



**Isle of Man**

*Ellan Vannin*

**AT 1 of 1934**

**AGRICULTURAL MARKETING ACT 1934**





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## AGRICULTURAL MARKETING ACT 1934

*Received Royal Assent:* 14 August 1934  
*Passed:* 14 September 1934  
*Commenced:* 14 September 1934

**AN ACT** to provide for the regulation and marketing of agricultural products, for the regulation of the importation and exportation of agricultural products, and for purposes connected therewith.

### GENERAL NOTES

1. The maximum fines in this Act are as increased by the *Fines Act 1986* and by the *Criminal Justice (Penalties, Etc.) Act 1993* s 1.
2. References to the Rolls Office are to be construed in accordance with the General Registry.

### 1 Short title

This Act may be cited as the Agricultural Marketing Act, 1934.

### 2 Interpretation

In this Act, unless the context otherwise requires, the following expressions have the meaning hereby assigned to them, that is to say: —

“**Advisory Committee**” [Repealed]<sup>1</sup>

“**Agricultural export licence**” means a licence to export an agricultural product issued by or on behalf of the Department.<sup>2</sup>

“**Agricultural import licence**” means a licence to import an agricultural product issued by or on behalf of the Department.<sup>3</sup>

“**Agricultural product**” includes any product of agriculture or horticulture and any article of food or drink wholly or partly manufactured or derived from any such product, and fleeces and the skins of animals.

“**Association**” means an association designated under a scheme under this Act.<sup>4</sup>

“**Board**” [Repealed]<sup>5</sup>

“**the Department**” means the Department of Environment, Food and Agriculture.<sup>6</sup>

“**Contravention**” includes non-compliance, and the expression “**contravene**” shall be construed accordingly.

“**Court**” means the Court of Summary Jurisdiction of the district where an offence under this Act is committed, or where the person charged with such offence resides.

“**Producer**” means, in relation to any scheme, any person who produces the regulated product.

“**Registered producer**” means, in relation to any scheme, a producer registered under the scheme.

“**Regulated product**” means in relation to any scheme, any agricultural product the marketing of which is regulated by the scheme, but does not include any product in so far as it is produced outside the area to which the scheme is applicable.

“**Society**” means the body corporate designated as the Isle of Man Agricultural Marketing Society under section 3.<sup>7</sup>

“**the U.K. Act**” means the Agricultural Marketing Act 1958 (an Act of Parliament).<sup>8</sup>

“**United Kingdom Act of 1931**” [Repealed]

“**United Kingdom Act of 1933**” [Repealed]<sup>9</sup>

### *Agricultural Marketing*

## **3 The Isle of Man Agricultural Marketing Society**

- (1) For the purposes of this Act, the Isle of Man Agricultural Marketing Society is the body corporate designated in accordance with this section.
- (2) The Department shall by notice in writing designate a body corporate as the Isle of Man Agricultural Marketing Society.
- (3) The Department shall not make a designation under this section unless the body corporate concerned complies with any requirements imposed by order under section 3A.
- (4) As soon as possible after making a designation under subsection (2), the Department shall cause the designation to be published in two newspapers published and circulated in this Island, and in such other manner as the Department thinks best for informing persons affected.
- (5) The reasonable expenses of the Society in exercising its functions under this Act shall be defrayed by the Associations in such proportions as the Society, with the approval of the Department shall declare.

- (6) In any proceedings a certificate by the Attorney General that a body corporate is designated under subsection (1) shall be conclusive evidence of that fact and a certificate purporting to be signed by the Attorney General shall be accepted as such unless the contrary is proved.<sup>10</sup>

### **3A Prescribed requirements for Society**

- (1) The Department may by order specify the requirements that a body corporate must comply with to be designated and continue to be designated as the Society under section 3 and, but without prejudice to the generality of that power, the order may make provision —
- (a) about the contents of the memorandum and articles of association of the body;
  - (b) about membership and ownership generally;
  - (c) about the qualifications for membership, the term of membership, resignations and casual vacancies;
  - (d) specifying the number of members, the method of appointing or electing members and specifying who shall be as well as who may or may not be members;
  - (e) about the proceedings of the body and voting rights of members;
  - (f) about the membership of the board of management (whether appointed as directors or otherwise);
  - (g) specifying the number of members of the board of management, the method of appointing those members and specifying who shall be as well as who may or may not be members of the board of management;
  - (h) about the proceedings of the board of management.
- (2) No amendment of the Society's memorandum or articles of association shall have effect unless it is approved in writing by the Department.
- (3) In any proceedings it shall be for the Society to prove that the Department has approved any amendment to the Society's memorandum and articles of association.
- (4) Where the Articles of Association of the Society provide for the Council of Ministers or the Department to nominate any of the members, the Department may by order make provision for the payment of such attendance allowances and expenses as may be so prescribed to those members of the Society.
- (5) Before making an order under this section the Department must consult the body that is, at the time the consultation is undertaken, the Isle of Man Agricultural Marketing Society.
- (6) An order under this section shall not come into operation unless it is approved by Tynwald.<sup>11</sup>

### 3B Elections by producers

- (1) Where an order under section 3A requires any member of the Society to be elected by a ballot of producers of agricultural products, the Department may by regulations make provision for —
  - (a) the conduct by the Department of the election of the producer members of the Society;
  - (b) the production and maintenance of lists of the producers that are eligible to vote;
  - (c) the manner and procedure for taking a poll of the eligible producers;
  - (d) the resignation of office by any such member;
  - (e) the filling of casual vacancies;
  - (f) election districts.
- (2) Regulations under this section shall not come into operation unless they are approved by Tynwald.<sup>12</sup>

### 4 Framing and approving of marketing schemes

- (1) A scheme regulating the marketing of an agricultural product may be framed by the Society for application to the Isle of Man, or to some part thereof, in any case where the Society is satisfied that such a scheme is necessary for the more efficient production and marketing of the said agricultural product:

Provided that the Society shall frame a scheme under this Act as respects any agricultural product where such a scheme appears to the Department to be necessary for subserving any purposes of an order regulating sales of that agricultural product and made under Part III of the U.K. Act, or in any other case where the Department is satisfied that such a scheme is necessary for the more efficient production and marketing of an agricultural product.<sup>13</sup>
- (2) The Society shall when framing a scheme take into consultation representatives of the producers of the agricultural product proposed to be regulated and such representatives of any other interests which may be affected by the scheme as the Society may consider desirable.
- (3) The Department after compliance with the provisions of Part I of the First Schedule to this Act, may make an order approving the scheme as framed or with such modifications (if any) as may be made under the said provisions.<sup>14</sup>
- (4) The Department may at any time, after the like consultation as is required under sub-section (2) of this section, make an order amending or revoking a scheme approved under this section.<sup>15</sup>

- (5) Every scheme approved by the Department and every amendment to or revocation of a scheme shall be subject to the approval of Tynwald.<sup>16</sup>
- (6) The provisions contained in Part II of the First Schedule to this Act shall apply with respect to the revocation and cesser of schemes.
- (7) Subject to the foregoing provisions, a scheme shall come into force upon the date specified in that behalf in the order approving the scheme, and the resolution of Tynwald approving the scheme shall be conclusive evidence that the requirements of this Act have been complied with and that the order and the scheme approved thereby have been duly made and approved and are within the powers conferred by this Act.
- (8) As soon as possible after making an order approving, amending or revoking a scheme, the Department shall cause the order to be published in two newspapers published and circulated in this Island, and in such other manner as the Department thinks best for informing persons affected.<sup>17</sup>

## **5 Associations to administer schemes**

- (1) Every scheme shall designate a body corporate that shall be the association for the purposes of this Act or of administering the scheme.
- (2) A designation shall not be made under this section unless the body corporate concerned complies with the requirements imposed by an order under section 5A.
- (3) In any proceedings it shall be for the Society to prove that a body corporate is designated under subsection (1).<sup>18</sup>

### **5A Prescribed requirements for associations**

- (1) The Department may by order specify the requirements that a body corporate must comply with to be designated and continue to be designated as an association under section 5 and, but without prejudice to the generality of that power, the order may make provision —
  - (a) about the contents of the memorandum and articles of association of the body;
  - (b) about membership and ownership generally;
  - (c) about the qualifications for membership, the term of membership, resignations and casual vacancies;
  - (d) specifying the number of members, the method of appointing or electing members and specifying who shall be as well as who may or may not be members;
  - (e) about the proceedings of the body and voting rights of members;
  - (f) about the membership of the board of management (whether appointed as directors or otherwise);

- (g) specifying the number of members of the board of management, the method of appointing those members and specifying who shall be as well as who may or may not be members of the board of management;
  - (h) about the proceedings of the board of management.
- (2) No amendment of an association's memorandum or articles of association shall have effect unless the amendment is approved in writing by the Department.
  - (3) Before making an order under this section the Department must consult the body that is, at the time the consultation is undertaken, the Isle of Man Agricultural Marketing Society.
  - (4) An order under this section shall not come into operation unless it is approved by Tynwald.<sup>19</sup>

## **5B Elections by producers**

- (1) Where an order under section 5A requires any of the members of an association to be elected by a ballot of producers, the Department may by regulations make provision for —
  - (a) the conducting by the Department of the election;
  - (b) the manner and procedure for taking a poll of the eligible producers;
  - (c) the filling of casual vacancies;
  - (d) election districts.
- (2) Before making regulations under this section the Department must consult the body the is, at that time the consultation is undertaken, the Isle of Man Agricultural Marketing Society.
- (3) Regulations under this section shall not come into operation unless they are approved by Tynwald.<sup>20</sup>

## **6 Register of producers and lists**

- (1) Every scheme shall provide for the registration of any producer of the regulated product, who makes application for that purpose, and for the removal from the register of the names of persons who have ceased to be such producers.
- (2) The Society, as soon as practicable after any scheme has been framed, shall cause a list to be compiled containing —
  - (a) the names of all such persons within the area to which the scheme applies as the Society has reason to believe to be producers of the regulated product, not being persons to be exempted from registration under the scheme; and

- (b) the respective addresses of such persons so far as known to the Society.

When such list has been compiled, the Society shall send by post to every person named in the list particulars of the scheme framed by the Society, together with a form of application for registration as a producer under the scheme.

The annual agricultural statistics collected by the Department may be used for the purpose of compiling the list aforesaid.<sup>21</sup>

- (3) The register of producers for the purposes of a scheme shall be kept by the Society. The register shall be open for inspection, and the Society shall furnish a copy of the register, or of any part thereof, to any person demanding it, upon payment of such fee as the Department may approve.<sup>22</sup>

## 7 Regulation of marketing and encouragement of co-operation, education and research

- (1) A scheme may provide for all or any of the matters set out in one or more of the following paragraphs, that is to say: —
  - (a) [Repealed]<sup>23</sup>
  - (b) for requiring registered producers to sell the regulated product or any description thereof, or such quantity thereof or of any description thereof as may from time to time be determined by the association, only to, or through the agency of, the association;
  - (c) and (d) [Repealed]<sup>24</sup>
  - (e) for the determination from time to time —
    - (i) of the descriptions of the regulated product which may be sold by any producer;
    - (ii) of the price at below or above which, the terms on which, and the persons to, or through the agency of whom, the regulated product, or any description or quantity thereof, may be sold as aforesaid;
  - (f) for the determination from time to time of the quantity of the regulated product, or of any description thereof, which may be sold by any producer, so, however, that the scheme shall either specify the method of determination or require the association to prescribe it, and, without prejudice to the generality of the foregoing provisions of this paragraph, the scheme may provide for the quantity aforesaid being determined, in the case of any producer wholly or partly by reference to the quantity of that product or description, as the case may be, which was, in some past period, produced on particular land or premises or by particular persons;

- (g) for empowering any person authorised in writing by the association (including, with the approval of the Department, any officer of the Department ) for the purpose of securing compliance with the scheme to enter and inspect at any reasonable time, and on production of his authority, any part of the land or premises occupied by any registered producer (being a producer specified in the authority) which the person so authorised has reason to believe is used for producing the regulated product, or for doing any of the following things which is regulated by the scheme, that is to say, grading, marking, packing or storing the regulated product, or adapting it for sale, and for requiring registered producers to permit such entry and inspection;<sup>25</sup>
  - (h) for requiring any producer of the regulated product to furnish to the association his name and address and such information relating to the regulated product as the association, with the approval of the Department, may determine;<sup>26</sup>
  - (i) [Repealed]<sup>27</sup>
  - (j) for empowering the association to receive the whole or any part of any sums payable by purchasers of a regulated product in respect of sales of that product by registered producers, and for securing that any sums so received are distributed by the association to the sellers in such manner as may be specified in the scheme or prescribed by the, Society;
  - (k) to (m) [Repealed]<sup>28</sup>
- (2) For the purposes of any scheme, the Society, with the approval of the Department, may by regulations prescribe the persons by whom and the manner in which the regulated product or any description or quantity thereof is to be graded, and the manner in which the regulated product or any description or quantity thereof is to be marked, packed, stored, adapted for sale, insured, advertised or transported.

All regulations made under this sub-section shall be subject to the approval of Tynwald.<sup>29</sup>

## 8 Joint action for determining certain matters under schemes

- (1) A scheme may provide for empowering the association by whom the scheme is to be administered to act jointly with the association administering any other scheme under this Act, or with a committee of dealers in determining any matter mentioned in paragraph (e) of sub-section (1) of the last preceding section of this Act, and to agree to refer any question which may arise in the course of such joint action to the decision of a joint body consisting of such members of the associations, or of the association and the committee of dealers, as the scheme or schemes may provide.

- (2) In this section the expression “committee of dealers” means a committee constituted under regulations made by the Department under this Act and composed of representatives of persons carrying on business as dealers in a regulated product.<sup>30</sup>

## 9 General provisions of schemes and contravention of schemes

- (1) Every scheme shall provide for the following matters, that is to say: —
- (a) for requiring that no sale of the regulated product shall be made by any producer who is not either a registered producer or a person exempted from registration by or under the provisions of the scheme;
  - (b) for exempting from registration under the scheme any producer or groups, classes or descriptions of producers;
  - (c) for exempting from all or any of the provisions of the scheme such producers and sales of such classes or descriptions, and to such classes of persons, as may be specified in the scheme or in regulations to be made by the Department under this Act;<sup>31</sup>
  - (d) for requiring the association to impose on, and recover from, any registered producer who contravenes any provision of the scheme made in pursuance of sub-section (1) of section seven of this Act such monetary penalties as may be specified by the scheme, so, however, that no such penalty shall be imposed in respect of a contravention of the scheme which constitutes an offence under any other Act;
  - (e) for securing that any producer who is aggrieved by any act or omission of the association may refer the matter to one or more arbitrators appointed in such manner as may be provided by the scheme, and for the manner in which any such reference is to be heard and determined;
  - (f) for the following additional matters, namely —
    - (i) [Repealed]<sup>32</sup>
    - (ii) the furnishing by the association to the Department and to registered producers of accounts, returns and other information;<sup>33</sup>
    - (iii) the manner in which the moneys of the association may be invested;
    - (iv) the furnishing by the association of a copy of the accounts of the association to any person requiring it upon payment of such fee as the scheme may specify.
- (2) A scheme may provide for securing that where, by reason of a registered producer dying, or becoming subject to some legal disability, or entering into a composition or scheme of arrangement with his creditors, any

property in, or control of, the regulated product is transferred from the registered producer to a personal representative, trustee, committee, or other person, the personal representative, trustee, committee, or other person, as the case may be, shall, in such circumstances and in respect of such matters as may be specified in the scheme, be deemed to be a producer.

- (3) Every scheme may further provide for such matters as are incidental to, or consequential on, the provisions of this Act relating to the contents of schemes, or are necessary for giving effect to those provisions.
- (4) Any producer who sells the regulated product in contravention of any provisions of a scheme made in pursuance of paragraph (e) or paragraph (f) of sub-section (1) of section seven of this Act, or in pursuance of paragraph (a) of sub-section (1) of this section, shall for each offence be liable on summary conviction to a fine not exceeding £200, or on conviction on indictment to a fine not exceeding £200, and in either case to an additional fine not exceeding half the price at which the product was sold:

Provided that the fines imposed on summary conviction for any offence under this sub-section shall not exceed in the aggregate £500.

- (5) If any producer from whom any information is required by an association in the exercise of their powers under a provision of a scheme made in pursuance of paragraph (g) of sub-section (1) of section seven of this Act fails to comply with the requirement or knowingly makes any false statement in reply thereto, such producer shall for each offence be liable on conviction to imprisonment for a term not exceeding one month, or to a fine not exceeding £200, or to both such imprisonment and fine.
- (6) Where any court imposes a fine for an offence under sub-section (4) or sub-section (5) of this section, the fine shall be paid to the association.

## 10 Financial powers and duties of associations

- (1) Every scheme shall provide for the following matters, that is to say: —
  - (a) for the establishment of a fund (hereafter in this section referred to as “the fund”) to be administered and controlled by the association, for the payment into the fund of all moneys received by the association, and for the payment out of the fund of any moneys required by the association for the operation of the scheme (including moneys borrowed under paragraph (e) of this sub-section) or otherwise for the purposes of this Act;
  - (b) for the payment by producers of contributions to the fund of such amounts as the association, with the approval of the Department, may determine to be necessary for the operation of the scheme or otherwise for the purposes of this Act, and for the assessment of

the contribution of each producer in such manner and subject to such limitations as may be provided by the scheme.<sup>34</sup>

- (c) for exempting from the payment of contributions under the scheme such classes of producers, being producers exempted from registration under the scheme, as the Society may determine;
  - (d) for the distribution among producers, in such manner as may be provided by the scheme, of all moneys standing to the credit of the fund which are not required for the operation of the scheme or otherwise for the purposes of this Act;
  - (e) for empowering the association to borrow money for the purpose of exercising their functions under the scheme.
- (2) Any scheme may empower the association to pay on account or lend to any registered producer a portion of the amount which the association estimate that he will receive from the sale of any quantity of the regulated product produced, or in course of production, or held in store by him.
- (3) The Department shall by order require the association administering a scheme to impose a special levy or levies for the purpose of covering any loss which the association have experienced in trading under the scheme.

Any such levy shall be imposed by the association upon such producers, and in such proportions, as may be specified in the order made by the Department.

Compensation shall be payable under and in accordance with such a scheme by the association to registered producers in such class of cases as may be specified in the scheme.<sup>35</sup>

- (4) The amount of any contribution payable by a producer to the fund under a scheme, and the amount of any levy imposed upon a producer under sub-section (3) of this section, shall be a debt due to the association from such producer.
- (5) The Treasury may on behalf of the Isle of Man Government with the approval of Tynwald and on the recommendation of the Department, guarantee in such manner as the Treasury thinks fit, the payment of the interest and principal, or of either interest or principal, of loans proposed to be borrowed by an association for the purpose of meeting the expenses incurred in connection with the initiation of a scheme. Any such loan shall be repaid by the association within two years, but may be renewed from time to time, with the guarantee of the Treasury, for further periods of two years, if the Department so recommends.

Such sums as may from time to time be required by the Treasury for fulfilling any guarantees given under this sub-section shall be paid by the Treasury out of moneys provided by Tynwald, and all sums repaid

in respect of any guarantee of the Treasury shall be paid to the Treasury for the credit of the general revenue of this Island.<sup>36</sup>

**11 [Repealed]<sup>37</sup>**

**12 Effect of schemes as to firms and keepers of live stock**

- (1) Registration under a scheme of the name or style under which two or more persons carry on business in partnership as producers shall operate as the registration of all the partners for the time being; so however, that for the purposes of those provisions of this Act or of the scheme which relate to elections and voting at meetings, and to the assessment of contributions on registered producers, all the partners shall be regarded as constituting together a single registered producer.
- (2) For the purposes of a scheme regulating the marketing of live stock of any kind, every person whose business it is to keep live stock of that kind for the purpose of breeding from it or selling it in an improved condition shall (except in so far as the scheme otherwise provides) be deemed to produce it.

**13 [Repealed]<sup>38</sup>**

**14 Provisions as to expenses of the Department and accounts in certain cases**

- (1) Any expenses incurred by the Department in respect of —
  - (a) the conduct of any elections of members of the Society or of an association; or
  - (b) the compilation of lists of the names and addresses of producers of a regulated product; or
  - (c) the employment of any officer of the Department by the Society or by an association on inspection for securing compliance with a scheme or otherwise for the purposes of this Act; or<sup>39</sup>
  - (d) the execution of an order under this Act for removing any difficulty arising in bringing into operation any provision of a scheme;
  - (e) [Repealed]<sup>40</sup>shall be paid by the Society or by the association concerned to the Department, and all sums so received by the Department shall be paid to the Treasury.<sup>41</sup>
- (2) So long as an association is under any financial liability to the Treasury, the audited accounts of the association together with such information in

relation thereto as the Treasury may require, shall be furnished to the Treasury, and provision to that effect shall be made by the scheme.<sup>42</sup>

**15 [Repealed]<sup>43</sup>**

**16 Power of the Department to make regulations and orders**

- (1) The Department may by regulations make such provision as appears to the Department to be necessary for all or any of the following purposes —
  - (a) for giving full effect to this Act;
  - (b) for regulating the removal from the Isle of Man into Great Britain or Northern Ireland of any agricultural product the marketing of which is regulated by a scheme for the time being in force under this Act or under the United Kingdom Act of 1931, the quantity of the product or of any description thereof which may be so removed, and the descriptions of the product which may be so removed, and in particular (without prejudice to the generality of the foregoing provision of this paragraph) for the following matters:
    - (i) the registration of persons carrying on business in the Isle of Man as dealers in the regulated product;
    - (ii) the exemption from registration of such classes of persons carrying on business as aforesaid as the regulations may specify;
  - (c) for constituting, for the purposes of this Act, committees composed of representatives of persons carrying on business as dealers in a regulated product;
  - (d) for subserving the purposes of any order under Part III of the U.K. Act regulating sales of an agricultural product;<sup>44</sup>
  - (e) for subserving the purposes of an agricultural marketing scheme under the United Kingdom Act of 1931.
  - (f) [Repealed]<sup>45</sup>
- (2) Subject to any directions which may be contained in regulations made under this section, it shall be the duty of associations constituted under schemes under this Act to exercise their powers in such manner as appears to them to be necessary for securing that the regulations are not contravened.
- (3) Any person who removes or attempts to remove any agricultural product from the Isle of Man into Great Britain or Northern Ireland in contravention of the provisions of any regulation made under paragraph (b) of sub-section (1) of this section shall be liable on

conviction to imprisonment for a term not exceeding three months, or to a fine not exceeding £5,000, or to both such imprisonment and fine.

- (4) All regulations under this section shall be subject to the approval of Tynwald.
- (5) The Department may by order do any matter or thing which is necessary for removing any difficulty which may arise in the bringing into operation of any provisions of this Act or of a scheme thereunder or any order under Part III of the U.K. Act regulating sales of an agricultural product.

Every order made under this sub-section shall come into force upon the date specified therein in that behalf, and shall be subject to the approval of Tynwald.<sup>46</sup>

## **17 Inspection of premises and furnishing of returns**

- (1) Any officer authorised by the Department or the Society shall have power to enter at all reasonable times and to inspect
  - (a) any land or premises occupied or used by any person registered as a dealer under regulations made under this Act for the purposes of his business as a dealer; and
  - (b) any land or premises which the Department or the Society has reason to believe to be occupied or used by any person for the purpose of producing, selling, grading, marking, packing or storing any regulated product.<sup>47</sup>

Any person who obstructs or impedes an officer in the exercise of his powers under this sub-section shall be liable on conviction to a fine not exceeding £1,000.<sup>48</sup>

- (2) The Department may for the purpose of this Act by order require any producer of, or person carrying on business as a dealer in, a regulated product to make to the Department, at such time or times and in such form and manner as may be prescribed by the order, returns as to the production, sales and stocks of the regulated product, and also in the case of a dealer, returns as to purchases of the regulated product.

Any person who fails to comply with any requirements of an order under this sub-section within the time prescribed by the order, or knowingly makes any false statement in reply to such requirement, shall for each offence be liable on conviction to imprisonment for a term not exceeding one month, or to a fine not exceeding £1,000 or to both such imprisonment and fine.<sup>49</sup>

## **18 Restrictions on disclosing information on returns**

- (1) Any person who discloses any information obtained by him in the exercise of any power conferred on him or on the Department or on any

association by or under the provisions of this Act shall be liable on conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding six months.

Provided that nothing in this sub-section shall apply to the disclosure of any information in so far as it is required to be disclosed for the purposes of a prosecution or other legal proceedings under this Act, or under any scheme or regulations made under this Act, or in so far as the disclosure is required or authorised by this Act or any scheme or regulation made thereunder.<sup>50</sup>

- (2) No individual return or part of a return made to the Department in accordance with an order of the Department under this Act shall be disclosed without the authority of the person by whom the return was made, except in so far as the disclosure is authorised by the proviso to sub-section (1) of this section.<sup>51</sup>

## 19 Prosecutions and fines

- (1) Except in a case where this Act otherwise expressly provides, in this Act “**conviction**” means summary conviction.<sup>52</sup>
- (2) A prosecution for an offence which under this Act may be prosecuted before a court of summary jurisdiction (other than an offence committed by an officer of the Department or of any association established under this Act) shall not be instituted except by, or with the consent of, the Department.<sup>53</sup>
- (3) All fines recoverable under this Act by the Department shall, notwithstanding anything in any enactment, be paid to the General Revenue of the Island, except so far as they may be directed by a court, in pursuance of the provisions of this Act in that behalf, to be paid to an association.<sup>54</sup>

## 20 Provisions as to offences by officers of body corporate

When any offence under this Act committed by a body corporate is proved to have been committed with the consent or approval of, or to have been facilitated by any neglect on the part of, any director, manager, secretary or other officer of the body corporate, he, as well as the body corporate, shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly.

## 21 and 22 [Repealed]<sup>55</sup>

## 23 Department may delegate duties to Society

The Department may at any time, and from time to time, make such orders as they consider necessary or advisable appointing the Society to be a committee

for any purposes having reference to the powers or duties of the Department under the Agricultural and Rural Industries Acts for the time being in force, and it shall be lawful for the Society, in transacting the business so committed to them, to exercise all the necessary powers for that purpose which are by the said Acts given to the Department.<sup>56</sup>

## 24 [Repealed]<sup>57</sup>

## 25 Department may make Orders

- (1) The Department may at any time, and from time to time, make such Orders as it may consider necessary or desirable for regulating or prohibiting the importation into this Isle or the exportation from this Isle of agricultural products, or any kind or class of agricultural products, and such Order may provide that any agricultural products or any number or quantity thereof, may be imported or exported on a licence to be issued on behalf of the Department by any duly authorised officer, and on such conditions and subject to such provisions as may be specified in such licence, and such Order may designate the officers by whom the same shall be enforced, and may confer upon such officers such powers as the Department may consider desirable.<sup>58</sup>
- (2) An Order made by the Department under this section may be revoked or amended by the Department by a subsequent Order.<sup>59</sup>
- (3) An Order made by the Department under this section (other than an order that has been made regulating the importation into the Isle of Man of an agricultural product in respect of which an order has been made under the United Kingdom Act of 1931 or the United Kingdom Act of 1933 and is in operation regulating the importation of such product into the United Kingdom which order under this Act shall take effect from the date specified therein or if no date is so specified from the date of the making of the order) shall have effect from the date specified therein, or if no date is so specified, from the date of the making of the Order, until the next sitting of Tynwald, and such Order shall cease to have effect on and from the day following the date of such sitting of Tynwald, unless Tynwald by resolution confirms such Order.<sup>60</sup>
- (4) Tynwald may at any time by resolution rescind any Order so confirmed.
- (5) An order shall not be made under this section with respect to any particular kind of agricultural product unless —
  - (a) there is in operation on the date when such order takes effect a scheme under this Act with respect to such agricultural product, provided that the Department make an order with respect to any agricultural product with regard to which it is satisfied that a scheme under this Act is in course of preparation; or<sup>61</sup>

- (b) an order has been made regulating the importation of the agricultural product into the United Kingdom under the United Kingdom Act of 1931 or the United Kingdom Act of 1933; or
- (c) there are other circumstances which in the opinion of the Department render it necessary that an order should be made.<sup>62</sup>

## 26 Condition of issue of licences

With respect to a licence under this Act:

- (1) An application for a licence shall be made to the Department in writing and shall be in such form and shall contain such particulars as the Department shall, from time to time, prescribe.<sup>63</sup>
- (2) If any person makes any untrue statement in an application for a licence he shall be guilty of an offence under this Act.
- (3) The Department may grant or refuse a licence, or may grant a licence for a less number or quantity than applied for, and on the grant of a licence may attach to the grant such conditions or restrictions as the Department may think fit.<sup>64</sup>
- (4) If the owner of any article imported under a licence shall fail to carry out or comply with any conditions or restrictions so affixed to such licence he shall be guilty of an offence under this Act.

## 26A General powers of authorised officers

- (1) For the purpose of ascertaining whether the provisions of any order under section 25 have been complied with, an authorised officer may at any time examine any agricultural products which he has reasonable grounds for supposing have been imported into the Island.
- (2) An authorised officer may at any time enter any land, vessel, boat, aircraft, container or vehicle of any description –
  - (a) on or in which there is being or has been kept any agricultural product which has been imported and the importation of which is for the time being prohibited or regulated by an order under section 25;
  - (b) for the purpose of ascertaining whether the provisions of any order under that section are being complied with; or
  - (c) for the purpose of examining agricultural products under subsection (1).
- (3) An authorised officer entering as authorised by subsection (2) shall, if required by the owner, or occupier, or person in charge of the land, vessel, boat, aircraft, container or vehicle, state his reasons for entering and produce proof of his authority.

- (4) Notwithstanding section 182(1) of the *Customs and Excise Management Act 1986*, agricultural products which are removed to the Island from the United Kingdom contrary to an order under section 25 are liable to forfeiture under that Act and accordingly, the provisions of that Act relating to seizure and forfeiture of goods improperly imported shall apply in respect of such products.
- (5) In this section “authorised officer” means —
- (a) a veterinary inspector appointed by the Department; and
  - (b) a person appointed to be an authorised officer for the purposes of this section.<sup>65</sup>

## **26B Refusal and obstruction**

Any person who, without lawful authority or excuse, proof of which shall lie with him —

- (a) refuses to an authorised officer, acting in execution of section 26A, or of an order under section 25, admission to any land, vessel, boat, aircraft, container or vehicle of any description which the officer is entitled to enter; or
- (b) obstructs or impedes him in so entering or in examining any agricultural product which he is entitled to examine; or
- (c) otherwise in any respect obstructs, impedes or delays an authorised officer acting in execution of section 26A, or of an order under section 25, or assists in any such obstructing or impeding,

is guilty of an offence and shall be liable on summary conviction to a fine not exceeding £5,000 or to custody for a term not exceeding 6 months, or to both.<sup>66</sup>

## **27 [Repealed]<sup>67</sup>**

## **28 Department may require occupiers of agricultural land to supply particulars of agricultural products and information relating thereto**

- (1) The Department may, at any time or times, by notice served on the occupier of any agricultural land, or on the person having the management on behalf of the occupier of any such land, require him to make within such time, not being less than seven days, as is specified in the notice, and in such form and to such person as the Department may, from time to time, prescribe, a return in writing of the agricultural products on the land and such information relating to such agricultural products, as may, from time to time, be required by the Department.<sup>68</sup>
- (2) The return shall be made with respect to the conditions existing on such day as may be specified in the notice.

- (3) No individual return or part of a return under this section shall be used, published or disclosed without the authority of the person making it, or of the occupier on whose behalf it is made, except for the purposes of the preparation of information by the Department under this Act.<sup>69</sup>
- (4) Any person who refuses or without lawful excuse neglects to make a return required under this section to be made by him shall be guilty of an offence under this Act.
- (5) If any person makes a return under this section which is to his knowledge untrue in any material particular he shall be guilty of an offence under this Act.
- (6) Any person who uses, publishes, or discloses, contrary to the provisions of this section, any individual return or part of a return, shall be guilty of an offence under this Act.
- (7) Any notice under this section may be served on the person to whom it is addressed either personally or by post, and, in the case of a notice to an occupier, may be addressed to “the occupier” without naming him.

## 29 Department may make regulations

- (1) The Department may at any time and from time to time make regulations generally for the purpose of carrying into effect that Part of this Act consisting of sections twenty-four to twenty-seven, both inclusive, and in particular, but without prejudice to the generality of the foregoing provisions, may make regulations —
  - (a) as to the forms to be used in the issue or refusal of agricultural import licences and agricultural export licences;
  - (b) as to applications for and the issue or refusal of such licences;
  - (c) as to the conditions or restriction to be attached to such licences;
  - (d) as to the manner in which agricultural products are to be imported into this Island or exported out of this Island;
  - (e) as to the marking of agricultural products so imported or exported.
  - (f) [Repealed]<sup>70</sup>
- (2) Any regulations made by the Department under this section shall be subject to the approval of Tynwald.<sup>71</sup>

## 30 Offences

- (1) Any agricultural product in respect of which an Order is in force under section 25 of this Act, imported into this Island without an agricultural import licence, or exported out of this Island without an agricultural export licence issued under this Act may be seized by any harbour master, police constable, or an inspector or other officer of the

Department, and detained until an Order of the Court is obtained with respect to such agricultural product. Any person importing or causing or permitting any such agricultural product to be imported into this Isle or exported out of this Isle without a licence, and the owner and master of the vessel on which such agricultural product is carried, shall each, according to and in respect of his own acts and defaults, be guilty of an offence under this Act, and the Court may, in addition, order the agricultural product in respect of which such offence was committed to be confiscated.<sup>72</sup>

- (2) Any person who shall make any untrue statement in an application for an agricultural import licence or an agricultural export licence or shall violate any condition, provision or restriction of any such licence or shall obstruct or impede or aid in obstructing or impeding any officer or person authorised to carry out any duties under this Act, or shall otherwise offend against any of the provisions of this Act or any regulations made by the Department thereunder, shall be guilty of an offence under this Act.<sup>73</sup>

### **30A Offence to sell, etc. agricultural products imported without an agricultural import licence**

- (1) Subject to the following provisions of this section, a person who, in the course of a business carried on by him, sells, offers or exposes for sale, has in his possession for the purpose of sale, or displays to the public —
- (a) any agricultural product which has been imported without an agricultural import licence; or
  - (b) anything which is made wholly or partly from any agricultural product referred to in paragraph (a),
- shall be guilty of an offence.
- (2) For the purposes of any proceedings under this section, where it is proved that the agricultural product in question was found on —
- (a) any premises; or
  - (b) any vehicle,
- on or from which agricultural products are sold by the person alleged to have committed the offence, it shall be presumed, unless he satisfies the court to the contrary, that he had the product in his possession for the purpose of sale.
- (3) A person shall not be guilty of an offence under subsection (1) with respect to a restricted article if the court is satisfied —
- (a) that at the time when it first came into his possession he made such enquiries (if any) as in the circumstances were reasonable in order to ascertain whether it was a restricted article, and

- (b) that, at the time the alleged offence was committed, he had no reason to believe that it was a restricted article.
- (4) In this section —
- “display to the public” means display to the public generally or any section of it, and (in either case) whether in return for money or otherwise;
- “restricted article” means anything falling within subsection (1)(a) or (b);
- “sale” includes references to barter and exchange.<sup>74</sup>

### 31 Proceedings

- (1) Notwithstanding section 75 of the *Summary Jurisdiction Act 1989*, summary proceedings for an offence under this Act may be commenced —
- (a) if the proceedings are commenced before the end of the period of 3 years beginning with the date of the commission of the offence; and
- (b) within 6 months after the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to his knowledge.
- (2) For the purposes of this section a certificate signed by or on behalf of the prosecutor as to the date on which such evidence as is there mentioned came to his knowledge shall be conclusive evidence of that fact, and a certificate stating that matter and purporting to be so signed shall be treated as so signed unless the contrary is proved.
- (3) In any proceeding under this Act no proof shall be required of the appointment or handwriting of an inspector or other officer of the Department.
- (4) Every notice under this Act or under any order or regulation made under this Act must be in writing.
- (5) [Repealed]<sup>75 76</sup>

### 32 Penalties

A person guilty of an offence under this Act for which no penalty is hereinbefore provided shall be liable, on summary conviction, at the suit of the Chief Constable or any officer of police, or any officer of the Board, to a penalty not exceeding £2,500.<sup>77</sup>

### 33 Commencement of Act

This Act shall come into operation when the Royal Assent thereto has been by the Governor announced to Tynwald, and a certificate thereof has been signed by the Governor and the Speaker of the House of Keys.



**FIRST SCHEDULE****APPROVAL, REVOCATION AND CESSER OF SCHEMES**

Section 4(3) and (6)

**PART I – APPROVAL OF SCHEMES**

1. Before approving a scheme, the Department shall cause to be published in two newspapers published and circulated in this Island, and in such other manner as the Department thinks best for informing persons affected, notice of the framing of the scheme, of the place where copies thereof may be obtained (on payment of such fee as may be prescribed by the notice) and inspected, and of the time (which shall not be less than six weeks after such publication in such two newspapers) within which objections and representations with respect to the scheme may be made: —

Provided that in the application of this paragraph to a scheme framed by the Society on or before the thirty-first day of December, nineteen hundred and thirty-four, twenty-one days shall be substituted for six weeks.<sup>78</sup>

2. Every objection must be sent to the Department in writing and must state the grounds of objection and the specific modifications required.<sup>79</sup>

3. The Department, after considering any objections and representations duly made with respect to the scheme as framed, and after holding such inquiries (if any) as the Department thinks fit, may make such modifications in the scheme as the Department thinks proper:

Provided that where an objection has been duly made to the scheme by any person affected thereby and has not been withdrawn, the Department unless it considers the objection to be frivolous, or unless it has modified the scheme as required by the objection, shall, before taking any further action under this Act in relation to the scheme, direct a public inquiry to be held as hereafter in this Part of this Schedule provided and consider the report of the person who held the inquiry.<sup>80</sup>

4. Any inquiry under this Part of this Schedule shall take place in accordance with regulations made by the Department for the purpose and be held by a competent and impartial person appointed by the Department. The expenses of any such inquiry incurred by the Department with the approval of the Treasury, shall be defrayed out of moneys provided by Tynwald.<sup>81</sup>

5. The person appointed to hold an inquiry under this Part of this Schedule shall have, in relation to witnesses and their examination and the production and inspection of documents, similar powers to the High Court of justice.

## PART II – REVOCATION AND CESSER OF SCHEMES

1. A scheme may be revoked by a subsequent scheme approved by an order of the Department, and where a scheme is so revoked the subsequent scheme may provide for the transfer to the new association of the whole or any part of the property, rights and liabilities of the existing association, for the continuation by or against the new association of any legal proceedings pending by or against the existing association, and for dissolution, without winding up, of the existing association.

In this paragraph the expression “new association” means the association constituted under the subsequent scheme, and the expression “existing association” means the association constituted under the scheme revoked.<sup>82</sup>

2. The Department shall revoke a scheme if an order is made for the winding up of the association administering the scheme.<sup>83</sup>

3. The association constituted under a scheme shall not be deemed to be dissolved by reason only that the scheme has been revoked, or has ceased to have effect by virtue of this Act, and (except in a case where the association is dissolved without winding up under paragraph 1 of this Part of this Schedule) so much of the scheme as relates to the winding up of the association shall continue in force notwithstanding such revocation or cesser.

4. Where a scheme or any provision of a scheme is revoked or ceases to have effect, such revocation or cesser, as the case may be, shall not —

- (a) revive anything not in force or existing at the time at which such scheme or provision is revoked or ceases to take effect; or
- (b) affects the previous operation of any scheme or provision so revoked or ceasing to have effect or anything duly done or suffered under such scheme or provision so revoked or ceasing to have effect; or
- (c) affect any right, privilege, obligation, or liability acquired, accrued, or incurred under any scheme or provision so revoked or ceasing to have effect; or
- (d) affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against this Act in respect of any scheme or provision so revoked or ceasing to have effect; or
- (e) affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment aforesaid;

and any such investigation, legal proceeding, or remedy may be instituted, continued, or enforced, and any such penalty, forfeiture, or punishment may be imposed as if such scheme or provision had not been revoked or ceased to have effect.

## SECOND SCHEDULE<sup>84</sup>

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement

### Table of Renumbered Provisions

Original	Current

### Table of Endnote References

- 
- <sup>1</sup> Definition of “Advisory Committee” repealed by Agricultural Marketing Act 1948 s 2.
- <sup>2</sup> Definition of “Agricultural export licence” amended by GC121/86.
- <sup>3</sup> Definition of “Agricultural import licence” amended by GC121/86.
- <sup>4</sup> Definition of “Association” amended by Agricultural Marketing (Amendment) Act 2006 Sch 1.
- <sup>5</sup> Definition of “Board” repealed by GC121/86.
- <sup>6</sup> Definition of “the Department” inserted by GC121/86 and amended by SD155/10 sch 3.
- <sup>7</sup> Definition of “Society” substituted by Agricultural Marketing (Amendment) Act 2006 Sch 1.
- <sup>8</sup> Definition of “the U.K. Act” inserted by Statute Law Revision Act 1989 Sch 1.
- <sup>9</sup> Definitions of “United Kingdom Act of 1931” and “United Kingdom Act of 1933” repealed by Statute Law Revision Act 1989 Sch 1.
- <sup>10</sup> S 3 substituted by Agricultural Marketing (Amendment) Act 2006 Sch 1.
- <sup>11</sup> S 3A inserted by Agricultural Marketing (Amendment) Act 2006 Sch 1.
- <sup>12</sup> S 3B inserted by Agricultural Marketing (Amendment) Act 2006 Sch 1.
- <sup>13</sup> Subs (1) amended by GC121/86 and by Statute Law Revision Act 1989 Sch 1.
- <sup>14</sup> Subs (3) amended by GC121/86.
- <sup>15</sup> Subs (4) amended by GC121/86.
- <sup>16</sup> Subs (5) amended by GC121/86.
- <sup>17</sup> Subs (8) amended by GC121/86.
- <sup>18</sup> S 5 substituted by Agricultural Marketing (Amendment) Act 2006 Sch 1.
- <sup>19</sup> S 5A inserted by Agricultural Marketing (Amendment) Act 2006 Sch 1.

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- <sup>20</sup> S 5B inserted by Agricultural Marketing (Amendment) Act 2006 Sch 1.
- <sup>21</sup> Subs (2) amended by GC121/86.
- <sup>22</sup> Subs (3) amended by GC121/86.
- <sup>23</sup> Para (a) repealed by Agricultural Marketing (Amendment) Act 2006 Sch 1.
- <sup>24</sup> Paras (c) and (d) repealed by Agricultural Marketing (Amendment) Act 2006 Sch 1.
- <sup>25</sup> Para (g) amended by GC121/86.
- <sup>26</sup> Para (h) amended by GC121/86.
- <sup>27</sup> Para (i) repealed by Agricultural Marketing (Amendment) Act 2006 Sch 1.
- <sup>28</sup> Paras (k) to (m) repealed by Agricultural Marketing (Amendment) Act 2006 Sch 1.
- <sup>29</sup> Subs (2) amended by GC121/86 and by Agricultural Marketing (Amendment) Act 2006 Sch 1.
- <sup>30</sup> Subs (2) amended by GC121/86.
- <sup>31</sup> Para (c) amended by GC121/86.
- <sup>32</sup> Subpara (i) repealed by Agricultural Marketing (Amendment) Act 2006 Sch 1.
- <sup>33</sup> Subpara (ii) amended by GC121/86.
- <sup>34</sup> Para (b) amended by GC121/86.
- <sup>35</sup> Subs (3) amended by GC121/86.
- <sup>36</sup> Subs (5) amended by Treasury Act 1985 Sch 2 and by GC121/86.
- <sup>37</sup> S 11 repealed by Agricultural Marketing (Amendment) Act 2006 Sch 1.
- <sup>38</sup> S 13 repealed by Agricultural Marketing (Amendment) Act 2006 Sch 1.
- <sup>39</sup> Para (c) amended by GC121/86.
- <sup>40</sup> Para (e) repealed by Statute Law Revision Act 1989 Sch 2.
- <sup>41</sup> Subs (1) amended by Treasury Act 1985 Sch 2 and by GC121/86.
- <sup>42</sup> Subs (2) amended by Treasury Act 1985 Sch 2.
- <sup>43</sup> S 15 repealed by Agricultural Marketing (Amendment) Act 2006 Sch 1.
- <sup>44</sup> Para (d) amended by Statute Law Revision Act 1989 Sch 1.
- <sup>45</sup> Subs (1) amended by GC121/86. Para (f) repealed by Statute Law Revision Act 1989 Sch 2.
- <sup>46</sup> Subs (5) amended by GC121/86 and by Statute Law Revision Act 1989 Sch 1.
- <sup>47</sup> Para (b) amended by GC121/86.
- <sup>48</sup> Subs (1) amended by GC121/86.
- <sup>49</sup> Subs (2) amended by GC121/86.
- <sup>50</sup> Subs (1) amended by GC121/86.
- <sup>51</sup> Subs (2) amended by GC121/86.
- <sup>52</sup> Subs (1) amended by Summary Jurisdiction Act 1989 Sch 5.
- <sup>53</sup> Subs (2) amended by GC121/86.
- <sup>54</sup> Subs (3) amended by GC121/86.
- <sup>55</sup> Ss 21 and 22 repealed by Agricultural Marketing (Amendment) Act 2006 Sch 1.
- <sup>56</sup> S 23 amended by GC121/86.
- <sup>57</sup> S 24 repealed by Governor's General Functions (Transfer) Act 1980 Sch 2.
- <sup>58</sup> Subs (1) amended by Governor's General Functions (Transfer) Act 1980 s 3 and Sch 2 and by GC121/86.



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- <sup>59</sup> Subs (2) amended by GC121/86.
- <sup>60</sup> Subs (3) amended by GC121/86.
- <sup>61</sup> Para (a) amended by Governor's General Functions (Transfer) Act 1980 s 3 and by GC121/86.
- <sup>62</sup> Para (c) amended by GC121/86.
- <sup>63</sup> Para (1) amended by GC121/86.
- <sup>64</sup> Para (3) amended by GC121/86.
- <sup>65</sup> S26 A inserted by Agriculture (Miscellaneous Provisions) Act 2000 s 4.
- <sup>66</sup> S 26B inserted by Agriculture (Miscellaneous Provisions) Act 2000 s 4.
- <sup>67</sup> S 27 repealed by Governor's General Functions (Transfer) Act 1980 Sch 2.
- <sup>68</sup> Subs (1) amended by GC121/86.
- <sup>69</sup> Subs (3) amended by GC121/86.
- <sup>70</sup> Subs (1) amended by GC121/86. Para (f) repealed by Governor's General Functions (Transfer) Act 1980 Sch 2.
- <sup>71</sup> Subs (2) amended by GC121/86.
- <sup>72</sup> Subs (1) amended by GC121/86.
- <sup>73</sup> Subs (2) amended by GC121/86.
- <sup>74</sup> S 30A inserted by Agriculture (Miscellaneous Provisions) Act 2003 s. 1.
- <sup>75</sup> Subs (5) repealed by Interpretation Act 2015 s 105.
- <sup>76</sup> S 31 substituted by Agriculture (Miscellaneous Provisions) Act 2003 s. 1.
- <sup>77</sup> S 32 amended by Fines Act 1986 Sch 2.
- <sup>78</sup> Para 1 amended by GC121/86.
- <sup>79</sup> Para 2 amended by GC121/86.
- <sup>80</sup> Para 3 amended by GC121/86.
- <sup>81</sup> Para 4 amended by Treasury Act 1985 Sch 2 and by GC121/86.
- <sup>82</sup> Para 1 amended by GC121/86.
- <sup>83</sup> Para 2 amended by GC121/86.
- <sup>84</sup> Sch 2 repealed by Agricultural Marketing (Amendment) Act 2006 Sch 1.