

MINUTE of MEETING of
CONDITIONS SUB-COMMITTEE of
S.P.T.A. held at 25 SOUTH
METHVEN STREET, PERTH, AT
2.30 p.m. on THURSDAY, 23rd
MARCH, 1995.

PRESENT: Messrs. D. Stewart, J.B. Hollywood, J.M. Marshall, K.A. McKenzie and J.O. Robertson, along with the Association Secretary, Mr. R.D. Hunter.

APOLOGIES: Apologies for absence were intimated on behalf of Messrs. M. Beattie and A. Pullar.

CHAIRMAN: The Association President, Mr. Stewart occupied the Chair.

ARBITRATION PROCEDURES: It was confirmed that the purpose of the meeting was to draw up proposals to be ratified by Council at the next meeting on 20th April and presenting to the N.A.S.P.M. at the meeting of the Joint Liaison Committee to be held on or about May, 1995.

After detailed discussion the Sub-Committee agreed to recommend that this Association should introduce Arbitration Rules notwithstanding that this would necessitate a further alteration to the Association's Conditions of Sale and Purchase. The Secretary was instructed to draft for approval by the Sub-Committee a set of "simple" Arbitration Rules. The Secretary was instructed to include the following in the draft Rules:-

- (1) Provision for the Arbiters appointing a Clerk from a Panel of experienced Solicitors.
- (2) Each Arbitration to have two Arbiters and an Oversman, all appointed from a Panel of experience Arbiters. In the case of Arbitrations in disputes between Association Members the Arbiters and Oversman will be appointed as at present by the President of S.P.T.A. In the case of Arbitrations in a dispute between a Member and a non member each party will nominate an Arbiter from a Panel or Panels of Qualified Arbiters. It was envisaged that there could be one Panel of Arbiters appointed by both S.P.T.A. and the National Farmers' Union of Scotland while there is already in existence a Panel of Arbiters appointed by N.A.S.P.M. In Arbitrations involving a non member the Oversman will be appointed from said Panel by the two Arbiters.
- (3) No legal representation at Hearings will be permitted unless with the prior consent of the Arbiters.
- (4) No Appeal against the decision of the Arbiters or Oversman, including on a point of law, will be allowed.
- (5) A "Tender" procedure will be included whereby if one of the parties to the Arbitration makes an offer to settle the

dispute which exceeds the ultimate Arbiters' Award expenses incurred after the date of the offer are to be awarded against the other party.

- (6) A Schedule of Costs is to be included.
- (7) Encouragement to "consolidate" related Arbitrations where appropriate.
- (8) Time limits designed to expedite the completion of Arbitrations are to be included.

It was agreed that the Secretary would issue the draft Rules to members of the Sub-Committee in advance of the next Sub-Committee meeting which it was agreed would be held at 25 South Methven Street, Perth, at 2.00p.m. on Thursday, 13th April, 1995.

In connection with the setting up of a Panel of experienced Arbiters' Clerks it was proposed that the Secretary include in a future edition of the Scottish Law Society Journal an invitation for potential Clerks to contact S.P.T.A. for inclusion in the Panel. It was considered that a Panel of six competent Clerks would be sufficient.

In connection with the drawing up of a Panel of competent Arbiters it was recommended that Association members be invited to nominate suitable candidates to be included in the Panel. It was also recommended that an approach be made to the National Farmers' Union of Scotland to invite them to nominate candidates to be included in a Joint Panel of S.P.T.A. and Farmers' Union Appointees. It was recommended that consideration be given to the training of the Arbiters appointed to the Panel.

COMPENSATION FOR DAMAGES - CLAUSE 14(i) OF CONDITIONS: It was reported that an Arbitration was pending regarding the interpretation of Clause 14(i) of the Conditions of Purchase. It was agreed to await the outcome of that Arbitration.

SALES SUBJECT TO "CERTIFICATION, SAFE HARVEST and OUT-TURN": There was general discussion regarding the apparent increase in the number of sales subject to "Certification, Safe Harvest and Out-turn". It was agreed that in certain circumstances a sale under these conditions was perfectly reasonable and understandable. It was considered, however, that there were occasions when these conditions were introduced into a contract solely for the purpose of providing the seller with a "Get Out" clause especially in connection with early purchases. It was considered important that the purchaser be well aware of the introduction of such conditions and the fact that in certain circumstances the seller can use them as a means of negating the contract for example in the event of a subsequent increase in prices. It was recommended that the Association issue a warning to Association members to be wary of buying potatoes under these terms. It was agreed, however, to recommend to Council that no action be taken until the matter is fully discussed at the forthcoming meeting with the N.A.S.P.M.

This terminated the business of the meeting.