
DAIRY INDUSTRY ACT 1976

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DAIRY INDUSTRY

No. 113 of 1976

AN ACT to make fresh provision for the regulation and control of the dairy industry and milk and dairy produce; for the encouragement of the consumption and use of milk and dairy produce; for the constitution of a dairy authority; for the repeal of the Milk Act 1947 and the Dairy Products Marketing Act 1957; and for matters incidental thereto.

[15 December 1976]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I

PRELIMINARY

1—(1) This Act may be cited as the *Dairy Industry Act 1976*. Short title and commencement.

(2) This Act shall commence on a date to be fixed by proclamation.

Interpretation.

2—(1) In this Act, unless the contrary intention appears—

- “ Authority ” means the Tasmanian Dairy Industry Authority established under section 3;
- “ Board ” means the Dairy Industry Advisory Board established under section 47;
- “ butter fat ” means pure fat of milk;
- “ commencing date ” means the date on which this Act commences;
- “ cream ” means that portion of milk in which through rest, mechanical, or some other means the greater portion of the fat has become concentrated, and that portion shall be classed as cream notwithstanding that it has been scalded, pasteurized, preservatized, or thickened;
- “ dairy ” means any land, premises, or buildings used in connection with the production of milk;
- “ dairy area ” means any portion of the State that is established by the Authority as a dairy area for the purposes of this Act;
- “ dairyman ” means the occupier of any dairy;
- “ dairy produce ” has the meaning assigned to that expression by the *Dairy Produce Act 1932* except in so far as it relates to margarine and includes any substance declared to be dairy produce under subsection (2);
- “ dairy produce premises ” has the meaning assigned to that expression by section 3 of the *Dairy Produce Act 1932*;
- “ dealer ” means a person who, whether on his own account or as the agent or servant of another, purchases or receives milk or dairy produce for the purposes of resale, wholesale, or sale, wholesale;
- “ Department ” means the Department of Agriculture;
- “ depot ” means any premises, structure, or place where milk or dairy produce is deposited for the purpose of weighing, sampling, testing, or grading milk or dairy produce;
- “ Director ” means the Director of Agriculture appointed under the *Public Service Act 1973*;
- “ district ” means a portion of a dairy area that is established as a district under this Act;
- “ grading ” means the classification according to quality of milk or dairy produce in the prescribed manner;
- “ licence ” means a licence issued under this Act;

“ milk ” means the lacteal fluid product of any animal where that product is used for domestic purposes or use and includes cream of any class, milk, or cream that has been treated for the purpose of pasteurizing, sterilizing, or homogenizing whether or not the pasteurizing, sterilizing, or homogenizing is complete;

“ quota ” means the quantity or proportion fixed by the Authority in respect of a licence as the quantity or proportion of—

(a) milk or component of milk produced by a dairyman;
or

(b) dairy produce manufactured by a manufacturer of dairy produce,

that the dairyman or the manufacturer may sell, supply, or deliver in the course of the business carried on under that licence;

“ sell ” means sell by wholesale or by retail and includes barter, supply for profit, offer for sale, receive for sale, have in possession for sale, expose for sale, send, forward, or deliver for sale, cause, suffer, or allow to be sold, offered, or exposed for sale;

“ treatment ”, in relation to milk or dairy produce, includes the examination, cleansing, pasteurization, separation, testing, grading, cooling, refrigeration, bottling, or packing;

“ vendor ” in relation to milk or dairy produce means a person of a prescribed class who by himself or his employees supplies or distributes milk or dairy produce to consumers at retail or wholesale prices, otherwise than as a carrier of the milk or dairy produce.

(2) The Minister may, by notice, declare any substance, not being milk, in the production or manufacture of which—

(a) milk is used; or

(b) any substance produced or manufactured from milk is used, and which is ordinarily used as food for humans,

to be dairy produce for the purpose of this Act.

PART II

TASMANIAN DAIRY INDUSTRY AUTHORITY

Division I—Constitution and proceedings of the Authority

Tasmanian
Dairy Industry
Authority.

3—(1) There shall be established a body to be known as the Tasmanian Dairy Industry Authority which shall be a body corporate with perpetual succession and a common seal.

(2) The Authority shall consist of 3 members appointed by the Minister of whom one shall be appointed as chairman of the Authority.

(3) The chairman shall be a person who, in the Minister's opinion, has proven executive ability and, so far as is practicable, possesses a sound knowledge of primary production and marketing.

(4) Of the other members of the Authority, one shall be a person who possesses a sound knowledge of milk production and the other member shall be a person who possesses a sound knowledge in the fields of manufacturing and marketing.

(5) The chairman of the Authority shall be appointed for such term (not exceeding 5 years) and shall be paid such salary as may be specified in the instrument of his appointment, and shall hold office on such terms and conditions as may be so specified.

(6) A member of the Authority (other than the chairman thereof) shall be paid such remuneration, if any, as may be specified in the instrument of his appointment.

(7) Each member of the Authority shall be paid such travelling and other expenses as may be prescribed.

(8) A member of the Authority (other than the chairman thereof), unless he sooner resigns or otherwise ceases to hold office, continues in office for a period of 3 years, except that when a member of the Authority dies or ceases to hold office otherwise than by reason of the effluxion of time, the member appointed to fill the vacancy ceases to hold office at the expiration of the unexpired term of office of the member in whose place he is appointed.

(9) The chairman of the Authority shall devote the whole of his time to the performance of the duties of his office, but shall be entitled to such leave of absence as may be prescribed.

(10) Each member of the Authority (other than the chairman thereof) shall devote to the performance of the duties of his office such part of his time as shall be set out in the instrument of his appointment.

(11) The members of the Authority are not, as such, subject to the *Public Service Act* 1973, but an officer of the Public Service may hold office as a member of the Authority in conjunction with his office as an officer of the Public Service.

4—(1) The Minister may remove any member of the Authority from office if he is satisfied that that member—

Removal of
members of
Authority.

- (a) has become permanently incapable of carrying out the duties of his office;
- (b) has misconducted himself in the performance of the duties of his office;
- (c) has, without the leave of the Authority, been absent from 3 or more consecutive meetings of the Authority;
- (d) has applied to take, or takes, advantage of any law relating to bankruptcy, or has compounded, or entered into an arrangement, with his creditors; or
- (e) has been convicted (whether in this State or elsewhere) of an offence of such a nature that, in the opinion of the Minister, renders it improper for that member to continue to hold his office.

(2) Without prejudice to the generality of the provisions of subsection (1) (b), a member of the Authority shall be deemed to have misconducted himself in the performance of his duties if—

- (a) he votes on any matter before the Authority in which he has a direct pecuniary interest; or
- (b) he takes part in, or is present at, the discussion of any such matter before the Authority without disclosing his pecuniary interest to the members of the Authority present.

(3) In the case of married persons living together a pecuniary interest of one spouse shall, if known to the other, be deemed for the purposes of this section to be also a pecuniary interest of that other spouse.

(4) The Minister may remove the chairman of the Authority from office if he has failed to comply with the terms and conditions on which he was appointed.

(5) The Minister may remove from office a member of the Authority (other than the chairman thereof) if the Minister is satisfied that, having regard to the circumstances that have arisen since his appointment, the member is no longer a suitable person to perform his duties as a member of the Authority.

(6) The Minister shall not remove a member of the Authority otherwise than under this section.

Proceedings of
the Authority.

5—(1) The Authority shall meet at such times and places as the chairman may determine, and the chairman shall convene a meeting of the Authority whenever requested, in writing, so to do—

- (a) by the Minister; or
- (b) by the other members.

(2) Any 2 members of the Authority shall constitute a quorum for the transaction of the business of any meeting.

(3) The chairman shall preside at all meetings of the Authority at which he is present and shall have a deliberative vote, but if the chairman is absent from any meeting the members present shall elect a chairman who shall preside at that meeting.

(4) Any question arising at a meeting of the Authority shall be determined by a majority of the votes of the members present and voting on the question, and, in the event of an equality of votes on any matter before a meeting of the Authority, that matter stands adjourned to the next meeting of the Authority.

(5) The Authority may, by instrument under seal, delegate to any member of the Authority, either generally or in relation to any particular matter or case, such of the powers, authorities, duties, and functions of the Authority as may be specified in the instrument.

(6) Any delegation made under subsection (5) shall be revocable by the Authority at any time and shall not prevent the exercise or performance by the Authority of any of its powers, authorities, duties, and functions.

(7) The Authority shall keep full and accurate minutes of all its proceedings.

(8) Subject to this section, the Authority may regulate its own procedure.

Appointment
of secretary
and officers.

6—(1) The Authority may appoint a secretary to the Authority and such other officers as it may think necessary for the purposes of this Act.

(2) On the commencing date officers and employees of the Milk Board of Tasmania constituted under the *Milk Act* 1947 shall be deemed to have been appointed as officers or employees, as the case

requires, of the Authority and to have been such officers or employees of the Authority from the time they were appointed to that Board on the same terms and conditions on which, immediately prior to the commencement of this Act, they were employed by that Board.

Division II—Powers, duties, and functions of the Authority

7—(1) The Authority shall be responsible for—

Powers, &c.,
of the
Authority.

- (a) the organization of the purchase, production, supply, manufacture, treatment, storage, transport, packing, sale, and distribution of milk and dairy produce; and
 - (b) the regulation of the amount of supply and production of milk and dairy produce so as to ensure so far as is practicable the continuous availability of all classes of milk and dairy produce.
- (2) Subject to this Act, the Authority may—
- (a) determine and give effect to policies for ensuring the future maintenance and development of the dairy industry and for effecting economies in that industry;
 - (b) assist the introduction, from time to time, of new types of dairy produce;
 - (c) determine and give effect to policies to rationalize the supply, transport, treatment, manufacture, packing, storage, and distribution of milk and dairy produce;
 - (d) determine and establish dairy areas and districts under such name as the Authority determines, and vary, unite, amend, or abolish the areas and districts as the Authority thinks fit;
 - (e) issue, cancel, or suspend any licences that are prescribed, and may classify persons and businesses as the Authority thinks fit into classes for the purposes of those licences; and
 - (f) carry out the making, settlement, and approval of contracts for the supply of milk or any component of milk or both by dairymen to the Authority or such other person as the Authority determines.

(3) Any dairy area or district that may be established under subsection (2) (d) shall be so established by order which is a statutory rule within the meaning of the *Rules Publication Act 1953*.

Further powers
of Authority.

8—(1) The Authority may—

- (a) determine and prescribe grades and minimum standards for the quality and composition of milk and dairy produce;
- (b) determine and prescribe the premiums and penalties or differential rates of payment or the periods of suspension of licences issued under this Act that are to be applied, imposed, or made where milk or dairy produce complies or fails to comply with the grades and standards to which paragraph (a) refers;
- (c) determine and prescribe the conditions upon which, and the circumstances when, the premiums, penalties, or differential rates of payment or periods of suspension to which paragraph (b) refers will be applied or imposed;
- (d) determine and prescribe the classes of milk that shall be graded and prescribe the manner in which they respectively shall be graded; and
- (e) by instrument in writing, appoint persons to act as agents for the Authority and may authorize those persons to carry out on behalf of the Authority such of its powers and functions as are agreed to between the Authority and any such agent, including, if it is so agreed between the Authority and any such agent, the function of accepting or selling on behalf of the Authority milk or dairy produce that is or may be vested in, or otherwise acquired by, the Authority pursuant to this Act and the functions of carrying out such further powers, duties, and functions as are incidental thereto and have been so agreed and the Authority may by subsequent instrument vary or revoke any instrument of appointment of a person as its agent.

(2) Any grades or minimum standards prescribed by the Authority for the quality and composition of milk and dairy produce under subsection (1) are subject to—

- (a) the grades or minimum standards prescribed under Part VIII of the *Public Health Act* 1962 and the *Dairy Produce Act* 1932; or
- (b) if those grades or minimum standards are prescribed only under that Part or that last-mentioned Act, the grades or minimum standards so prescribed.

(3) Any person who fails to comply with any determination made by the Authority pursuant to this section commits an offence and is liable to a penalty of \$200.

9 The Authority may in an agreement, authority, licence, or certificate insert conditions and may fix a sum as and by way of liquidated damages for any breach of conditions and those damages are recoverable accordingly.

Powers of Authority to impose conditions and fix liquidated damages.

10 The Authority may—

- (a) obtain any information it considers necessary or expedient for exercising its powers and performing its duties under this Act; and
- (b) obtain assistance or advice from any person.

Power of Authority to obtain information, &c.

11—(1) The Authority may initiate, conduct, or arrange to have conducted the promotion of sales of any or all classes of milk or any or all classes of dairy produce.

Sales promotion of dairy produce.

(2) For the purposes of assisting the Authority to effectively carry out the power conferred by subsection (1) the Authority may establish a committee to be known as the Dairy Industry Promotion Committee comprised of persons actively engaged in the promotion, vending, and selling of milk or dairy produce.

(3) The constitution of the Committee and the manner in which it conducts its meetings and affairs shall be as prescribed by the Authority.

(4) The Committee shall assist and make recommendations to the Authority on the promotion, vending, and selling of milk and dairy produce.

(5) The Authority is empowered to provide funds for the promotion of all classes of milk and dairy produce but the total amount to be provided annually for the promotion shall be such amount as is approved by the Minister in writing after consultation with representatives nominated by the Dairy Industry Advisory Board for the purpose.

12—(1) The Authority may, with the approval of the Minister, delegate to any person any of its powers and functions under this Act except this power of delegation and a delegation so given does not prevent the exercise or discharge by the Authority of any of its powers or functions.

Delegation.

(2) The Authority may at any time revoke a delegation given under subsection (1).

(3) Any payment due to any person for the performance of a function delegated to him by the Authority may be made from the funds of the Authority.

(4) Any person to whom any powers have been delegated by the Authority under this section shall be deemed to be an authorized officer of the Authority in connection with the carrying out or exercise of any of the powers so delegated.

Power of
Authority to
require books
of account, &c.

13—(1) For the purpose of carrying out the functions and powers conferred upon, and the duties imposed upon, it by this Act the Authority may require any person—

(a) engaged in the business of dairyman, dairy produce vendor, manufacturer, or dealer or of the transport or treatment of milk or dairy produce; or

(b) using or occupying any storage place or any packing place, to produce to the Authority or make available for inspection by a duly authorized officer of the Authority any books of account and to supply to the Authority or that officer such other particulars in relation to the business as the Authority may reasonably require.

(2) A person who without reasonable excuse refuses or fails to produce any book of account or other document when duly required to do so under subsection (1) is guilty of an offence.

Penalty: \$200.

(3) Any officer of the Authority authorized in writing by the Authority in that behalf is a duly authorized officer for the purposes of subsection (1).

Authority
subject to
control of the
Minister.

14—(1) Notwithstanding anything contained in this Act, the Authority in exercise of its powers or the performance of its functions under this Act is subject to the control of the Minister and if, after consultation with the Authority, any action or proceeding by the Authority is not approved by the Minister he may by notice in writing addressed to, and served upon, the chairman of the Authority prohibit the action or proceeding either absolutely or subject to such conditions as he thinks fit, and effect shall be given by the Authority to the notice.

(2) In the exercise of his powers under this section the Minister shall have regard to the provisions of this Act.

Power of
Authority to
fix prices for
milk, &c.

15—(1) The Authority may, by order—

(a) fix the minimum price or prices that may be paid to dairymen for milk or any component of milk but such price or prices shall, subject to section 8 (1), be fixed in accordance with all or any of the following matters:—

(i) The grade, quality, composition, description, or quantity of the milk or the components of milk;

- (ii) The dairy area or part thereof or time of the year in which the milk or the component of milk is produced or supplied;
 - (iii) The conditions or methods of collection or transport of the milk or the component of milk;
 - (iv) Any premium that may be applied to the price of the milk or the component of milk during any period of scarcity of milk;
 - (v) Any current quota fixed in relation to the milk or the component of milk by the Authority under this Act and whether the milk or the component of milk supplied is within or surplus to that quota;
 - (vi) The purpose for which the milk or the component of milk is to be used; and
 - (vii) Any other matter that in the opinion of the Authority is incidental to any of the foregoing matters;
- (b) fix the maximum price or prices that may be charged for milk or any dairy produce sold to wholesalers, retailers, or vendors, or at which milk or dairy produce may be sold by retail, but a different maximum price or prices may be fixed—
- (i) in respect of milk or dairy produce delivered, distributed, supplied, or sold in different dairy areas or parts thereof;
 - (ii) according to the grade, the quality, the class, the description, or the quantity or the place of delivery thereof;
 - (iii) according to the type and the size of the container or the package, if any, in which the milk or dairy produce is delivered, distributed, supplied, or sold;
 - (iv) according to the conditions or methods of delivery, distribution, supply, or sale of the milk or dairy produce; or
 - (v) according to the time of the year in which the milk or dairy produce is produced, delivered, distributed, supplied, or sold; or
- (c) fix the rates that may be paid to, or charged by, any person for the collection, transport, carriage, manufacture, treatment, storage, distribution, supply, or delivery or any other service of whatever kind connected with the pro-

duction, storage, or distribution of milk or dairy produce, but a different rate or rates may be fixed for any of those services performed in different dairy areas or parts thereof.

(2) The Authority may from time to time revoke or vary any price or rate fixed by it under this section.

(3) For the purpose of assisting the Authority in the exercise of its powers under this section, it may, with the approval of the Minister, establish a committee comprising such persons (not more than 3 persons) and appointed on such terms and conditions as the Authority may so approve.

Power of
Authority to
notify prices
and rates.

16—(1) For the purpose of fixing any price or rate which may be fixed by the Authority in accordance with section 15, the Authority—

(a) may conduct an investigation or may cause an investigation to be conducted for the purpose of obtaining such further information as it considers necessary for that purpose; and

(b) may have regard to such other information as the Authority considers necessary or desirable for that purpose.

(2) For the purpose of conducting an investigation under subsection (1), the Authority has the like powers and authority to summon witnesses and receive evidence as are conferred upon a Royal Commission appointed by the Governor under Division II of Part II of the *Evidence Act* 1910.

(3) The Authority with the written approval of the Minister may, by order, notify prices and rates (which prices and rates are subject to variations in respect of premiums, penalties, and differential rates determined and prescribed) in respect of any dairy produce, milk, or any component of milk and these prices and rates shall take effect on and from a day (not being earlier than the date of publication of the order) to be specified in the order and shall continue to have effect until varied or revoked by a subsequent order made by the Authority.

(4) Subject to section 8 (1), any person who—

(a) sells any milk, component of milk, or dairy produce to wholesalers, retailers, or vendors or sells by retail, at a price exceeding the maximum price notified by an order in force under subsection (3) or the maximum price having effect under section 61 in respect of that milk, component of milk, or dairy produce; or

- (b) pays or charges any price or rate for the collection, transport, carriage, manufacture, treatment, storage, distribution, supply, or delivery or other service connected with the production, storage, and distribution of milk, component of milk, or dairy produce exceeding the price or rate so notified under subsection (3) or having effect under section 61 in respect thereof; or
- (c) buys milk or any component of milk or dairy produce from the dairyman who supplied the milk or the component of milk at a price less than the price so notified under subsection (3) or having effect under section 61 in respect thereof,

is guilty of an offence against this Act.

17—(1) If, after any agreement is made for the sale and purchase of milk, a component of milk, or a dairy produce, the Authority, in the exercise of its powers under section 16, notifies any price that affects either directly or indirectly the price to be paid or charged under that agreement for the milk, the component of milk, or the dairy produce, that agreement shall, on and from the date the notification takes effect, be deemed to be altered so that the price or charge so notified shall be substituted for the agreed price or charge in the agreement.

Effect of price fixing on agreements.

(2) An order made by the Authority under section 16 does not apply to the price or charge for any milk, component of milk, or dairy produce supplied before the date the order takes effect under an agreement made before that date.

Division III—Licences

18—(1) Subject to this Act, no person shall—

(a) carry on the business of—

- (i) a dairyman in a dairy area;
- (ii) a milk or dairy produce vendor in any district;
- (iii) a manufacturer of dairy produce; or
- (iv) packing or storing milk or dairy produce;

(b) carry on business as a dealer in milk; or

(c) treat milk intended for sale to consumers, except under the authority, and in accordance with the terms and conditions, of a licence issued under this Act by the Authority permitting him so to do.

Power of Authority to licence dairymen, milk vendors, &c.

Penalty: \$400 and in the case of a continuing offence a further penalty of \$25 in respect of each day or part thereof on which the offence continues after conviction.

(2) Subsection (1) does not apply to any person who proves to the satisfaction of the Authority that the milk or dairy produce—

(a) produced by him; or

(b) packed or stored by or on his account,
is not sold or intended for sale to consumers.

(3) For the purposes of this section the fact that the owner or occupier of any place where animals are kept for depasturing or milking—

(a) has carried or delivered milk in any quantity of, or quantities aggregating, 5 litres or more; or

(b) has carried or delivered any other dairy produce in any quantity or quantities in the aggregate that may reasonably be expected to be obtained from 5 litres of milk or more,

on any one day to a person or persons, other than a member of the family of the owner or occupier or of an employee thereof, is evidence that the owner or occupier was acting as a dairyman at that place.

(4) The Authority may, in addition to any licence required under subsection (1), issue such licences as may be prescribed to such persons as may be prescribed.

**Issue of
licences.**

19—(1) The Authority shall not issue any licence under this Act unless it is satisfied that the premises and facilities to which the licence will relate comply with such requirements as are prescribed for that licence and that those premises are registered with the Department under the *Dairy Produce Act 1932*.

(2) Every licence issued by the Authority under this Act shall be issued subject to this Act.

(3) The holder of a licence under this Act shall not store or place, or have in his possession or under his control, any milk or dairy produce to which the licence relates in any premises, district, depot, place, locality, shop, or store which has not been specified in that licence.

20—(1) A licence issued under this Act shall not be assigned or transferred except with the prior consent, in writing, of the Authority, and any assignment or transfer made without such approval shall be void and of no effect. Transfer of licences.

(2) The Authority, having regard to the objects of this Act, may grant or refuse its consent to the transfer of a licence.

21—(1) An application for a licence shall be made to the Authority in the prescribed form, shall be accompanied by the prescribed fee, and shall contain— Application for licence.

- (a) such particulars as may be prescribed; and
- (b) such other particulars as the Authority may request.

(2) If the Authority refuses to issue the licence to the applicant the amount of the fee that accompanied the application for the licence shall be refunded to the applicant.

22—(1) Subject to this Act every licence shall take effect on and from the date it is issued and shall continue in force for a period of 3 years from the date of its issue. Term of licence.

(2) Every licence may be renewed by the Authority for a period of 3 years on application being made to it in the prescribed form for that purpose.

- (3) An application for a renewal of a licence—
 - (a) shall be accompanied by the prescribed fee; and
 - (b) shall be made at any time before the licence expires.

(4) The holder of a licence is not entitled as of right to the renewal of the licence upon the expiry thereof.

23—(1) The Authority may refuse to issue any licence to, or may cancel any licence issued to, any person— Power of Authority to refuse to issue licence, &c.

- (a) if he has been convicted of any offence against this Act or the *Dairy Produce Act 1932*;
- (b) if, in the opinion of the Authority, he is not a fit and proper person to hold the licence;
- (c) if, in the opinion of the Authority, it is necessary or desirable in the public interest, or to enable the Authority to effectively carry out or give effect to any of the provisions of this Act, to refuse to issue or to cancel the licence; or

- (d) on the written request of the Director of Public Health appointed under the *Public Service Act* 1973, upon the conviction of the person for any offence against the laws relating to public health if the offence relates to the premises in respect of which the licence is issued or to the conduct of the business carried on in connection therewith.

(2) The Authority shall cancel a licence on the written advice from the Department that the registration of the premises in respect of which the licence is issued has been cancelled.

(3) Before cancelling a licence under this section the Authority shall, in the prescribed manner, notify the holder of the licence of the grounds upon which the Authority proposes to cancel the licence.

(4) A person so notified or a person whose application for a licence has been refused may, in the prescribed manner and within the prescribed time, appeal against the cancellation or refusal to an appeal tribunal consisting of a magistrate, the chairman of the Authority, and a nominee of such dairymen or association of dairymen as may be prescribed and the tribunal shall hear and determine the appeal.

(5) The decision of the tribunal on an appeal under this section is final and binding on the parties to the appeal.

Suspension of
licences by
Authority.

24—(1) Where, upon receipt of any information from the Department or otherwise, the Authority is satisfied that any milk supplied or dairy produce supplied or manufactured pursuant to a licence fails to comply with the *Dairy Produce Act* 1932, the *Public Health Act* 1962, or any other Act the Authority shall suspend that licence for such period, not exceeding 3 months, as the Authority may determine.

(2) The suspension of a licence under this section by the Authority takes effect when notice in writing of the suspension is served upon the holder of the licence.

Notice of
cancellation,
&c., to be given
to Department.

25 Where the Authority—

- (a) cancels a licence and the holder of the licence does not appeal in accordance with section 23 (4), or having appealed under that section the tribunal hearing the appeal confirms the cancellation of the licence; or

(b) suspends a licence,
notice in writing of the cancellation or suspension of the licence shall be given as soon as practicable thereafter by the Authority to the Department.

Division IV—Vesting of milk in the Authority

26—(1) The Governor may, upon the recommendation of the Authority, by proclamation, declare that, as from the date specified in the proclamation, there shall vest in, and become the property of, the Authority all milk produced or supplied in any dairy area specified in the proclamation—

Proclaimed
milk to vest in
the Authority.

(a) for human consumption, as milk, or for use by humans as milk; or

(b) for use in the production or manufacture of dairy produce.

(2) From and after the date specified in any proclamation under this section, all milk specified in the proclamation shall become the absolute property of the Authority, freed from all mortgages, charges, liens, pledges, interests, trusts, and any other encumbrances of whatever kind affecting the milk, and all rights and interests of any person in the milk so vested shall thereupon be deemed to be converted into a claim for payment therefor.

(3) A proclamation under this section may—

(a) provide for the vesting of any milk, class of milk, or milk intended to be used for a specified purpose in the Authority subject to the observance of specified conditions and requirements;

(b) exempt from the operation of this section any milk or class of milk specified in the proclamation or any milk intended to be used for a specified purpose; and

(c) be revoked or amended by a subsequent proclamation.

27—(1) Upon and after the date specified in any proclamation under section 26 all milk produced or supplied for human consumption or for use in the production or manufacture of dairy produce in the dairy area specified therein shall, except where otherwise provided by the proclamation, be delivered to the Authority in accordance with the provisions of this section.

Delivery and
acceptance
of milk.

(2) For the purposes of this section the Authority may determine—

(a) the quantity of milk or the number of milkings per week, either morning or afternoon, which may be delivered by any dairyman to, and accepted by, the Authority;

(b) the places at which milk will be accepted by the Authority; and

(c) the periods during which milk may be so delivered and accepted.

(3) On and from the date of the publication of any proclamation under section 26 any dairyman who supplies, sells, or delivers milk specified in the proclamation in the dairy area or district so specified to a person other than the Authority, and every person other than the Authority who buys or receives such milk from a dairyman, shall be guilty of an offence.

(4) Any milk delivered to and accepted by the Authority in pursuance of this section may be disposed of by the Authority to milk vendors or other persons in such manner, for such purpose, and upon and subject to such terms and conditions, if any, as the Authority may determine.

(5) All milk delivered to the Authority in pursuance of this section shall be delivered in the name of the dairyman by whom the milk was produced, and every delivery of milk to the Authority shall, for the purposes of this Act, the *Public Health Act* 1962, or the *Dairy Produce Act* 1932, be deemed, in all respects, to be a sale of such milk to the Authority by the dairyman in whose name the milk is delivered.

(6) The Authority shall, in respect of all milk delivered to it by any dairyman, pay to the dairyman, at such times as the Authority thinks fit, an amount calculated on such basis as the Authority may determine except that where a minimum price has been fixed and determined in accordance with section 15, all payments under this subsection shall be calculated at the rate of the minimum price so fixed and determined.

(7) The Authority shall, out of the proceeds of all milk disposed of by the Authority under this Act, after making payments referred to in subsection (6)—

(a) make provision for—

(i) any expenditure incurred by the Authority in the treatment, carriage, distribution, and sale of milk;

(ii) the costs, charges, and expenses of the administration of this Act by the Authority (not being costs, charges, and expenses incurred prior to the date specified in the proclamation);

(iii) reducing or liquidating any amounts necessary to repay advances made to, and for a sinking fund in respect of any loan raised by, the Authority, and for payment of the interest payable in respect of such advances or loan; and

(iv) any other expenditure that the Authority may incur in the exercise of any of its powers or functions under this Act; and

(b) make payments, in accordance with the provisions of subsection (8), to each dairyman in respect of the milk delivered by him to the Authority.

(8) Where, in respect of such period as the Authority may determine, the Authority has, out of the proceeds of the sale of milk delivered by dairymen to the Authority under this section—

(a) made the payments referred to in subsection (6); and

(b) made such provision for the matters specified in subsection (7) as the Authority thinks reasonably appropriate to and in respect of the milk so delivered,

the Authority shall distribute among the dairymen, in proportion to the quantity of milk or any component of that milk so delivered by each of them to the Authority during the period so determined, so much of the balance, if any, of such proceeds as the Authority may determine to be available for distribution.

(9) For the purpose of ascertaining the price to be paid to a dairyman for milk delivered to the Authority, the decision of the Authority as to the grade, quality, class, or description of the milk and as to the quantity delivered, or the conditions of production, supply, collection, treatment, or delivery thereof, and as to the purpose for which the milk is to be used, shall be final and conclusive.

(10) Where any milk produced under a share-farming or partnership agreement is delivered to the Authority, the Authority in its discretion may make payments to each of the parties to the agreement in accordance with their respective interests in the milk delivered.

28—(1) Every contract for the sale and purchase of milk, whether made before or after the making of a proclamation under section 26, so far as the contract relates to any milk to which the proclamation applies, shall be void and of no effect as from the date upon which the contract was made, except so far as it has been completed

Variation of contracts in consequence of vesting milk in the Authority.

by delivery at the date of the publication of the proclamation but the provisions of any such contract shall, for the purposes of this section, be deemed to be severable, to the intent that any provision thereof which is not inconsistent with the provisions of the proclamation shall be and remain a valid provision and shall be enforceable by and against the respective parties thereto in the same manner, in all respects, as if the proclamation had not been made.

(2) Any contract or transaction relating to any milk which is the subject-matter of any contract declared by this section to be void shall likewise be void and of no effect, and any money paid thereunder or in respect thereof shall, to the extent to which such contract or transaction is made void, be repaid.

Remedy against
Authority
confined to
claim for
account.

29—(1) Subject to this section, no proceedings shall be brought in any court against the Authority or any person acting under its authority by any person claiming to be entitled under any bill of sale, mortgage, charge, lien, or other encumbrance over, of, or upon any milk delivered by a dairyman to, and accepted by, the Authority, or claiming to be the true owner of that milk, as against the dairyman who delivered the milk.

(2) Any person who, but for subsection (1) would have been entitled to bring any such proceedings as are referred to in that subsection, may adopt the delivery of the milk to the Authority as a delivery thereof by him to the Authority, and may claim accordingly for an account of the payments due in respect thereof, and recover the amount due as a debt in any court of competent jurisdiction.

(3) Notwithstanding the provisions of any Act or any rule of law to the contrary, any such person as is referred to in subsection (2) is not entitled to make any such claim for an account of the payments due in respect of the milk so referred to, or any part of those payments, unless he has given prior notice in writing to the Authority in the prescribed form and containing the prescribed particulars of the bill of sale, mortgage, charge, lien, or other encumbrance, or the claim of ownership, and then only for such part of those moneys as has not been paid to any other person at the time of the receipt by the Authority of the notice.

Duty to give
notice of
encumbrances.

30—(1) Every person delivering milk to the Authority which is subject to any bill of sale, mortgage, charge, lien, or encumbrance or in respect of which he has entered into any contract in derogation from his title to supply the milk as the absolute owner thereof (and whether the bill of sale, mortgage, charge, lien, or encumbrance, or

contract was made before, on, or after the commencing date) shall, within one month after the making thereof, give to the Authority a notice in writing in the prescribed form of the bill of sale, mortgage, charge, lien, encumbrance, or contract.

(2) A person who wilfully fails to comply with the provisions of this section is guilty of an offence against this Act.

31 Where the Authority in good faith and without negligence has made any payment—

Authority not
liable for
payments made
in good faith.

- (a) to a dairyman delivering or causing to be delivered any milk to the Authority or any person acting under its authority;
- (b) to any person entitled or claiming to be entitled through that dairyman; or
- (c) to any person on the order of that dairyman or of a person referred to in paragraph (b),

the Authority is not answerable to any other person in respect of that payment for the milk or any part thereof, or in any action, suit, claim, or demand for damages or otherwise.

32—(1) If before receiving notice of claim to any payment for milk vested in the Authority or to the chose in action or any part thereof the subject matter of that payment the Authority has in good faith and without negligence made the payment, in whole or in part, in accordance with the provisions of this Division, the Authority does not, to the extent to which it has made that payment, incur any liability to the true owner of the milk or chose in action or any part thereof or to any person claiming through, under, or in trust for him.

Authority
protected in
certain cases.

(2) This section does not in any way prejudice or affect any rights *inter se* of any parties claiming adversely to one another to be entitled to the milk or chose in action the subject matter or part of the subject matter of any claim for payment.

(3) The Authority may plead this section in absolute bar to any proceeding by any dairyman, transferee, or party referred to in the preceding provisions of this section in respect of any such milk or chose in action or any part thereof.

Division V—Power of Authority to borrow money

Power of
Treasurer to
make advances
to the
Authority.

33—(1) If at any time the funds of the Authority are not sufficient for the purpose of defraying the costs, charges, and expenses incurred by it in the exercise of its powers and functions under this Act the Treasurer may advance to the Authority on such terms and conditions as are agreed between the Treasurer and the Authority such amounts of money as are sufficient for the time being to make up the deficiency.

(2) The amount of any advance made pursuant to subsection (1) is a charge upon the revenue of the Authority and is repayable by the Authority to the Treasurer as and when money becomes available to the Authority to make the repayment.

(3) Any moneys paid by the Treasurer to the Authority under this section may be paid to the Authority out of moneys appropriated by Parliament for the purpose.

Authority may
borrow money.

34—(1) For the purposes of carrying out its powers and functions under this Act, the Authority is authorized with the prior approval in writing of the Minister and the Treasurer to borrow money upon such terms and conditions as the Treasurer approves.

(2) The Treasurer on behalf of the State is hereby authorized to guarantee, on such terms and conditions as he thinks fit, repayment of any money borrowed by the Authority under this section and the payment of interest thereon.

(3) The Treasurer shall cause any money required for fulfilling any guarantee given by him pursuant to this section to be paid out of the Consolidated Revenue which, to the necessary extent, is appropriated accordingly, and the Treasurer shall cause any sums received or recovered by him from the Authority or otherwise in respect of a sum so paid by the Treasurer to be paid into the Consolidated Revenue.

Investment of
sinking fund.

35—(1) The Authority shall invest in its name, in such securities as the Treasurer thinks fit, all moneys set aside for the purpose of redeeming any loan raised pursuant to section 34 as a sinking fund and all interest accruing thereon.

(2) The Authority shall from time to time—

(a) apply the accumulated sinking fund in payment of the principal of any loan raised by the Authority pursuant to this Division when the loan becomes payable; and

- (b) apply that fund in the redemption of any debentures or inscribed stock issued or created pursuant to this Division.

36—(1) The Authority shall keep or cause to be kept a register of debentures and a register of inscribed stock and, as soon as practicable after the issue of any debentures or the creation of any inscribed stock pursuant to this Division, shall cause to be entered in the appropriate register the number, date, and amount of any debenture issued and the name of the purchaser of any inscribed stock and the amount of stock purchased by him.

Register of
debentures
and inscribed
stock.

(2) Each register may be inspected at all reasonable times by any person.

(3) A register is evidence of any matters required or authorized by or under this Act to be entered therein.

Division VI—General provisions relating to the Authority

37—(1) The funds of the Authority shall consist of—

Funds of the
Authority.

- (a) all licence fees and other fees prescribed by or under this Act, which fees shall be paid to the Authority;
- (b) any money appropriated by Parliament and payable to the Authority for the purposes of this Act;
- (c) any money that the Authority may borrow under and subject to the provisions of this Act; and
- (d) all other moneys that the Authority receives under and for the purposes of this Act.

(2) Any funds of the Authority, until they are required by the Authority for the purposes of this Act, may be temporarily invested in such manner as the Treasurer may approve and all interest derived therefrom shall be paid to the Authority.

38 The funds of the Authority—

- (a) shall be paid from time to time as they are received by it to the credit of an account in the name of the Authority kept at a bank to be approved by the Minister; and
- (b) shall be chargeable with the remuneration and expenses of the members of the Authority, the salaries and wages payable by the Authority, and with all other expenditure for which the Authority is liable under this Act or which

Certain
expenditure
to be paid out
of the funds of
the Authority.

is lawfully incurred by the Authority in the performance and carrying out of its powers, authorities, functions, and duties under this Act.

Accounts to be prepared yearly.

39—(1) As soon as practicable after the close of each financial year, the Authority shall cause to be prepared such accounts and statements, in such form and containing such particulars, as may be prescribed, and shall submit the same to the Minister.

(2) The Minister shall cause a copy of any accounts and statements received from the Authority under subsection (1) to be laid upon the table of each House of Parliament within the first 14 sitting days after they are received by him.

Audit of accounts.

40 The accounts of the Authority shall be subject to the provisions of the *Audit Act* 1918.

Annual report.

41—(1) Within 3 months after the close of each financial year, the Authority shall submit to the Minister a report of its activities during that financial year.

(2) The Minister shall cause a copy of any report submitted to him under subsection (1) to be laid on the table of each House of Parliament within the first 14 sitting days after it is received by him.

Authority to pay Department amount towards defraying cost of certain services.

42 The Authority may remit to the Department annually such sum of money calculated as prescribed for any services performed by the Department on behalf of the Authority and approved by the Minister.

PART III

SPECIAL PROVISIONS AS TO SALE OF CERTAIN DAIRY PRODUCE

Interpretation.

43—(1) In this Part—

“dairy produce” means butter and cheese, and includes butter and cheese, or both, that has been milled, renovated, or processed, and also includes such other products of milk, if any, as the Minister may, by order, declare to be dairy produce for the purposes of this Part;

“manufacturer” means a person who manufactures any dairy produce for sale, but does not include—

(a) a person who manufactures for sale, either by wholesale or retail, less than 20 kilograms of butter or cheese in any one month;

(b) a processor; or

(c) a tinner;

"processor" means a person who carries on the business of comminuting, pasteurizing, re-emulsifying, and packing cheeses that have been purchased by him from a manufacturer, produce agent, or dealer;

"produce agent" means a person who, on behalf of other persons, sells dairy produce on commission or for other remuneration;

"quota" means the proportion of dairy produce manufactured by a manufacturer within this State that he is, for the time being, permitted to sell in the course of his trade or commerce in this State;

"sell" includes barter, exchange, and transfer;

"tinner" means a person who carries on the business of tinning or repacking dairy produce that has been purchased by him from a manufacturer, produce agent, or dealer.

(2) For the purposes of this Part, a person who has registered a brand under the provisions of section 14 of the *Dairy Produce Act* 1932, in respect of whose brand the certificate of registration is still in force, shall be deemed to be and to have acted as a manufacturer; and, in any proceedings in respect of a contravention of this Part, a certificate under the hand of the Director that the defendant has so registered a brand and that the certificate of registration is still in force is evidence of those facts.

44—(1) Subject to subsection (2), the Minister, after consultation with the Authority, may determine a quota for the purposes of this Part.

Determination and notification of quota for purposes of this Part.

(2) The Minister shall not determine a quota for the purposes of this Part unless he is satisfied that the available supplies of dairy produce and the arrangements for the distribution thereof are sufficient to ensure that a satisfactory supply of dairy produce at reasonable prices will be available to consumers in this State.

(3) A quota shall be determined for a period to be specified in the determination.

(4) A quota takes effect on and after the date specified in the Minister's determination, and continues in force until the expiration of the period specified in the determination or until another quota is subsequently determined.

(5) A quota shall be notified by the Minister by public notice in such newspapers as the Minister may think fit and in the *Gazette*.

(6) The production of the *Gazette* containing a notification of the determination of a quota is sufficient evidence that the quota was validly determined.

(7) A determination or notification under this section is not a statutory rule within the meaning of the *Rules Publication Act 1953*.

Application
of quota.

45—(1) No manufacturer shall, in the course of his trade or commerce within this State, during a period for which a quota is in force, sell, in excess of that quota, any dairy produce manufactured by him during that period or any preceding period.

Penalty: \$1 000.

(2) Subsection (1) does not apply to or in relation to the sale of butter or cheese by a manufacturer who, during a period for which a quota is in force, does not sell, in the aggregate, more than 20 kilograms of butter or cheese.

(3) In any proceedings in respect of a contravention of subsection (1), the allegations set forth in the complaint shall be deemed to be proved in the absence of proof by the defendant to the contrary.

(4) No person shall be convicted of an offence under this section if he proves to the satisfaction of the court before which he is charged that, before the complaint was made for the offence, he had made in respect of the matter in relation to which he is so charged a payment to a prescribed body, the amount of which has been determined by that body.

(5) In this section, "prescribed body" means a body in respect of which an order under section 46 is in force.

Prescribed
body for the
purposes of
section 45.

46 If a body (whether incorporated or unincorporated) is registered in this State and has a constitution and objects approved by the Governor, the Governor may, by order, declare that body, by a name to be specified in the order, to be a prescribed body for the purposes of section 45.

PART IV

DAIRY INDUSTRY ADVISORY BOARD

Dairy Industry
Advisory Board.

47—(1) For the purposes of this Act, there shall be established an advisory board, to be known as the Dairy Industry Advisory Board.

(2) The Board shall consist of the chairman of the Authority and two sections to be known as the Market Milk Section to represent dairymen producing and supplying milk for human consumption as milk (in this section referred to as the "market milk producers") and processors and distributors thereof, and the Manufacture Milk Section to represent the persons producing and supplying milk for manufacturing purposes and persons using milk for those purposes.

(3) The Market Milk Section shall consist of 5 members appointed by the Minister, of whom—

- (a) one shall be elected by market milk producers in the Southern Region;
- (b) one shall be elected by market milk producers in the Northern Region;
- (c) one shall be elected by market milk producers in the North-Western Region;
- (d) one shall be elected by the processors of milk; and
- (e) one shall be elected by the distributors of milk,

and that Section shall advise, and make recommendations to, the Authority and the Minister on such matters relating to the production and supply of milk for human consumption, as milk, as it thinks fit or as are referred to it by the Authority or the Minister.

(4) The Manufacture Milk Section shall consist of 5 members appointed by the Minister, of whom—

- (a) one shall be elected by dairymen in the Northern Region producing and supplying milk for use for manufacturing purposes;
- (b) one shall be elected by dairymen in the North-Western Region producing and supplying milk for use for manufacturing purposes;
- (c) one shall be elected by persons using milk for manufacturing purposes to represent the manufacturing of dairy produce;
- (d) one shall be a person who is experienced in the marketing of dairy produce; and
- (e) one shall be a person who is trained in the production of new dairy products and has experience in economics and research,

and that Section shall advise, and make recommendations to, the Authority and the Minister on such matters relating to the produc-

tion and supply of milk for use for manufacturing purposes and on such matters relating to the production of any dairy produce as it thinks fit or as are referred to it by the Authority or the Minister.

(5) The members of the Market Milk Section and the Manufacture Milk Section shall be members of the Board and any member required to be elected under this section shall be elected in such manner as may be prescribed.

(6) The Board shall—

(a) keep under review the administration of this Act, and shall advise, and make recommendations, to the Authority and the Minister, on such matters in relation thereto as it thinks fit; and

(b) consider, as soon as practicable, any matter related to the administration of this Act that is referred to it by the Authority or the Minister, and make a report thereon to the Authority or the Minister (as the case may be) with such recommendations as it may consider appropriate in the circumstances.

(7) Subject to subsection (8), a member of the Board, unless he sooner resigns or is removed from his office or otherwise ceases to hold office, continues in office for a period of 3 years from the date on which he was last appointed a member of the Board.

(8) Where a member of the Board dies or ceases to hold office otherwise than by reason of the effluxion of time, the member appointed to fill the vacancy ceases to hold office at the expiration of the unexpired term of office of the member in whose place he is appointed.

(9) The members of the Board are not, as such, subject to the *Public Service Act* 1973, but an officer of the Public Service may hold office as a member of the Board in conjunction with his office as an officer of the Public Service.

(10) The chairman of the Board, or, if he is absent or there is no chairman, such one of the other members present as they may choose, shall preside at each meeting of the Board.

(11) The chairman or other person presiding at a meeting of the Board has a deliberative vote only and, in the event of an equality of votes on any matter before a meeting of the Board, that matter stands adjourned to the next meeting of the Board.

(12) Five members of the Board constitute a quorum at any meeting of the Board.

(13) Subject to this Act, the Board may regulate its own proceedings.

(14) The members of the Board shall be paid such fees and allowances, if any, as the Minister may determine.

(15) The Minister shall not determine the fees and allowances to be paid to a member of the Board who is a person to whom the *Public Service Act* 1973 applies except on the recommendation of the Public Service Board.

(16) The members respectively of the Market Milk Section and the Manufacture Milk Section shall, from time to time, appoint one of them as chairman who shall preside at each meeting of the respective Section.

(17) Three members of a Section constitute a quorum at any meeting of the Section.

(18) Subject to this Act, a Section may regulate its own proceedings.

48—(1) The Minister may remove any member of the Board from office if he is satisfied that that member—

Removal of
members of
the Board.

- (a) has become, in the opinion of the Minister, permanently incapable of carrying out the duties of his office;
- (b) has misconducted himself in the performance of the duties of his office;
- (c) has, by reason of a change of occupation or otherwise, ceased to be a person suitable to represent the interests of the classes of persons that he was appointed to represent;
- (d) without leave of the Board, has been absent from 3 or more consecutive meetings of the Board;
- (e) has applied to take, or takes, advantage of any law relating to bankruptcy, or has compounded, or entered into an arrangement, with his creditors; or
- (f) has been convicted (whether in this State or elsewhere) of an offence of such a nature that, in the opinion of the Minister, renders it improper for him to continue to hold his office.

(2) Without prejudice to the generality of the provisions of subsection (1) (b), a member of the Board shall be deemed to have misconducted himself in the performance of the duties of his office if—

(a) he votes on any matter before the Board in which he has a direct pecuniary interest; or

(b) he takes part in, or is present at, the discussion of any such matter before the Board without disclosing his pecuniary interest to the members of the Board present.

(3) In the case of married persons living together a pecuniary interest of one spouse shall, if known to the other, be deemed for the purposes of this section to be also a pecuniary interest of that other spouse.

(4) The Minister shall not remove a member of the Board otherwise than under this section.

PART V

MISCELLANEOUS

Restriction on
erection of
certain buildings
or premises
without consent
of Authority.

49—(1) Subject to subsection (2), no person shall erect or cause to be erected or use or cause to be used any building or premises for the purposes of a dairy produce premises except with the prior consent in writing of the Authority.

(2) Subsection (1) does not apply to—

(a) a building or premises that immediately prior to the commencing date was registered or licensed under the *Dairy Produce Act 1932*, the *Milk Act 1947*, or the *Dairy Products Marketing Act 1957*, as a dairy produce premises, factory, treatment plant, store, or depot; or

(b) the use of a building or premises for the treatment of milk or the manufacture of dairy produce if the milk is not sold or the dairy produce is manufactured there solely from milk produced on the dairy farm wherein the building is or the premises are, and the dairy produce is not sold.

(3) An application for consent under this section shall be made to the Authority in the prescribed manner.

(4) The Authority may grant or refuse any consent applied for under this section and any such consent may be unconditional or subject to such conditions as the Authority thinks fit and may be revoked at any time by the Authority.

50 Any fee, charge, or money due to the Authority under the provisions of this Act may be recovered as a debt in a court of competent jurisdiction. Recovery of fees, &c.

51—(1) In any legal proceedings by or against the Authority no proof is required, until evidence is given to the contrary, of— Proof of certain matters not required.

- (a) the constitution of the Authority;
- (b) any resolution of the Authority;
- (c) the appointment of any member or any officer of the Authority;
- (d) the presence of a quorum at any meeting at which any question is determined or any act is done by the Authority; or
- (e) the authority of any person to take proceedings in respect of offences against this Act.

(2) In any proceedings in respect of offences under this Act—

- (a) the person whose name or mark is on the outside or inside of any package or container containing any milk or class of dairy produce intended for sale, as the packer or seller thereof, shall be deemed to be such packer or seller until evidence is given to the contrary; and
- (b) the onus of proving any exemption under section 56 lies on the defendant.

52—(1) No proceedings in respect of offences against this Act shall be taken otherwise than by the Authority or by some person with the authority of the Authority. Proceedings.

(2) Proceedings in respect of offences against this Act may be taken by the Authority or by some person authorized, either generally or specially, by the Authority in that behalf.

53 No action, claim, or demand lies or shall be made or allowed by or in favour of a person against Her Majesty, or the Minister, or the Authority or any member thereof, or any member of the Dairy Industry Advisory Board, or any officer or person acting in good faith in the execution of this Act, for or in respect of any damage, loss, or injury sustained, or alleged to be sustained, by reason of the operation of this Act, or anything done in good faith in the execution, or purported execution, of this Act. Indemnity.

Evidence.

54 In any proceedings in any court or before any persons having by law or consent of parties authority to hear, receive, and examine evidence a certificate purporting to be signed by the chairman or two members of the Authority certifying—

- (a) that a person has been appointed as the delegate of the Authority under section 12 and specifying what powers, authorities, duties, or functions of the Authority were delegated to him and the period during which he was a delegate;
- (b) that a person was appointed as an authorized agent to receive on behalf of the Authority any milk that is vested in, or otherwise acquired by, the Authority, and that the appointment has not been revoked; or
- (c) that on a day, or during a period, specified in the certificate, a person was or was not licensed and, if the certificate certifies that he was so licensed, certifying the conditions to which the licence issued to him was subject and the activities he was authorized to carry on by that licence,

is *prima facie* evidence of the facts stated therein.

General
penalty.

55—(1) A person who contravenes or fails to comply with a provision of this Act is guilty of an offence against this Act.

(2) A person who is guilty of an offence against this Act for which no penalty is elsewhere provided in this Act is liable to a penalty of \$300.

Exemptions.

56—(1) The Minister may, by order, declare that all or any provisions of this Act specified in the order do not apply to, or in respect of—

- (a) any area or areas of the State;
- (b) any person or any person of a class;
- (c) any dairy produce premises or any dairy produce premises of a class; or

(d) any milk or dairy produce or any milk or dairy produce of a class,
specified in the order.

(2) An order made under subsection (1) may be absolute, or may be subject to such conditions as the Minister thinks fit and as are specified in the order.

(3) For the purposes of subsection (1) a class may be defined by reference to such circumstances or factors as the Minister thinks fit and specifies in the order made under that subsection.

(4) When a person to whom an order made under subsection (1) (b) applies fails to comply with any condition to which the order was subject, the Minister may, by order, amend the order by excluding that person from the operation thereof.

(5) The Minister may, by notice, cancel or amend an order made under subsection (1).

57—(1) On the commencing date—

(a) the Milk Board of Tasmania constituted under the *Milk Act* 1947, and the Dairy Products Marketing Board constituted under the *Dairy Products Marketing Act* 1957 (in this section referred to as “the dissolved Boards”), shall be dissolved and cease to exist and the appointment of the respective members thereof shall be cancelled;

(b) all real and personal property and every right and interest therein, and the management and control thereof, that immediately before that date was vested in or belonged to either of the dissolved Boards, shall by force of this section, without conveyance, transfer, or assignment be transferred to, vested in, and belong to, the Authority for the purposes of this Act, subject to any debts, trusts, and liabilities affecting them;

(c) all rights accruing or accrued to either of the dissolved Boards in respect of any property vested in and belonging to the Authority by virtue of this section—

(i) shall vest in and belong to the Authority; and

(ii) may be enforced by the Authority;

(d) all contracts, agreements, and undertakings made by either of the dissolved Boards and all securities lawfully given to or by either of those dissolved Boards and in force immediately before that date, shall have effect as contracts,

Transfer of
assets and
liabilities, &c.,
to Authority.

agreements, and undertakings by and with the Authority and securities given to or by the Authority, and may be enforced by and against the Authority accordingly;

(e) all debts due and money payable by either of the dissolved Boards and all claims liquidated and unliquidated recoverable against either of those Boards shall be debts due, and moneys payable by, and claims recoverable against, the Authority; and

(f) any legal or other proceedings that might but for this section have been continued or commenced by or against either of the dissolved Boards in its corporate name may be continued or commenced by or against the Authority in its corporate name.

(2) No attornment to the Authority by a lessee from either of the dissolved Boards shall be required.

Regulations.

58—(1) The Governor may make regulations prescribing all matters that are contemplated, required or permitted by this Act for carrying out or giving effect to the objects of this Act or which appear to him to be necessary or convenient to be prescribed for the effectual carrying out of this Act and any such regulation may confer upon a person or body specified in the regulation a discretionary authority.

(2) Without limiting the generality of the powers conferred by subsection (1) the Governor may make regulations for or with respect to—

(a) grades, classes, descriptions, and standards relating to the quality, composition, and wholesomeness of milk or dairy produce that may be supplied or supplied for sale or sold;

(b) the provision, construction, and equipment of laboratories and the provision of staff in those laboratories for the purposes of ensuring the wholesomeness and purity of milk;

(c) the particulars to be kept by dairymen in respect of their herds;

(d) the books and records to be kept by, and the returns to be made to the Authority by, persons engaged in the production, collection, treatment, manufacture, transport, storage, deposit, distribution, delivery, use, or sale of milk;

(e) the forms for use under this Act;

(f) the making of payments in respect of milk vested in the Authority; and

(g) prescribing the licences required under and for the purposes of this Act and the minimum and maximum fees payable for each class of licence, and the methods by which the fees are assessed, and the fees to be paid for any other act, matter, or thing done under this Act.

(3) Different regulations may be made under this section so as to apply to different areas, or different classes of persons, or in different circumstances, or so as to apply differently according to such factors as may be specified in the regulations.

(4) The regulations may provide that, in cases specified in the regulations or a class of case so specified, whether on conditions so specified or unconditionally, persons, acts, or things, or a class of persons, acts, or things, may be excepted from the provisions of the regulations, either wholly or to such extent as is so specified.

(5) The regulations—

(a) may adopt, either wholly or in part, and either specifically or by reference, any of the standard rules, codes, or methods relating to the dairy industry of any specified body or institution; and

(b) may require any matter or thing to be verified by statutory declaration.

(6) A regulation may impose a penalty not exceeding \$250 for any breach thereof and in the case of a continuing offence, whether of commission or of omission to a daily penalty of \$20 for each day or part thereof that the offence continues after the offender is convicted.

59—(1) Regulations under this Act may provide for the fixing of Quotas. quotas and for the variation of any quota so fixed.

(2) Where a quota is fixed under regulations made under this section in respect of business carried on under the authority of a licence, it shall be deemed to be a condition of the licence that the quota so fixed shall be complied with.

(3) Regulations may provide for the specification, in respect of a quota, of the persons to whom, the period for which, and the conditions under which any milk produced or dairy produce manufactured may be sold or supplied.

- (4) Regulations under this section may—
 - (a) prescribe the manner in which quotas shall be fixed or varied;
 - (b) make provision for the cancellation or transfer of quotas fixed in respect of any licence; and
 - (c) provide for a right of appeal against any decision of the authority fixing the quota.

Special provisions relating to ending certain quotas.

60 Notwithstanding any other provision of this Act, if the Authority decides to end the system of purchasing milk for human consumption, as milk, from dairymen under the arrangements referred to in paragraph 4 of Part I of Schedule II, it shall pay such compensation to such persons referred to in that paragraph who were supplying milk to the Milk Board of Tasmania under arrangements therein referred to and on such basis as may be prescribed.

Repeals and transitional provisions.

61—(1) The Acts that are specified in Schedule I are repealed.

(2) Notwithstanding the provisions of subsection (1) the provisions of Schedule II have effect for the purpose of the transition to the provisions of this Act from the law in force before the commencement of this Act.

Dairy Produce Act 1932.

62 *The Dairy Produce Act 1932* is amended—

- (a) by omitting from section 6 subsections (4A), (4AA), (10), (11), and (12);
- (b) by omitting from subsection (3) of that section paragraph (b) and substituting the following paragraph:—
 - “(b) in the case of an application for registration of a factory, the erection or use of the factory requires the consent of the Tasmanian Dairy Industry Authority under section 49 of the *Dairy Industry Act 1976*.”;
- (c) by omitting from paragraph (a) of subsection (7) of that section the words “that is required to be referred to the Board under subsection (1) of section six ‘B’” and substituting the words “for the registration of a factory that is required to be erected or used with the consent of the Tasmanian Dairy Industry Authority under section 49 of the *Dairy Industry Act 1976*”; and
- (d) by omitting sections 6A, 6B, and 6C.

SCHEDULE I

(Section 61 (1))

ACTS REPEALED

Year and number of Act	Short title of Act
11 Geo. VI No. 58	<i>Milk Act 1947</i>
No. 38 of 1957	<i>Dairy Products Marketing Act 1957</i>
No. 46 of 1962	<i>Milk Act 1962</i>
No. 70 of 1963	<i>Milk Act 1963</i>
No. 22 of 1965	<i>Milk Act 1965</i>
No. 75 of 1973	<i>Dairy Products Marketing Act 1973</i>

SCHEDULE II

(Section 61 (2))

TRANSITIONAL PROVISIONS

PART I

1. In this Part "repealed Act" means the *Milk Act 1947*.
2. Any prices fixed and determined under section 18 of the repealed Act and in force immediately before the commencement of this Act continue to have effect as if the prices were notified under section 16 of this Act.
3. Any licence granted under section 23 of the repealed Act and subsisting immediately before the commencement of this Act shall continue until the expiry of that licence as if it were a licence issued under section 18 of this Act.
4. Any arrangement made by the Milk Board of Tasmania under the repealed Act with any person for the supply by that person to the Board of milk or any component of milk at a price agreed upon between them shall, as to the quantity and price having effect immediately before the commencement of this Act, continue to have effect as if the arrangement were made by the Authority with that person.

PART II

1. In this Part "repealed Act" means the *Dairy Products Marketing Act 1957*.
2. Any order made under section 2 of the repealed Act by the Minister declaring any product of milk to be a dairy product and in force immediately before the commencement of this Act shall continue to have effect as if it were an order made under section 43 of this Act.

3. Any quota determined under section 9 of the repealed Act and subsisting immediately before the commencement of this Act shall continue to have effect as if the quota were determined as a quota under section 44 of this Act.

4. Any order-in-council made under section 11 of the repealed Act declaring a body as a prescribed body and in force immediately before the commencement of this Act shall continue to have effect as if it were an order made under section 46 of this Act.