1956 No. 650 (S. 31)

The Scottish Milk Marketing Scheme Amendments (Approval) Order, 1956

Made - - - - *27th April,* 1956

Whereas the Scottish Milk Marketing Board duly submitted to the Secretary of State in accordance with section 1 of, and Part II of the First Schedule to, the Agricultural Marketing Act, 1931(**a**) certain amendments to the Scottish Milk Marketing Scheme 1933 approved by the Scottish Milk Marketing Scheme (Approval) Order, 1933(**b**):

And Whereas certain objections made to the proposed amendments were withdrawn and the Secretary of State was accordingly not required by paragraph (*a*) of the proviso to subsection (5) of section 1, as applied by subparagraph (*c*) of paragraph 1 of Part II of the First Schedule to the Act of 1931 (as amended by the Third Schedule to the Agricultural Marketing Act 1933(**c**)) to hold a public inquiry or to lay the amendments before Parliament:

And Whereas the amendments as subsequently modified by him (with the assent of the said Board) in accordance with the provisions of paragraph (*c*) of the said proviso to subsection (5) of section 1 of the Act of 1931 as applied as aforesaid are set out in the Schedule hereto:

Now Therefore in exercise of the powers conferred upon him by the said section 1 of and the said Part II of the First Schedule to the Act of 1931 as amended as aforesaid the Secretary of State hereby makes the following order:—

1.—(1) This Order may be cited as the Scottish Milk Marketing Scheme Amendments (Approval) Order, 1956.

(2) The Interpretation Act, 1889(**d**) shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

2. The amendments to the Scottish Milk Marketing Scheme 1933 set out in the Schedule hereto are hereby approved and shall come into force on the first day of May, 1956.

Dated this 27th day of April, 1956.

James Stuart,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.

(**a**) 21 & 22 Geo. 5. c. 42.
(**b**) S.R. & O. 1933/479 (Rev. I, p. 263: 1933, p. 51).
(**c**) 23 & 24 Geo. 5. c. 31.
(**d**) 52 & 53 Vict. c. 63.

SCHEDULE

AMENDMENTS OF THE SCOTTISH MILK MARKETING SCHEME, 1933, REFERRED TO IN AND APPROVED BY ARTICLE 2 OF THE FOREGOING ORDER.

Section 1. Title of Scheme.

Heading.—At end add " and the Regulated Product."

Line 1.—At the beginning insert " (1) ".

Insert new sub-section (2) as follows :—

" (2) The agricultural product the marketing of which is regulated by this Scheme is milk."

Section 2. The Regulated Product.

Delete the section and insert new section as follows :—

" 2. INTERPRETATION.

(1) In this Scheme, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say :—

" The Scheme " means the Scottish Milk Marketing Scheme, 1933, and any amendment thereof.

" The Act " means the Agricultural Marketing Act, 1931, as amended by any subsequent Act.

" Minister " means the Secretary of State for Scotland.

" Cow " means a cow kept for dairy purposes whether dry or in milk, but does not include a heifer which has never calved.

" Milk " means cows' milk produced in the area of the Scheme.

" Producer " means a producer of milk.

" Registered " means registered under the Scheme, and " registration " shall be construed accordingly.

" Statutory poll " means a poll concerning the amendment or revocation of the Scheme, as the case may be.

" Certified milk " and " Tuberculin Tested milk " mean milk of these designations, being special designations the use of which is authorised by any Order made by the Minister.

" General Meeting " means a duly convened meeting of registered producers.

(2) The Interpretation Act 1889 shall apply to the interpretation of this Scheme as it applies to the interpretation of an Act of Parliament.

Section 3. Area of the Scheme.

Line 5.—After " Parishes " insert " in the County ".

Section 4. Board to Administer the Scheme.

Sub-section (2). *Subsequent Boards.*

Line 3.—Delete from " whose duty " to the end of the sentence and substitute " whose duty it shall be, within fourteen days of their appointment, to elect, in the case of the first of such Committees, not more than eight members to the Board and thereafter to fill vacancies caused by the retirement of elected members of the Board ".

Delete " section 6 " and substitute " sub-section (6) ".

Delete ", 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,"

Sub-section (3) (*a*).

Line 11.—After the word " poll " insert " and the poll shall be conducted ".

Line 12.—Delete " section 43 hereof " and substitute " section 42 of the Scheme ".

Lines 14 and 15.—Delete " of such person or persons ".

Sub-section (6) (*c*).

Delete " of this section " and substitute " hereof ".

Sub-section (7).

Line 2.—Delete " Provisional and Subsequent Boards " and substitute " Board ".

Section 5. Meetings of the Board.

Sub-section (4).

First sentence.—Delete " section 32 hereof " and substitute " section 32 of the Scheme ".

Second sentence.—After the word " Chairman " insert " of the meeting ".

Section 7. Chairman.

Delete the section and substitute:—

" 7. CHAIRMAN AND VICE-CHAIRMAN.

A Chairman and a Vice-Chairman of the Board shall be appointed annually by the Board from their own number. The Chairman, or in his absence the Vice-Chairman, shall preside at all General Meetings and at all meetings of the Board. If both are absent from a General Meeting or a meeting of the Board, the Board shall appoint another chairman of the meeting from their own number."

Section 8. Address of Office.

Delete the section and substitute:—

" 8. ADDRESS OF OFFICE.

The Board shall have an office in Scotland at which communications and notices will at all times be received, and shall notify the Minister of the address."

Section 11. Auditor.

Delete the section and substitute:—

" 11. AUDITOR.

(1) The Auditor or Auditors shall be appointed each year by the Annual General Meeting, but a person or firm other than the retiring Auditor or Auditors shall not be capable of being appointed Auditor or Auditors at the Annual General Meeting unless notice of intention to nominate that person or firm to the office has been given by a registered producer to the Secretary of the Board not later than the fourteenth day before the Meeting.

(2) No person or firm shall be eligible for appointment as Auditor or Auditors unless that person or firm would be eligible for appointment as Auditor or Auditors of a public limited liability company in terms of section 161 of the Companies Act, 1948.

(3) In case of a vacancy the Board may appoint a person or firm qualified as aforesaid to act as temporary Auditor or Auditors until the next Annual General Meeting, but a person or firm so appointed shall not be deemed to be a retiring Auditor for the purposes of sub-section (1) hereof.

(4) The Auditor shall not hold any other office in connection with the Scheme."

Section 12. Registration of Producers.

Sub-section (2).

Lines 1 and 2.—Delete " registered under the Companies Acts ".

Line 4.—Delete from the words " or institution " to the end of the sub-section and insert " or an institution, or a firm, producing milk shall be deemed to be a single producer."

Insert the following new sub-section :—

" (3) 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, the property in, or the control of, any business of producing milk is transferred from him to a personal representative, trustee, committee or other person, such personal representative, trustee, committee or other person shall, until he has disposed of the property in or control of such business of producing milk, be deemed to be a producer for all the purposes of the Scheme and shall apply for registration as such.

Provided that on the day of the transfer and for one month thereafter the personal representative, trustee, committee, or other person may do, without being registered, anything in relation to the business so transferred which the registered producer might have done."

Sub-sections (3) *and* (4). Renumber as (4) and (5) respectively.

Sub-section (5). Renumber as (6).

Line 2.—Delete " the regulated product " and substitute " milk ".

Line 3.—After " who " insert " becomes exempt or ".

Line 5.—After " he " insert " becomes exempt or ".

Sub-section (6). Renumber as (7).

Paragraph (*b*).—Delete and insert :—

" (*b*) the number of cows in their possession on such date preceding the date of application as may be determined by the Board ; and "

Paragraph (*c*).

Line 2.—Delete " dairy ".

Delete the penultimate sentence of the section.

Section 13. Exemption from Registration.

Delete the section and substitute :—

" 13. EXEMPTION FROM REGISTRATION.

There shall be exempt from registration under the Scheme producers who sell milk only to persons in their employment or to neighbours for their own consumption provided that the number of such neighbours and the total daily sales to such neighbours do not exceed such number and quantity respectively as the Board may from time to time determine. If any question arises as to whether a producer is exempt under this section such question shall be determined by the Board. Notwithstanding the provisions of this section the Board shall register any producer who makes application for that purpose."

Section 14. Penalty for Furnishing False Information.

Line 2.—Delete " sub-section (6) of section 12 hereof " and substitute " sub-section (7) of section 12 of the Scheme ".

Section 15. Determination of Capacity to Produce.

Delete the section.

Section 16. Provisions for the Purchase and Sale of the Regulated Product, the Production of Commodities therefrom, and for Other Matters.

Renumber as 15.

In the heading delete " the Regulated Product " and substitute " Milk ".

Line 1.—Delete " expiration " and substitute " end ".

Sub-section (1).

Line 1.—Delete " the regulated product " and substitute " milk ".

Line 5.—Delete the word " and " where first occurring.

After the words " ice cream " insert " and any other commodity wholly or substantially derived from milk ".

Lines 6 and 7.—Delete " the regulated product " and substitute " milk ".

Line 7.—Delete " specified " and substitute " referred to ".

Insert the following new sub-section :—

" (2) (*a*) to buy from a board administering any corresponding scheme (within the meaning of sub-section (1) of section 6 of the Agricultural Marketing (No. 2) Act, 1933) any milk, the marketing of which is regulated by that scheme, and produce from milk so bought any of the commodities referred to in sub-section (1) hereof ;

(*b*) to sell, grade, pack, store, adapt for sale, insure, advertise and transport any milk or commodities referred to in paragraph (*a*) of this sub-section ; and

(*c*) to exercise as agents for a board administering any corresponding scheme any power of that board to deal in any manner mentioned in paragraph (*b*) of this sub-section with any milk, the marketing of which is regulated by that scheme ; "

Sub-section (2). Delete and substitute :—

" (3) to determine, for such period as may be fixed by the Board on the occasion of each determination, the description (being a description authorised by the Milk and Dairies (Scotland) Acts, 1914 to 1949, or by any order or regulation made thereunder) of milk which may be sold by registered producers, the price at, below or above which, the terms on which, and the persons to or through the agency of whom, milk or any such description as aforesaid or any quantity thereof may be sold by the Board or by registered producers through the Board or otherwise, and to determine different prices and terms for different classes of sale ; "

Insert new sub-sections (4), (5) and (6) as follows :—

" (4) to determine from time to time the place or places at or to which delivery of milk produced by any registered producer shall be made ;

(5) to determine from time to time the amounts of any allowances to be made to buyers of milk, the classes of buyers and premises to whom or in respect of which such allowances are to be made, and the conditions on which such allowances are to be made ;

(6) to determine from time to time the premium to be paid by a buyer of milk for any special service to be rendered to him by a registered producer and, in the event of the Board exercising their powers under paragraph (*b*) of sub-section (1) of section 19 of the Scheme so as to make the Standard Price applicable to Certified milk or any particular class of sale thereof, to determine from time to time the premium in addition to the Standard Price to be paid by a buyer in respect of Certified milk purchased by him from a registered producer, premiums payable in terms of this sub-section being hereinafter referred to as " Special Premiums " ; "

Sub-section (3). Renumber as (7).

Lines 3 and 4.—Delete " the regulated product " and substitute " milk ".

Sub-section (4). Renumber as (8).

Sub-section (5). Delete and substitute :—

" (9) to co-operate with any person in doing anything which the Board are empowered to do in virtue of sub-sections (1) and (7) hereof, and to do anything calculated to procure, promote or facilitate the doing by any other person of such things ; "

Sub-section (6). Delete and substitute :—

" (10) to encourage, promote or conduct agricultural co-operation, research and education in furtherance of the efficient production and marketing of milk and commodities derived from milk, and to devote such sums of money for these purposes as the Board may from time to time determine ; "

Sub-section (7). Renumber as (11).

Line 2.—Delete " and ".

Insert new sub-section (12) as follows:—

" (12) to provide a service of artificial insemination of cattle owned by registered producers or other persons ; "

Insert new sub-section (13) as follows :—

" (13) to make payments or provide financial guarantees to any persons in respect of the performance by them of such functions as in the opinion of the Board assist or may assist in the efficient distribution, sale or use of milk, or the efficient manufacture, distribution, sale or use of any commodity referred to in sub-section (1) hereof, and to enter into agreements with any such persons as to the terms and conditions on which such payments shall be made or guarantees provided ; and "

Sub-section (8). Delete and substitute:—

" (14) to do all such other things as are incidental to or consequential on the powers conferred on the Board by the provisions of the Scheme."

Section 17. Prohibition of Sale except to or through the Board.

Delete the section and substitute:—

" 16. PROHIBITION OF SALE EXCEPT TO OR THROUGH THE BOARD AND THE BOARD'S OBLIGATION TO ACCEPT MILK.

(1) From and after the end of the Statutory Suspensory Period or of the Second Suspensory Period, if any, all registered producers shall, subject to the provisions of sections 26 and 27 of the Scheme, sell milk only to or through the agency of the Board, and, subject to the provisions of sub-section (2) hereof, the Board shall be bound to accept all milk legally tendered to them by registered producers and to make payment therefor in manner provided in section 25 of the Scheme.

(2) The Board may :—

(*a*) reject or cause to be rejected any consignment or part of any consignment of milk tendered by a registered producer if they are satisfied that the milk does not comply with any of the standards of quality determined by them and in force for the time being or with any warranty subject to which the milk is sold ;

(*b*) for such period as they may in any particular case determine, refuse to accept further consignments of milk from a registered producer who on more than three occasions in any period of thirty days falling within a period of one hundred and twenty days immediately prior to such refusal has had milk rejected under the immediately preceding paragraph.

Provided, however, that, before exercising this power of refusal, the Board shall notify such registered producer in writing of the action they propose to take under this paragraph, and if so requested by the registered producer within seven days of the service of such notification shall give him an opportunity of showing cause why such action should not be taken."

Section 18. Prohibition of Sale by Unregistered Producers not Exempted, and Penalties for Contravention.

Renumber as 17.

In the heading delete the words " and Penalties for Contravention ".

Sub-section (1).

Line 1.—Delete " (1)." Delete " expiration " and substitute " end ".

Lines 2 and 3.—Delete " the regulated product " and substitute " milk ".

Line 4.—After the word " person " insert " exempt or ".

Line 6.—At end add " ; and sub-section 3 of section 6 of the Act shall apply accordingly ".

Sub-section (2).

Delete the sub-section.

Section 19. Information to be Furnished by Registered Producers after the Expiration of the Statutory Suspensory Period.

Renumber as 18.

In the heading delete " Expiration " and substitute " End ".

Line 1.—Delete " expiration " and substitute " end ".

Lines 3 and 4.—Delete " the regulated product " and substitute " the milk produced by him ".

Line 5.—Delete from the words " and in particular " to the end of the section.

Section 20. Conditions of Sale of the Regulated Product.

Renumber as 19.

In the heading delete " the Regulated Product " and substitute " Milk ".

Sub-section (1).

Delete the sub-section with the exception of paragraph (*c*) and substitute:—

" From and after the end of the Statutory Suspensory Period or of the Second Suspensory Period, if any, and without prejudice to the generality of the powers conferred on the Board by section 15 of the Scheme:—

(1) The Board shall determine from time to time and for such period as may be fixed by the Board on the occasion of each determination, the price at which milk (not being milk of any of the special designations the use of which is authorised by any order made by the Minister) may be sold by registered producers to or through the agency of the Board, and such price shall be known as the " Standard Price ". Provided, however:—

(*a*) that the Standard Price shall also apply to Tuberculin Tested milk which the buyer does not resell as such;

(*b*) that the Standard Price may also be applied to any other class of sale of Tuberculin Tested milk or to Certified milk or any particular class of sale of Certified milk, and that from such date, and subject to such conditions (including in the case of Certified milk the payment of the Special Premium referred to in sub-section (6) of section 15 of the Scheme) as the Board may from time to time determine; and

(*c*) that the Board may grant a rebate off the Standard Price to a buyer in respect of milk which he has, with the prior approval of the Board, subjected to a process of manufacture upon factory premises previously approved by the Board, and may vary the amount of the rebate according to the kind or variety of the product in the manufacture of which the milk was used."

Paragraph (*c*) of *sub-section* (1). Renumber as (2).

At the beginning insert " Subject to the provisions of sub-section (1) of section 26 and sub-section (1) of section 27 of the Scheme,".

Lines 1 and 2.—Delete the words " but where purchasers " and substitute " Where buyers ".

Line 3.—Before " producers " insert " registered ".

Sub-section (2). Delete and substitute:—

" (3) Subject to the provisions of sub-section (1) of section 26 and sub-section (1) of section 27 of the Scheme, registered producers shall comply with such invoicing procedure as the Board may from time to time determine."

Sub-section (3). Delete and substitute:—

"(4) Subject to the provisions of sub-section (1) of section 26 and sub-section (1) of section 27 of the Scheme, the Board shall collect payment of all accounts for the sale of milk by registered producers, and shall pay the proceeds into the fund hereinafter referred to, and thereafter make payment to registered producers in the manner prescribed in section 25 of the Scheme."

Sub-section (4)—Delete the sub-section.

Insert the following new section:—

"20. NOTIFICATION OF CERTAIN MATTERS TO THE MINISTER.

The Board shall, not less than fourteen days before making any determination under sub-sections (3), (5) or (6) of section 15 or sub-section (1) of section 19 of this Scheme, give notice to the Minister in writing of their proposal to make such a determination:

Provided that—

(*a*) in cases in which representations are made by the Board to the Minister that the period of fourteen days is excessive, the Minister may fix such period shorter than fourteen days as he may agree with the Board, and

(*b*) this section shall not apply in such cases or classes of case as the Minister may from time to time specify by notice in writing given to the Board."

Section 21. Haulage.

Delete the section and substitute:—

"21. HAULAGE.

From and after the end of the Statutory Suspensory Period or of the Second Suspensory Period, if any:—

(1) The Board shall have power to specify the person or persons by whom and the manner or manners in which the milk of any registered producer shall be transported.

(2) The Board shall have power to determine the rates payable by the Board for the transport of milk by road, and may exercise this power in relation to all persons specified by them under sub-section (1) hereof, or in relation to particular classes of such persons or to individual specified persons.

(3) Except as otherwise provided in sub-section (4) hereof, all accounts for the transport, whether by road or otherwise, of milk sold to or through the agency of the Board shall be paid by the Board.

(4) The Board shall debit each individual registered producer in respect of every gallon of milk sold by him to or through the agency of the Board with such rate (hereinafter referred to as the "Standard Haulage Rate") as would, in the opinion of the Board, be the appropriate rate for the transport of the milk from the farm or premises where it is produced to whichever of the following centres is nearest thereto—Alloa, Brechin, Crieff, Cupar, Dundee, Dunfermline, Duns, Edinburgh, Galashiels, Glasgow, Haddington, Kinross, Kirkcaldy, Perth and Stirling. For the purpose of ascertaining to which of the aforementioned centres the farm or premises on which the milk is produced is nearest, the measurement shall be taken from the Ordnance Survey Map in a straight line between the points. Provided, however:—

(*a*) that, should the Board consider the nature or condition of the access to the farm or premises of any registered producer to be such as to render the collection of milk at the farm or premises impracticable or unreasonably difficult, the Board, notwithstanding the provisions of sub-section (3) hereof, may require the registered producer, at his own expense, to convey his milk to the point which in the opinion of the

Board is the point nearest to the farm or premises from which collection is practicable and not unreasonably difficult, and in such a case the Standard Haulage Rate shall be the appropriate rate from that point to the nearest of the aforesaid centres;

(*b*) that, should the Board consider that having regard to the location of, or the quantity of milk produced at, the farm or premises of any registered producer, or the nature or size of the containers in which milk produced at such farm or premises is consigned, the collection of milk produced at such farm or premises is unusually onerous or costly, the Board may either fix a rate (hereinafter referred to as the "Special Haulage Rate") for the transport of milk from such farm or premises, and may debit such registered producer with such Special Haulage Rate in lieu of the Standard Haulage Rate, or, notwithstanding the provisions of sub-section (3) hereof, may require the registered producer, at his own expense, to convey his milk to a collecting point determined by the Board, in which latter case the Standard Haulage Rate shall be the appropriate rate from that point to the nearest of the aforesaid centres; and

(*c*) that the Board may reduce the Standard Haulage Rate to be debited under this sub-section by such amount as they deem appropriate in any case where the registered producer has installed equipment approved by the Board to permit of his milk being collected at his farm by tank and the milk has been so collected."

Section 22. Milk Containers.

Delete the section and substitute:—

"Except in a case where milk is collected at the farm by tank each registered producer shall maintain in good condition a stock of containers reasonably adequate for the transport of his milk."

Section 23. Joint Committees of Board, Distributors, Manufacturers and Haulage Contractors.

Delete the section and substitute:—

"23. CONSULTATION WITH BUYERS' REPRESENTATIVES.

(1) The Board shall invite such associations representing buyers of milk as may be known to the Board to appoint representatives to a committee (hereinafter referred to as the "Joint Committee") to which the Board shall also appoint representatives.

(2) The Board shall consult the Joint Committee before determining any of the matters referred to in sub-sections (3), (5) and (6) of section 15 and sub-section (1) of section 19 of the Scheme.

(3) If the Joint Committee are unable to agree upon any matter on which the Board are required to consult them as aforesaid, then the Joint Committee shall consult a third person thereon, such person being appointed by the Joint Committee in agreement, or failing agreement nominated by the Minister. All questions to be decided by the Joint Committee shall be decided by resolution upon which each group consisting respectively of the members appointed by the Board and of the other members of the Joint Committee shall collectively have one vote. The Joint Committee shall not be taken to have agreed unless both such votes have been cast in the same direction."

Insert the following new section:—

"24. CONSULTATION WITH HAULAGE CONTRACTORS.

For the purpose of facilitating the determination of any matter mentioned in sub-sections (1) and (2) of section 21 of the Scheme, and of promoting harmony in the relations between the Board and persons engaged in the haulage of milk by road, the Board shall invite such associations representing those so engaged, as may be known to the Board, to appoint representatives to a committee to be known as the Joint Haulage Committee to which the Board shall also appoint representatives."

Section 24. Financial Powers and Duties of the Board.

Delete from the beginning of the section to the end of sub-section (3) and substitute:—

"25. FINANCIAL PROVISIONS AND PAYMENT FOR MILK.

(1) The Board shall exercise their powers under this section subject to the provisions of any Order made under Part I of the Agriculture Act, 1947.

(2) For the purpose of securing for registered producers the benefits of any guarantee under Part I of the Agriculture Act, 1947, or any other enactment, the Board may enter into any agreement with the Minister or his nominee, and pay or receive money in pursuance of any such agreement.

(3) The Board shall establish a fund (hereinafter referred to as the "fund"). All moneys received by the Board shall be paid into the fund, and any moneys required by the Board for the operation of the Scheme shall be paid out of the fund.

(4) If the Board think fit, having regard to any arrangements which are in operation by virtue of any enactment, including the Scheme, and of which in the opinion of the Board the object or one of the objects is the maintenance of guaranteed prices or an assured market for milk, the Board may pay to registered producers in respect of milk which they have produced and sold, otherwise than to or through the agency of the Board, such sum per gallon as the Board may determine, and the Board may determine different sums for different descriptions of milk or classes of sale, and may determine the conditions subject to which any such sums shall be paid.

(5) If a buyer shall have paid the Board for the milk of any registered producer a Special Premium, the Board shall pay such premium to that producer.

(6) For the purpose of promoting or maintaining the purity and good quality of milk, the Board may pay premiums or bonuses to registered producers in respect of such descriptions of milk produced and sold by them as the Board may determine. The Board may determine the conditions subject to which such premiums or bonuses will be paid, and may determine different premiums or bonuses and different conditions for different descriptions of milk and for different classes of sale.

(7) The Board may deduct from, or set off against, any sums payable to a registered producer in terms of sub-sections (4), (5), (6) and (9) hereof any contributions payable by such registered producer under sections 26 and 27 of the Scheme, and any other sums due to the Board by such registered producer.

(8) (*a*) The Board may from time to time set aside to reserve such sums as they think fit, and may utilise such reserves in the operation of the Scheme at such times and in such manner as they may determine.

(*b*) In the event of the Board at any time being of the opinion that the moneys set aside to reserve are more than are required for the operation of the Scheme, such sum as the Board may think fit shall be distributed to such persons and in such manner as shall be recommended by the Board and approved by resolution passed at a General Meeting.

(9) The moneys payable to the Board for the sale of milk in any accounting period, as hereinafter defined, together with such other moneys (if any) as the Board think fit, but less (*a*) sums payable under sub-sections (4), (5) and (6) hereof, and (*b*) such sums as in the opinion of the Board are required to provide reserves and to pay all or such part as the Board think fit of the Board's expenses, losses and outgoings of every description in respect of that accounting period, shall be paid by the Board to registered producers, the proceeds of the sale of whose milk during that period are required to be paid into the fund, in proportion to the quantity of milk sold by them to or through the agency

of the Board during that accounting period or any part thereof, and that in such amounts and at such times and in such manner as the Board shall from time to time determine, so however that such registered producers, notwithstanding the price at which the milk of any individual registered producer has been disposed of, shall on the occasion of each such payment receive a uniform rate per gallon (hereinafter referred to as the " pool price ").

Provided, (*a*) that, if any such registered producer shall have sold milk which is of a standard of quality lower than that determined by the Board, the Board may pay him in respect of such milk such price lower than the pool price as the Board may determine, and (*b*) that the Board shall deduct from the pool price, or the lower price referred to in the foregoing proviso, the Standard Haulage Rate or the Special Haulage Rate in accordance with the provisions of section 21 of the Scheme.

The expression " accounting period " means such period comprising twelve consecutive calendar months as shall be determined from time to time by the Board."

Sub-sections (4) *and* (5).

Renumber as (10) and (11) respectively.

Sub-section (6).

Renumber as (12).

Line 4.—Delete " the regulated product " and substitute " milk ".

Line 8.—Delete " the regulated product " and substitute " milk ".

Section 25. Producer-Retailers.

Delete the section and substitute:—

" 26. SALES BY RETAIL AND SEMI-RETAIL.

(1) The following provisions of the Scheme shall not apply to milk sold by retail or semi-retail (as hereinafter defined) by registered producers who are licensed by the Board to sell milk by retail or semi-retail, *videlicet*:—sub-section (1) of section 16, sub-sections (2), (3) and (4) of section 19, section 21, and sub-section (9) of section 25.

(2) *Contributions to the Board.* Every registered producer shall pay to the Board a contribution of such amount as the Board may from time to time determine in respect of every gallon of milk of his own production which he has sold by retail or by semi-retail. The Board may determine different rates of contribution for different descriptions of milk and for the avoidance of doubt it is hereby declared that the Board may, in exercise of the power conferred upon them by this sub-section, for any such rate fixed by them in an accounting period determine during that period that some other rate shall be payable. Such contributions shall be payable on such dates as may be fixed by the Board and shall be a debt due by the registered producer to the Board and recoverable by the Board accordingly. In determining the rate of any such contribution the Board shall have regard to the extent to which the Standard Prices referred to in sub-section (1) of section 19 of the Scheme for the appropriate accounting period as estimated from time to time by the Board exceed the pool prices for that period as so estimated with intent that the average rate of contribution for the accounting period shall not be greater than the amount by which the simple average of such Standard Prices exceeds the simple average of such pool prices.

(3) In addition to the contribution determined by the Board under sub-section (2) hereof, the Board may require registered producers, in respect of every gallon of milk of their own production sold by them by retail or semi-retail, to make contributions, of such amounts as the Board may from time to time determine, towards the expenses of the Joint Committee referred to in section 23 of the Scheme and towards the cost of advertising milk.

(4) *Definitions of Sales by Retail and by Semi-Retail.*

(*a*) Sale by retail means the sale by a registered producer, licensed as aforesaid, of milk of his own production by his own hand or by the hand of a member of his family or that of a person directly employed by him to domestic consumers.

(*b*) Sale by semi-retail means the sale by a registered producer, licensed as aforesaid, of milk of his own production by his own hand or by the hand of a member of his family or that of a person directly employed by him to an hospital, hotel, restaurant or such other class or classes of buyers (not being domestic consumers or persons carrying on business as distributors of milk or manufacturers of milk products) as the Board may from time to time determine."

Section 26. Producer-Wholesalers.

Delete the section.

Section 27. Sale of Certified Milk.

Delete the section and substitute:—

"27. SALE OF CERTIFIED MILK.

(1) The following provisions of the Scheme shall not apply to Certified milk sold by a registered producer, *videlicet*:—sub-section (1) of section 16, sub-sections (2), (3) and (4) of section 19, section 21, and sub-section (9) of section 25. Provided, however, that the Board may, after consultation with such persons as they deem best qualified to express the views of the registered producers concerned, determine that the aforementioned provisions of the Scheme shall apply to Certified milk sold by a registered producer otherwise than by retail or semi-retail as defined in sub-section (4) of section 26 of the Scheme and that from such date and to such extent as is specified in the determination.

(2) *Contributions to the Board.* Every registered producer of Certified milk shall pay to the Board a contribution of such amount as the Board may from time to time determine in respect of every gallon of milk of his own production which he has sold as Certified milk. For the avoidance of doubt it is hereby declared that the Board may in exercise of the power conferred upon them by this sub-section, for any such contribution fixed by them in an accounting period determine during that period that a contribution of some other amount shall be payable. Such contributions shall be payable on such dates as may be fixed by the Board and shall be a debt due by the registered producer to the Board and recoverable by the Board accordingly. In determining the amount of any such contribution the Board shall have regard to the extent to which the Standard Prices referred to in sub-section (1) of section 19 of the Scheme for the appropriate accounting period as estimated from time to time by the Board exceed the pool prices for that period as so estimated with intent that the average rate of contribution for the accounting period shall not be greater than the amount by which the simple average of such Standard Prices exceeds the simple average of such pool prices.

(3) In addition to the contribution determined by the Board under sub-section (2) hereof, the Board may require registered producers, in respect of every gallon of Certified milk of their own production sold by them, to make contributions, of such amounts as the Board may from time to time determine, towards the expenses of the Joint Committee referred to in section 23 of the Scheme and towards the cost of advertising milk."

Section 28. Liability of the Board for Bad Debts.

Line 2.—Delete "the regulated product" and substitute "milk".

Section 29. Hospitals, Asylums and other such Institutions which are Registered Producers—Partial Exemption.

Line 3.—Delete "and" and insert "being milk".

Line 4.—After "sales" insert "of milk".

Section 30. Power to Board to Grant Exemptions.

Delete the section and substitute:—

"30. POWER TO BOARD TO GRANT EXEMPTIONS.

The Board shall have power at any time to exempt from any or all of the provisions of the Scheme producers and sales of such classes or descriptions as they may determine, and from time to time to withdraw or vary exemptions granted under this section."

Section 31. Power of Inspection of Lands and Premises of Registered Producers.

Line 1.—Delete "expiration" and substitute "end".

Line 7.—Delete "the regulated product" and substitute "milk".

Last line.—Delete "the regulated product" and substitute "milk".

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

In the heading delete the words "by Registered Producers" and substitute "or of Determinations of the Board".

NOTE. References to sub-sections and lines of section 32 are references to sub-sections and lines of Article 4 of the Schedule to the Scottish Milk Marketing Scheme (Amendment) Order, 1950.

Line 1.—Delete "expiration" and substitute "end".

Sub-section (1) (*a*). Delete and substitute:—

"(*a*) sells milk or any description or quantity thereof at a price, or in a manner, or to a person, or on terms, other than those determined for the time being by the Board, or".

Sub-section (1) (*b*).

Line 1.—Delete "the regulated product" and substitute "the milk".

Sub-section (1) (*d*).

Line 2.—Delete "section 31 hereof" and substitute "section 31 of the Scheme".

Sub-section (2) (*b*).

Line 5.—At end add "At any such hearing the producer shall be entitled to appear and be heard in person or by counsel or solicitor or by any other person authorised by him."

Sub-section (3).

Line 6.—Delete "this" and substitute "the".

Sub-section (4) (*iii*).

Lines 1 and 2.—Delete "sub-section (3) of this section" and substitute "sub-section (3) hereof".

Sub-section (5) (*a*).

Line 1.—Delete "the last preceding sub-section of this section" and substitute "sub-section (4) hereof".

Sub-section (5) (*b*).

Line 2.—Delete "of this section" and substitute "hereof".

Add the following new sub-section after sub-section (6):—

"(7) Where a contravention of a provision of the Scheme or of a determination of the Board (being a contravention in respect of which the Board have the duty to recover a penalty) causes loss to the Board, the provisions of section 6 of the Agricultural Marketing Act, 1949, shall apply."

Sub-section (7). Renumber as (8).

Line 2.—Delete "this" and substitute "the".

Section 33. Arbitration in Cases where Producers are Aggrieved.

Sub-section (1).

Line 1.—Delete " of the regulated product ".

Line 4.—Delete " Department of Agriculture for Scotland " and substitute " Minister ".

Lines 6 and 11.—Delete " Department " and substitute " Minister."

Section 34. Arrangements for Initial Poll of Registered Producers.

Delete the section and substitute:—

" 34. INITIAL POLL OF REGISTERED PRODUCERS.

The arrangements for and regulations governing the initial poll of registered producers on the question of whether the Scheme shall remain in force are as set forth in the Second Schedule hereto."

Section 35. Directions for the Guidance of Voters on the Initial Poll.

Delete the section.

Section 36. Declaration of Result of the Initial Poll.

Delete the section.

Insert the following new section:—

" 35. STATUTORY POLLS.

A statutory poll shall be taken in accordance with the provisions of this section.

(1) The returning officer shall be such person as the Minister may, on the application of the Board, appoint. The remuneration and expenses of the returning officer shall be defrayed by the Board.

(2) The returning officer may by writing under his hand appoint any fit person or persons to be his deputy or deputies for all or any of the purposes of the poll. A deputy returning officer shall have the powers and duties of the returning officer in relation to the matters in respect of which he is appointed to act as a deputy.

(3) The Board shall furnish to the returning officer a list of the names and addresses of the registered producers who are entitled to vote on the poll.

(4) The producers who are entitled to vote shall be the producers who are registered on such day as may be determined by the Board (hereinafter referred to as the " qualifying date ").

(5) The poll shall be conducted by post and the returning officer shall, not later than the fourteenth 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 returning officer may supply a duplicate voting paper.

(6) The voting paper shall be substantially in the form set out in the First Schedule hereto, and only voting papers which are properly completed and which reach the office of the returning officer on or before six p.m. on the twenty-eighth day after the qualifying date shall be taken into account. 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 one hundred pounds, or to both such imprisonment and fine.

(7) For the purpose of any statutory poll the basis of determining the capacity of a registered producer to produce milk shall be the number of cows in his possession in the area of the Scheme at noon on the qualifying date.

(8) The votes given on any poll shall be counted by the returning officer and his decision on any question arising with respect to any vote shall be final and conclusive.

(9) The returning officer shall draw up and deliver to the Minister and the Board a certificate showing the result of the poll, and including particulars of the number of voting papers sent out by the returning officer, the number of voting papers received by him timeously, the number of such papers which were rejected because they were not properly completed, and the number of registered producers who voted in favour of the amendment or revocation, as the case may be, of the Scheme and against it respectively, and the number of cows in their possession respectively in the area of the Scheme at noon on the qualifying date.

(10) The result of the poll as shown in the certificate given by the returning officer shall be published in *The Glasgow Herald, The Scotsman,* the *Courier and Advertiser,* and such other newspapers as the Board may think fit."

Section 37. Corrupt and Illegal Practices at Statutory Polls and Penalties therefor.

Renumber as 36.

Line 2.—Delete " meaning " and substitute " meanings ".

Line 3.—Delete " section 3 of ".

Line 4.—Delete " section 2 of ".

Section 38. Suspensory Periods.

Delete the section and substitute:—

" 37. SUSPENSORY PERIODS.

The Statutory Suspensory Period and the Second Suspensory Period are those referred to in the Third Schedule hereto."

Section 39. Accounts.

Renumber as 38.

Sub-section (2).

Line 3.—Delete " hereof " and substitute " of the Scheme ".

Sub-section (3).

In the sub-heading after " to " insert " the Minister and to ".

Delete " sub-section (5) of section 24 hereof " and substitute " sub-section (11) of section 25 of the Scheme ".

Sub-section (5). Renumber as (4).

Delete where occurring the word " Sheets " and substitute " Sheet ".

Section 40. Annual General Meeting.

Renumber as 39.

Section 41. Special General Meetings.

Renumber as 40.

Section 42. Notice of General Meetings.

Renumber as 41.

Line 2.—Delete " day " and substitute " date ".

Last line.—Delete " ten " and substitute " twenty-one ".

Section 43. Voting at General Meetings.

Renumber as 42.

Sub-section (1).

Line 1.—Delete " hereof " and substitute " of the Scheme ".

Sub-section (2). Delete the first sentence and insert:—

"On a ballot or a show of hands, every registered producer personally present, and any person (not being a registered producer) duly appointed to act as proxy for a corporation, institution, or firm which is a registered producer, shall have one vote."

Sub-section (3).

Line 2.—After "corporation" insert "or".

Line 3.—Delete "or firm".

Line 4.—Delete "so" and substitute "duly".

Sub-section (6).

Line 6.—Delete "scheme for the Regulation of the Marketing of Milk in Scotland approved by Order of His Majesty's Secretary of State for Scotland, dated ....." and substitute "Scottish Milk Marketing Scheme, 1933,".

Section 44. Quorum at General Meetings.

Renumber as 43.

At the end of the section add "personally present".

Section 45. Amendment of the Scheme.

Delete the section and substitute:—

"44. AMENDMENT OF THE SCHEME.

A copy of any proposed amendment of the Scheme shall be published by post to every registered producer. A poll on the question of whether or not an amendment shall be submitted to the Minister may, within twenty-eight days of the publication thereof, be demanded in writing by not less than five hundred registered producers."

Section 46. Revocation of the Scheme.

Delete the section and substitute:—

"45. REVOCATION OF THE SCHEME.

A poll on the question whether or not the Scheme is to be revoked may be demanded in writing by not less than one thousand registered producers, but no poll shall, without the consent of the Board, be taken on that question within two years from the date of the declaration of the result of any previous poll on that question."

Section 47. Winding-up of the Board—Liability of Registered Producers.

Renumber as 46.

In the heading delete "Liability of Registered Producers".

Insert new sub-section as follows:—

"(1) Part IX of the Companies Act, 1948 (which relates to the winding-up of unregistered Companies and replaces Part X of the Companies Act, 1929) shall apply in relation to the Board subject to the modifications set out in paragraphs 4 to 8 inclusive of the Second Schedule to the Act."

At the beginning of the first line insert "(2)".

Line 3.—Delete "the regulated product" and substitute "milk".

Line 6.—Delete "section" and substitute "sub-section".

Delete the words "who during the relevant period was exempted from contributing to the fund, shall be one pound" and substitute "who during the whole of the relevant period was exempt from the provisions of the Scheme, shall not exceed one shilling".

Insert new sub-section as follows:—

"(3) Any surplus funds remaining on completion of the winding-up, after payment of all liabilities and expenses, shall be distributed among the registered producers who, if there had been a deficit on the winding-up, would have been liable to contribute in terms of sub-section (2) hereof, and in the same proportions as such liability to contribute. Provided, however, that a registered producer who, during the whole of the relevant period, was exempt from the provisions of the Scheme shall not be entitled to any share of such surplus funds."

Section 48. The Common Seal.

Renumber as 47.

Section 49. Deeds.

Renumber as 48.

Section 50. Proof of Posting.

Renumber as 49.

Delete "section 32 hereof" and substitute "section 32 of the Scheme".

Section 51. Interpretation.

Delete the section.

Section 52. Re-printing of Scheme.

Renumber as 50.

FIRST SCHEDULE.

Form of Voting Paper.

THE SCOTTISH MILK MARKETING BOARD.

(1) The returning officer must fill in the name and address of registered producer.

To (1).....
.....
.....

(2) The returning officer must fill in the question on which the poll is being taken.

A poll is being held under the Scottish Milk Marketing Scheme, 1933, on the following question, to which voters must answer "Yes" or "No", viz.:—

(2).....
.....

(3) The returning officer must fill in the qualifying date.

How many cows being kept for dairy purposes were in your possession in the area of the Scheme at noon on (3)..... ..... excluding heifers which had never calved before noon on that date?

..... cows.

Signature of registered producer .....

Address .....
.....

(4) The returning officer must fill in the address of the office to which the form is to be returned.

N.B.—Your vote will not count unless this paper, properly filled in and signed, reaches (4).....
.....

(5) The returning officer must fill in the twenty-eighth day after the qualifying date

on or before (5).....

If you wilfully mis-state the number of cows which you are asked to state above, you will render yourself liable to imprisonment or a heavy fine or both.

.....
Returning Officer.

SECOND SCHEDULE.

Arrangements for Initial Poll of Registered Producers.

(1) The first poll of registered producers taken on the question of whether the Scheme shall remain in force, hereinafter referred to as the initial poll, shall be taken on a date to be fixed by the Board, such date to be not less than three months or more than four months after the date on which the Scheme shall have come into force. The producers who are entitled to vote on the initial poll shall be the producers who are registered on such date as may be determined by the Board.

(2) For the purposes of the initial poll the basis of determining the capacity of registered producers to produce milk shall be the number of cows in their possession on the date on which the Scheme comes into force, or such other date as the Board, having regard to the date of the poll, may determine. Should the number of cows in the possession of a registered producer on said date be less than his normal stock, the Board may, at their discretion, adjust the number, and for the purposes of the poll, such adjusted number of cows shall be deemed to be the number of cows in the possession of the registered producer.

(3) The returning officer shall be such person as the Department of Agriculture for Scotland may, on the application of the Board, appoint.

(4) The poll shall be taken in the following manner:—Not later than seven clear days before the date of the poll, the Board shall cause to be sent by post to every registered producer at the address stated on the form of application for registration, a voting paper which shall, as nearly as circumstances permit, be in the form or to the effect following:—

Scheme for the Regulation of the Marketing of Milk in Scotland approved by order of His Majesty's Secretary of State for Scotland, dated.....

These particulars will be filled in by the Board.

Name of Registered Producer.....
Address .....
.....
Number of Cows.....

VOTING PAPER

In favour of the Scheme remaining in force.	
Not in favour of the Scheme remaining in force.	

Signed this.....day of.....19.....

Signature.....

(5) The voting paper must be signed by the registered producer. If the voting paper is unsigned the vote shall not be counted.

(6) Voting papers must reach the returning officer not later than four clear days after the date fixed by the Board for taking the poll. Voting papers received by the returning officer after that date shall be disregarded.

(7) Any voting paper which is mutilated or otherwise defaced so as not to be, in the opinion of the returning officer, clearly decipherable shall be disregarded.

(8) The Board shall cause to be sent to every registered producer, along with the voting paper, such directions for the guidance of registered producers in voting as the Department of Agriculture for Scotland may direct.

(9) The result of the initial poll shall be declared by the returning officer not later than seven days after the last date for receiving voting papers, by publication in *The Glasgow Herald, The Scotsman* and Dundee *Courier and Advertiser* newspapers.

THIRD SCHEDULE.

Suspensory Periods.

(1) *Statutory Suspensory Period.* The Statutory Suspensory Period shall commence on the date on which the Scheme is approved and end one month after the date on which the result of the initial poll is declared to be favourable to the continuance in force of the Scheme.

(2) *Second Suspensory Period.* In order, however, that the Board may have sufficient time to arrange for the disposal of the supplies of registered producers after the expiration of the Statutory Suspensory Period, and notwithstanding anything in the Scheme to the contrary, the Board may suspend the operation of any or all of the provisions of the Scheme, the operation of which is suspended during the Statutory Suspensory Period, for a further period not exceeding two months (herein referred to as the Second Suspensory Period). Provided, however, that in the event of the Board exercising their powers under this paragraph, the Board shall, as soon as possible, but in any event not less than fourteen days prior to the expiration of the Statutory Suspensory Period, notify in writing every registered producer of the provisions suspended under the Second Suspensory Period and the date on which such provisions shall cease to be suspended and shall apply to the sale of milk.

EXPLANATORY NOTE

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

This Order approves the amendments of the Scottish Milk Marketing Scheme, 1933, set out in the Schedule. The principal amendments provide for—

(1) the conferment on the Board of certain additional powers relating to the purchase and sale of milk and the production of commodities therefrom, including power to deal in milk products produced by, and to act as agents for, other milk marketing boards;

(2) prior notification by the Board to the Secretary of State of certain determinations relating to their main marketing powers;

(3) certain changes in the financial provisions of the Scheme and the conferment on the Board of power to enter into an agreement with the Secretary of State so as to secure for registered producers the benefits of any guarantee under Part I of the Agriculture Act, 1947;

(4) the conduct of polls by a returning officer appointed by the Secretary of State; and

(5) the distribution of surplus funds to registered producers in the event of the winding-up of the Board.