STATUTORY INSTRUMENTS

1976 No. 901

AGRICULTURE

The Agricultural Levies (Outward Processing Relief) Order 1976

Made - - -	*9th June* 1976
Laid before Parliament	*16th June* 1976
Coming into Operation	*28th June* 1976

At the Court at Buckingham Palace, the 9th day of June 1976

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 2(2) of the European Communities Act 1972(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation, operation, interpretation

1.—(1) This Order may be cited as the Agricultural Levies (Outward Processing Relief) Order 1976 and shall come into operation on 28th June 1976.

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

"agricultural levy" means any tax or charge, not being a customs duty, chargeable under Community arrangements on agricultural products or on products which are processed from agricultural products and are the subject of arrangements under Article 235 of the EEC Treaty;

"agricultural products" means the products listed in Annex II to the EEC Treaty, as amended(b);

"authorisation" means a general or special authorisation granted by the competent authorities authorising compensating products to be relieved wholly or partly of agricultural levies payable on their importation into a member State;

"the Commissioners" means the Commissioners of Customs and Excise;

"the Community" means the European Economic Community;

"compensating products" means products produced by the processing of goods;

"the competent authorities" means the Commissioners in the case of goods exported from the United Kingdom or the customs authorities of another member State in the case of goods exported from that member State;

"country" includes territory, and references to a country include references to any area consisting of two or more countries;

(a) 1972 c. 68.
(b) Council Regulation 7a 18.12.59 (O.J. No. 7, 30.1.61, p. 71/61; O.J./S.E. 1959–1962 p. 68).

"intermediate products" means goods produced or manufactured after goods have undergone outward processing but not to the extent provided for in the authorisation;

"member State" includes any country within the customs territory of the Community(**a**);

"outside the Community" means outside the customs territory of the Community.

(3) References in this Order to goods being held under inward processing arrangements are references to goods in respect of which an application has been made to the competent authorities for relief from agricultural levies in accordance with the provisions of Council Directive 69/73/EEC(**b**) (relating to inward processing), and relief has not been refused.

(4) The Interpretation Act 1889(**c**) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

2.—(1) Subject to paragraph (2) below, for the purposes of this Order goods shall be treated as having undergone outward processing, if they have previously been temporarily exported from the United Kingdom or another member State to a country outside the Community with a view to the importation of the goods in question into the United Kingdom or another member State in the form of compensating products wholly or partly free of agricultural levies payable on the import of the compensating products, and they have undergone processing outside the Community.

(2) This Order shall apply only if the goods in question, when temporarily exported—

(i) satisfied the conditions in Articles 9(2) and 10(1) of the EEC Treaty without this temporary exportation having given, or giving, rise to any remission or repayment of agricultural levies or of customs duties or charges having equivalent effect or any payment of Community export refunds; or

(ii) were held under inward processing arrangements.

Authorisation of relief

3.—(1) In the case of goods to be exported from the United Kingdom with a view to undergoing outward processing, any person established in the territory of a member State who is to have the processing carried out may make a written application for an authorisation.

(2) The application shall be made to the Commissioners before exportation and shall be in such form, and verified in such manner, as may be required by the Commissioners; and the applicant shall furnish such information as may be so required for the purpose of the application.

(3) Subject to paragraph (4) below, the Commissioners after receiving any such application may specify in an authorisation such conditions as they think expedient to secure the object or prevent abuse of the relief from agricultural levies, and in particular there shall be specified in the authorisation—

(*a*) the rates of yield namely the quantity of compensating products to be produced from a given quantity of the exported goods;

(*b*) the arrangements for identifying the exported goods in the compensating products to be imported;

(*c*) the time limit for the importation of the compensating products.

(**a**) See Regulation (EEC) 1496/68 (O.J. No. L238, 28.9.68, p. 1; O.J./S.E.1968(II), p. 436) and Annex I to the Treaty concerning United Kingdom accession to the Community, as adjusted by Council Decision of 1.1.73 (O.J. No. L2, 1.1.73, p. 1).

(**b**) O.J. No. L58, 8.3.1969, p. 1; O.J./S.E.1969 (I) p. 75.

(**c**) 1889 c. 63.

(4) The Commissioners shall not grant the authorisation unless they are satisfied that to do so would not be likely to cause serious damage to the essential interests of processors of goods within the Community and unless they have consulted as regards that matter with the Minister of Agriculture, Fisheries and Food and the Secretary of State, except as may be agreed between the Commissioners on the one hand and the Minister of Agriculture, Fisheries and Food and the Secretary of State on the other.

Relief from agricultural levy

4.—(1) Where there are imported into the United Kingdom any goods which have undergone outward processing in accordance with an authorisation granted by the competent authorities, then subject to—

(i) the provisions of this Order;

(ii) compliance with the conditions specified in the authorisation;

(iii) the production of the authorisation to the proper officer of Customs and Excise; and

(iv) the Commissioners being satisfied that they can identify the exported goods in the compensating products,

any agricultural levy which apart from this Order would be chargeable on their importation into the United Kingdom shall be reduced by the amount specified in article 5 below or, if equal to or less than that amount, shall not be charged.

(2) The Commissioners shall have power in the case of goods imported into the United Kingdom to vary any condition specified in any authorisation given by the competent authorities when such a variation is necessary to ensure that the goods shall qualify for relief under this Order and they are satisfied that there are special reasons why the condition should be varied.

(3) The Commissioners shall in particular have power in the case of goods exported from, or imported into, the United Kingdom—

(*a*) to extend the time limit specified for the importation of the compensating products in any authorisation given by the competent authorities; and

(*b*) to allow the compensating products referred to in such an authorisation to be imported in several consignments.

(4) The Commissioners shall have power to remit or repay, in accordance with the provisions of this Order, the whole or part of any agricultural levy which would be chargeable as mentioned in paragraph (1) above, where the goods have been temporarily exported with a view to undergoing outward processing and they are imported into the United Kingdom still in the same state as they were in when exported or in the form of intermediate products and the goods would have qualified for relief if they had been imported in the form of compensating products.

(5) Goods shall qualify for relief under this article only if they are imported by the person to whom the authorisation has been granted or by another person with his written consent and on production of that consent.

5.—(1) Subject to the following provisions of this article, the amount referred to in article 4(1) above is the amount of the agricultural levy that would be chargeable on the importation of goods in the same state and in the same

quantity as the goods were in when temporarily exported, calculated on the basis of the value and at the rate, if any, applicable at the date of first entry of the imported goods after temporary exportation, but excluding—

(*a*) any monetary compensatory amount that would be chargeable under Council Regulation (EEC) 974/71(**a**), as last modified by Council Regulation (EEC) 475/75(**b**);

(*b*) any accession compensatory amount that would be chargeable under article 55 of the Act annexed to the Treaty relating to the accession of the United Kingdom to the European Economic Community and to the European Atomic Energy Community(**c**);

(*c*) any additional amount that would be chargeable under—

(i) article 14(2) of Council Regulation (EEC) No. 2727/75(**d**), as last modified by Council Regulation (EEC) No. 832/76(**e**);

(ii) article 13(1) of Council Regulation (EEC) No. 2759/75(**f**), as modified by Council Regulation (EEC) No. 367/76(**g**);

(iii) article 8(1) of Council Regulation (EEC) No. 2771/75(**h**), as modified by Council Regulation (EEC) No. 368/76(**i**);

(iv) article 8(1) of Council Regulation (EEC) No. 2777/75(**j**), as modified by Council Regulation (EEC) No. 369/76(**k**).

(2) For the purposes of this article, where the temporarily exported goods could, if imported into the United Kingdom, have been classified in a particular tariff subheading by virtue of a specified end use, then the amount of the agricultural levy that would be chargeable shall be calculated at the rate applicable to goods of that subheading, in so far as the temporarily exported goods were so used in the country where the outward processing took place.

(3) Where the imported goods qualify for any preferential tariff treatment, the amount of the agricultural levy that would be chargeable for the purpose of paragraph (1) above shall be calculated as if the goods in question qualified for corresponding preferential tariff treatment.

Miscellaneous

6. Where goods held under inward processing arrangements at the time of exportation undergo outward processing and are on or after importation into the United Kingdom entered for home use within the meaning of section 28 of the Customs and Excise Act 1952(**l**) or Regulation 8 of the Warehousing Regulations 1975(**m**) then, unless the Commissioners are satisfied that any export refund or any relief from agricultural levy under those inward processing arrangements has been forgone, the goods shall not qualify for relief from agricultural levy under this Order.

(**a**) O.J. No. L106, 12.5.71, p. 1; O.J./S.E. 1971 (I) p. 257.
(**b**) O.J. No. L52, 28.2.75, p. 28.
(**c**) Cmnd. 5179–I, p. 26.
(**d**) O.J. No. L281, 1.11.75, p. 1.
(**e**) O.J. No. L100, 14.4.76, p. 1.
(**f**) O.J. No. L282, 1.11.75, p. 1.
(**g**) O.J. No. L45, 21.2.76, p. 1.
(**h**) O.J. No. L282, 1.11.75, p. 49.
(**i**) O.J. No. L45, 21.2.76, p. 2.
(**j**) O.J. No. L282, 1.11.75, p. 77.
(**k**) O.J. No. L45, 21.2.76, p. 3.
(**l**) 1952 c. 44.
(**m**) S.I. 1975/1789 (1975 III, p. 6764).

Supplementary

7.—(1) If a person for the purpose of an application for relief under this Order makes any statement or furnishes any document which is false in a material particular to any government department, authority or person on whom functions are conferred by or under this Order, then—

(*a*) any decision allowing the relief applied for shall be of no effect; and

(*b*) if the statement was made or the document was furnished knowingly or recklessly, that person shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £100, or both, or on conviction on indictment to imprisonment for a term not exceeding two years or to a fine not exceeding £500, or both.

(2) Section 257 of the Customs and Excise Act 1952 (which relates to forfeiture of goods if the goods are relieved from duty on certain conditions and the conditions are not observed) shall apply in relation to any condition on which relief from agricultural levy is allowed under this Order as if the levy were a duty of customs and the said condition were such a condition as is mentioned in that section.

N. E. Leigh

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order, which comes into operation on 28th June 1976, provides for relief from agricultural levies otherwise chargeable on importation into the United Kingdom of agricultural products or products processed from agricultural products treated overseas by outward processing (as defined in Article 2) having been temporarily exported in untreated or partly treated form from the United Kingdom or any other member State of the Community. It implements, with respect only to agricultural levies, EEC Directive 76/119 (O.J. No. L24, 30.1.76, p. 58) and Articles 22 and 23 of EEC Directive 69/73.

Article 3 provides for application for authorisation of relief to be made to the Commissioners of Customs and Excise in the case of goods to be exported from the United Kingdom with a view to undergoing outward processing and sets out the conditions to be specified in the authorisation. It also requires the Commissioners to have regard to the interests of Community processors before deciding whether to grant an authorisation, in consultation with the Minister of Agriculture, Fisheries and Food and the Secretary of State, except as may be agreed between the Commissioners and those Ministers.

Article 4 provides for relief to be granted from agricultural levies otherwise chargeable on importation of the compensating products into the United Kingdom, subject to compliance with the conditions specified in the authorisation. It also empowers the Commissioners to relax those conditions in certain circumstances.

Article 5 specifies how the amount of relief is to be calculated.

Article 6 provides that where the temporarily exported goods had qualified, under inward processing arrangements, for export refund or relief from agricultural levy in the member State from which they were exported, that refund or relief must be forgone if the compensating products are to qualify for outward processing relief on entry for home use.

Article 7 makes any decision to grant relief of no effect where a person, for the purpose of an application for relief, has made or furnished a materially false statement or document, and makes it an offence to make or furnish such a statement or document knowingly or recklessly. It also renders liable to forfeiture any goods relieved from agricultural levy under this Order if any condition on which the relief was granted is not observed.

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