STATUTORY INSTRUMENTS

1986 No. 1233

AGRICULTURE

The Cereals Co-responsibility Levy Regulations 1986

Made - - - -	14*th July* 1986
Laid before Parliament	15*th July* 1986
Coming into Operation	5*th August* 1986

The Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated (**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) in relation to the common agricultural policy of the European Economic Community, acting jointly in exercise of the powers conferred on them by that section and of all other powers enabling them in that behalf, hereby make the following regulations:—

Title and commencement

1. These regulations may be cited as the Cereals Co-responsibility Levy Regulations 1986 and shall come into operation on 5th August 1986.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires—

"authorised officer" means—

(a) in relation to any part of the United Kingdom, an officer of the Board authorised for the purposes of these regulations by the Board;

(b) in relation to England, an officer of the Ministry of Agriculture, Fisheries and Food so authorised by the Minister of Agriculture, Fisheries and Food;

(c) in relation to Scotland, an officer of the Department of Agriculture and Fisheries for Scotland so authorised by the Secretary of State;

(d) in relation to Wales, an officer of the Secretary of State so authorised by the Secretary of State;

(e) in relation to Northern Ireland, an officer of the Department of Agriculture for Northern Ireland so authorised by that Department;

"the Board" means the Intervention Board for Agricultural Produce established under section 6(1) of the European Communities Act 1972;

"cereals" means cereals referred to in Article 1(a) and (b) of the Council Regulation produced in the Community;

"cereals co-responsibility levy" means levy imposed by Article 4 of the Council Regulation;

(**a**) S.I. 1972/1811.

(**b**) 1972 c.68; section 2 is subject to Schedule 2 to that Act and is to be read, as regards England and Wales, with section 40 of the Criminal Justice Act 1982 (c.48), and S.I. 1984/447, as regards Scotland, with section 289 F and 289 G of the Criminal Procedure (Scotland) Act 1975 (c.21), as inserted by section 54 of the Criminal Justice Act 1982 (c.48) and S.I. 1984/526 and, as regards Northern Ireland, with S.I. 1984/703 (N.I.3) and S.R. (N.I.) 1984 No. 253.

"cereals co-responsibility levy legislation" means Article 4 of the Council Regulation, the Commission Regulation and these regulations;

"cereals marketing year" means the marketing year specified in Article 2 of the Council Regulation;

"cereals processor" means an operator within the meaning of the Commission Regulation, who undertakes processing of cereals by way of business;

"the Commission Regulation" means Commission Regulation (EEC) No. 2040/86 laying down detailed rules for the application of the co-responsibility levy in the cereals sector (**a**);

"the Council Regulation" means Council Regulation (EEC) No. 2727/75 on the common organisation of the market in cereals (**b**), as amended (**c**);

"processing" in relation to cereals, means processing specified in Article 1(2) of the Commission Regulation and "processed" shall be construed accordingly.

(2) When two or more persons jointly undertake processing of cereals by way of business, they shall, for the purposes of these regulations, be treated as constituting a single person.

(3) In these regulations any reference to a numbered regulation shall be construed as a reference to the regulation so numbered in these regulations.

Purpose

3. These regulations provide for the administration, collection and enforcement of cereals co-responsibility levy.

Register of cereals processors

4.—(1) For the purposes of these regulations, the Board shall keep a register in which it shall enter the current particulars of cereals processors furnished under regulation 5.

(2) The particulars of a cereals processor which are specified in Parts I and II of the Schedule to these regulations shall be entered in Parts I and II respectively of the register kept under these regulations.

(3) The Board shall, during normal working hours, permit any person to inspect any particulars entered in Part I of the register kept under this regulation or shall forward a copy of those particulars to him if he so requests.

(4) The Board, shall during normal working hours, permit any cereals processor to inspect the particulars relating to his business entered in Part II of the register kept under this regulation or shall forward a copy of those particulars to him if he requests.

Registration of cereals processors

5.—(1) Every person who on the date on which these regulations come into operation is or on a subsequent date becomes a cereals processor, shall, in accordance with the following provisions of this regulation, within 21 days of that date furnish to the Board for entry in the register kept under regulation 4, the particulars specified in the Schedule to these regulations.

(**a**) O.J. No. L173, 1.7.86, p.65. (**b**) O.J. No. L281, 1.11.1975, p.1.
(**c**) The relevant amending instruments are Council Regulations 3808/81 (O.J. No. L382, 31.12.81, p.37) and 1579/86 (O.J. No. L139, 24.5.86, p.29).

(2) Where any change occurs in the particulars required to be furnished by a cereals processor under paragraph (1) above he shall within 21 days of the change, furnish amended particulars to the Board.

(3) Where a cereals processor dies or becomes incapacitated or bankrupt or enters into a trust deed for his creditors, any person carrying on his business of processing cereals, being an executor, personal representative, trustee in bankruptcy, trustee in a trust deed for creditors, receiver, judicial factor, liquidator, or person otherwise acting in a representative capacity, shall within 21 days of commencing to do so furnish to the Board particulars of that fact, of his name and address for correspondence, of the date of the death or of the nature of the incapacity and the date on which it began.

(4) Where a person ceases to carry on a business of processing cereals he shall, within 10 days of the date on which he does so, furnish to the Board particulars of—

(a) the date on which he ceased to carry on the business;

(b) the person (if any) succeeding to the business.

(5) The information required to be furnished under the foregoing provisions of this regulation shall be furnished to the Board in writing.

Recovery of cereals co-responsibility levy

6. Cereals co-responsibility levy due from any person shall be recoverable by the Board as a civil debt.

Keeping and production of records

7.—(1) In addition to the accounts that each cereals processor is required to keep under Article 6 of the Commission Regulation, indicating in particular—

(a) the names and addresses of producers or operators who delivered cereals to him as grain;

(b) the quantities involved in the above-mentioned deliveries;

(c) the amount of the co-responsibility levy deducted;

(d) the quantities of cereals processed, subject to and exempt from the levy;

he shall keep records of—

(i) the quantities of products processed from cereals and disposed of by him; and

(ii) the quantities of cereals disposed of by him as grain.

(2) Every cereals processor shall on request produce the accounts and records referred to in paragraph (1) above to any authorised officer and permit him to take copies and make extracts from them.

(3) Every cereals processor shall retain the accounts and records, referred to in paragraph (1) above, for a period of 3 years from the end of the cereals marketing year to which they relate.

Production of documents

8. Any person engaged by way of business in the production, storage, processing or sale of cereals shall upon demand made by an authorised officer, produce or cause to be produced any documents relating to such

activities or transactions for inspection by the authorised officer and permit him to take copies from them.

Powers of entry

9.—(1) For the purposes of exercising any powers under these regulations, an authorised officer may at any reasonable time enter premises used in connection with the production, storage, processing or sale of cereals by way of business.

(2) Where an authorised officer has reasonable cause to believe that any premises are used in connection with the processing of cereals by way of business he may at any reasonable time enter and inspect those premises and inspect any cereals found on them.

Warrants of authorised officers

10. An authorised officer acting in exercise of the powers conferred by regulation 7, 8 or 9 shall carry a warrant of his authority so to act and shall produce the same on demand.

Offences

11. If any person—

(a) with intent to deceive produces, furnishes or sends for the purposes of the cereals co-responsibility levy legislation or otherwise makes use for those purposes any document which is false in a material particular, or

(b) in furnishing any information for the purposes of cereals co-responsibility levy legislation makes any statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular, or

(c) fails without reasonable excuse to comply with a requirement imposed upon him by or under—

(i) regulation 5, 7 or 8, or

(ii) Article 2(1) of the Commission Regulation (which provides for the payment of levy and the forwarding of declarations),

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2,000.

Offences by officers of bodies corporate

12.—(1) Where an offence under these regulations which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or a similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, the provisions of paragraph (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 11th July 1986.

L.S.

Michael Jopling,
Minister of Agriculture, Fisheries and Food.

John Mackay,
Parliamentary Under-Secretary of State, Scottish Office.

14th July 1986.

Regulations 4(2) and 5(1)

SCHEDULE

PARTICULARS FOR ENTRY IN THE REGISTER OF CEREALS PROCESSORS

PART I

1. The name of the cereals processor, whether sole proprietor, company or partnership, together with, in the case of a partnership, the full names of the partners.

2. The name under which the cereals processor carries on the business, if different from that specified under paragraph 1 above.

3. The principal address of the business and other addresses at which cereals are processed.

PART II

4. If the cereals processor is a registered company, the number and date of the certificate of incorporation.

5. If the cereals processor is registered for any other purposes with the Board, his registration number with the Board.

6. The main cereals processing activity (for example, miller; animal feed compounder; maltster; brewer; distiller; breakfast food manufacturer).

7. Whether any part of the records or accounts of the business are prepared by computer.

8. If the cereals processor was not engaged in processing at 1st July 1986, the date on which processing commenced.

9. The estimated tonnage of cereals likely to be processed during the cereals marketing year beginning on 1st July 1986 or, if the cereals processor was not engaged in processing at that date, during the period of twelve months following the commencement of cereals processing.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations apply to the United Kingdom and come into operation on 5th August July 1986. They provide for the administration, collection and enforcement of co-responsibility levy imposed in respect of specified cereals by Article 4 of Council Regulation (EEC) 2727/75 (O.J. No. L281, 1.11.1975, p.1), as amended in particular by Regulations (EEC) 3808/81 (O.J. No. L382, 31.12.81, p.37) and 1579/86 (O.J. No. L139, 24.5.86, p.29). Detailed rules for the application of the levy have been laid down by Commission Regulation (EEC) 2040/86 (O.J. No. L173, 1.7.86, p.65).

By Article 2 of Regulation 2727/75, the marketing year for cereals shall begin on 1 July and end on 30 June of the following year.

By Article 4 of Regulation 2727/75 and Article 1(1) of Regulation 2040/86, co-responsibility levy is to be payable in particular on specified cereals produced in the Community that undergo "first-stage processing". This expression is defined by Article 1(2) of Regulation 2040/86 as follows:—

"For the purposes of this Regulation, 'first-stage processing' shall mean any treatment of grain such that the product obtained may no longer be classified under Chapter 10 of the Common Customs Tariff. Processing of cereals delivered or placed at the disposal of an undertaking by a producer with a view to subsequent utilization on his holding shall be considered first-stage processing.

First-stage processing operations carried out by a producer on his agricultural holding shall be exempt from co-responsibility levy where the product obtained is used on that holding for animal feed."

By Article 2(1) of Regulation 2040/86, operators who undertake processing within the meaning of Article 1(2) are required to pay the levy in respect of processing operations carried out in one month by the end of the following month and, on each payment, to forward a declaration, in accordance with the model prescribed, of the cereals processed.

In implementation of these provisions, the present regulations—

(a) require persons who are or become cereals processors to furnish specified particulars to the Intervention Board for Agricultural Produce for entry in a register and make provision for inspection of those particulars (regulations 4 and 5);

(b) provide for the recovery by the Intervention Board of cereals co-responsibility levy (regulation 6);

(c) Require the keeping and production of records by cereals processors (regulation 7) and the production of documents by persons engaged by way of business in the production, storage, processing or sale of cereals (regulation 8);

(d) make provision for powers of entry, for authorised officers' warrants and for offences (regulations 9, 10, 11 and 12).

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