26.7.79, p. 29.

every calendar year, and not more than fifteen months after the holding of the last preceding General Meeting, for inter alia, the following purposes—

(a) submitting the accounts of the Board to registered producers;

(b) determining the remuneration of the Board in terms of section 4(10) of the Scheme;

(c) declaration of results of election of Board members, in accordance with section 4(4)*(e)* of the Scheme;

(d) appointment of an auditor or auditors in terms of section 11 of the Scheme.

41. Notice of General Meetings

Notice of the holding of every General Meeting, specifying the place, date and hour of meeting, shall be sent by post to every registered producer at least ten clear days before the date of the meeting. On the said notice there shall appear with reasonable prominence, a statement of the rights conferred upon a registered producer by section 43 of the Scheme.

42. Special General Meetings

Special General Meetings may be held where and when the Board or a General Meeting may determine, and shall be held at the requisition in writing of not less than twenty-five registered producers.

43. Voting at General Meetings

(1) Every question put to the vote of the meeting shall be decided either by ballot or on a show of hands, as the Chairman of the meeting may direct, unless a poll is (before or on the declaration of the result of the ballot or of the show of hands) demanded by at least one-third of the registered producers who are personally present or who are represented by proxy at the meeting. If a poll is duly demanded, it shall be taken in such manner as the Chairman of the meeting directs. If the Chairman so directs the poll will be taken by a postal ballot of all registered producers. In the event of such a ballot no vote may be given by proxy.

(2) On a ballot or a show of hands, every registered producer shall have one vote. On a poll, every registered producer shall have one vote per cow registered with the Board at the time of the poll as being in his possession, and votes may be given either personally or, except in the case of a postal ballot, by proxy. In the case of an equality of votes, whether on a ballot or show of hands or on a poll, the Chairman of the meeting at which the vote is taken, or in the case of a postal ballot announced, shall, in addition to his other vote, if any, have a casting vote which he shall be required to exercise.

(3) The instrument appointing a proxy shall be in writing under the hand of the appointer, or, if the appointer is a corporate body, or other organisation deemed to be a single producer in accordance with section 12(2) of the Scheme, either under its common seal or under the hand of an officer or attorney duly authorised.

(4) No person shall act as proxy unless either he is entitled on his own behalf

to be present and vote at the meeting, or he has been appointed to act as the proxy of a corporation, institution or firm which is a registered producer.

(5) The instrument appointing a proxy shall be deposited at the office of the Board not less than forty-eight hours before the time for holding the meeting at which the proxy named in the instrument proposes to vote, and in default the instrument of proxy shall not be treated as valid.

(6) Every instrument appointing a proxy shall, as nearly as circumstances will permit, be in the form set out in Schedule (4) to the Scheme.

(7) The Chairman of the meeting shall have power to adjourn the same for any period, not exceeding fourteen days, for the purpose of enabling the result of a poll to be determined, and, if the result of the poll shall be announced at such adjourned meeting it shall be as effectual and binding as if announced at the General Meeting at which the poll was taken.

44. Quorum at General Meetings

Unless otherwise determined by a previous General Meeting, a quorum at a General Meeting shall consist of twenty-five registered producers except where, owing to the absence of a quorum, a General Meeting has been adjourned, in which case the registered producers present at such adjourned General Meeting shall constitute a quorum. In the event of less than two registered producers being present at such adjourned General Meeting no business shall be transacted and the General Meeting will be again adjourned.

45. Amendment of the Scheme

A copy of any proposed amendment of the Scheme shall be published by post to every registered producer. A poll on the question of whether or not an amendment shall be submitted to the Minister may, within twenty-eight days of the publication thereof, be demanded in writing by not less than ten per cent of the registered producers.

46. Revocation of the Scheme

A poll on the question of whether or not the Scheme is to be revoked may be demanded by not less than twenty per cent of the registered producers, but no poll shall, without consent of the Board, be taken on that question within two years from the date of the declaration of the result of any previous poll on that question.

47. Winding-up of the Board and liability of registered producers

(1) Part IX of the Companies Act 1948(a) (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 to 6 inclusive of Schedule 2 to the Act.

(a) 1948 c. 38.

(2) Contributions under paragraph 5 of Schedule 2 to the Act shall be assessed in relation to each contributor proportionally to the number of litres of milk produced and sold by him during the relevant period, and shall not exceed 0.183p per litre but declaring that the amount of the liability under this subsection of any registered producer, who during the whole of the relevant period was exempt from the provisions of the Scheme, shall not exceed one pound. Save as aforesaid, however, no person shall be liable to contribute to the assets of the Board in the winding-up by reason only of his being, or having been, a registered producer or a member of the Board.

(3) Any surplus funds remaining on completion of the winding-up, after payment of all liabilities and expenses, shall be distributed among the registered producers who, if there had been a deficit on the winding-up, would have been liable to contribute in terms of subsection (2) hereof and in the same proportions as such liability to contribute: Provided however that a registered producer, who during the whole of the relevant period was exempt from the provisions of the Scheme, shall not be entitled to any share of such surplus funds.

48. The Common Seal

(1) The common seal shall have the Board's name engraven in legible characters thereon and shall not be affixed to any document without the express authorisation of the Board.

(2) The common seal shall be kept in the custody of the Secretary, or such other employee as the Board shall direct.

49. Deeds etc.

(1) All deeds and other writings to which the Board is a party shall be held to be validly executed on behalf of the Board, by being sealed with the common seal of the Board and signed by two members of the Board and the Secretary, and such subscription on behalf of the Board shall be binding whether attested by witnesses or not.

(2) All deeds and other writings executed in any place out of Great Britain or Northern Ireland shall be validly executed by being signed by such persons as may be duly authorised by the Board.

(3) A document or proceedings requiring authentication by the Board may be signed by a member of the Board, Secretary or other person authorised by the Board, and need not be under the common seal of the Board.

(4) Any legal proceedings shall be instituted in the name of the Aberdeen and District Milk Marketing Board.

50. Proof of posting

Any requirement of the Scheme other than that contained in section 34(2) of the Scheme that a document shall be sent to or served on a person by the Board shall be deemed to have been complied with if, within the period, if any, limited for the sending or service of the document, the document is despatched to him by post, properly addressed and with the postage prepaid.

51. Revocation

The Aberdeen and District Milk Marketing Scheme 1933(a) is hereby revoked.

52. Transitional Arrangements

(1) The Aberdeen and District Milk Marketing Board constituted under the Aberdeen and District Milk Marketing Scheme 1933 is hereby dissolved (within the meaning of paragraph 6 of Schedule 2 to the Act).

(2) The whole of the property, rights and liabilities of the Board constituted under the Aberdeen and District Milk Marketing Scheme 1933 are hereby transferred to the Board constituted under section 4 of this Scheme.

(3) Any legal proceedings pending by or against the Board constituted under the Aberdeen and District Milk Marketing Scheme 1933 may be continued by or against the Board constituted under section 4 of this Scheme.

(a) S.R. & O. 1934/309, as amended by S.R. & O. 1939/600, 1940/129; S.I. 1950/2059, 1957/1843, 1964/672, 1967/1346, 1978/583, 1979/319, 1981/446, 864.

SCHEDULE (1) — Section 4(2)*(c)*

SITTING MEMBERS

Board Sub-Areas	*Sitting members representing*	
	(a) Ordinary Producers	*(b) Producer Retailers*
COUNTIES OF ABERDEEN AND KINCARDINE	Mr David A Argo Mr George F Durno Mr William J. Ferguson Mr Kenneth J Mair Mr Ian Marr Mr Alexander Shand Mr Gordon Stephen Mr John T Harle	Mr Maitland Mackie Jnr Mr Thomas D Robertson Mr Allan Wilson
	Sitting members representing	
	(a) Ordinary Producers	*(b) Producer Retailers*
COUNTY OF BANFF	Mr Alan Taylor	Mr W Percy Watt

SCHEDULE (2) Section 36(7)

FORM OF VOTING PAPER FOR STATUTORY POLLS

ABERDEEN AND DISTRICT MILK MARKETING BOARD

To (1) .....

.....

.....

A poll is being held under the Aberdeen and District Milk Marketing Scheme 1984, on the following question, to which voters must answer "Yes" or "No" *viz:*—

(2) .....

.....

.....

(3) .....

How many cows being kept for dairy purposes were in your possession in the area of the Scheme at noon on (4) ..... excluding heifers which had never calved before noon on that date? ..... cows.

Signature of producer—

.....

Address .....

N.B.—Your vote will not count unless this paper—properly filled in and signed—reaches (5) .....

.....

on or before (6).....

If you wilfully mis-state the number of cows which you are asked to state above, you will render yourself liable to a penalty.

.....

Returning Officer.

(1) The returning officer must fill in the name and address of registered producer.

(2) The returning officer must fill in the question on which the poll is being taken.

(3) The registered producer must fill in answer "Yes" or "No" here.

(4) The returning officer must fill in the qualifying date.

(5) The returning officer must fill in the address of the office to which the form is to be returned.

(6) The returning officer must fill in the twenty-eighth day after the qualifying date.

SCHEDULE (3) Section 37(8)

FORM OF VOTING PAPER FOR EEC POLLS

ABERDEEN AND DISTRICT MILK MARKETING BOARD

(1) The returning officer must fill in the name and address of the registered producer.

To (1).....

.....

.....

A poll is being held under section 41A of the Agricultural Marketing Act 1958 on the following question, which is based on Article 2.2 of Council Regulation (EEC) No. 1422/78, to which voters must answer "Yes" or "No":—

Are you in agreement with maintaining the Aberdeen and District Milk Marketing Board carrying on the activities and exercising the rights resulting from Council Regulation (EEC) No. 1422/78?

(2) To record your vote mark X in the box of your choice.

(2) ☐ YES ☐ NO

NOTES—

(i) The ballot is confidential as between the voter and the returning officer. You are not required to sign the ballot paper.

(3) The returning officer must fill in the address to which the form is to be returned.

(ii) Your vote will be valid only if it is entered on this voting paper and reaches the returning officer at (3).....

.....

on or before (4).....

(4) The returning officer must fill in the twenty-eighth day after the qualifying date.

(iii) Your vote counts as a single producer vote and as a multiple production vote. If you fail to return a vote, or if your voting paper is declared not valid by the returning officer for any reason, under Council Regulation (EEC) No. 1422/78 your producer vote will be disregarded and your production votes will be counted as negative votes.

..... *Returning Officer*

..... *Date (5)*

(5) The returning officer must ensure that this date is on or before the fourteenth day after the qualifying date.

SCHEDULE (4) Section 43(6)

FORM OF PROXY

Full name of Registered Producer in BLOCK LETTERS.

I/We.....

of.....

being a Registered Producer(s) under the Aberdeen and District Milk Marketing Scheme 1984, hereby appoint.....

.....

of.....

.....

as my/our proxy, to vote for me/us and on my/our behalf at the Annual General Meeting of Registered Producers to be held on.....

the..... day of .....

19 ....., and at any adjournment thereof.

Signed this..... day of.....

19 .....

Signature.....

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order, which comes into operation on 1st April 1984 approves a substitutional milk marketing scheme to replace the Aberdeen and District Milk Marketing Scheme 1933 with effect from 1st April 1984.

The substitutional scheme scheme consolidates the original scheme and amendments thereto and incorporates the area and representational rights of milk producers in the former County of Banff within the area of the scheme. The 1933 Scheme was applied to Banffshire only by reason of the Aberdeen and District Milk Marketing Scheme (Application to Banff) Order 1950 (S.I. 1950/1286) and the Aberdeen and District Milk Marketing Scheme (Application to Banff) (Amendment) Order 1964 (S.I. 1964/536).

The substitutional scheme in addition to generally modernising the provisions of the 1933 Scheme also effects further amendments thereto. The changes of substance are—

(a) the inclusion of a new category of "wholesale producers" (section 28);

(b) the Board's financial and accounting arrangements have been recognised (sections 27 and 39);

(c) the maximum disciplinary penalty which the Board may impose on a producer has been raised from £100 to £1,000 (section 34).

The Aberdeen and District Milk Marketing Board constituted under the 1933 Scheme is dissolved and the whole of its property, rights and liabilities are transferred to the Board constituted under the substitutional scheme (section 52).

Printed in the UK for Her Majesty's Stationery Office

800/B840491E W.O. F58 C9 4/84

£4.00 net

ISBN 0 11 046464 8