STATUTORY INSTRUMENTS

1962 No. 1892

RESTRICTIVE TRADE PRACTICES

The Agricultural and Forestry Associations (Exceptions) Order 1962

Made - - - -	*24th August* 1962
Laid before Parliament	*3rd September* 1962
Coming into Operation	*3rd October* 1962

The Minister of Agriculture, Fisheries and Food and the Secretary of State for Scotland and the Secretary of State for the Home Department (being the Secretaries of State respectively concerned with agriculture in Scotland and in Northern Ireland) acting jointly, in exercise of the powers conferred on them by paragraph (*a*) of subsection (1) of section 1 of the Agricultural and Forestry Associations Act 1962(**a**) and by subsection (3) of that section and of all other powers them enabling in that behalf, hereby make the following Order—

Citation and commencement

1. This Order may be cited as the Agricultural and Forestry Associations (Exceptions) Order 1962 and shall come into operation on the 3rd October 1962.

Interpretation

2.—(1) In this Order—

"the Act" means the Agricultural and Forestry Associations Act 1962;

"association" means an association of the kind mentioned in section 1 (2) of the Act.

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

Provisions to be contained in memorandum or articles of association

3. For the purposes of paragraph (*a*) of subsection (1) of section 1 of the Act (which provides that that section applies to an association that is a company within the meaning of the Companies Act 1948(**c**) or the Companies Act (Northern Ireland) 1960(**d**) if there are contained in its memorandum or articles of association such provisions of the kind mentioned in paragraph (*a*) aforesaid as may be prescribed) the following provisions are prescribed, that is to say—

(*a*) a provision that the profits of the association, after providing for such return on share capital not exceeding 7½ per cent. per annum as may be specified in the memorandum or articles of association, shall, if and so far as they are divided among the members, be divided in proportion to the aggregate value of the produce bought from or marketed for the respective holders of the share capital (or, where a holder of share capital is an association, bought from or marketed

1964/14

(**a**) 10 & 11 Eliz. 2. c. 29.
(**b**) 52 & 53 Vict. c. 63.
(**c**) 11 & 12 Geo. 6. c. 38.
(**d**) 9 Eliz. 2. c. 22. (N.I.)

for the members of that association), of the goods supplied to such persons and of the services rendered to them during the period in respect of which the dividend is declared and that any reserves that are distributed shall be divided in the like proportion ;

(*b*) a provision that every member of the association shall be entitled to one vote only at any meeting or on any poll held by the association or alternatively a provision that, if by virtue of the memorandum or articles of association a member is entitled to more than one vote, he shall not, at any meeting or on any poll held by the association, be entitled to exercise more than one tenth of the total votes which, but for the said provision, could be exercised by all the members present and voting at the meeting or voting on the poll ;

(*c*) a provision that the business of the association shall be so carried on that, in any period of three consecutive financial years of the association, the value of the produce bought from or marketed for persons who are not members of the association or of any constituent association, the value of the goods supplied to such persons and the value of the services rendered to them shall not exceed one third of the respective values of all the produce marketed, goods supplied and services rendered by the association ;

(*d*) a provision that the members of the association shall, notwithstanding that their respective holdings of share capital may be unequal, have equal rights to market their produce through the association and to obtain goods and services from the association, if and so far as the association's business consists of the marketing of members' produce and the supply of goods and services to members.

Agreements to which section 1 (2) *of the Act is not to apply*

4. Section 1 (2) of the Act (which provides that Part I of the Restrictive Trade Practices Act 1956(**a**) shall not apply to certain agreements) shall not apply to the following agreements whether made before or after the coming into force of this Order, that is to say—

(*a*) any agreement contained in the rules of an association or, as the case may be, in its memorandum or articles of association which requires the association, for the purposes of or in connection with the marketing of produce produced by members of the association or of any constituent association or the supply of goods to such members, to sell that produce or to buy those goods only to or from a specified person or class of persons, not being a member or members of the association or of any constituent association ;

(*b*) any agreement made between two or more associations, not being—

(i) an agreement for the supply of goods containing no other terms than such as relate exclusively to the goods supplied in pursuance of the agreement ; or

(ii) in a case where those associations are members of an association of associations, an agreement contained in the rules of the association of which they are members, or as the case may be, in its memorandum or articles of association ;

(*c*) any agreement for the purpose of or in connection with the marketing by an association of any of such produce as is specified in Schedule 1 to this Order, being produce produced by members of the association or of any constituent association (with or without similar produce not so produced) ;

(**a**) 4 & 5 Eliz. 2. c. 68.

(*d*) any agreement for the purposes of or in connection with the supply by an association to members of the association or of any constituent association of any of such goods as are specified in Schedule 2 to this Order.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed this 22nd August 1962.

(L.S.) *Christopher Soames,*
Minister of Agriculture, Fisheries and Food.

Given under the Seal of the Secretary of State for Scotland this 22nd August 1962.

(L.S.) *Michael Noble,*
Secretary of State for Scotland.

Given under the hand of the Secretary of State for the Home Department this 24th August 1962.

Henry Brooke,
Secretary of State for the Home Department.

SCHEDULE 1

Art. 4(*c*)

Butter, cheese and other milk products except butter, cheese or cream produced on the farm or on one or more of the farms where the milk employed in its composition was produced.

Shell eggs that have been subjected to any process of preservation except those that have been preserved by the lowering of their temperature.

Fruit, potatoes and other vegetables that have been canned, bottled, sliced, pulped or cooked, or preserved by sterilising, by freezing, by dehydrating, by heat or by chemical process, except soft fruit that has been pulped.

Slaughtered cattle, sheep, lambs and pigs and any parts of any such animals except—

(*a*) halves of any such animals;

(*b*) whole dressed carcases of sheep, lambs and pigs;

(*c*) quarters of cattle.

Building timber and wood pulp.

Wool, except fleece wool.

Without prejudice to any exception contained in any of the foregoing paragraphs, produce whose intrinsic character has been changed as the result of the application of a process of manufacture:

Provided that nothing in this paragraph shall apply to eggs that have been broken out but have not been subjected to any process of preservation other than preservation by the lowering of their temperature.

SCHEDULE 2

Art. 4(*d*)

Mechanically propelled vehicles constructed or adapted solely for the carriage of passengers and their effects.

Accessories for such vehicles as aforesaid.

Petrol.

Goods that, notwithstanding that they may be required for the production of produce produced by members of the association or of any constituent association on land occupied by them and used for agriculture or forestry, are not normally required for the production of similar produce not so produced.

EXPLANATORY NOTE

(This note is not part of the Order but is intended to indicate its general purport.)

This Order, made under the Agricultural and Forestry Associations Act 1962 (which exempts certain agreements from registration under the Restrictive Trade Practices Act 1956) prescribes certain provisions that must be contained in the memorandum or articles of association of a company in order that the 1962 Act may apply to it and also excepts from the operation of that Act certain classes of agreements specified in the Order.

The Order comes into operation on the 3rd October, 1962, being the day on which the Act under which it is made comes into force.