STATUTORY INSTRUMENTS

1962 No. 883

AGRICULTURE

The Potato Marketing Scheme (Amendment) Order 1962

Made - - - - *27th April* 1962

Whereas the Potato Marketing Board duly submitted to the Minister of Agriculture, Fisheries and Food and the Secretary of State concerned with agriculture in Scotland (hereinafter called "the Ministers") certain amendments of the Potato Marketing Scheme 1955(a) which amendments, as subsequently modified by the Ministers, are set forth in the Schedule hereto:

And Whereas the Ministers laid before each House of Parliament the amendments numbered 1 to 3 in the said Schedule and the House of Commons resolved on the 18th April 1962 and the House of Lords resolved on the 9th April 1962 that they should be approved:

And Whereas the Ministers were not required to lay before Parliament the amendments numbered 4 to 31 set forth in the Schedule hereto:

Now, therefore, the Ministers, in pursuance of section 2 of the Agricultural Marketing Act 1958(b) and the First Schedule to that Act, hereby make the following order:—

1. This order may be cited as the Potato Marketing Scheme (Amendment) Order 1962.

2. The amendments of the Potato Marketing Scheme 1955 which are set forth in the Schedule hereto are hereby approved and shall come into force on the 1st May 1962.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed this 26th day of April 1962.

(L.S.)

Christopher Soames,
Minister of Agriculture, Fisheries and Food.

Given under the Seal of the Secretary of State for Scotland this 27th day of April 1962.

(L.S.)

John S. Maclay,
Secretary of State for Scotland.

(a) S.I. 1955/690 (1955 I, p. 148).

(b) 6 & 7 Eliz. 2. c. 47.

THE SCHEDULE

The Potato Marketing Scheme 1955 shall be amended as follows:—

1. By adding after sub-paragraph (2) of paragraph 69 thereof a new sub-paragraph as follows—

"(3) Any exemption under either of the foregoing sub-paragraphs shall be subject to such conditions as the Board may from time to time prescribe, including, without prejudice to the generality of the foregoing, conditions as to the marking of potatoes, the obtaining of declarations from buyers, the making of records, the keeping of such records and declarations for a reasonable time and the production of them to the Board, and the rendering to the Board of returns and information."

2. By inserting in sub-paragraph (1) (*a*) of paragraph 83 after the word "therewith," the words—

"or in furnishing to the Board any information relating to potatoes which may be required by the Board for the purposes of paragraph 84 of this Scheme,"

3. By substituting for paragraph 84 thereof the following paragraph—

"84.—(1) Subject to the provisions of this paragraph, the Board may from time to time by prescriptive resolution require every registered producer to contribute to the fund such sums as the Board may determine to be necessary for the operation of this Scheme.

(2) The Board shall not require any registered producer to contribute in respect of any calendar year sums which exceed the aggregate of:

(*a*) an ordinary contribution at the rate of £3 per acre, and proportionately for each quarter of an acre, (or such greater rate as may be approved on a poll in accordance with sub-paragraph (3) of this paragraph), of the acreage of potatoes planted in that calendar year on land in his occupation at noon on such day in the month of May or June in that year as the Board prescribe, and

(*b*) an excess acreage contribution at the rate of £25 per acre, and proportionately for each quarter of an acre, of the excess acreage in the case of a producer who, if the year is a quota year, has exceeded his quota acreage in that year.

(3) The maximum rate of ordinary contribution may be increased from £3 per acre to such greater rate as may be approved on a poll of registered producers the result of which shows that there have voted in favour of such greater rate (*a*) not less than two-thirds of the registered producers voting on the poll, and (*b*) registered producers who are capable of producing not less than two-thirds of the quantity of potatoes which all the registered producers voting on the poll are capable of producing. Part IV of this Scheme shall apply to any poll held for the purposes of this provision as it applies to a poll held in connection with a proposal for the amendment or revocation of this Scheme, except that paragraph 49 shall not apply and that the number of registered producers to be shown in the certificate provided for in sub-paragraph (2) of paragraph 51 shall be the number of registered producers who voted in favour of the greater rate and against it respectively. Such certificate and any copy thereof purporting to be certified in writing by the Chairman or Vice-Chairman or Secretary of the Board to be a true copy shall be conclusive evidence of the result of the poll and that the poll was duly held.

(4) Where, as respects all or a specified part of the acreage applicable in the case of any registered producer for the purposes of ordinary contribution in respect of any calendar year, the registered producer satisfies the Board by such date and in such manner as the Board may require that on or before the relevant date the potatoes planted thereon had been lifted, then the rate of ordinary contribution in respect of that acreage shall be reduced by such proportion as the Board may prescribe of the rate per acre which would otherwise apply.

In this sub-paragraph, the expression "the relevant date" means such date as the Board prescribe for the year in question.

(5) For the purposes of this paragraph:

(*a*) the Board shall not later than the 31st August in every calendar year prescribe whether or not the next ensuing calendar year is to be a quota year;

(*b*) a registered producer shall be deemed to have exceeded his quota acreage in any calendar year if that year is a quota year and there has been planted in that year on land in his occupation at noon on such day in the month of May or June in that year as the Board prescribe an acreage of potatoes exceeding his quota acreage for that year (calculated as at that time and in accordance with the provisions of Schedule D of this Scheme).

(6) (*a*) Without prejudice to the powers of the Board under the foregoing provisions of this paragraph and under paragraph 69 of this Scheme, the Board may from time to time prescribe a class or classes of exceptional circumstances for the purposes of this sub-paragraph.

(*b*) Where the Board have so prescribed, any registered producer who satisfies the Board by such date and in such manner as the Board may require that, for reasons beyond his control which could not reasonably be foreseen, any such exceptional circumstances apply to him, and who complies with such conditions as the Board may require, shall be relieved, either wholly or to such extent as the Board may prescribe, from liability for payment of any sum or sums by way of excess acreage contribution which would otherwise be payable by him.

(7) If the Board are unable to obtain from any registered producer a sufficient return of the acreage of potatoes planted in any calendar year he shall, if the Board think fit, be treated as if the acreage of potatoes planted in that calendar year on land in his occupation at the material time was such acreage as the Board may think proper, having regard to such information (if any) as may be in the possession of the Board whether in respect of that calendar year or any previous calendar year:

Provided that before taking action under this sub-paragraph, the Board shall send the producer concerned notice that the Board propose to do so and the Board shall have regard to any information which may be supplied to the Board by the producer within 21 days of the sending of such notice.

(8) Where a registered producer offers to sell potatoes to the Board, the Board may (whether or not the Board purchases the potatoes) charge to the registered producer a sum representing such expenses as the Board consider are reasonably attributable to the inspection of such potatoes by or on behalf of the Board and the Board may require the producer to pay such expenses or any part thereof to the Board before such inspection is made.

(9) Any sum required by the Board to be contributed by a registered producer under this paragraph shall be payable on such date or dates and at such place or places as the Board may prescribe and shall be recoverable as a debt due to the Board."

4. By substituting in paragraph 3 thereof for the words "" Standard number of votes" has the meaning ascribed to it in paragraph 14 (3) of this Scheme" the words "" Standard number of votes" has the meaning ascribed to it in sub-paragraphs (5) and (6) of paragraph 14 of this Scheme."

5. By substituting in sub-paragraph (1) of paragraph 5 thereof for the word "included" the word "excluded" and for the words "one acre" the words "one or more quarters of an acre, as the case may require, any fraction of a quarter of an acre being reckoned as a quarter of an acre"

6. By inserting in sub-paragraph (2) of paragraph 5 thereof after the words "is received by the Board" the words "not later in any calendar year than the Board from time to time prescribe,"

7. By deleting from sub-paragraph (9) of paragraph 13 thereof the words "and in any case where the candidate dies before the completion of the election" and the words "to the candidate or his personal representative".

8. By deleting from sub-paragraph (15) of paragraph 13 thereof the words "and the result shall be published in "The Times" newspaper and such other newspapers (if any) as the Board shall think fit"

9. By adding after sub-paragraph (16) of paragraph 13 thereof the following sub-paragraphs—

"(17) The result of every election shall be published in "The Times" newspaper and such other newspapers (if any) as the Board shall think fit.

(18) Notwithstanding any of the foregoing provisions, where at any time before the result of an election has been published in accordance with sub-paragraph (17) of this paragraph, it comes to the notice of the Board that a duly nominated candidate who has not withdrawn from his candidature in manner hereby provided has died or that a duly nominated candidate who does not withdraw from his candidature in manner hereby provided is an undischarged bankrupt or is a person whose estate is the subject of a sequestration order by a competent court in Scotland or is a person who has, since his nomination reached the office of the Board in England, (*a*) been adjudged bankrupt or (*b*) had his estate sequestrated by a competent court in Scotland or (*c*) entered into a composition or scheme of arrangement with his creditors or (*d*) been convicted of any offence involving an intent to defraud, then the election shall be null and void, the sum or sums deposited in accordance with sub-paragraph (8) of this paragraph shall be returned and a fresh election shall be held as soon as may be practicable in accordance with the foregoing provisions so far as such provisions are applicable."

10. By substituting for paragraph 14 thereof the following paragraph—

"14.—(1) When a vote on the election of any district or special member or members is to be taken the Board shall, not later than the 14th day before the day fixed for the election, send to every registered producer entitled to vote at such election a voting paper designed so as to be capable of being returned through the post without a covering envelope and so that the voter may seal it if he wishes. The voting paper shall state the names of the duly nominated candidates, such questions as will enable the Board to ascertain the voter's standard number of votes, the address to which the voting paper is to be returned and the date by which the voting paper is to be received by the Board.

(2) A voting paper shall not be counted unless it reaches the address of the Board specified therein through the post not later than 6 p.m. on the day fixed for the election properly completed and signed and (unless the Board have arranged to bear the postage) with the postage prepaid by means of adhesive stamps of the proper value affixed to the voting paper itself.

(3) The Board may supply a duplicate voting paper to any registered producer who, not less than seven days before the day fixed for the election, applies therefor in writing on the ground that he has not received or has lost or spoilt his voting paper.

(4) (*a*) At an election of a district member every person who at noon on the last day for nominations was a registered producer in occupation of land in that district which was under potatoes on the 4th day of June preceding the day fixed for the election shall be entitled to vote and shall have his standard number of votes (calculated in relation to the acreage of such land) multiplied by the number of persons to be elected.

(*b*) At an election of the special members for England and Wales every person who at noon on the last day for nominations was a registered producer in occupation of land in England and Wales or either of them which was under potatoes on the 4th day of June preceding the day fixed for the election

shall be entitled to vote and shall have his standard number of votes (calculated in relation to the acreage of such land) multiplied by the number of persons to be elected.

(*c*) At an election of the special member for Scotland every person who at noon on the last day for nominations was a registered producer in occupation of land in Scotland which was under potatoes on the 4th day of June preceding the day fixed for the election shall be entitled to vote and shall have his standard number of votes calculated in relation to the acreage of such land.

(*d*) No registered producer shall give more or less than his standard number of votes in favour of any one candidate in any such election as aforesaid.

(5) The standard number of votes of a registered producer shall be calculated in relation to the appropriate acreage as follows and the expression "standard number of votes" shall be construed accordingly:—

(*a*) Where the acreage does not exceed ten—one vote;

(*b*) Where the acreage exceeds ten and does not exceed twenty—two votes;

(*c*) Where the acreage exceeds twenty—two votes plus one additional vote for every fifty acres of such excess: provided that if such excess does not amount to an even fifty acres the odd fraction of such excess shall be taken to be an additional fifty.

(6) Where under any of the foregoing provisions a registered producer would not be entitled to vote at an election because none of the land in the relevant area which was in his occupation at the relevant time was under potatoes on the 4th day of June preceding the day fixed for the election but all or some part of such land was under potatoes at a later date, before the last day for nominations, then he shall nevertheless be entitled to vote and for this purpose his standard number of votes shall be one vote."

11. By adding at the end of sub-paragraph (*e*) of paragraph 17 thereof the words "or of any offence involving an intent to defraud"

12. By adding at the end of paragraph 27 thereof the words "The Chairman and Vice-Chairman shall be ex officio members of every such Committee."

13. By deleting from paragraph (*a*) of the proviso to sub-paragraph (1) of paragraph 40 thereof the words "who would be" and the words "if he continued to be registered" and by substituting in the said paragraph for the words "ten pounds" the words "twenty pounds"

14. By deleting from sub-paragraph (1) of paragraph 42 thereof the words "or is exempt from registration" and by deleting the proviso from the said sub-paragraph

15. By inserting in paragraph 42 thereof immediately after sub-paragraph (1) the following sub-paragraph—

"(2) The Board, on being satisfied that a producer who is registered is exempt from registration, shall, on his request and subject to such period of notice (not exceeding twelve months) as the Board may require, remove his name from the register."

and sub-paragraph (2) of the said paragraph shall be renumbered (3)

16. By substituting for paragraph 47 thereof the following paragraph—

"47.—(1) The poll shall be conducted by post and the returning officer shall, not later than the 14th day after the qualifying date, send to every registered producer entitled to vote a voting paper substantially in the form set out in Schedule B of this Scheme and designed so as to be capable of being returned through the post without a covering envelope and so that the voter may seal it if he wishes.

(2) The returning officer may supply a duplicate voting paper to any registered producer who, not less than seven days before the day fixed by the

Board for the purpose of the next succeeding paragraph, applies therefor in writing on the ground that he has not received or has lost or spoilt his voting paper."

17. By substituting for paragraph 48 thereof the following paragraph—

"48. A voting paper shall not be counted unless it reaches the address of the returning officer specified therein through the post not later than 6 p.m. on such day (not being earlier than the 24th day) after the qualifying date as may be fixed by the Board, properly completed and signed and (unless the Board have arranged for the returning officer to bear the postage) with the postage prepaid by means of adhesive stamps of the proper value affixed to the voting paper itself."

18. By adding at the end of paragraph 66 thereof the words "and that a member of the Board of Directors or other governing body of a corporation which is a registered producer may be the proxy of another registered producer"

19. By deleting from sub-paragraph (1) of paragraph 69 thereof the words "for such period as may be fixed by the Board"

20. By deleting from paragraph 71 thereof the words "for such period as may be fixed by the Board on the occasion of each prescription"

21. By deleting from sub-paragraph (1) of paragraph 72 thereof the words "for such period as may be fixed by the Board on the occasion of each prescription"

22. By deleting from sub-paragraph (2) of paragraph 72 thereof the words "for such period as may be fixed by the Board on the occasion of each prescription"

23. By substituting for sub-paragraph (4) of paragraph 83 thereof the following sub-paragraph—

"(4) Where a decision has not been referred to arbitration under sub-paragraph (3) of this paragraph, or where a decision has been so referred but the reference has been withdrawn, the said Committee shall have the power to reconsider and, if need be, vary that decision (but not so as to increase the amount of any penalty or other sum required to be paid to the Board) if an application for reconsideration is made to the Committee by the producer concerned or by the Board on the ground that:

(*a*) there are facts relevant to the case other than the facts which were before the Committee at the hearing; and

(*b*) if such facts had previously been known to the Committee their decision might have been influenced thereby."

24. By substituting for sub-paragraph (5) of paragraph 83 thereof the following sub-paragraph—

"(5) If pursuant to an application under the foregoing sub-paragraph, the said Committee (or a person appointed to act as a Chairman of the Committee) determines that a decision should be reconsidered, it shall be the duty of the Committee to review the matter in the light of the facts then available to them. Upon any such review, the Committee shall not be bound to re-hear the case unless the application for reconsideration is made by the Board or, in the case of an application by the producer, unless a request for a re-hearing is made by him in writing either at the time of the application or on or before the 7th day after the date on which the Board send him notice calling attention to his right to make such request. The Board shall send notice accordingly by registered post to any producer who makes an application for reconsideration but who does not indicate whether or not he requests a re-hearing. Where the Committee are bound to re-hear the case (but not otherwise) the provisions of sub-paragraphs (2) (*b*) and (2) (*c*) of this paragraph shall apply.

If the Committee vary the previous decision, the Board shall thereupon give effect to the variation. Notice of the variation shall be sent to the producer concerned and sub-paragraph (3) of this paragraph shall apply as it applies to a previous decision."

25. By adding after sub-paragraph (6) of paragraph 83 thereof the following sub-paragraph—

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

26. By substituting in Schedule B thereto for the side reference "Paragraph 48" a side reference "Paragraph 47"

27. By substituting in Schedule B thereto for the words "In reckoning acreage, headlands not planted must be included" the words "In reckoning acreage, headlands not planted must be excluded" and for the words "Your vote will not count unless this paper, properly completed and signed, and with the postage prepaid, reaches the office of the Returning Officer at" the words "Your vote will not count unless this paper, properly completed and signed, [and with the postage prepaid by means of adhesive stamps of the proper value affixed to the voting paper itself,] reaches the address of the Returning Officer at"

28. By adding at the end of Schedule B thereto the following notes—

"Note: (*a*) If the return postage is to be paid by the addressee, the words in square brackets should be omitted.

(*b*) Where the poll is being taken under paragraph 84 (3), the sentence beginning "If you wilfully mis-state the acreage" should be omitted or suitably modified."

29. By substituting in sub-paragraph (3) of paragraph 1 of Schedule D thereto for the words "one acre" the words "one or more quarters of an acre, as the case may require, any fraction of a quarter of an acre being reckoned as a quarter of an acre"

30. By deleting from paragraph 4 of Schedule D thereto the words "Provided that where notice is duly given to the Board in accordance with sub-paragraph (2) of paragraph 5 of this Scheme of any such arrangement as is mentioned in that sub-paragraph, then as from the end of the calendar year mentioned in that sub-paragraph any variation of the basic acreage of either or both of the producers concerned which may have occurred as a result of such arrangement shall cease to have effect and each of those producers shall for the future be entitled to basic acreage as if the arrangement had not been made."

31. By adding after paragraph 5 of Schedule D thereto the following paragraphs—

"6. Where notice is duly given to the Board in accordance with sub-paragraph (2) of paragraph 5 of this Scheme of any such arrangement as is mentioned in that sub-paragraph, then as from the end of the calendar year mentioned in that sub-paragraph any variation of the basic acreage of either or both of the producers concerned which may have occurred as a result of such arrangement shall cease to have effect and each of those producers shall for the future be entitled to basic acreage as if the arrangement had not been made. Paragraphs 4 and 5 of this Schedule shall have effect subject to this paragraph.

7. Notwithstanding the provisions contained in the foregoing paragraphs 4 and 5 of this Schedule for the allotment of basic acreage for the current and all subsequent years until the next general re-allotment, the Board may, where for special reasons the Board think fit to do so, allot basic acreage only for the current year or for any other year specified by the Board."

EXPLANATORY NOTE

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

This Order approves the amendments to the Potato Marketing Scheme 1955 which are set out in the Schedule. The principal amendments provide for—

(1) an increase in the maximum rate of ordinary contribution by registered producers from £1 to £3 per acre and for a further increase if registered producers vote in favour at a special poll;

(2) an increase in the maximum rate of excess acreage contribution from £10 to £25 per acre;

(3) a reduction in the rate of ordinary contribution where potatoes are lifted early in the season;

(4) the waiving or reduction of excess acreage contribution in exceptional circumstances beyond a registered producer's control; and

(5) amended qualifications for voting at elections and changes in other features of election arrangements.