EXPLANATORY NOTE

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

The Hill Cattle (Scotland) Scheme, 1951, dated 27th November, 1951, made under the Hill Farming Act, 1946, as amended by the Livestock Rearing Act, 1951, sets out the conditions on which subsidy payments may be made in the year 1952 and each of the next four succeeding years in respect of cattle of specified description, grazed and maintained on hill land in Scotland. This Order prescribes the amount of subsidy payment which shall be made in respect of each of the four years 1953-1956 for each animal which qualifies under the Scheme.

MARKETING

1953 No. 190

The Apple and Pear Marketing Scheme (Approval) Order, 1953

Made - - - - 5th February, 1953

Whereas the Minister of Agriculture and Fisheries laid before each House of Parliament a draft of a Scheme, as set forth in the Schedule hereto, under the Agricultural Marketing Acts, 1931 to 1949, for regulating the marketing of apples and pears in England and Wales:

And Whereas the House of Commons resolved on the 21st day of January, 1953, and the House of Lords resolved on the 16th day of December, 1952, that the said Scheme should be approved.

Now, therefore, the Minister of Agriculture and Fisheries, in pursuance of sub-section (8) of Section 1 of the Agricultural Marketing Act, 1931(a), hereby makes the following Order:—

1. This Order may be cited as The Apple and Pear Marketing Scheme (Approval) Order, 1953.

2. The said Scheme is approved in the terms of the said draft.

3. The said Scheme shall come into force on the 4th day of March, 1953.

In Witness whereof the Official Seal of the Minister of Agriculture and Fisheries is hereunto affixed this fifth day of February, 1953.

(L.S.) *Tom Dugdale,*
Minister of Agriculture and Fisheries.

(a) 21 & 22 Geo. 5. c. 42.

SCHEDULE

SCHEME UNDER THE AGRICULTURAL MARKETING ACTS, 1931 TO 1949, REGULATING THE MARKETING OF APPLES AND PEARS

PART I. Preliminary

1. This Scheme may be cited as the Apple and Pear Marketing Scheme 1952 and applies to England and Wales.

2.—(1) The regulated products to which this Scheme applies are apples and pears, including apples and pears in course of production.

(2) For the purposes of Section 3 (4) of the Act of 1931, the said products shall not be treated as separate products.

3. The Interpretation Act, 1889, applies for the interpretation of this Scheme as it applies for the interpretation of an Act of Parliament.

4. In this Scheme, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, namely:—

"The Act of 1931" means the Agricultural Marketing Act, 1931, and "the Act of 1949" means the Agricultural Marketing Act, 1949, in each case as amended or extended by any subsequent Act.

"Apples" and "pears" mean respectively apples and pears produced or in course of production for any purpose in England and Wales.

"Apples and pears sold for processing" is defined in paragraph 68 (3) of this Scheme.

"Apple tree" and "pear tree" mean respectively an apple plant and a pear plant which has been permanently planted, whether it be in tree, bush, cordon or other form.

"Apple and pear acreage" has the meaning described in paragraph 5 of this Scheme.

"The Board" means the Apple and Pear Marketing Board constituted by this Scheme.

"District" means one of the districts described in the First Schedule of this Scheme.

"Land" means land in England and Wales.

"Minister" means the Minister of Agriculture and Fisheries.

"Prescription" means a determination of the Board made by prescriptive resolution and "prescribe" shall be construed accordingly.

"Prescriptive resolution" means a resolution of the Board embodying a determination of the Board which is recorded in the record provided for by paragraph 85 of this Scheme.

"Registered" means registered under this Scheme.

"Producer" means a person in occupation of land on which any apple tree or pear tree is growing.

5. When any right or liability of a registered producer depends on his apple and pear acreage, the following rules shall apply:—

(*a*) A registered producer's apple and pear acreage means the total apple and pear acreage (excluding any odd fraction) of all land in his occupation.

(*b*) Subject as hereinafter mentioned, the apple and pear acreage of any land means the number of acres planted with apple trees or pear trees or both, and headlands not planted shall be included.

(*c*) Where any land is planted with apple trees, or pear trees or both, and interplanted with other top fruit (which means quinces, medlars, plums, cherries, nuts, and other tree fruit) the area of such land shall be apportioned between (i) apple trees and pear trees and (ii) other top fruit in such manner as may be just having regard to the number of apple trees and pear trees and other top fruit thereon.

(*d*) Where any land is planted with apple trees or pear trees or both and interplanted with fruit or plants other than top fruit, such fruit or plants shall be ignored for the purpose of ascertaining the apple and pear acreage.

(*e*) Where any land contains apple trees or pear trees or both set out in such manner as to make it unreasonable or impracticable to ascertain the apple and pear acreage in the manner aforesaid the Board may determine the apple and pear acreage of that land, and pending such determination the apple and pear acreage shall be ascertained by dividing the number of apple trees and pear trees on the land by 50.

(*f*) If any dispute arises as to what a registered producer's apple and pear acreage was at any date or dates, the Board may, at any time before the expiration of three years after the relevant date, determine what it was, and such determination shall be final unless within 14 days after the Board serves notice of the determination on the producer he gives notice to the Board referring the matter to arbitration pursuant to paragraph 84 of this Scheme, in which case the arbitrator's decision shall be final, provided always that no vote given by the registered producer before such determination or award shall be invalidated by reason only of such determination or award.

PART II. The Board and Committees

6. The Board to administer this Scheme shall be called the Apple and Pear Marketing Board, and shall be a body corporate with a common seal and power to hold land without licence in mortmain.

7. Until the 31st day of October, 1953, the Board shall consist of the following persons, namely:

J. G. Alford, Oakhay Barton, Stoke Canon, Exeter, Devon.

T. W. Barnes, Showle Court, Yarkhill, Ledbury, Herefordshire.

A. Haggard, Uplands Orchard, Ledbury, Herefordshire.

H. A. Haile, 122, Norwich Road, Wisbech, Cambridgeshire.

L. Haworth, Eddisbury Fruit Farm, Kelsall, Chester, Cheshire.

A. H. Hiller, Dunnington Heath Farm, Alcester, Warwickshire.

R. D. Mash, The Farm House, Lycrome Road, Chesham, Buckinghamshire.

G. H. Mount, Willow Farm, Harbledown, Canterbury, Kent.

C. L. Newitt, Cuckoo Orchard, Hartlip, nr. Sittingbourne, Kent.

C. P. Norbury, Sherridge, nr. Malvern, Worcestershire.

P. R. Packer, " Finlandia," New Road, Cheddar, Somerset.

E. N. Pinks, Mazzard Farm Ltd., Ottery St. Mary, Devon.

F. S. Rimmington, M.C., Castle Farm, Newent, Gloucestershire.

J. E. Sandall, " Dovecote," Walpole St. Andrew, Wisbech, Cambridgeshire.

W. F. Q. Shuldham, Hamdon Fruit Packing Co. Ltd., Norton-Sub-Hamdon, Somerset.

J. F. Towner, Salts Place Farm, Loose, Maidstone, Kent.

G. E. Tuker, Thorn Cottage, Danbury, Essex.

E. Vinson, Sandbanks, Graveney, Faversham, Kent.

P. Wheldon, Newton, near Sudbury, Suffolk.

J. E. Whittome, Turnham's Gill, Henfield, Sussex.

and not less than two nor more than four persons appointed by the Minister in accordance with the Act of 1949.

8. Subject to the provisions of this Scheme as to filling of casual vacancies, and to any exercise of the Board's powers under paragraph 9 of this Scheme, the Board after the 31st day of October, 1953, shall consist of twenty district members who shall be elected as hereinafter provided, and two or more persons appointed by the Minister in accordance with the Act of 1949 so, however, that their number (provided it is at least two) shall not be more than one fifth of the total number of members of the Board for the time being.

9.—(1) For the purposes of this Scheme there shall be ten districts constituted in accordance with the First Schedule to this Scheme and the registered producers in each district shall elect a district member or members as therein specified ; provided that, if at any time the Board are of opinion that the average number of registered producers engaged in producing apples and pears or the average annual total quantity of apples and pears produced by registered producers in any district or districts for the three years immediately preceding that time (and beginning not earlier than the expiration of the suspensory period defined in paragraph 64 of this Scheme) is such that a re-adjustment should be made, the Board may, subject to the provisions of sub-paragraphs (2) and (3) of this paragraph, by prescriptive resolution vary the said First Schedule by modifying the number of districts, the geographical area of the districts or any of them or the number of members to be elected by all or any of the districts so, however, that the number of district members shall not be less than six or more than twenty. Such re-adjustment shall take effect at the next election in the district or districts affected thereby.

(2) The Board shall not make such a prescriptive resolution as aforesaid unless and until—

(*a*) they have sent to all registered producers a proposal to vary the said First Schedule in the manner specified in the proposal ;

(*b*) they have caused a vote of all registered producers to be taken on the question whether the Board may prescribe the variation so proposed ; and

(*c*) two-thirds of the votes cast are in favour of the question being answered affirmatively.

Any such vote shall be taken by means of voting papers sent through the post to each registered producer at least three weeks before the votes are required to be cast and every registered producer shall have one vote plus one additional vote for every 5 acres of his apple and pear acreage subject, however, to a maximum of 100 votes.

(3) Such a prescriptive resolution as aforesaid shall, if made, be made within 12 months of the casting of the votes and shall be in accordance with the said proposal.

10. Twenty district members shall be elected in 1953 to take office on 1st day of November, 1953, of whom six shall retire in 1954, seven in 1955, and the remainder in 1956.

The members to retire as aforesaid in each year shall be decided by the Board and shall retire at the end of the day on which the annual general meeting of registered producers is held.

Subject as aforesaid, district members shall hold office from the end of the election date when they are elected (which is the date of an annual general meeting as provided in paragraph 63 (6) of this Scheme) until the end of the day on which the third annual general meeting thereafter is held.

11. A district member of the Board, who, by resignation or on completion of his term of office, ceases to hold office shall be eligible for election or re-election.

12.—(1) If a district member dies or ceases to hold office before the 31st December next before he is due to retire, an election of a member to take his place shall be held as soon as may be.

(2) If a district member dies or ceases to hold office after the 31st December next before he is due to retire, the Board may co-opt in his place a person who is in their opinion qualified to represent the views of the registered producers in that district.

(3) Every person elected or co-opted to the Board under this paragraph shall hold office for so long as his predecessor would have held office.

13. A district member of the Board shall cease to hold office:—

(*a*) if he delivers to the Board a written resignation of his office, and the resignation is accepted by the Board or, if not so accepted is not withdrawn within seven days; or

(*b*) if he is detained for more than seven days in any place under any enactment in force in the United Kingdom relating to persons of unsound mind; or

(*c*) if he is adjudged bankrupt or enters into a composition or scheme of arrangement with his creditors; or

(*d*) if the Board, by resolution, declare that he has been absent from six consecutive meetings of the Board without reasonable excuse; or

(*e*) if he is convicted of any offence under sub-section (2) of section seventeen of the Act of 1931.

14. The Board—

(*a*) shall elect from amongst their members a Chairman and a Vice-Chairman, both of whom shall (provided they remain members of the Board) hold office until the expiration of the day on which the next ensuing annual general meeting is held;

(*b*) may employ a secretary and such other officers, servants and agents as they think fit ;

(*c*) shall have an office in England at which communications and notices will at all times be received and shall notify the Minister of the address thereof, and of any change in that address ;

(*d*) may have such district and local offices as they think fit ; and

(*e*) may enter into such agreements, acquire such property and do such things as may in their opinion be necessary or desirable for the purpose of exercising any of their powers or performing any of their duties under this Scheme, and may sell or otherwise dispose of any property acquired by them which they do not need for such purpose.

15. The Board may pay to members of the Board such travelling and other expenses as have, in the opinion of the Board, been reasonably incurred by them in connection with the business of the Board, and shall also pay to the members of the Board such remuneration (if any) as may be determined by a resolution of the registered producers in annual general meeting.

16. The quorum of the Board shall be such number, not being less than eight, as the Board may from time to time determine, and until otherwise so determined shall be eight, and the Board shall have power at all times to act, notwithstanding any vacancy in their number.

Executive Committee

17. The Board shall appoint from among the members thereof an Executive Committee consisting of not more than seven persons of whom at least one shall be a member of the Board appointed by the Minister.

18. The Board shall delegate to the Executive Committee all their functions under this Scheme, except their functions under paragraphs 5, 10, 13(*d*), 14(*a*), 16, 17, 21 to 24, and under Parts V to IX inclusive of this Scheme ; provided that the Board may at their discretion so delegate all or any of the functions so excepted (other than a power to impose penalties or a power in connection with the borrowing of money).

19.—(1) A member of the Executive Committee shall cease to hold office :—

(i) if he ceases to be a member of the Board ; or

(ii) if he delivers to the Board a written resignation of his office on the Executive Committee and the resignation is accepted by the Board, or, if not accepted, is not withdrawn within seven days ; or

(iii) if the Executive Committee declare, by resolution, that he has been absent from six consecutive meetings of the Committee without reasonable excuse ; or

(iv) if he has not previously ceased to hold office, on the expiration of one year from the date of his appointment.

(2) If a member of the Executive Committee dies or ceases to hold office the Board shall appoint another member of the Board in his place, and any person so appointed shall, unless he dies or ceases to hold office as aforesaid, hold office for so long as his predecessor would have held office.

20. The quorum of the Executive Committee shall be three and the Committee shall report its proceedings to the Board.

21. The Board may from time to time appoint such other committees from amongst their members as they shall think fit, with such quorum as they shall think fit, and subject to the provisions of paragraphs 18 and 81 of this Scheme may delegate to any such committee any of the functions of the Board except the power to borrow money.

22. The Board shall set up and appoint an Advisory Committee (hereinafter called " the Joint Committee ") which shall consist of members of the Board and of persons who in the opinion of the Board represent the views of apple and pear merchants, salesmen, processors and retailers.

23. The Board may set up and appoint other Advisory Committees for the purpose of assisting the Board to exercise its functions under this Scheme, and may appoint representatives to committees set up by other persons.

24. The Board may pay to any member of any committee appointed or set up by the Board or to any person appointed by the Board to represent them on any other committee such travelling and other expenses as have in the opinion of the Board been reasonably incurred by him in connection with the business of such committee.

Meetings of the Board and Committees

25. At every meeting of the Board the Chair shall be taken by the Chairman, or in his absence, the Vice-Chairman. If at any meeting neither the Chairman nor the Vice-Chairman shall be present, the meeting shall elect a Chairman for that meeting.

26. The meetings of the Board or of any committee of the Board shall be held at such place or places as may be determined by the Board or the committee respectively.

27. Questions arising at any meeting of the Board, or of a committee thereof, appointed under the provisions of paragraphs 17 or 21 of this Scheme, shall be decided by a majority of the votes of the members present and voting, and if at any such meeting the votes are equally divided on any question, the Chairman of the meeting shall, for the purpose of deciding that question have a second or casting vote.

28.—(1) Minutes shall be kept of the proceedings of the Board and of every committee thereof, and any such minutes shall, if signed by a person purporting to have acted as Chairman of the meeting to which they relate, or of a meeting at which they were read, be evidence of those proceedings ; and the meeting to which any such minutes relate shall be presumed, until the contrary is proved, to have been regularly convened and constituted.

(2) For the purposes of any proceedings a copy, purporting to be certified in writing by the Chairman or Vice-Chairman of the meeting or the Secretary of the Board to be a true copy of the minutes or any parts of the minutes of any meeting of the Board or any committee of the Board, shall be evidence of such of the proceedings at the said meeting as such minutes or parts of the minutes purport to relate to.

29. Any seven members of the Board may, and the Secretary on the request of any seven members of the Board shall, convene a meeting of the Board.

30. All acts done at any meeting 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 a person purporting to be a member of the Board or of the committee, or that a member of the Board or of the committee had voted upon any question upon which he was not entitled to vote, be as valid as if that defect had not existed or such member had been entitled to vote.

Contracts

31. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed on behalf of the Board by any person authorised by them in that behalf, either generally or specially.

32. No contract to which the Board are a party shall be avoided by reason only that a member of the Board is also a party thereto, or is interested therein, and a member of the Board who is a party to or is interested in such contract shall not, by reason only that he is a member of the Board, be liable to account to the Board for any profit realised by him by reason of the contract; but a member of the Board must forthwith disclose to the Board any interest which he has or acquires in any contract whatever if such interest in any way conflicts with his duty as a member of the Board, and shall not vote upon any question relating to the contract; and if he does vote, his vote shall not be counted: Provided always that a member of the Board shall not be precluded from voting on a question relating to the general policy of the Board with respect to any matter, by reason only that the determination of that question will, or may, affect contracts which have been, or may thereafter be, entered into by him with the Board.

The Seal

33. The common seal of the Board shall not be applied to any document authorised by the Executive Committee under its powers under paragraph 18 of this Scheme except by the authority of the Executive Committee and the application of the seal shall be attested by the Chairman of the Executive Committee and at least one other member thereof and by the Secretary thereof; and, except as hereby provided, it shall not be applied to any document except by the authority of the Board, and the application of the seal shall be attested by the Chairman or Vice-Chairman of the Board and at least one other member thereof and by the Secretary thereof.

PART III. Register of Producers

34. The Board shall keep a register of producers (in this Part of this Scheme referred to as " the register ") and every producer shall on application to the Board be entitled to be registered therein.

35. The register shall be open for inspection at the office of the Board from 10 a.m. to 4 p.m. on week-days other than Saturdays except on Christmas Day, Good Friday and any Bank Holiday. Any person shall be entitled to be supplied with a copy of the register, or any part thereof, on payment of a fee of one shilling and in addition one penny for each entry copied in excess of twenty-four.

36. The Board, on being satisfied that a person who is registered has ceased to be a producer or is exempt from registration, shall remove his name from the register; provided always that the name of a person shall not be removed from the register without his consent by reason only that he is exempt from registration.

37.—(1) A copy of any entry in the register purporting to be certified in writing by the Chairman or Vice-Chairman or Secretary for the time being of the Board to be a true copy shall be evidence of such entry in the register.

(2) A written statement, purporting to be signed by the Chairman or Vice-Chairman or Secretary for the time being of the Board that the name of a person does not appear in the register or did not appear in the register upon any stated date, shall be evidence that such person is not a registered producer or was not a registered producer at the date stated, as the case may be.

38. Where by reason of a registered producer dying, or becoming subject to some legal disability, or entering into a composition or scheme of arrangement with his creditors, any property in, or control of, the regulated product is transferred from the registered producer to a personal representative, trustee, committee or other person, the personal representative, trustee, committee or other person, as the case may be, shall, for all the purposes of this Scheme be deemed to be a producer.

Exemptions

39. A producer shall be exempt from registration if the apple trees and pear trees on all land in his occupation (*a*) occupy less than one acre or (*b*) amount to less than fifty trees.

PART IV. Polls

40. Within six weeks of the coming into force of this Scheme a poll of the registered producers shall be taken on the question whether this Scheme is to remain in force. This poll (in this Scheme called "the initial poll") and any poll held in connection with a proposal for the amendment or revocation of this Scheme and any poll taken in pursuance of paragraph 75 (2) shall be taken in accordance with the provisions of this Part of the Scheme.

41. The producers who are entitled to vote on the poll shall be the producers who are registered on the qualifying date, that is to say:

(*a*) in the case of the initial poll, the day on which the time for registration specified in the notice to be published by the Board in accordance with sub-section (1) of Section 4 of the Act of 1931 expires, and

(*b*) in the case of any other poll, such day as may be determined by the Board.

Provided that a producer who is exempt from registration by the provisions of this Scheme shall, notwithstanding that he is registered, not be entitled to vote on the initial poll.

42. For the purpose of any poll, a producer shall be taken to be capable of producing a quantity of apples and pears proportionate to his apple and pear acreage.

43. The poll shall be conducted by post and the Board shall, not later than the fifth 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 Board may supply a duplicate voting paper.

44. The voting paper shall be substantially in the form set out in the Second Schedule of this Scheme, and only voting papers which are properly completed and which reach the office of the Board on or before the fifteenth day after the qualifying date shall be taken into account.

45. Any person who knowingly makes any false statement in a voting paper shall be liable, on summary conviction, to imprisonment for a period not exceeding three months, or to a fine not exceeding £100, or to both such imprisonment and fine.

46. The Board shall cause the votes given on any poll to be counted by an independent person and his decision as to any question arising with respect to any voting paper shall be final and conclusive. The result of the poll as certified by him shall, as soon as possible, be declared at a meeting of the Board by the member acting as Chairman of that meeting and shall be published in *The Times* newspaper; or, at the option of the Board, by sending a notice thereof, in the case of the initial poll, to every person who is known to the Board to be a producer and in the case of any other poll, to every registered producer.

PART V. Financial Provisions

47. There shall be established a fund (in this Scheme referred to as "the fund") which shall be administered and controlled by the Board. All moneys received by the Board shall be paid into the fund and any moneys required by the Board for the operation of this Scheme shall be paid out of the fund. Any moneys for the time being standing to the credit of the fund may be left on current or deposit account in any bank, or if not for the time being required for the purposes of the functions of the Board, may be invested, but except with the consent of the Minister, shall not be invested otherwise than in securities in which a trustee is authorised under Sections 1 and 2 of the Trustee Act, 1925, as extended by any subsequent enactment, to invest trust funds.

48. The Board shall keep proper accounts, and in particular shall annually make out a balance sheet and either a profit and loss account or, if the Board do not trade for profit, an income and expenditure account, and shall cause them to be audited by a member of the Institute of Chartered Accountants in England and Wales or of the Society of Incorporated Accountants and Auditors or of the Association of Certified and Corporate Accountants, nominated by the registered producers in general meeting, and as soon as may be after the auditor has reported thereon, and in any case within three months of the close of the period covered by the profit and loss account or income and expenditure account, shall send to the Minister and to every registered producer a copy of the account and balance sheet and of the report of the auditor thereon and also a report by the Board as to the working of this Scheme in the period covered by the profit and loss or income and expenditure account and such last mentioned report shall contain a statement of the manner in which in accordance with paragraph 47 hereof any moneys of the Board are invested.

49. Notwithstanding the provisions of paragraph 48, the auditor for the first year starting at the end of the suspensory period defined in paragraph 64 shall be nominated by the Board, and a person other than a retiring auditor shall not be capable of being appointed auditor by the registered producers in general meeting unless notice of intention to nominate that person has been given by a registered producer to the secretary of the Board not later than the fourteenth day before the meeting.

50. The Board shall on the demand of any person, and on payment by him of such fee (not exceeding one shilling in respect of each balance sheet) as may be fixed by the Board, furnish him with a copy of any of their balance sheets.

51. The Board may for the purpose of exercising any of their functions under this Scheme, borrow money in such manner, on such terms, and on such security, as may be arranged by them with the person from whom the money is borrowed.

PART VI. Meetings of Registered Producers and Election of District Board Members

52. The Board shall convene an annual general meeting of registered producers in or about the month of June each year and may convene general meetings of registered producers at such other times as the Board think fit.

53. The Board may convene a district meeting of registered producers in any district at such times as the Board think fit and shall convene such a meeting if so required by a requisition signed by not less than 30 registered producers in the district.

54. The Chairman of every meeting shall be appointed by the Board provided that (*a*) if the person appointed by the Board to be Chairman is not present within fifteen minutes after the time appointed for the meeting the meeting shall choose a Chairman, and (*b*) in the case of a requisitioned meeting convened under the latter part of paragraph 53 the members present at such meeting shall choose a Chairman.

55. At least thirty-five days in the case of an annual general meeting or at least fourteen days in the case of any other meeting, before the day fixed for the holding of such meeting, the Board shall send to every registered producer who is entitled to vote at the meeting a written notice stating:—

(*a*) The time and place appointed for the holding of the meeting.
(*b*) The business to be transacted.
(*c*) The name of the Chairman.

Provided that prior to any district meeting not less than 30 such registered producers as aforesaid shall be at liberty to give notice of a motion which they wish to move at the said meeting and such notice shall thereupon be included in the agenda for the said meeting.

No business shall be transacted at any meeting other than the business of which notice has been given as aforesaid by the Board, or which has been notified to the Board under the foregoing proviso.

Voting at Meetings

56. All registered producers shall be entitled to vote at a general meeting, and at a district meeting those registered producers shall be entitled to vote who have any part of their apple and pear acreage in that district.

57. Without prejudice to the provisions of this Part of this Scheme relating to proxies, a registered producer who is a limited company may exercise any of their rights at a meeting by any one of their directors; and a registered producer who is a partnership firm may exercise any of its rights at a meeting by any one of its partners.

58. At any meeting the declaration of the Chairman of the result of any vote or show of hands shall be final, and in the event of an equality of votes the Chairman shall in addition to his other votes (if any) have a casting vote.

59. At any meeting registered producers may vote either personally or by proxy. The instrument appointing a proxy shall be in writing in such form as the Board may require under the hand of the registered producer or his attorney; or, if the registered producer is a limited company, either under their seal, or under the hand of a person duly authorised by them in that behalf. The said instrument and the power of attorney or other authority (if any) under which it is signed (or a notarially certified copy thereof) shall be deposited at the office of the Board in England not later than the end of the third day before the day fixed for the meeting, and in default the instrument shall be treated as invalid. A proxy need not be a registered producer.

60. Every question put before a general or district meeting of registered producers shall be decided on a show of hands, unless either before or immediately after the show of hands, a formal vote is demanded by, or on behalf of, at least three registered producers entitled to vote, in which case a formal vote shall forthwith be taken.

61. On the taking of a formal vote the following provisions shall apply:—

(*a*) For the purpose of voting at a general meeting of registered producers each registered producer shall have one vote plus one additional vote for every five acres of his apple and pear acreage, subject however, to a maximum of one hundred votes.

(*b*) For the purpose of voting at a district meeting of registered producers, each registered producer who has any part of his apple and pear acreage in that district shall be entitled to one vote, plus one additional vote for every five acres of his apple and pear acreage situate within the district, subject however, to a maximum of one hundred votes in each district.

Election of District Board Members

62. There shall be a separate election of Board members for each district.

63.—(1) To be qualified for election as a district member, a person must be nominated in writing by (*a*) a county branch of the National Farmers' Union for any county in or partly in the district, or (*b*) at least twenty registered producers entitled to vote in the election.

(2) Every nomination must be received at the principal office of the Board not less than twenty-eight days before the election date: provided that if the number of candidates duly nominated for any election is less than the number of vacancies to be filled, the Board may nominate sufficient persons to ensure that all the vacancies will be filled.

(3) If the number of persons duly nominated for an election is no more than the number of vacancies to be filled, those persons shall be declared elected. If the number of persons duly nominated for any election exceeds the number of vacancies to be filled the Board shall cause a vote to be taken by means of voting papers sent through the post.

(4) Where a vote is to be taken at any election the Board shall, not later than fourteen days before the election date supply to every registered producer entitled to vote in the election a voting paper stating the names of the candidates and such other matter as the Board think fit.

(5) A vote shall not be counted unless the voting paper, properly completed in accordance with any rules made by the Board, is received at the Board's principal office by 6 p.m. on the third day before the election date.

(6) The election date in any year means the date of the annual general meeting, except where the election is to fill a casual vacancy, in which case it means such date as the Board may determine.

(7) For the purpose of voting at an election of district Board members for any district each registered producer who has any part of his apple and pear acreage in that district shall have the standard number of votes multiplied by the number of persons to be elected for that district, but shall not give more than the standard number of votes in favour of any one candidate. The standard number of votes means one vote plus one additional vote for every five acres of the registered producer's apple and pear acreage situate within the district, subject however to a maximum of one hundred votes in each district.

PART VII. Principal Powers of the Board

64. The provisions of this Part of this Scheme shall come into force at the expiration of the suspensory period, that is to say, at the expiration of one month commencing on the date on which the result of the initial poll is declared to be favourable to the continuance in force of this Scheme.

65. Subject to the provisions of the Act of 1931 with respect to existing contracts and to the provisions of this Part of this Scheme no apples or pears shall be sold in England and Wales or elsewhere by any producer unless he is either registered or exempt from registration.

66. The Board may from time to time prescribe that any class or description of producers or sales shall be exempt from such of the provisions of this Scheme as may be specified in the prescription.

67. The Board may from time to time after consultation with the Joint Committee prescribe the terms on which apples and pears or any description or quantity thereof may be sold by registered producers and also the form in which contracts for the sale of apples and pears growing or as grown on the tree may be made by registered producers, but shall not prescribe the price at which any apples or pears may be sold by registered producers, except as provided in paragraph 68 of this Scheme and no such terms or form of contract as aforesaid shall include a term requiring that on a resale of apples and pears by the buyer or on any subsequent resale the apples and pears shall be sold at, below or above a specified price.

68.—(1) The Board may from time to time prescribe the minimum prices at which apples and pears or any description thereof may be sold by registered producers for processing and may prescribe different minimum prices for particular processes specified in the prescription; provided that the Board shall not make any prescription under this sub-paragraph without first consulting such persons as the Board may think best qualified to express the view of processors who carry on the process or processes to which the prescription relates.

(2) The Board may from time to time prescribe that no apples or pears shall be sold by registered producers for direct human consumption at a price below the lowest of the minimum prices fixed for apples and pears respectively sold for processing.

(3) (*a*) A producer shall be deemed to sell apples or pears for processing if, at the time of the sale, he has reasonable cause to believe the apples or pears will be used, either by the buyer or by any other person for manufacture into another product or for submission to a canning, bottling or preserving process other than mere cold storage.

(*b*) A producer shall be deemed to sell apples or pears for a particular process, if at the time of the sale he has reasonable cause to believe the apples or pears will be submitted, either by the buyer or any other person to the particular process.

69. The Board may from time to time after consultation with the Joint Committee prescribe the descriptions of apples and pears which may be sold, otherwise than for processing, by registered producers.

70. Before making a prescription under paragraphs 67, 68 or 69 the Board shall give to the Minister notice in writing specifying the terms of the prescription which they propose to make and stating their reasons for making it: Provided that if the Minister has notified the Board in writing of the name and address of some person to whom such a notice as aforesaid may be given then the notice shall be given to that person instead of to the Minister.

71.—(1) The Board may from time to time after consultation with the Joint Committee compile and maintain a list of persons and prescribe that apples and pears or any description or quantity thereof may be sold by any registered producer only to or through the agency of any person whose name is included in the list at the time of such sale; provided that:—

(*a*) nothing contained in this Scheme shall affect the right of registered producers to select from among the persons whose names are for the time being included in any such list the persons to or through the agency of whom they wish to sell;

(*b*) the name of any person shall, at his request, be included in any such list of persons and shall not subsequently be removed therefrom without his consent unless at the time of the proposal to include his name or to remove it, as the case may be, it is established to the satisfaction of the Board, after consultation with the Joint Committee that he is unable to perform or that he has failed to perform all such terms of sale to him of apples and pears by a registered producer as may have been determined by the Board as the terms on which they may be sold by registered producers or all such terms of employment as agent of registered producers for the sale of apples and pears as may have been approved by the Board and the Joint Committee; and

(*c*) if the Board propose not to include in any such list of persons the name of any person who has notified them in writing of his desire to be included therein or propose to remove the name of any person from such list without his consent, the Board shall give written notice to that person specifying the action proposed to be taken and informing him of the effect of this clause of this proviso and if such person, by notice in writing served on the Board within twenty-one days after the service of the last-mentioned notice, requires that an opportunity be afforded him

of being heard by the Board, such an opportunity shall be afforded to him and the Board shall not take the action in question until they have considered any representations made at the hearing.

(2) The following classes of sales of apples and pears shall be exempt from any prescription of the Board under this paragraph, namely:—

(*a*) Sales of apples and pears by a registered producer acting in person or by some other person in his wholetime employ in any statutory market or in any customary or auction mart or with the approval in writing of the Board on the farm where the apples or pears were grown provided that the apples or pears to be sold are in the market or mart at the time of the sale and are of the registered producer's own growing.

(*b*) Sales of apples and pears (for actual consumption and not for resale) to any government department or local authority or to any hospital, asylum, nursing home, school, orphanage or other similar institution.

(*c*) Sales of apples and pears to a person carrying on the business of a hotel, restaurant, café or catering establishment or to a shipowner for the purpose of being sold by such person in a cooked state or supplied by him as part of a meal.

(*d*) Sales of apples and pears to a retailer upon the express terms that they shall be re-sold by retail and not otherwise, and for this purpose a retailer means a person whose ordinary business with apples and pears is to sell them wholly or mainly to buyers who buy for domestic consumption without further re-sale.

(*e*) Sales by retail.

(3) Nothing in this Part of this Scheme shall authorise the Board to prevent sales of apples or pears on a commission basis.

72.—(1) The Board may from time to time prescribe that a designation (hereinafter called a " Board's designation ") may be applied to apples or pears which conform to a standard of quality specified in that prescription, and no registered producer shall apply a Board's designation to apples or pears unless such apples or pears conform to the standard of quality prescribed by the Board for that designation.

(2) The Board may from time to time prescribe that, subject to any conditions specified in that prescription, a mark or marks (hereinafter called a " Board's mark ") may be applied to apples or pears for the purpose of indicating their standard of quality, and no registered producer shall apply a Board's mark to any apples or pears except in accordance with the prescribed conditions.

(3) A registered producer shall be deemed to have applied a Board's designation or a Board's mark to apples or pears if he uses such designation or mark or permits it to be used when the apples or pears are sold or delivered or exposed or offered for sale in any manner likely to lead to the belief that the apples or pears conform to the standard or quality required for the application of such designation or mark or that any conditions prescribed under sub-paragraph (2) of this paragraph have been complied with.

(4) In this paragraph " standard of quality " includes a reference to the quality of packing as well as to the quality of apples and pears.

73. The Board may obtain and circulate in such manner as it thinks fit statistics, estimates and other information, which in the opinion of the Board are in any way connected with or bear upon the production or marketing of apples or pears in England and Wales or elsewhere, provided that (*a*) any

such information shall be given either exclusively or primarily in such circumstances as to be likely to be utilised either wholly or mainly by registered producers or in connection with apples and pears produced by them, (*b*) no registered producer shall be entitled to any compensation or damages by reason that the information so supplied was erroneous or by reason of any omission of the Board to obtain or circulate such information and (*c*) nothing in this paragraph shall be deemed to authorise, the disclosure of any information the disclosure of which is prohibited by Section 17 of the Act of 1931.

74. The Board may:—

(*a*) Advertise apples and pears.

(*b*) Manufacture, acquire and sell or let for hire to registered producers and other persons anything required for the production of apples and pears; provided that anything sold or let for hire shall be sold or let for hire either exclusively or primarily in such circumstances as to be likely to be utilised either wholly or mainly by registered producers or in connection with apples or pears produced by them.

(*c*) 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 apples or pears; provided that (i) any such services rendered shall be rendered either exclusively or primarily in such circumstances as to be likely to be utilised either wholly or mainly by registered producers or in connection with apples or pears produced by them, and (ii) nothing in this sub-paragraph shall empower the Board to exercise a power mentioned in Paragraph 75 of this Scheme unless the Board shall have been authorised pursuant to that paragraph to exercise such power.

(*d*) Co-operate with any other person in doing any of the things which the Board is empowered to do by the foregoing provisions of this paragraph.

(*e*) Do anything calculated to procure, promote or facilitate the doing by any other person of any of the things which the Board is empowered to do by the foregoing provisions of this paragraph.

(*f*) Negotiate with any other person in respect of any matter concerning the marketing of apples and pears or of any commodity wholly or partly manufactured or derived therefrom.

(*g*) Encourage horticultural co-operation, research and education.

(*h*) Encourage and promote the sale of apples and pears both at home and abroad and both for consumption and processing.

75.—(1) The Board may exercise all or any of the powers set out in one or more of the following clauses of this sub-paragraph at any time after the registered producers have declared (in the manner set forth in sub-paragraph (2) of this paragraph) that the Board may do so, that is to say:—

(*a*) To buy apples and pears and sell, grade, pack, store, adapt for sale, insure and transport apples and pears and any commodity produced therefrom by the Board and to advertise any such commodity.

(*b*) To produce from apples and pears the following commodities: cider, perry, apple wine, pear wine, vinegar and other fermented products, alcohol and other distilled products, apple juice, pear juice, unfermented drinks, pectin, pomace, concentrates of every kind, and preserves of every kind.

(*c*) To manufacture, acquire and sell or let for hire to registered producers and other persons anything required for the grading, packing, storing, adaptation for sale, transport or sale of apples and pears ; provided that anything sold or let for hire shall be sold or let for hire either exclusively or primarily in such circumstances as to be likely to be utilised wholly or mainly by registered producers or in connection with apples or pears produced by them.

(*d*) To co-operate with any other person in doing, and to do anything calculated to procure, promote or facilitate the doing by any other person, of any of the things mentioned in clauses (*a*), (*b*) and (*c*) of this sub-paragraph.

(*e*) To prescribe that the proviso to paragraph 78(1) of this Scheme shall cease to have effect.

(2) The Board may at any time or times cause a poll of the registered producers to be taken on the question whether the Board may exercise the powers contained in a specified clause or clauses of sub-paragraph (1) of this paragraph and, if the result of the poll shows that the requisite majority of registered producers has voted in favour of the question being answered affirmatively, the registered producers shall be deemed to have declared that the Board may exercise such powers. The requisite majority means—

(*a*) not less than two-thirds of the total number of registered producers voting on the poll ; and

(*b*) registered producers who are capable of producing not less than two-thirds of the quantity of apples and pears which all the registered producers voting on the poll are capable of producing.

76. The Board may, whenever they consider it necessary for the operation of this scheme so to do, serve on any registered producer a demand in writing requiring him to furnish to them such estimates, returns and other information relating to apples and pears as may be specified in the demand.

77. Any person authorised in writing by the Board may for the purpose of securing compliance with this Scheme, enter and inspect at any reasonable time and on production of his authority any part of the land or premises occupied by a registered producer (being a producer specified in the authority) which the person so authorised has reason to believe is used for producing apples or pears, or grading, marking, or packing apples or pears.

78.—(1) The Board may from time to time by prescriptive resolution require every registered producer to pay to the Board such sums per acre of his apple and pear acreage as may in the opinion of the Board be necessary for the operation of this Scheme, provided that such sums shall not exceed in any one year ending on the 31st day of December ten shillings per acre of the greatest apple and pear acreage in his occupation at any one time during the year, unless the Board shall have prescribed that this proviso shall cease to have effect, pursuant to their powers under paragraph 75 of this Scheme.

(2) Any prescription made under this paragraph may specify different sums per acre for different circumstances, and shall define the circumstances in which each of such sums is respectively required to be paid.

(3) Any sum required to be paid by a prescription made under this paragraph shall be recoverable as a debt due to the Board.

79. The Board may set aside reserves for the operation of this Scheme, but subject thereto any moneys standing to the credit of the fund which in the opinion of the Board are not required for operation of this Scheme, shall be distributed in such manner as the registered producers shall in general meeting determine.

80. If any registered producer satisfies the Board or establishes by arbitration under paragraph 84 of this Scheme that he, having complied with all the provisions of this Scheme and all determinations of the Board thereunder, has suffered damage by reason of the Board unfairly discriminating between him and some other registered producer, he shall be entitled to receive from the Board such sum by way of compensation as may be necessary to make good his loss.

81.—(1) (*a*) If any registered producer contravenes any of the provisions of paragraphs 67, 68, 69, 71 or 72 of this Scheme or any prescription of the Board thereunder, then the Disciplinary Committee hereinafter described shall impose upon him and the Board shall recover from him such monetary penalty (not exceeding £100 plus half the price of any apples or pears sold in contravention of the said provisions or prescriptions) as that Committee think just.

(*b*) If any registered producer fails without reasonable excuse to comply with any demand made by the Board in pursuance of paragraph 76 of this Scheme, or if he knowingly makes any false statement in reply thereto, or if he obstructs or interferes with any person duly authorised by the Board under paragraph 77 of this Scheme, the Disciplinary Committee shall impose upon such producer and the Board shall recover from him such monetary penalty (not exceeding £20) as that Committee think just.

(*c*) No such penalty shall be imposed in respect of such a contravention as aforesaid which constitutes an offence under any Act other than the Act of 1931.

(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 independent person who is a barrister 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 pursuant to this paragraph 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, so however, that if there is an equal division of opinion on any question, the opinion of the Chairman shall prevail.

(*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 not later than the 14th day before the day of 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 charge.

(*e*) Where a written statement of 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 costs 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.

(3) As soon as may be after every hearing by the Disciplinary Committee, written notice of their decision shall be sent to the registered producer in question, and he may, on or before the 14th day after the day on which the notice was so sent to him give notice to the Board referring the matter to arbitration under the provisions of this 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 arbitrator; and the arbitrator 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 Disciplinary Committee shall have the power to reconsider their decision in relation to the case of any registered producer if, upon considering any written application in that behalf by the registered producer in question made within six months after the date of the original hearing by the said Committee, the Committee is 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 previously been known to the Committee their decision would have been influenced thereby, and

(*c*) The matter has not been referred to arbitration pursuant to sub-paragraph (3) of this paragraph.

(5) (*a*) If the said Committe determine pursuant to the last preceding sub-paragraph of this paragraph 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 any such variation.

(*b*) The provisions of sub-paragraphs (2)(*b*) and (3) of this paragraph 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.

PART VIII. Amendment, Revocation and Winding-up

82.—(1) Before submitting a substitutional scheme or an amendment of this Scheme to the Minister, the Board shall publish the proposed scheme or amendment by serving notice and particulars thereof on every registered producer.

(2) A poll on the question whether or not a substitutional scheme or an amendment of this Scheme shall be submitted to the Minister may, within one month from the publication thereof, be demanded in writing by at least 500 registered producers who have in the aggregate an apple and pear acreage of at least 5,000 acres.

(3) A poll on the question whether or not this Scheme is to be revoked may be demanded in writing by at least 500 registered producers who have in the aggregate an apple and pear acreage of at least 5,000 acres; but no poll on the question whether or not this Scheme is to be revoked shall,

without the consent of the Board, be taken within two years from the date of the declaration of the result of the initial poll or within one year from the date of the declaration of the result of any previous poll on that question.

83.—(1) Part IX of the Companies Act, 1948 (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 8 of the Second Schedule to the Act of 1931.

(2) In the event of the winding-up of the Board, contributions under paragraph 7 of the Second Schedule of the Act of 1931 shall be assessed proportionately to the maximum apple and pear acreage which each contributor had at any time during the relevant period defined in paragraph 8 of that Schedule and shall not exceed 5s. per acre.

PART IX. Miscellaneous

84. Any producer who is aggrieved by an act or omission of the Board may refer the matter to the arbitration of a single arbitrator to be agreed upon between the producer and the Board or in default of agreement, to be nominated by the Minister on the application of either party, and the arbitrator may make such order in the matter as he thinks just. The Arbitration Act 1950 shall apply to every such arbitration.

85.—(1) Where any provision of this Scheme authorises the Board to make a determination by prescriptive resolution, the resolution shall be recorded by the Board in a separate record of prescriptive resolutions.

(2) Such record shall be open for inspection at the office of the Board from 10 a.m. to 4 p.m. on weekdays other than Saturdays, except on Christmas Day, Good Friday and any Bank Holiday ; and any person shall be entitled to be supplied with a copy of any entry therein on payment of a fee not exceeding one shilling in respect of each prescriptive resolution copied, or to take extracts therefrom for his own use free of charge.

(3) The Board shall send to each registered producer a copy of every prescriptive resolution as soon as practicable after it is made, and shall also send to every registered producer once in every year a list of the prescriptive resolutions then in force. Such lists shall state in respect of each resolution (*a*) the date on which it was made ; (*b*) the subject matter to which it relates ; and (*c*) if any copy of it has been sent in the manner provided in the next following sub-section, the date or other identifying mark appearing on the journal which contains such copy.

(4) Any such copy or list as aforesaid may be sent to a registered producer by sending to him, free of charge to him, any journal published by the Board containing it.

86. Subject to paragraph 81 of this Scheme, any requirement of this Scheme, that a notice or document shall be sent to a person by the Board, shall be deemed to have been complied with if the document is despatched to him by post properly addressed and with the postage pre-paid. A notice or document shall be deemed to be properly addressed if it is addressed either to the address last used by the person in his correspondence or to an address provided by the person for entry in the register.

FIRST SCHEDULE

District Members of the Board

There shall be ten districts bearing respectively the numbers set out in the first column of the following table. Each district shall consist of the area specified opposite the district in the second column of the table and shall be represented by the number of district members specified opposite the district in the third column of the table.

District	*Area*	*Number of Representatives on the Board*
1.	Somerset, Dorset	2
2.	Devon, Cornwall	2
3.	Kent	4
4.	Surrey, Middlesex, London, Sussex, Hampshire, Isle of Wight	1
5.	Bedfordshire, Hertfordshire, Suffolk, Essex, East Norfolk, comprising—County Boroughs of Norwich, Great Yarmouth, Thetford, Urban District Councils of Sheringham, Cromer, North Walsham, Diss, Swaffham, East Dereham, Rural District Councils of Erpingham, Aylsham, Smallburgh, East and West Flegg, Blofield, Forehoe, Henstead, Loddon and Clavering, Depwade, Mitford and Launditch, Swaffham, Thetford	2
6.	Lincolnshire, Cambridgeshire, Isle of Ely, Huntingdonshire, West Norfolk, comprising—Borough of King's Lynn, Urban District Councils of Walsoken, Downham Market, Wells, New Hunstanton, Rural District Councils of Docking, Walsingham, Freebridge Lynn, King's Lynn, Marshland, Downham; Nottinghamshire, Derbyshire, Leicestershire, Rutland, Northamptonshire, Soke of Peterborough	2
7.	Worcestershire, Cheshire, Shropshire, Staffordshire, Warwickshire	2
8.	Herefordshire, Monmouth and Wales	2
9.	Gloucestershire, Wiltshire, Oxfordshire, Buckinghamshire, Berkshire	2
10.	Cumberland, Northumberland, Durham, Westmorland, Lancashire, Yorkshire	1

SECOND SCHEDULE

FORM OF VOTING PAPER

The Apple and Pear Marketing Scheme, 1952

To (1) .....

A poll is being held under the Apple and Pear Marketing Scheme, 1952, on the following question, viz.:

(2) .....

Answer (" yes " or " no ").....

State your total apple and pear acreage in England and Wales as at

(3) .....

NOTE. Both must be completed.

Answer ..... acres

State the total number of apple and pear trees on land occupied by you

on (3) .....

Answer ..... trees

Signature of registered producer.....

Your vote will not count unless this paper, properly filled in and signed, reaches the office of the Apple and Pear Marketing Board at (4)

.....

on or before (5).....

It is a punishable offence wilfully to mis-state your acreage or number of trees.

For the Apple and Pear Marketing Board,

.....

Secretary.

The Board must fill in:—

(1) The name and address of the registered producer.
(2) The question on which the poll is being taken.
(3) The qualifying date.
(4) The address of their office.
(5) The fifteenth day after the qualifying date.

(*Note:* The form should indicate what is meant by apple and pear acreage.)