



Number 22 of 1994

AN BORD BIA ACT, 1994

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Number 22 of 1994

AN BORD BIA ACT, 1994

**AN ACT TO MAKE PROVISION FOR THE ESTABLISHMENT
OF AN BORD BIA, FOR THE DISSOLUTION OF CÓRAS
BEOSTOIC AGUS FEOLA AND THE TRANSFER OF ITS
FUNCTIONS AND OF OTHER FUNCTIONS TO AN BORD
BIA AND FOR RELATED MATTERS. [12th July, 1994]** 5

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

PRELIMINARY 10

- Short title.** 1.—This Act may be cited as An Bord Bia Act, 1994.
- Interpretation.** 2.—(1) In this Act, except where the context otherwise requires—
- “agricultural products” means meat, milk, eggs, cereals and other field crops, fish, poultry, rabbits, deer and edible horticultural produce; 15
- “the Board” means An Bord Bia established by this Act;
- “the chief executive” means the chief executive of the Board appointed under *section 32*;
- “the dissolved body” means Córás Beostoic agus Feola;
- “edible horticultural produce” means fruit and vegetables, whether fresh or processed, including potatoes, herbs, edible fungi and nuts, and also includes honey; 20
- “the establishment day” means the day appointed as such under *section 5*;
- “exporter’s licence” and “exporter’s permit” mean respectively, a licence and a permit granted by the Minister under the Agricultural Produce (Fresh Meat) Act, 1930; 25
- “food” means edible products, including drink, whether in an unprocessed, processed or composed state, and includes agricultural products; 30

“levy” means levy under this Act;

“levy period” in relation to levy means a period of one month beginning on the first day of that month;

5 “livestock” means bovine animals, sheep, pigs, deer, poultry, rabbits and goats and such other species of animals as may be specified from time to time by the Minister by regulations;

10 “meat” means the meat, offal and edible by-products in the slaughter of bovine animals, sheep, pigs, deer, horses, poultry, rabbits and goats and such other species of animals and such products as may be specified from time to time by the Minister by regulations;

“the Minister” means the Minister for Agriculture, Food and Forestry;

“poultry” means fowl, turkeys, guinea fowl, ducks, geese, quails, pigeons, pheasants, partridges and the meat thereof;

15 “prescribe” means prescribe by order or regulations as the case may be;

“superannuation benefits” means pensions, gratuities and other allowances payable on resignation, retirement or death.

20 (2) In this Act a reference to a section or Schedule is to a section or Schedule of this Act and a reference to a subsection is to a subsection of the section in which the reference occurs, unless the context otherwise requires.

3.—(1) The Minister may by order revoke or amend an order made by the Minister under any provision of this Act other than *section 5*. Orders.

25 (2) Every order to which *subsection (1)* applies shall be laid before each House of the Oireachtas as soon as may be after it is made and if either House, within the next twenty-one days on which that House has sat after the order is laid before it, passes a resolution annulling the order, the order shall be annulled accordingly but without prejudice to
30 the validity of anything previously done thereunder.

4.—Any expenses incurred by the Minister in the administration of this Act shall to such extent as may be sanctioned by the Minister for Finance be paid out of moneys provided by the Oireachtas. Expenses.

PART II

35 AN BORD BIA

5.—The Minister shall by order appoint a day to be the establishment day for the purposes of this Act. Establishment day.

40 6.—(1) There shall stand established on the establishment day a body to be styled and known as An Bord Bia, or in the English language The Irish Food Board, to perform the functions assigned to it by this Act. Establishment of An Bord Bia (The Irish Food Board) and dissolution of C oras Beostoic agus Feola.

(2) The Board shall be a body corporate with perpetual succession and an official seal and power to sue and be sued in its corporate name and, with the consent of the Minister, to acquire, hold and dispose of land or an interest in land and to acquire, hold and dispose of any other property.

5

(3) The seal of the Board shall be authenticated by the signature of its chairman, or by the signature of a member of the Board authorised by the Board to act in that behalf together with the signature of an officer authorised by the Board to act in that behalf.

(4) Judicial notice shall be taken of the seal of the Board and every document purporting to be an instrument made by and to be sealed with the seal of the Board (purporting to be authenticated in accordance with this section) shall be received in evidence and be deemed to be such instrument without proof unless the contrary is shown.

10

(5) On the establishment day, *Córas Beostoic agus Feola* shall stand dissolved and the *Córas Beostoic agus Feola Act, 1979*, section 52 of the *Abattoirs Act, 1988*, and the *Córas Beostoic agus Feola (Amendment) Act, 1988*, are hereby repealed with effect from that day.

15

General functions
of Board.

7.—(1) The functions of the Board shall be to promote, assist and develop in any manner which the Board considers necessary or desirable the marketing of Irish food and livestock.

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(2) The Board shall have all such powers as are necessary or expedient for its functions.

Particular functions
of Board.

8.—Without prejudice to the generality of *section 7* the functions of the Board shall be to—

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(a) survey, investigate and develop markets and potential markets for food,

(b) collect and disseminate market intelligence and provide information and advice in relation to supply and demand and market trends and trade opportunities in food,

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(c) conduct or provide for the conducting of reviews, surveys, symposia, analyses and studies in relation to trade in, and markets and potential markets for, food,

(d) provide or arrange for the provision of publicity, advertising and promotional campaigns for the purpose of encouraging the increased consumption of food or particular categories of food and for the purpose of expanding trade in food,

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(e) establish, equip and operate, and provide for the establishment, equipment and operation of, and assist in the operation of, exhibitions, show rooms, information bureaux and similar establishments for the purpose of encouraging increased consumption of food or particular categories of food and for the purpose of expanding trade in food,

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(f) publish and distribute or provide for the publication and distribution of magazines, journals, reports and similar documents for the purpose of encouraging the increased

consumption of food or particular categories of food and for the purpose of expanding trade in food,

5 (g) operate such quality assurance schemes as may in the opinion of the Board, be appropriate to the Board's functions and conducive to maintaining or improving the quality of all or part of any category or categories of food and, if so requested by the Minister, carry out evaluations of quality assurance schemes operated or proposed to be operated by other persons or bodies and applicable to all or part of

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(h) encourage or promote the undertaking by other persons or bodies of such actions as may, in the opinion of the Board, be appropriate to the Board's functions and conducive to maintaining or improving the quality of all or part of any category or categories of food,

15

(i) administer such schemes, grants and other financial facilities requiring the disbursement of European Union Funds as may from time to time be authorised by the Minister with the concurrence of the Minister for Finance.

20 9.—(1) On the establishment day, those functions of An Bord Glas which relate to the export marketing of edible horticultural produce shall stand transferred to the Board. Transfer of functions.

25 (2) (a) The Minister may by order assign to the Board such powers and responsibilities for the exercise of any function being a function relating to the marketing of food or livestock conferred on any body established to exercise that function as the order may prescribe.

30 (b) An order under this subsection shall not be made without the consent of any Minister having responsibility in relation to that body and subject to the provisions of any law under which that body is established.

35 (c) An order under this subsection may include provision for the employment by the Board of members of the staff of any body to which the order relates who are designated by that body for such employment.

(3) Whenever the Minister proposes to make an order under this section, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each such House.

40 10.—The Minister may by order assign to the Board such additional functions as the Minister considers to be incidental to or consequential on the functions assigned to it by this Act. Conferral of additional functions.

45 11.—The Board shall, in respect of the promotion, assistance or development by the Board of the marketing of any food or the provision of any services in relation to which another body has any function, act in co-operation with that body and in this regard shall comply with any directions issued to the Board by the Minister following consultation with any other Minister having functions in relation to that body. Exercise of functions.

Charges for services.

12.—(1) Subject to *subsection (2)*, the Board may make such charges as it considers appropriate in consideration of the performance by it of its functions, the provision by it of services and the carrying on by it of activities.

(2) The determination of the amounts of charges referred to in *subsection (1)* shall be subject to the approval of the Minister. 5

(3) The Board may recover, as a simple contract debt in any court of competent jurisdiction, from the person by whom it is payable any amount due and owing to it under *subsection (1)*.

Subsidiary boards.

13.—(1) The Board shall by order made with the consent of the Minister establish a subsidiary board for meat and livestock and shall authorise it to exercise any function on behalf of the Board, including a function in respect of levy, relating to meat and livestock. 10

(2) The Board shall, on the direction of the Minister and may, with the consent of the Minister by order set up subsidiary boards for other functions of the Board and, to the extent that the Minister may specify, authorise any such subsidiary board to exercise any function, including a function in respect of levy, on behalf of the Board. 15

(3) An authorisation under *subsection (1)* or *(2)* shall be subject to such conditions as the Minister, or the Board with the consent of the Minister, may specify and shall be without prejudice to the right of the Board to exercise the specified functions itself. 20

(4) The Board shall, on the direction of the Minister, and may with the consent of the Minister by order revoke or amend an order made by it under any provision of this section. 25

(5) Without prejudice to *subsection (1)* of this section the Board may, out of funds at its disposal (including the proceeds of a levy pursuant to this Act), advance money to a subsidiary board for the purposes of the functions which it is authorised to exercise under this section. 30

Membership of Board and term of office of members.

14.—(1) The Board shall consist of the following members, that is to say, a chairman and nine ordinary members or such greater number of ordinary members not exceeding eleven as the Minister may prescribe.

(2) The chairman of the Board shall be appointed by the Minister. 35

(3) The ordinary members of the Board shall be appointed by the Minister, one of whom shall be an officer of the Minister.

(4) One ordinary member shall be appointed on the nomination of the Minister for Tourism and Trade.

(5) The chairman and the persons appointed to be ordinary members shall be persons having knowledge or experience of the food industry and of consumer requirements. 40

(6) The chairman shall hold office for the period of three years from the date of his appointment.

(7) The persons who are first appointed by the Minister to be ordinary members of the Board shall hold office as follows: 45

- (a) three of such members shall hold office for the period of three years from the date of their appointment,
- (b) three of such members shall hold office for the period of four years from the date of their appointment, and
- 5 (c) the remaining members shall hold office for the period of five years from the date of their appointment.

(8) The members of the Board who are to hold office for the periods specified in *paragraphs (a) and (b) of subsection (7)* shall be decided by lot to be drawn in such manner as may be decided by the
10 Minister.

(9) Every person who is appointed by the Minister pursuant to this section to be an ordinary member of the Board, other than a first member of the Board, shall hold office for the period of three years from the date of his appointment.

15 15.—(1) The meat and livestock subsidiary board shall consist of the following members, that is to say, a chairman and eleven ordinary members. Membership of meat and livestock subsidiary board and term of office of members.

(2) The chairman, who shall be a member of the Board, shall be appointed by the Board with the consent of the Minister.

20 (3) The ordinary members shall be persons engaged in or having knowledge of the meat and livestock sector and of consumer requirements and shall comprise—

(a) five persons who shall represent the producers of livestock who shall be appointed by the Board with the consent of
25 the Minister on the nomination of such organisations as the Minister considers to be representative of such producers,

(b) four persons who shall represent the meat export trade who shall be appointed by the Board with the consent of the
30 Minister on the nomination of such organisations as the Minister considers to be representative of such export trade,

(c) one person who shall represent meat traders who sell meat by wholesale or retail for consumption in the State who shall be appointed by the Board with the consent of the
35 Minister on the nomination of such organisations as the Minister considers to be representative of such traders, and

(d) one person who shall represent the livestock export trade who shall be appointed by the Board with the consent of
40 the Minister on the nomination of such organisations as the Minister considers to be representative of such export trade.

(4) The chairman shall hold office for the period of three years
45 from the date of his appointment.

(5) The persons who are first appointed by the Board to be ordinary members shall hold office as follows:

- (a) four of such members shall hold office for the period of three years from the date of their appointment,
- (b) four of such members shall hold office for the period of four years from the date of their appointment, and
- (c) the remaining three members shall hold office for the period of five years from the date of their appointment. 5

(6) The members who are to hold office for the periods specified in *paragraphs (a) and (b) of subsection (5)* shall be decided by lot to be drawn in such manner as may be decided by the Board subject to the limitation that not more than two persons representing the producers of livestock and not more than two persons representing the meat export trade shall retire in any one year. 10

(7) Every person who is appointed pursuant to this section to be an ordinary member other than a first member shall hold office for the period of three years from the date of his appointment. 15

Membership of other subsidiary boards and term of office of members.

16.—(1) A subsidiary board established under *section 13 (2)* shall consist of a chairman and not fewer than five or more than eleven ordinary members.

(2) The chairman who shall be a member of the Board shall be appointed by the Board with the consent of the Minister. 20

(3) The ordinary members shall be appointed by the Board with the consent of the Minister.

(4) The persons appointed to be ordinary members shall be persons engaged in or having knowledge of the sector or sectors in respect of which functions are authorised to be exercised by the subsidiary board and of consumer requirements. 25

(5) The chairman shall hold office for the period of three years from the date of his appointment.

(6) The persons who are first appointed by the Board to be ordinary members shall hold office as follows: 30

- (a) one-third (or the next whole number) of such members shall hold office for the period of three years from the date of their appointment,
- (b) one-third (or the next whole number) of such members shall hold office for the period of four years from the date of their appointment, and 35
- (c) the remaining members shall hold office for the period of five years from the date of their appointment.

(7) The members who are to hold office for the periods specified in *paragraphs (a) and (b) of subsection (6)* shall be decided by lot to be drawn in such manner as may be decided by the Board. 40

(8) Every person who is appointed pursuant to this section to be an ordinary member, other than a first member, shall hold office for the period of three years from the date of his appointment.

17.—A member of the Board or the subsidiary board for meat and livestock or of a subsidiary board established under *section 13 (2)* whose term of office expires by the effluxion of time shall be eligible for re-appointment.

Eligibility of outgoing member.

5 18.—(1) The Minister may at any time remove from office a member of the Board.

Conditions of office

(2) The Board, with the consent of the Minister, may at any time remove from office a member of any subsidiary board.

10 (3) A member of the Board may resign office by notice in writing to the Minister and the resignation shall take effect on the date on which the Minister receives the notice.

15 (4) A member of any subsidiary board may resign office by notice in writing to the chief executive of the Board and the resignation shall take effect on the date on which the chief executive receives the notice.

20 (5) A member of the Board or any subsidiary board shall be disqualified from holding and shall cease to hold office if that member is adjudged bankrupt, or makes a composition or arrangement with creditors, or is convicted of any indictable offence in relation to a company, or is convicted of an offence involving fraud or dishonesty, whether in connection with a company or not, or is the subject of an order under section 160 of the Companies Act, 1990.

25 19.—(1) If a member of the Board dies, resigns, becomes disqualified or is removed from office, the Minister may appoint a person to be a member of the Board to fill the casual vacancy so occasioned.

Casual vacancies among members of Board and subsidiary boards.

30 (2) If a member of a subsidiary board dies, resigns, becomes disqualified or is removed from office, the Board, with the consent of the Minister, may appoint a person to be a member of the subsidiary board to fill the casual vacancy so occasioned and the person so appointed shall be appointed in the same manner as the member of the subsidiary board who occasioned the casual vacancy.

35 (3) A person appointed to be a member of the Board or a subsidiary board by virtue of this section shall hold office for the remainder of the term of office of the member who occasioned the casual vacancy he is appointed to fill and shall be eligible for re-appointment as a member of the Board or subsidiary board.

40 20.—The chairman and any ordinary member of the Board and the chairman and any ordinary member of any subsidiary board shall be paid, out of funds at the disposal of the Board, such remuneration (if any) and such allowances for expenses as the Minister, with the approval of the Minister for Finance, may decide.

Remuneration of members of Board and subsidiary boards.

45 21.—(1) The Board shall keep in such form and in respect of such accounting periods as may be approved of by the Minister, with the consent of the Minister for Finance, all proper and usual accounts of moneys received or expended by it, including an income and expenditure account, a cash flow statement and a balance sheet, and in particular, shall keep in such form as aforesaid all such special accounts as the Minister may, or at the request of the Minister for Finance shall, from time to time direct and the Board shall ensure

Accounts and audits.

that separate accounts shall be kept and presented to the Board by any subsidiary board that may be established by the Board under this Act and these accounts shall be incorporated in the general statement of account of the Board.

(2) Accounts kept in pursuance of this section shall be submitted annually and not later than three months after the end of each accounting period by the Board to the Comptroller and Auditor General for audit and, immediately after the audit, a copy of the accounts, statement and balance sheet and of such other (if any) of the accounts kept pursuant to this section as the Minister, after consultation with the Minister for Finance, may direct and a copy of the Comptroller and Auditor General's report on the accounts shall be presented to the Minister who shall cause copies thereof to be laid before each House of the Oireachtas.

(3) In this section "cash flow statement" means an account showing the derivation of the funds of the Board and the purposes to which they are applied.

Annual report and information.

22.—(1) The Board shall submit to the Minister an annual report of its activities and the activities of every subsidiary board under this Act not later than three months after the end of the financial year to which it relates and the Minister shall cause copies of the report to be laid before each House of the Oireachtas not later than six months after the end of that financial year.

(2) The Board shall supply the Minister with such information regarding the performance of its functions and the functions of a subsidiary board as the Minister may from time to time require.

Power to borrow.

23.—(1) The Board may, for the purpose of providing for current or capital expenditure, from time to time borrow money (whether on the security of the assets of the Board or otherwise), including money in a currency other than the currency of the State, but shall not do so without the consent of the Minister and the Minister for Finance.

(2) For the purpose of this section, money raised or borrowed in a currency other than the currency of the State shall be deemed to be the equivalent in the currency of the State of the actual money raised or borrowed, such equivalent being calculated according to the rate of exchange at the time of the raising or borrowing of the money.

Meetings and procedure.

24.—(1) The Board and every subsidiary board shall hold such and so many meetings as may be necessary for the due fulfilment of its functions.

(2) At a meeting of the Board or of a subsidiary board—

(a) its chairman shall, if present, be the chairman of the meeting,

(b) if and so long as the chairman is not present or if the office of chairman is vacant, the members who are present shall choose one of their number to be chairman of the meeting.

(3) Every question at a meeting shall be determined by a majority of the votes of the members present and voting on the question and, in the case of an equal division of votes, the chairman of the meeting shall have a second or casting vote.

(4) The Board or any subsidiary board may act notwithstanding one or more vacancies among its members.

(5) Subject to the provisions of this Act, the Board and each subsidiary board shall regulate its procedure by rules or otherwise.

5 (6) The quorum for a meeting shall, unless, in relation to the Board, the Minister and, in relation to a subsidiary board, the Board otherwise directs, be four.

25.—(1) A member of the Board or of a subsidiary board who has any material or financial interest —

Disclosure by members of Board and subsidiary boards and staff of interests.

10 (a) in any body corporate with which the Board has made a contract or proposes to make any contract, or

(b) in any contract which the Board has made or proposes to make,

15 shall at a meeting of the board or the subsidiary board where any such matters has arisen—

(i) disclose the fact of such interest and the nature thereof,

(ii) withdraw from the meeting or that part of the meeting during which the matter is discussed,

20 (iii) take no part in any deliberations of the Board or the subsidiary board relating to the matter, and

(iv) not vote on a decision relating to the matter.

25 (2) Where an interest is disclosed pursuant to this section, the disclosure shall be recorded in the minutes of the meeting concerned and, for so long as the matter to which the disclosure relates is being dealt with by the meeting, the member by whom the disclosure is made shall not be counted in the quorum for the meeting.

30 (3) Where at the meeting concerned a question arises as to whether or not a course of conduct, if pursued by a member, would constitute a failure to comply with the requirements of *subsection (1)*, the question may be determined by the chairman of the meeting whose decision shall be final and where such a question is so determined, particulars of the determination shall be recorded in the minutes of the meeting.

35 (4) (a) Where the Minister is satisfied that a member of the Board has contravened *subsection (1)* the Minister may remove that member from office.

40 (b) Where the Minister or the Board is satisfied that a member of a subsidiary board has contravened *subsection (1)*, the Minister or the Board, with the consent of the Minister, may remove that member from office.

(c) A person removed from office pursuant to this subsection shall thenceforth be disqualified from being a member of the Board or of a subsidiary board.

45 (5) A member of the staff of the Board who has any material or financial interest (otherwise than in his capacity as such a member) to which *subsection (1)* relates shall—

(a) disclose to the Board the fact of such interest and the nature thereof, and

(b) take no part in the negotiation of the contract or in any deliberations relating to the matter.

Non-disclosure of information.

26.—(1) Subject to *subsection (2)* a member of the Board or of a subsidiary board or of the staff of the Board shall not disclose to any person who is not a member of the Board or of a subsidiary board or of the staff any information relating to any person or company which the member has acquired as such without the consent of the person or company to whom or to whose business the information relates. 5 10

(2) *Subsection (1)* shall not apply in relation to the disclosure of information to the Minister or to the Comptroller and Auditor General.

Investment by Board.

27.—The Board may invest any of its funds in any manner in which a trustee is empowered by law to invest trust funds. 15

Committees of Board or subsidiary boards.

28.—(1) The Board and, with the consent of the Board, any subsidiary board may establish committees to assist and advise it in relation to the performance of any of its functions and may determine the terms of reference and regulate the procedure of any such committee. 20

(2) A committee established under this section may include persons who are not members of the Board or a subsidiary board as the case may be.

(3) A member of a committee established under this section may be removed from office at any time by the Board or a subsidiary board as the case may be. 25

(4) The Board or, as the case may be, a subsidiary board with the consent of the Board may at any time dissolve a committee established under this section.

(5) The Board or a subsidiary board as the case may be may appoint a person to be chairman of a committee established under this section. 30

(6) There may be paid out of the income of the Board to members of a committee established under this section such allowances for expenses incurred by them as the Board may, with the consent of the Minister and the Minister for Finance, determine. 35

Directions by Minister to Board.

29.—In the exercise of its functions the Board and every subsidiary board shall comply with any policy directives issued to the Board by the Minister.

Gifts.

30.—(1) The Board may accept gifts of money, land or other property upon such trusts or conditions (if any) as may be specified by the donor. 40

(2) The Board shall not accept a gift if the trusts or conditions attached to it would be inconsistent with its functions.

31.—(1) Where a member of the Board or of a subsidiary board is—

Membership of either House of Oireachtas or representative to the European Parliament.

- (a) nominated as a member of Seanad Éireann, or
- 5 (b) elected as a member of either House of the Oireachtas or as a representative to the European Parliament, or
- (c) regarded pursuant to section 15 (inserted by the European Assembly Elections Act, 1984) of the European Assembly Elections Act, 1977, as having been elected to such Parliament to fill a vacancy,
- 10

that person shall thereupon cease to be a member of the Board or of the subsidiary board, as the case may be.

(2) Where a person employed by the Board is—

- (a) nominated as a member of Seanad Éireann, or
- 15 (b) elected as a member of either House of the Oireachtas or as a representative to the European Parliament, or
- (c) regarded pursuant to section 15 (inserted by the European Assembly Elections Act, 1984) of the European Assembly Elections Act, 1977, as having been elected to such Parliament to fill a vacancy,
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that person shall thereupon stand seconded from employment by the Board and shall not be paid by, or be entitled to receive from, the Board any remuneration or allowances in respect of the period commencing on such nomination or election or when that person is so regarded as having been elected (as the case may be) and ending when that person ceases to be a member of either such House or such Parliament.

(3) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a representative in the European Parliament shall, while that person is so entitled or is such a representative, be disqualified from becoming a member of the Board or of a subsidiary board or from employment in any capacity by the Board.

(4) Without prejudice to the generality of subsection (2), that subsection shall be construed as prohibiting, *inter alia*, the reckoning of a period mentioned in that subsection as service with the Board, for the purposes of any superannuation benefits.

32.—(1) There shall be a chief officer of the Board who shall be known as the chief executive of the Board.

Chief executive of Board.

(2) The chief executive shall be appointed by the Board and shall hold office on such terms and conditions as may be approved by the Board with the consent of the Minister and the Minister for Finance and shall perform such duties as the Board from time to time directs.

(3) There shall be paid by the Board to the chief executive out of funds at its disposal such remuneration and allowances as the Minister, with the consent of the Minister for Finance, from time to time decides.

(4) The chief executive shall not hold any other office or position without the consent of the Board.

Staff.

33.—(1) The Board shall appoint with the consent of the Minister and the Minister for Finance such and so many persons to be members of the staff of the Board as the Board from time to time thinks proper. 5

(2) A member of the staff shall hold office or employment on such terms and conditions as the Board, with the consent of the Minister and the Minister for Finance, from time to time decides.

(3) There shall be paid by the Board to the officers or employees appointed by the Board, out of funds at its disposal, such remuneration and allowances as the Board, with the consent of the Minister and the Minister for Finance, from time to time determines. 10

Performance of functions of Board by members of staff.

34.—The Board and, with the consent of the Board, a subsidiary board may perform any of its functions through or by any member of the staff of the Board duly authorised in that behalf by the Board or that subsidiary board as the case may be. 15

Superannuation.

35.—(1) As soon as may be after its establishment the Board shall prepare and submit to the Minister a scheme or schemes for the granting of superannuation benefits to or in respect of such of its staff (including the chief executive) as the Board shall think fit. 20

(2) Every such scheme shall fix the time and conditions of retirement for all persons to, or in respect of whom superannuation benefits are payable under the scheme, and different terms and conditions may be fixed in respect of different classes of persons.

(3) The Board may at any time prepare and submit to the Minister a scheme amending a scheme previously submitted and approved under this section. 25

(4) A scheme or amending scheme submitted to the Minister under this section shall, if approved of by the Minister with the consent of the Minister for Finance, be carried out by the Board in accordance with its terms. 30

(5) If any dispute arises as to the claim of any person to, or the amount of, any superannuation benefit in pursuance of a scheme under this section, such dispute shall be submitted to the Minister who shall refer it to the Minister for Finance whose decision shall be final. 35

(6) No superannuation benefit shall be granted by the Board to or in respect of any of its staff (including the chief executive) who are members of a scheme under this section, nor shall any other arrangement be entered into for the provision of any superannuation benefit to such persons on ceasing to hold office, other than in accordance with such scheme or schemes submitted and approved of under this section. 40

(7) Superannuation benefits granted under schemes under this section to persons transferred under *section 46* and the terms and conditions relating to those benefits shall not be less favourable to those persons than those to which they were entitled immediately before the establishment day. 45

(8) Where at any time during the period beginning on the establishment day and ending immediately before the commencement of a scheme under this section, a superannuation benefit falls due for payment to or in respect of a person who was transferred to the staff of the Board under *section 46*, the benefit shall be calculated and paid by the Board in accordance with the scheme or such provisions in relation to superannuation as applied to the person immediately before the establishment day and, for that purpose, that person's pensionable service with the Board and previous pensionable service shall be aggregated.

(9) Every scheme submitted and approved of under this section shall be laid before each House of the Oireachtas as soon as may be after it is approved of and if either House, within the next twenty-one days on which that House has sat after the scheme is laid before it, passes a resolution annulling the scheme, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

36.—The Minister may from time to time, with the consent of the Minister for Finance, advance to the Board out of moneys provided by the Oireachtas such sums as the Minister may determine for the purposes of expenditure by the Board in the performance of its functions. Grants to Board.

PART III

LEVIES ON LIVESTOCK AND AGRICULTURAL PRODUCTS

37.—(1) There shall be charged and levied by and paid to the Board a levy in relation to— Levy on slaughtered or exported livestock.

(a) all livestock slaughtered in premises to which this section applies, and

(b) all livestock exported live from the State.

(2) The amount of levy payable under this section shall be—

(a) in relation to bovine animals, £1.50 per animal,

(b) in relation to sheep, 20p per animal,

(c) in relation to pigs, 20p per animal, and

(d) in relation to any other species of animal in relation to which levy is payable, such amount per animal as may be specified by the Minister by order.

(3) Subject to *subsection (4)*, the Minister may by order vary the rate of levy prescribed by *subsection (2)* of this section or specified by order under *paragraph (d)* of that subsection.

(4) Whenever the Minister proposes to make an order under this section, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each such House.

(5) This section applies to the following premises, namely—

(a) any slaughtering premises registered under the Agricultural Produce (Fresh Meat) Act, 1930 (“the Act of 1930”); and

(b) any abattoir licensed under the Abattoirs Act, 1988, including premises operating as an abattoir under permit of the Minister granted under section 17 of that Act.

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Levy due and payable.

38.—(1) Levy in respect of livestock, other than livestock which are exported live from the State, shall be due when the livestock are slaughtered.

(2) Within the period of fourteen days commencing immediately after the expiration of a levy period, every person who is liable to pay levy shall furnish to the Board a true and correct return of the amount of levy, if any, which became due during the levy period and shall at the same time remit to the Board the amount of levy, if any, payable in respect of such levy period.

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(3) A person who fails to comply with *subsection (2)* shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000 or, on conviction on indictment, to a fine not exceeding £10,000.

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(4) Where after conviction for failure to comply with *subsection (2)* the person continues to contravene the subsection, that person shall be guilty of an offence on every day during which the failure to furnish the return referred to in that subsection continues or the levy the subject of the original offence remains unpaid, and shall, for each such offence, be liable on summary conviction to a fine not exceeding £50 or, on conviction on indictment, to a fine not exceeding £500.

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(5) A summary offence under *subsection (3)* or *(4)* may be brought and prosecuted by the Board.

(6) Levy in respect of livestock which are slaughtered shall be paid to the Board—

(a) in the case of livestock slaughtered at any slaughtering premises registered under the Act of 1930 — by the registered proprietor of the premises or, if the livestock were slaughtered at such premises by or on behalf of the holder of an exporter’s licence or an exporter’s permit in respect of such premises, by that person,

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(b) in the case of livestock slaughtered at an abattoir to which *section 37* applies, by the person who, at the time the livestock are slaughtered, is the holder of the abattoir licence for such abattoir.

(7) Where the holder of a licence or permit specified in *subsection (6)* slaughters livestock and thereby becomes liable for the payment of a levy to the Board he shall be entitled to recover the full amount of the levy or, if an order under *subsection (8)* is in force, such portion of the levy as is prescribed by that order, as a simple contract debt in any court of competent jurisdiction—

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(a) where he has purchased the livestock or has agreed to purchase all or part of the carcase after slaughter from the person from whom he has purchased the livestock or with whom he has made the agreement, as the case may be,

(b) in any other case, where he slaughters livestock on the instructions of any other person — from that person.

(8) (a) The Minister may by order provide that a specified portion only of the levy shall be recoverable under *subsection (7)*.

5 (b) Whenever the Minister proposes to make an order under this subsection, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each such House.

10 (9) Levy in relation to livestock exported live from the State shall be paid to the Board in the manner specified in *subsection (10)* by the person by or on whose behalf the livestock are being exported.

15 (10) Levy in relation to livestock exported live from the State shall be paid by means of adhesive stamps which shall be purchased from the Board and shall be—

(a) of the type and denominations specified in the *Schedule* to this Act,

(b) affixed to the documentation specified in the *Schedule* to this Act, and

20 (c) cancelled or perforated by an officer of the Minister authorised by the Minister to act for the purposes of this section at a District Veterinary Office or at an export assembly point prior to exportation of the livestock.

25 (11) The Minister may by regulations alter any specification referred to in *subsection (10)* and the *Schedule* to this Act shall be construed and have effect accordingly.

(12) It shall be an offence for any person to export or attempt to export live from the State livestock in respect of which levy is payable unless the provisions of *subsection (10)* have been complied with.

30 (13) A person who contravenes *subsection (12)* shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000 or, at the discretion of the court, to imprisonment for a term not exceeding 6 months or to both or, on conviction on indictment, to a fine not exceeding £10,000 or, at the discretion of the
35 court, to imprisonment for a term not exceeding 2 years or to both.

(14) A summary offence under *subsection (12)* may be brought and prosecuted by the Minister.

40 (15) Every regulation made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and if either House, within the next twenty-one days on which that House has sat after the regulation is laid before it, passes a resolution annulling the regulation, the regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

45 39.—Every sum payable by a person for or on account of levy shall be recoverable by the Board from that person as a simple contract debt in any court of competent jurisdiction. Recovery of levy.

Duty to keep records.

40.—(1) Every person who is liable to pay levy shall, in accordance with such direction (if any) as may be given by the Board, keep full and true records of all transactions which affect that liability.

(2) A record kept by a person pursuant to *subsection (1)* and, in the case of any such record that has been given by the person to another person, any copy thereof that is in the power or control of the first-mentioned person shall be retained by that person for a period of 4 years from the date of the last transaction to which the record relates: 5

Provided that this section shall not apply to records of a company that have been disposed of in accordance with section 305(1) of the Companies Act, 1963. 10

(3) A person who contravenes *subsection (1)* or *(2)* shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000 or, at the discretion of the court, to imprisonment for a term not exceeding 6 months or both. 15

(4) An offence under this section may be brought and prosecuted by the Board.

Powers of authorised officers.

41.—(1) In this section “authorised officer” means a person authorised in writing by the Board or, pursuant to *subsection (6)*, by the Minister to exercise the powers conferred by this section. 20

(2) A person authorised by the Board or the Minister under this section shall be issued with a warrant of appointment by the Board or the Minister as the case may be and when exercising any function conferred on the person as an authorised officer such person shall, if requested by a person affected, produce the warrant to that person. 25

(3) A warrant of appointment issued by the Board shall contain a full-face photograph or any other full-face image of the person concerned which is in the nature of a photograph, whether produced electronically or otherwise, and shall indicate that it is also an identity document. 30

(4) The provisions of section 17 of the Animal Remedies Act, 1993, shall apply in relation to the production of a warrant of appointment or identity document by a person authorised by the Minister under this section. 35

(5) An authorised officer may, for the purpose of obtaining any information that is necessary or expedient for the purposes of the charging and levying by, and the payment to, the Board of levy or of ascertaining whether the provisions of this Act are being complied with, on production of the officer’s authorization, if so required— 40

(a) at all reasonable times enter premises where the officer reasonably believes that a person liable to pay levy carries on the business of the export of meat or livestock or the slaughter of livestock or keeps records relating to such a business, 45

(b) inspect the premises, search for any records relating to levy or the business of the slaughter or export of meat or livestock,

(c) enter and inspect any vehicle used for the transport of livestock, 50

5 (d) require any person found on the premises or in charge of the vehicle to produce to the officer any records and, in the case of such records in a non-legible form (including records in a computer) to produce it in a legible form and take copies of or extracts from or remove and retain any such records, for such period as may be reasonable for their examination or for the purposes of any proceedings in relation to an offence, or the recovery of levy payable, under this Act, and

10 (e) require any such person to give to the officer such information as the officer may reasonably require in relation to any business carried on on the premises or in relation to the vehicle and any such records as aforesaid.

15 (6) The powers of entering and inspecting vehicles and of exercising functions in relation to vehicles shall only be exercised by an officer authorised by the Minister.

20 (7) A person who obstructs or impedes an authorised officer in the exercise of a power or who, without reasonable excuse, does not comply with a requirement under this section, or who in purported compliance with such a requirement gives information to an authorised officer which that person knows to be false or misleading in a material respect shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000 or, at the discretion of the court, to imprisonment for a term not exceeding 6 months or to both.

(8) An offence under this section may be brought and prosecuted by the Minister or the Board.

30 42.—(1) Where an offence under this Part has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of a person, being a director, manager, secretary or other officer of that body corporate, or a person who was purporting to act in any such capacity, that person, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

Offences by directors and others.

(2) Where the affairs of a body corporate are managed by its members, *subsection (1)* shall apply in relation to the acts and defaults of a member of the body corporate exercising a function of management as if the member were a director or manager of that body.

40 43.—(1) Where, in the opinion of the Board, levy is payable by a person for a levy period falling before, after or partly before and partly after the passing of this Act and the person fails to furnish to the Board within the period specified in *section 38* a return of the amount of levy so payable—

Estimation of amount of levy payable in certain cases.

45 (a) the Board may estimate the amount so payable and serve on the person a notice specifying the amount so estimated,

50 (b) the amount so specified shall be deemed to be the amount of levy payable by the person for the levy period and shall be payable to the Board upon the expiration of the period of 14 days from the date of the service of the notice on the person unless, within that period, it is shown, to the satisfaction of the Board, either that no levy, or an amount

of levy other than the amount so specified, is payable for the levy period,

(c) where the person shows that an amount of levy other than the amount specified in the notice under *paragraph (a)* of this subsection is payable for the levy period the amount so shown shall be payable by the person forthwith to the Board and any amount of levy in excess of the amount so shown that the person has paid to the Board under this section shall be repaid by the Board to the person, and 5

(d) where, at any time after the sending to the person of the notice referred to in *paragraph (a)* of this subsection, the Board becomes satisfied that an amount of levy other than the amount specified in the notice is payable by the person, it may send to the person a notice specifying the first-mentioned amount and the notice under this paragraph shall be deemed to be in substitution for the notice referred to in the said *paragraph (a)*, and *paragraphs (b)* and *(c)* of this subsection shall apply and have effect accordingly in relation to it, and any amount paid to the Board on foot of the notice referred to in the said *paragraph (a)* shall be deemed to have been paid on foot of the notice under this paragraph. 10 15 20

(2) A notice authorised by this section to be served on a person by the Board may be served—

(a) if the person is an individual— 25

(i) by delivering it to that person, or

(ii) by sending it by post addressed to that person at the person's usual or last known place of residence or business, or

(iii) by leaving it for that person at that place, 30

(b) if the person is a body corporate or an unincorporated body of persons, by sending it to the body by post to, or addressing it to and leaving it at, in the case of a company, its registered office (within the meaning of the Companies Act, 1963) and, in any other case, its principal place of business. 35

Evidence in proceedings for recovery of levy.

44.—In any proceedings, a certificate purporting to have been signed by an officer of the Board and stating that a specified amount in respect of levy is due and payable by a specified person to the Board or that a return under *section 38* in relation to a specified levy period was not furnished to the Board by a specified person or was not so furnished within the period specified in that section shall be evidence, unless the contrary is shown, of the facts specified in the certificate and the certificate shall be deemed to have been signed by an officer of the Board unless the contrary is shown. 40 45

Levy on agricultural products.

45.—(1) Beginning with such year as the Minister may, by order, prescribe, there shall be charged and levied by the Board in each year a levy on agricultural products.

(2) An order made under this section—

- (a) shall specify the rate at which levy is to be charged, the products on which, and the persons by whom, it is to be paid, and the manner in which and the time, or times, at which it is to be paid,
- 5 (b) may provide that different rates of levy may be charged in respect of different classes of persons and different products,
- 10 (c) may provide for excepting from the obligation to pay levy any specified class or classes of persons, defined in such manner and by reference to such matters as the Minister considers appropriate, for the keeping of records and the making of returns by persons liable to pay levy, for the appointment and powers of authorised officers, for the collection and recovery of levy, for the enforcement of the order, and for such other matters as the Minister considers expedient or necessary.
- 15

(3) A person who fails to comply with any of the provisions of an order made by the Minister under this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000.

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(4) Where, after conviction for failure to comply with any provision referred to in *subsection (3)*, the person continues to contravene that provision, that person shall be guilty of an offence on every day on which the contravention continues and shall, for each such offence, be liable on summary conviction to a fine not exceeding £50.

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(5) An offence under this section may be brought and prosecuted by the Board.

(6) Before making an order under this section the Minister shall consult with such persons as the Minister considers appropriate who are engaged in or are representative of those engaged in the production, processing or sale of agricultural products.

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(7) Whenever the Minister proposes to make an order under this section, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each such House.

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PART IV

TRANSITIONAL PROVISIONS

46.—(1) Every person who, immediately before the establishment day, was a member of the staff of the dissolved body shall on that day become and be a member of the staff of the Board.

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Transfer of staff.

(2) The Board shall accept into its employment on the establishment day every person who immediately before that day is a member of the staff of An Bord Trachtála and is designated by that body for employment by the Board.

47.—(1) Save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, a person who becomes a member of the staff of the Board pursuant to *section 46* or to an order under *section 9* shall not, while in the service

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Conditions of service of transferred staff.

of the Board, be brought to less beneficial conditions of service (including conditions in relation to tenure of office) or of remuneration than the conditions of service (including conditions in relation to tenure of office) or remuneration to which he was subject immediately before becoming such member.

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(2) In this section “recognised trade union or staff association” means a trade union or staff association recognised by the Board for the purposes of negotiations which are concerned with the remuneration or conditions of employment, or the working conditions of employees.

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Transfer of property.

48.—(1) On the establishment day all property, including choses-in-action, which immediately before that day was the property of the dissolved body shall stand vested in the Board without any conveyance or assignment.

(2) Every chose-in-action transferred by *subsection (1)* to the Board may be sued on and recovered or enforced by the Board in its own name and it shall not be necessary for the Board to give notice to the person bound by the chose-in-action of the transfer effected by that subsection.

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(3) Section 12 of the Finance Act, 1895, shall not apply to the vesting in the Board of any property or rights transferred by this Act.

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Transfer of rights and liabilities and continuance of pending proceedings.

49.—(1) All rights and liabilities of the dissolved body shall on the establishment day stand transferred to the Board.

(2) Every right and liability transferred by *subsection (1)* to the Board may be sued on, recovered or enforced by or against the Board in its own name and it shall not be necessary for the Board to give notice to the person whose right or liability is transferred by this section of such transfer.

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(3) All legal proceedings pending immediately before the establishment day to which the dissolved body was a party shall be continued with the substitution for the dissolved body of the Board.

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Final accounts of dissolved body.

50.—(1) As soon as may be after the establishment day the Board shall cause to be prepared in such form as may be approved of by the Minister all proper and usual accounts of all moneys received or expended by the dissolved body in the accounting year, or the part of an accounting year, of the dissolved body ending immediately before the establishment day.

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(2) Accounts prepared pursuant to this section shall be submitted as soon as may be by the Board to an auditor for audit and, immediately after the audit, a copy of the profit and loss account and of the balance sheet and of such other (if any) of the accounts as the Minister may direct and a copy of the auditor’s report on the accounts shall be presented to the Minister who shall cause copies thereof to be laid before each House of the Oireachtas.

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SCHEDULE

LEVY ON LIVESTOCK EXPORTED LIVE

PART I

5 The adhesive stamps by means of which levy is required to be paid under *section 38* shall—

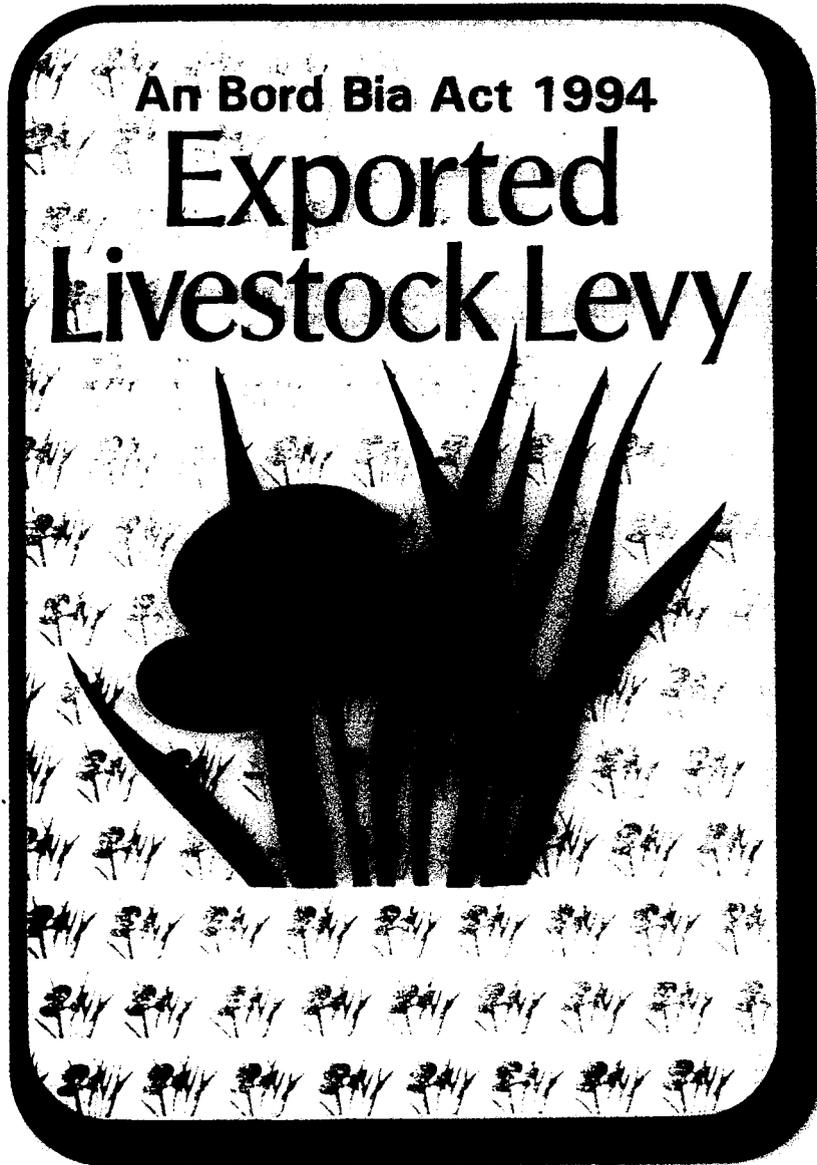
- (a) be the type set out in *Part II* of this Schedule with the centrepiece and surround in green and the lettering and numbers in black,
- 10 (b) be of the denominations specified in the Table beneath, and a stamp of any particular denomination shall have a background in the colour specified opposite that denomination in the said Table, and
- 15 (c) be affixed to a document in respect of the livestock in relation to which the levy is payable in the form set out in *Part III* of this Schedule completed by the person by whom or on whose behalf the livestock are being exported.

TABLE

	1p	Salmon
	2p	Tan
20	5p	Pink
	10p	Deep Yellow
	20p	Cyan
	50p	Orange
25	£1	Blue
	£2	Grey
	£5	Yellow
	£10	Mauve
	£20	Cream

PART II

The adhesive stamp of any particular denomination specified in *Part I* of this Schedule shall be of the type set out below and shall also bear an indication of that particular denomination.



PART III

Details of Livestock to be exported on _____ District Veterinary Office _____
 ___ / ___ / 19 ___

Name & Address of Exporter _____

_____ Approved Assembly Point _____

_____ Health Cert. Number _____

Export Levy Stamps to be affixed hereunder

5

Total Numbers
Exported

Cattle						10
Sheep						
Pigs	CREAM	MAUVE	YELLOW	GREY	BLUE	
Total Value of stamps affixed						15
£ p	ORANGE	MID BLUE (CYAN)	DEEP YELLOW			
Additional stamps may, if necessary, be affixed to the reverse side of this form						

DECLARATION OF EXPORTER

I/WE HEREBY DECLARE that the particulars contained herein are correct and that Export Levy Stamps to the correct value are affixed to this form

20

Signature of Exporter (or Agent) _____ Date _____

Address _____

Department of Agriculture, Food & Forestry Certificate

FOR BORD BIA USE ONLY

CERTIFIED that Export Levy Stamps to the correct value are affixed hereto and have been cancelled

25

Signature _____

Department of Agriculture,
Food & Forestry

STAMP

30