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 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.

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

17. In paragraph 94, after the word " Scheme ", there shall be inserted the words " (other than that contained in paragraph 71 (2) hereof) ".

EXPLANATORY NOTE

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

Section 15 (1) of the Agricultural Marketing Act, 1949, requires the Minister to amend any agricultural marketing scheme approved before the passing of that Act so as to bring it into conformity therewith. This order, accordingly, makes the necessary amendments to the Milk Marketing Scheme, 1933, and provides, inter alia, for the appointment by the Minister of members to the Board, the limitation of investment of the Board's funds to the securities mentioned in the Trustee Act, 1925, and the establishment of a Disciplinary Committee to hear all cases of alleged contravention of the Scheme.

The Scottish Milk Marketing Scheme (Amendment) Order, 1950

1950 No. 2057 (S. 135)

Made - - - -	15*th December*, 1950
Laid before Parliament	18*th December*, 1950
Coming into Operation	1*st February*, 1951

In exercise of the powers conferred upon me by section 15 of the Agricultural Marketing Act, 1949(**a**), and of all other powers enabling me in that behalf I hereby make the following Order:—

1. This Order may be cited as the Scottish Milk Marketing Scheme (Amendment) Order, 1950, and shall come into operation on the 1st day of February, 1951.

2. The Scottish Milk Marketing Scheme, 1933(**b**), as amended(**c**) shall have effect subject to the amendments specified in the Schedule to this Order.

Dated this 15th day of December, 1950.

Hector McNeil,
One of His Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.

(**a**) 12, 13 & 14 Geo. 6, c. 38. (**b**) S.R. & O 1933 (No. 479) p. 51.
(**c**) S.R. & O. 1934 (No. 1437) I, p. 27; S.R. & O. 1935 (No. 691) p. 5; S.R. & O. 1935 (No. 1246) p. 6; S.R. & O. 1937 (No. 624) p. 21; S.R. & O. 1937 (No. 818) p. 26; S.R. & O. 1938 (No. 1168) I, p. 5; S.R. & O. 1940 (No. 1717) II, p. 286; S.R. & O. 1941 (No. 1109) II, p. 238; S.I. 1950 No 1724, p. 50 below.

SCHEDULE

1. In section 4—

(*a*) in subsection (2) for the words from "Subject to" to the end of the subsection there shall be substituted the words "Subject to the provisions of section 6 hereof as to the filling of casual vacancies occurring amongst the elected members, the Board shall consist of eight members so elected by the Selection Committee and, until the date of the Annual General Meeting held in 1951, two members co-opted to the Board by the elected members, and, after that date, two members appointed by the Minister in accordance with subsection (1) of section 1 of the Agricultural Marketing Act, 1949.";

(*b*) subsection (*5a*) shall cease to have effect;

(*c*) in subsection (6) after the word "occurring" where it first occurs there shall be inserted the words "amongst the elected members of the Board"; after the word "any" where it occurs in paragraphs (*a*) and (*b*) and where it first occurs in paragraph (*c*) and after the words "number of" where they occur in paragraph (*d*), there shall be inserted the word "such"; the words "of the Board" where they occur in paragraph (*a*) shall be omitted; the words "amongst the elected members" and the words from "a vacancy so occurring" to the end of the subsection shall be omitted;

(*d*) in subsection (7) after the word "any" where it first occurs there shall be inserted the word "elected";

(*e*) in subsection (9) for the word "co-option" there shall be substituted the word "appointment";

(*f*) in subsection (12) after the word "any" where it first occurs there shall be inserted the word "elected".

2. In section 5, in subsection (4) after the word "thereof" there shall be inserted the words "other than the Disciplinary Committee appointed under section 32 hereof".

3. In section 24, for subsection (5) there shall be substituted the following subsection:—

"(5) *Power to Invest Money*—Any money 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 approval of the Minister, shall not be invested otherwise than in the stocks, funds or securities mentioned in section 10 or section 11 of the Trusts (Scotland) Act, 1921, or for the time being approved by the Court of Session under section 27 of that Act."

4. For section 32 there shall be substituted the following section:—

"32. Penalties for Contravention of the Provisions of the Scheme by Registered Producers. The Disciplinary Committee.

(1) If from and after the expiration of the Statutory Suspensory Period or of the Second Suspensory Period, if any, any person being a registered producer under the scheme:—

(*a*) sells the regulated product or any kind, variety, grade or quantity thereof at a price less than, or in a manner or to a person other than that, or on terms other than those, determined for the time being by the Board, or

(*b*) fails to furnish such information relating to the regulated product produced by him as may be required from time to time by the Board, or

(*c*) wilfully furnishes to the Board information which is false in any material particular, or

(*d*) obstructs or interferes with any person duly authorised by the Board in terms of section 31 hereof in the performance of his duties thereunder,

the Disciplinary Committee hereinafter described shall impose upon such producer and the Board shall recover from him such monetary penalty (not exceeding ten pounds for a first offence, and not exceeding one hundred pounds for a second or subsequent offence), as that Committee think just.

Provided always that no such penalty shall be imposed in respect of such a contravention as aforesaid which constitutes an offence under any Act other than the Agricultural Marketing Acts, 1931 to 1949.

(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 an advocate 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 under this section 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, provided that if there is an equal division of opinion, 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 at least fourteen days before 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 the charge.

(*e*) Where such a written statement of a 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 expenses 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 the Disciplinary Committee have concluded the hearing of a case written notice of their decision shall be sent to the registered producer in question and he may, on or before the fourteenth day after the date 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 arbiter; and the arbiter 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 said Committee shall have the power to reconsider their decision in relation to the case of any such producer if, upon considering any written application in that behalf by the registered producer in question made within three months after the date of the original hearing by the said Committee they are satisfied that

(i) there may be facts relevant to the case other than the facts which were before the Committee at the original hearing, and

(ii) if such other facts had been previously known to the Committee, their decision would have been influenced thereby, and

(iii) the matter has not been referred to arbitration under subsection (3) of this section.

(5) (*a*) If under the last preceding subsection of this section the said Committee decide 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 such variation.

(*b*) The provisions of paragraph (*b*) of subsection (2) and subsection (3) of this section 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.

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

5. In section 39—

(*a*) in subsection (3) after the words "shall send" there shall be inserted the words "to the Minister and", and after the words "together with" there shall be inserted the words "a statement of the manner in which in accordance with the provisions of subsection (5) of section 24 hereof any money is invested and";

(*b*) subsection (4) shall cease to have effect.

6. In section 50 after the words "of the Scheme" there shall be inserted the words "(other than that contained in subsection (2) of section 32 hereof)".

EXPLANATORY NOTE

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

Section 15 (1) of the Agricultural Marketing Act, 1949, requires the Minister to amend any Agricultural Marketing Scheme approved before the passing of that Act so as to bring it into conformity therewith. This Order accordingly makes the necessary amendments to the Scottish Milk Marketing Scheme, 1933, and provides *inter alia* for the appointment by the Secretary of State for Scotland of members to the Board, the limitation of investment of the Board's funds to the stocks, funds or securities mentioned in or approved under the Trusts (Scotland) Act, 1921, and the establishment of a Disciplinary Committee to hear all cases of alleged contravention of the Scheme.