

To: Business Committee
From: Minister for Environment, Planning & Countryside

EXPLANATORY MEMORANDUM

AGRICULTURE

CEREALS MARKETING

THE HOME-GROWN CEREALS AUTHORITY (RATE OF LEVY) ORDER 2007

Summary

This Order fixes the rate of levy that the Home-Grown Cereals Authority (HGCA) can charge cereal growers and processors throughout the UK for the year from 1 July 2007 to 30 June 2008. The revenue generated allows the HGCA to undertake research and development activities for the industry. No changes to the rates of levy have been proposed for this year. The rates remain unchanged since 1996.

1. This Memorandum is submitted to the Assembly's Business Committee in relation to The Home-Grown Cereals Authority (Rate of Levy) Order 2007, in accordance with Standing Order 25 section 3.
2. A copy of the Order is submitted with this Memorandum.

Enabling power

3. The power enabling this Order to be made is contained in sections 13(3) and 23(1) of the Cereals Marketing Act 1965. These powers are exercisable jointly by the National Assembly for Wales and by the Secretary of State for Environment, Food and Rural Affairs. Assembly functions in relation to the contents of this Order have been delegated to my portfolio as Minister for Environment, Planning and Countryside. Under the post May 2007 arrangements, we foresee that this legislation would follow the Negative procedure.
4. Following devolution the powers contained in these sections are exercisable jointly by the National Assembly and the Department for the Environment, Food and Rural Affairs (Defra). Therefore, this Order must be made jointly with Defra, there is no option to make it as Wales only legislation. As the Order will apply throughout the United Kingdom, the consent of Scottish Ministers and the relevant Northern Ireland Department is also required.

Background

5. The Home Grown Cereals Authority (HGCA) is a levy funded UK Executive Non Departmental Public Body set up under the Cereals Marketing Act 1965 to improve the production and marketing of UK cereals and oilseeds. Section 13 of the Act requires UK Agriculture Ministers to make an annual Order prescribing

rates of levy to be charged by the HGCA for the coming year. The revenue generated from this Order, allows the Home Grown Cereals Authority (HGCA) to undertake research and development activities for the industry.

6. The Cereals Marketing Act 1965 requires the HGCA to submit levy proposals/financial estimates on an annual basis from 1 July each year. However, it is expected that the Cereals Marketing Act 1965, and hence the HGCA Rate of Levy Order 2007, will be revoked, by a new SI, from 1 April 2008 (i.e. before the end of the annual cycle covered by this Order) The new SI, which is expected to be made jointly with Defra, will establish a new agricultural levy board structure. In addition, it is proposed that the new SI will include a transitional provision maintaining the levy rates for cereals and oilseeds at the same level for the period 1 April 2008 to 30 June 2008.

Effect

7. The intended effect of the Order is to enable the Home-Grown Cereals Authority (HGCA) to levy cereal growers and processors throughout the UK. The revenue generated allows the HGCA to undertake research and development activities for the industry. The cereals on which levy is payable are: wheat (including durum), barley, oats, rye, maize, triticale (a wheat rye-hybrid) or any two or more such cereals grown as one crop. The oilseeds on which levy is payable are: rapeseed, linseed, soyabean, sunflowerseed or any two or more of such oilseeds grown as one crop.
8. No increase is proposed for this year. Therefore, the rates from 1 July 2007 will continue to be as described below:
 - the cereal grower levy remains at 47p per tonne on cereals sold into intervention by a grower directly or through an intermediary;
 - the cereal dealer levy remains at 50.8775p per tonne of cereals purchased direct from growers;
 - the standard rate cereal processor levy remains at 9.69375p per tonne on cereals sold and delivered to cereal processors other than animal feed processors;
 - the reduced rate cereal processor levy remains at 4.7p per tonne on cereals sold and delivered to animal feed processors; and
 - the oilseed grower levy remains at 76.375p per tonne on oilseeds sold by growers.

Target Implementation

9. It is intended that the proposed Instrument will be made on 27 March 2007 and laid in Parliament on 5 April 2007 in order to come into force on 1 July 2007. If the intended target dates for making this Order are not achieved there:
 - will not be a UK wide Order on the statute;

- the HGCA will have no authority to levy cereal producers;
- the HGCA will have no income to continue its research and development activities as well as marketing and promotion; and
- the industry will suffer as the Home Grown Cereals Authority (HGCA) will be unable to undertake research and development, implement knowledge transfer and promote and market cereals in the UK and abroad.

Financial Implications

10. The Assembly does not contribute to the funding of the HGCA. Any costs associated with the making of the joint Order will be accommodated within the Department for Environment, Planning and Countryside's (Defra) existing, and planned administration costs budgets. There will be no costs to be borne by anyone as a result of implementing this Order, as the levy rates remain unchanged since 1996.

Regulatory Appraisal

11. As the Order falls outside the definition of Assembly general subordinate legislation in section 58 of the Government of Wales Act 1998, a Regulatory Appraisal is not required to be undertaken.

Consultation

With Stakeholders

12. No consultation was deemed necessary, as the levy rates remain unchanged since 1996. A consultation exercise was last undertaken prior to the introduction of the 2001 Order, which increased the deduction from the levy from 3.7% to 5% made by the dealers and first purchasers for collecting the levy on behalf of the HGCA. In parallel with other Agriculture Departments, the Welsh Assembly Government consulted the industry in Wales. One response was received from the Farmers' Union of Wales, which supported these proposals. The HGCA itself undertook extensive consultations with the industry, which supported the changes.

With Subject Committee

13. This Order was notified to the Environment, Planning and Countryside Committee, via the list of forthcoming legislation, on 15 November 2006 (EPC(2)-15-06 (p.4) Annex 2, item no. 61) and has remained on the list ever since. However, at that time the title of the legislation was the Home Grown Cereals Rate of Levy Order 2007 and was anticipated to be made under Standing Order 25 section 1. The item was not identified for detailed scrutiny.

Recommended Procedure

14. Subject to the views of the Business Committee, I recommend that this Order proceed to Plenary under the Standard procedure in light of Business Committee's previous request that all items of legislation proceeding under Standing Order 25 section 3 should be debated in Plenary. However, when the Order was made in 2006 there were no speakers on the motion.

15. The proposed legislation will (as far as is applicable):

- have due regard to the principle of equality of opportunity for all people (Government of Wales Act 1998, section 120);
- be compatible with the Assembly's scheme for sustainable development (section 121);
- be compatible with Community Law (section 106);
- be compatible with the Assembly's human rights legislation (section 107); and
- be compatible with any international obligations of the United Kingdom (section 108).

16. The information in this Memorandum has been cleared with the Legal Services Department.

17. Drafting Lawyer: Claire Butterworth x 3991

18. Head of Division: Rory O'Sullivan x 1332

19. Drafting Policy Officials: - James Gibbs x 1224 /Jill Thomas x 1630.

CARWYN JONES
MINISTER FOR ENVIRONMENT, PLANNING AND COUNTRYSIDE

MARCH 2007