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**DAIRY INDUSTRY ACT 1994**

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**No. 36 of 1994**

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**DAIRY INDUSTRY ACT 1994**

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**No. 36 of 1994**

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**AN ACT to reduce regulation in the dairy industry, to facilitate the economic development of the dairy industry for the benefit of Tasmania and to repeal certain Acts**

**[Royal Assent 26 May 1994]**

**B**E 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 1****PRELIMINARY****Short title**

**1**—This Act may be cited as the *Dairy Industry Act 1994*.

### Commencement

2—This Act commences on a day to be proclaimed.

### Interpretation

3—(1) In this Act—

“**Authority**” means the Tasmanian Dairy Industry Authority established under section 5;

“**authorized officer**” means a person appointed under section 45;

“**Code of Practice**” means a Code of Practice made under Part 5;

“**corresponding body**” means a body of another State or Territory of the Commonwealth with powers and functions which correspond to the powers and functions of the Authority;

“**dairy farm**” means any premises where cows are kept or milked for the purpose of producing milk for profit or sale;

“**dairy farmer**” means the owner of a dairy farm;

“**dairy farmer’s licence**” means a licence issued under section 22 (1) (a);

“**dairy premises**” means—

(a) a dairy farm; or

(b) milk manufacturing premises; or

(c) milk processing premises;

“**dairy produce**” means—

(a) milk and liquid milk products; or

(b) dried milk and dried milk products; or

(c) condensed milks; or

(d) cream and cream products; or

(e) butter, butter products, dairy blend and dairy spreads; or

(f) cheese and cheese products; or

(g) yoghurt and yoghurt products; or

(h) any other product or class of products declared to be dairy produce under subsection (2) (a);

“**farm gate price**” means the price paid by a processor for milk used in the milk trade;

“**flavoured milk**” means milk as a liquid containing prescribed components;

“**licence**” means a licence in force under this Act;

“**manufacture**” includes to prepare or process;

“**manufacturer**” means the owner of milk manufacturing premises;

“**manufacturer’s licence**” means a licence issued under section 22 (1) (c);

“**manufacturing milk**” means milk which is not used or intended to be used as market milk;

“**market milk**” means—

(a) milk for sale for human consumption as a liquid; or

(b) modified milk, skim milk and flavoured milk for sale for human consumption as a liquid; or

(c) cream for sale for human consumption as a liquid; or

(d) any dairy produce declared to be market milk under subsection (2) (b);

“**milk**” means—

(a) milk derived from cows; and

(b) milk declared by the Minister to be milk for the purposes of Parts 3, 5 or 6;

“**milk manufacturing premises**” means any premises where dairy produce, other than market milk, is manufactured or packed;

“**milk processing premises**” means any premises where market milk is pasteurized or packed;

“**modified milk**” means milk as a liquid containing prescribed components;

“**owner**” includes—

(a) the occupier or person apparently in charge of any premises; and

(b) the agent or manager of an owner of premises; and

- (c) in the case of a body corporate or unincorporate, the manager, secretary or person who, in the opinion of the Authority, is able to control the affairs of that body;

**“premises”** includes—

- (a) a building or part of a building; and  
(b) land whether or not belonging to a building; and  
(c) plant, machinery or equipment used for the production of milk or dairy produce;

**“processor”** means the owner of milk processing premises;

**“processor’s licence”** means a licence issued under section 22 (1) (b);

**“sell”** includes—

- (a) offer or expose for sale; and  
(b) keep or have in possession for sale; and  
(c) barter or exchange; and  
(d) supply for profit; and  
(e) agree to sell; and  
(f) distribute, send, forward or deliver for sale;

**“skim milk”** means milk from which milk fat has been removed;

**“vendor’s licence”** means a licence issued under section 22 (1) (d).

(2) The Minister, by notice published in the *Gazette*, may declare—

- (a) that any product or class of products derived from milk is to be treated as dairy produce; or  
(b) that any dairy produce is to be treated as market milk; or  
(c) that milk derived from sheep or goats is milk for the purposes of Parts 3, 5 or 6.

(3) All milk sold to consumers is to be taken as market milk unless the milk is clearly labelled or identified as intended for consumption by animals.



**Act to bind Crown**

4—This Act binds the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities.

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**PART 2****THE TASMANIAN DAIRY INDUSTRY AUTHORITY*****Division 1—Establishment of Authority*****Establishment of Authority**

5—(1) There is established the Tasmanian Dairy Industry Authority.

(2) The Authority is a body corporate with perpetual succession and a common seal.

**Membership of Authority**

6—(1) The Authority consists of 5 members appointed by the Minister of whom—

- (a) one is a person with a wide practical knowledge of the dairy farming industry, selected from nominations submitted by an organization representing dairy farmers; and
- (b) one is a person with a wide practical knowledge of the dairy farming industry and herd testing, selected from nominations submitted by an organization representing dairy farmers; and
- (c) two are persons with a wide practical knowledge of the milk processing or the milk manufacturing industry; and
- (d) one is a person who is the chairperson of the Authority.

(2) If a nomination is not made under subsection (1) when required, the Minister may appoint a suitable person without such a nomination.

(3) Schedule 1 has effect in respect of membership and meetings of the Authority.

### **Deputy members**

7—(1) The Minister may appoint a person with the same or similar knowledge as a member of the Authority to be the deputy of that member in that member's temporary absence.

(2) A deputy member may act as a member of the Authority and while so acting has the same powers and functions as the member for whom he or she is the deputy.

(3) In any proceedings, proof is not required of—

(a) the circumstances in which a person is appointed as a deputy member; or

(b) the appointment of a deputy member.

### **Ministerial control and directions**

8—(1) The Authority is subject to the control and direction of the Minister.

(2) In giving any directions to the Authority, the Minister must have regard to the provisions of this Act.

(3) A copy of any direction given by the Minister is to be published by the Authority in its report for the year to which the direction relates.

(4) If the Authority does not comply with any direction given by the Minister, the Minister, by notice in writing, may require the Authority to comply with the direction.

### **Disclosure of interest**

9—(1) A member or deputy member of the Authority who is aware that he or she has a pecuniary interest in a matter under consideration by the Authority—

(a) must disclose the nature of the interest to the Authority; and

(b) unless the Authority otherwise determines, must not take part in any deliberations or decision of the Authority in relation to that matter.

Penalty: Fine not exceeding 50 penalty units.

(2) Subsection (1) does not apply in the case of a member appointed under section 6 (1) (a) or (b) or a deputy of such a member if the pecuniary interest is no greater than that of any other person with a similar interest.

(3) A disclosure under this section is to be recorded in the minutes of the Authority.

### **Improper use of membership**

**10—(1)** A member or deputy member of the Authority must not make improper use of that membership—

- (a) to gain directly or indirectly a personal advantage for himself, herself or another person; or
- (b) to cause detriment to the Authority.

Penalty: Fine not exceeding 50 penalty units.

(2) A member, deputy member or former member of the Authority must not make improper use of information acquired through that membership—

- (a) to gain directly or indirectly a personal advantage for himself, herself or another person; or
- (b) to cause detriment to the Authority.

Penalty: Fine not exceeding 50 penalty units.

### ***Division 2—Functions and powers of Authority***

#### **Functions of Authority**

**11—**The functions of the Authority are—

- (a) to administer an arrangement which—
  - (i) establishes the prices at which milk is sold to processors for use in the market milk trade; and
  - (ii) provides, as far as practicable, a continuous supply of milk for market milk; and

- (iii) provides an equitable share to dairy farmers from the market milk trade; and
- (iv) provides sufficient funds for the Authority to meet its obligations under this Act; and
- (b) to facilitate the maintenance and development of the dairy industry; and
- (c) to develop and implement policies to achieve, as far as practicable, economies in the dairy industry; and
- (d) to develop and implement programmes in relation to the manufacture of dairy produce designed to ensure the safeguard of public health and protection of consumers; and
- (e) to promote the consumption of market milk and dairy produce manufactured in Tasmania; and
- (f) to consult with the Tasmanian dairy industry; and
- (g) to advise the Minister on dairy industry matters or any other matter referred to it by the Minister; and
- (h) to promote the health and productivity of dairy herds; and
- (i) to carry out any other functions the Minister determines.

### **Powers of Authority**

12—The Authority may—

- (a) provide services for the purpose of herd improvement; and
- (b) provide services in relation to quality and testing of dairy produce; and
- (c) provide statistical information and support services; and
- (d) set and administer minimum standards for the production, testing, processing, distribution and handling of dairy produce; and
- (e) provide training services relating to persons employed in grading and testing dairy produce; and
- (f) enter into any contract or arrangement; and
- (g) engage consultants or other contractors; and

- (h) charge a fee for services rendered in the exercise or performance of its functions and powers under this Act; and
- (i) with the approval of the Minister, make grants to any person or body; and
- (j) do anything necessary or convenient to perform its functions.

### **Employees**

13—(1) Subject to, and in accordance with, the *Tasmanian State Service Act 1984*, persons may be appointed or employed for the purposes of this Act.

(2) The Authority, with the approval of the Head of an Agency, may make arrangements for any such persons employed in that Agency to be made available to the Authority to enable it to perform its functions under this or any other Act.

### **Delegation**

14—The Authority, with the approval of the Minister, may delegate any of its functions and powers, other than this power of delegation, to any person.

### **Borrowing**

15—Subject to the approval in writing of the Minister and Treasurer, the Authority may borrow money on such terms and conditions as the Treasurer approves.

### **Participation in companies**

- 16—In order to perform its functions, the Authority may—
- (a) be a member of a limited company; or
  - (b) form, or participate in the formation of, a limited company.
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**PART 3**

**LICENCES**

**Licences**

17—(1) A person must not carry on business as a dairy farmer unless that person holds a dairy farmer's licence in force under this Act.

Penalty: Fine not exceeding 50 penalty units.

(2) A person must not carry on business as a processor of market milk unless that person holds a processor's licence in force under this Act.

Penalty: In the case of—

- (a) a body corporate, a fine not exceeding 100 penalty units; or
- (b) a natural person, a fine not exceeding 50 penalty units.

(3) A person must not carry on business as a manufacturer of dairy produce unless that person holds a manufacturer's licence in force under this Act.

Penalty: Fine not exceeding 50 penalty units.

(4) Unless a person holds a vendor's licence in force under this Act, that person must not—

- (a) carry on business as a seller of market milk; or
- (b) sell market milk otherwise than at premises where market milk is consumed or sold to consumers; or
- (c) transport packaged market milk before its sale to consumers.

Penalty: Fine not exceeding 50 penalty units.

**Application for licences**

18—(1) A person may apply to the Authority for—

- (a) a dairy farmer's licence to carry on business as a dairy farmer; and
- (b) a processor's licence to carry on business as a processor of market milk; and
- (c) a manufacturer's licence to carry on business as a manufacturer of dairy produce; and

- (d) a vendor's licence—
  - (i) to carry on business as a seller of market milk; or
  - (ii) to sell market milk otherwise than at premises where market milk is consumed or sold to consumers; or
  - (iii) to transport packaged market milk in the course of a business.
- (2) An application is to be—
  - (a) in a form approved by the Authority; and
  - (b) accompanied by any information and documents the Authority may require; and
  - (c) accompanied by the prescribed fee; and
  - (d) lodged with the Authority.
- (3) The Authority may require an applicant to provide further information and documents.

### Granting of licences

- 19—(1) The Authority may—
  - (a) grant an application for a licence; or
  - (b) refuse to grant an application.
- (2) The Authority, by notice in writing, must notify the applicant of—
  - (a) the grant of an application; or
  - (b) the refusal to grant an application and the reasons for the refusal.

### Reasons for refusing application

- 20—The Authority may only refuse to grant an application for a licence if satisfied that—
  - (a) the dairy premises are not fit for the purposes for which they are to be used; or
  - (b) the dairy premises do not comply with the relevant Code of Practice; or

- (c) the dairy produce to be produced at the dairy premises is unlikely to be fit for human consumption; or
- (d) for any other prescribed reason the application is to be refused.

### Conditions of licences

**21**—(1) The Authority may grant an application for a licence subject to any conditions the Authority considers appropriate.

(2) The Authority may—

- (a) impose new conditions to the licence; or
- (b) amend or vary a condition of the licence; or
- (c) rescind a condition of the licence.

(3) The Authority, by notice in writing, must notify the licensee of—

- (a) any addition, amendment, variation or rescission of a condition; and
- (b) the reasons for it.

(4) The Authority may—

- (a) rescind a condition of a licence imposed under subsection (1) or (2) (a); or
- (b) rescind an amendment or variation of a condition of a licence made under subsection (2) (b).

### Issue of licences

**22**—(1) Subject to subsection (2), the Authority, on granting an application by a person for a licence, is to issue to that person any one or more of the following licences:—

- (a) a dairy farmer's licence;
- (b) a processor's licence;
- (c) a manufacturer's licence;
- (d) a vendor's licence.

(2) The Authority must not issue a processor's licence to a person unless that person gives sufficient security for the payment of any money payable by that person for dairy produce purchased from the Authority.



### Term of licences

**23**—A licence is in force for the period, not exceeding 3 years, specified in the licence.

### Effect of licences

**24**—A licence does not—

- (a) entitle the licensee to any specified business or market share or other entitlement; or
- (b) guarantee the licensee the supply of, or market for, any dairy produce or other goods or services.

### Renewal of licences

**25**—(1) A licensee, before the licence ceases to be in force, may apply to the Authority for a renewal of the licence.

(2) An application is to be—

- (a) in a form approved by the Authority; and
- (b) accompanied by the prescribed fee; and
- (c) lodged with the Authority.

(3) The Authority may—

- (a) grant the application, with or without conditions; or
- (b) refuse to grant the application.

(4) A licence is renewed—

- (a) for a period, not exceeding 3 years, as determined by the Authority; and
- (b) subject to any conditions specified in the licence as renewed.

(5) If an application to renew a licence is granted before the licence ceases to be in force, the period referred to in subsection (4) (a) starts on the day the licence ceases to be in force.

(6) If an application to renew a licence is not granted before the licence ceases to be in force, the licence—

(a) continues until the application is granted, refused or withdrawn, whichever occurs first; and

(b) if renewed, continues in force from the date on which it ceases to be in force until the end of the period referred to in subsection (4) (a).

(7) The Authority must notify the applicant of—

(a) the grant of the application; or

(b) the refusal to grant the application and the reasons for the refusal.

(8) The Authority may only refuse to grant an application to renew a licence for a reason specified in section 20.

(9) The Authority must not renew a processor's licence unless the licensee gives sufficient security for the payment of any money payable by that person for dairy produce purchased from the Authority.

### **Application for transfer of licences**

26—(1) A licensee may apply to the Authority for approval to transfer a licence.

(2) An application is to be—

(a) in a form approved by the Authority; and

(b) accompanied by the prescribed fee; and

(c) lodged with the Authority within 7 days before the transfer is to take effect.

### **Approval of transfer of licences**

27—(1) The Authority may—

(a) approve an application to transfer a licence, with or without conditions; or

(b) refuse to approve the application.

(2) The Authority, by notice in writing, must notify the licensee of—

- (a) the approval of an application to transfer a licence and any conditions imposed; or
- (b) the refusal to approve the application and the reasons for the refusal.

(3) A transfer—

- (a) is of no effect unless approved by the Authority; and
- (b) takes effect, if approved, on the date of the approval.

(4) The Authority may only refuse an application for the transfer of a licence for a reason specified in section 20.

### Surrender of licences

28—A licensee may surrender a licence to the Authority.

### Revocation of licences

29—(1) The Authority, by notice in writing served on the licensee, may revoke a licence if—

- (a) the licensee fails to comply with, or contravenes—
  - (i) any provision of this Act; or
  - (ii) any condition of the licence; or
- (b) the licensee has ceased to carry on business of the nature specified in the licence; or
- (c) the licensee is convicted of an offence under this Act.

(2) Before revoking a licence, the Authority—

- (a) by notice served on the licensee, is to notify the licensee of the intention to revoke the licence; and
- (b) is to give the licensee an opportunity to make submissions and give evidence in relation to the matter.

(3) A revocation takes effect—

- (a) 28 days after a notice is served under subsection (2) (a); or
- (b) if an appeal is made under section 42, on the date on which the order is made under section 44 (a) or (c).

**Suspension of licences**

**30—(1)** The Authority may suspend a licence if satisfied that—

- (a) it is desirable to do so in the interests of public health; or
- (b) the dairy premises, dairy produce or a vehicle to which the licence relates fails to comply with any Code of Practice.

(2) The Authority is to review a suspension within each one week period beginning from the date of suspension.

(3) If the Authority is satisfied that the dairy premises, dairy produce or a vehicle to which the licence relates no longer fails to comply with any Code of Practice it must revoke the suspension.

(4) During any period in which a dairy farmer's licence in respect of a dairy farm is suspended, a person must not permit any dairy produce from that dairy farm to be—

- (a) sold or used for human consumption; or
- (b) collected and stored with milk for human consumption.

Penalty: Fine not exceeding 100 penalty units.

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**PART 4****CONTROL OF MARKET MILK****Collection of dairy produce from unlicensed dairy farms**

**31—**A manufacturer or processor must not take delivery of, or permit or cause to be collected, any dairy produce for human consumption from a dairy farm in respect of which there is no dairy farm licence.

Penalty: Fine not exceeding 100 penalty units.

### Farm gate prices

32—(1) The Authority, with the approval of the Minister, may determine farm gate prices to be paid by a processor for milk used in market milk.

(2) A farm gate price applies to any milk whether used, sold or consumed in Tasmania or another State or Territory of the Commonwealth.

(3) In determining farm gate prices, the Authority may—  
(a) take into account the components of the milk; and  
(b) include any factor it considers appropriate.

(4) The Authority, by notice in the *Gazette*, must notify—  
(a) farm gate prices determined under this section; and  
(b) the date on which they take effect.

(5) The Authority, with the approval of the Minister and by notice in the *Gazette*, may revoke or vary a determination made under subsection (1).

### Manufacture or sale of certain milk

33—A person must not manufacture or sell market milk if any milk used in the manufacture of that market milk has not previously been accepted by the Authority or a corresponding body.

Penalty: Fine not exceeding 100 penalty units.

### Acceptance of milk by Authority

34—(1) Milk is accepted by the Authority as market milk—

- (a) on delivery of the milk to a processor by a person holding a processor's licence or a manufacturer's licence in accordance with the licence; or
- (b) on appropriation of the milk by a processor for processing into market milk.

(2) The Authority, within 24 hours after acceptance of any milk, may reject any milk that fails to meet standards determined by the Authority.

(3) On milk being accepted by the Authority, the milk becomes the property of the Authority discharged from any trust, mortgage, interest and claim.

(4) In any proceedings, a certificate purported to be signed by the chairperson of the Authority to the effect that the milk certified in the certificate has not been accepted by the Authority is evidence that the milk has not been accepted.

### **Payments for accepted milk**

**35**—The Authority must pay the dairy farmer, manufacturer or processor for any milk accepted by it at rates determined by the Authority in accordance with standards determined by the Authority.

### **Sale to milk processors**

**36**—(1) The Authority must sell milk accepted by it to processors—

- (a) at the price determined by the Authority under section 32; and
- (b) on any terms and conditions the Authority considers appropriate.

(2) The conditions imposed under subsection (1) (b) may include conditions providing for—

- (a) the cost of transport; and
- (b) the date by which payment is to be made; and
- (c) the charging of interest and a penalty for late payment.

(3) Terms and conditions may vary between processors.

(4) If a processor fails to make full payment for milk purchased from the Authority before the date specified in the conditions of the licence, the Authority may suspend or restrict the supply of milk to the processor.

**Proceeds of milk sales**

**37—(1)** The Authority, from the proceeds of the sale of milk, must make provision for—

- (a) any expenditure incurred or likely to be incurred by it in the purchase, treatment, transport or sale of milk; and
- (b) any payments necessary to ensure continuity of supply; and
- (c) the reduction or liquidation of any amounts necessary to repay advances made to, and loans raised by, it; and
- (d) the payment of the interest payment in respect of advances made to, and loans raised by, it; and
- (e) any other payment made under this Act; and
- (f) any payment which is for, or towards, the costs and expenses of or incidental to its functions and powers, except for the powers specified in section 12 (a); and
- (g) the creation of reserves for any purpose, and on any condition, the Minister approves.

(2) The Authority must efficiently and as promptly as cash flow permits distribute the balance of the proceeds of the sale of milk to all holders of a dairy farmer's licence in proportion to the quantity, or the quantity of components, of milk supplied by each of them to a manufacturer or processor within a specified period.

(3) The Authority may deduct any money owing to it by a person from payments due to the person under subsection (2).

## PART 5

## CODES OF PRACTICE

## Codes of Practice

38—(1) The Authority, with the approval of the Minister, may make Codes of Practice in respect of—

- (a) the regulation of the dairy industry; and
- (b) the training of persons in the dairy industry; and
- (c) standards and grades of milk and dairy produce; and
- (d) the keeping of records; and
- (e) any other matter the Minister directs.

(2) A Code of Practice may apply, adopt or incorporate any matter contained in any document, code, standard, rule, specification or method formulated, issued, adopted, prescribed or published by any authority or body whether—

- (a) wholly or partially or as amended by the Code; or
- (b) as formulated, issued, adopted, prescribed or published at the time the Code is made or at any previous time; or
- (c) as formulated, issued, adopted, prescribed or published from time to time.

(3) If a Code of Practice has applied, adopted or incorporated any matter contained in any document, code, standard, rule, specification or method as formulated, issued, adopted, prescribed or published from time to time and that document, code, standard, rule, specification or method is at any time amended, until the Authority causes notice to be published in the *Gazette* of that amendment, the document, code, standard, rule, specification or method is to be taken not to have been so amended.

(4) A Code of Practice may—

- (a) confer a discretionary authority or impose a duty on a specified person or body or a specified class of persons and bodies; and
- (b) provide that any matter or thing is to be from time to time determined, applied, dispensed with or regulated by the Authority; and
- (c) authorize the Authority to enforce the Code.



### Procedure for making Codes of Practice

**39—(1)** Before making a Code of Practice, the Authority must consult with any person or body it considers is likely to be affected by the proposed Code of Practice.

(2) After making a Code of Practice, the Authority, by notice in writing to all licensees and in the *Gazette*, must advise—

- (a) that it has made a Code of Practice; and
- (b) the general purport of the Code of Practice; and
- (c) the date on which the Code of Practice takes effect; and
- (d) where a copy of the Code of Practice may be purchased or inspected.

(3) A notice under subsection (2) must be notified to all licensees and in the *Gazette* at least 28 days before the Code of Practice takes effect.

### Amendment of Codes of Practice

**40—(1)** The Authority may amend a Code of Practice with the approval of the Minister and after consulting with any person or body it considers is likely to be affected by the proposed amendment.

(2) The Authority, by notice to all licensees and in the *Gazette*, must advise—

- (a) that it has amended a Code of Practice; and
- (b) the general purport of the amendment; and
- (c) the date on which the amendment takes effect; and
- (d) where a copy of the amendment or the Code of Practice as amended may be purchased or inspected.

(3) A notice under subsection (2) must be notified to all licensees and in the *Gazette* at least 28 days before the amendment to the Code of Practice takes effect.

### **Availability of Codes of Practice**

41—(1) The Authority must make available at its public offices at all reasonable times a copy of a Code of Practice or an amendment to a Code of Practice for purchase or inspection.

(2) The Authority may charge a fee for the purchase or inspection of a Code of Practice or any amendment to a Code of Practice.

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## **PART 6**

### **MISCELLANEOUS**

#### **Appeals**

42—(1) A person may appeal to a magistrate against a decision of the Authority—

- (a) to refuse to grant an application for a licence; or
- (b) to refuse to grant an application for the transfer of a licence; or
- (c) to refuse to grant an application for the renewal of a licence; or
- (d) to revoke a licence; or
- (e) to impose, amend, vary or rescind a condition of a licence.

(2) An appeal is to be instituted within 28 days after receipt of a notice notifying the decision.

#### **Hearing of appeals**

43—A magistrate—

- (a) is to conduct a hearing of an appeal with as little formality and technicality as a proper consideration of the matter permits; and

- (b) is not bound by the rules of evidence and may be informed on any matter in any way the magistrate considers appropriate; and
- (c) must observe the rules of natural justice.

### Determination of appeals

44—In determining an appeal, a magistrate may make an order—

- (a) confirming the decision of the Authority; or
- (b) requiring the Authority to change its decision as specified in the order; or
- (c) dismissing the appeal.

### Authorized officer

45—(1) The Authority may appoint a person to be an authorized officer for the purpose of this Act.

(2) The Authority must issue a certificate of authority to an authorized officer.

### Powers of authorized officers

46—(1) An authorized officer may—

- (a) enter, inspect and examine any dairy premises or any other premises on which—
  - (i) dairy produce is manufactured, tested, graded, stored or packed; or
  - (ii) there is conducted a business in respect of which a licence is required; and
- (b) enter, inspect and examine any dairy premises or other premises which the authorized officer reasonably suspects are being used for the purposes in paragraph (a); and
- (c) inspect and examine any records, product, material, equipment, plant or facility on any premises or vehicle relating to or used for receiving, collecting, processing, producing, manufacturing, transporting, storing, distributing, packaging, sealing, testing, grading, selling, purchasing or disposing of dairy produce; and

- (d) inspect and examine any records kept by a licensee for the purpose of verifying information given to the Authority by the licensee for the purposes of this Act; and
- (e) take copies of or extracts from any records referred to in paragraph (c) or (d); and
- (f) take samples, not exceeding 10% of the total volume, of any dairy produce or any material, chemical or other substance or thing used or suspected of being used in connection with the production, preparation, processing, manufacture, testing or grading of any dairy produce; and
- (g) conduct, or cause to be conducted, any examination, grading or analysis the authorized officer considers necessary to determine the composition, safety or quality of any dairy produce; and
- (h) stop and inspect any vehicle used, or constructed, for the transport of milk.

(2) Before exercising any power under this section, an authorized officer is to produce the certificate of authority issued under section 45.

(3) In this section, “records” includes—

- (a) records made by any electronic means; and
- (b) any written, typed or printed matter which reproduces records made by electronic means.

### **Hindering authorized officer**

47—A person must not hinder or obstruct an authorized officer in the exercise of any powers conferred by this Act.

Penalty: Fine not exceeding 50 penalty units.

### **Committees**

48—(1) The Authority may establish a committee on any terms and conditions it considers appropriate.

(2) The function of a committee is to advise the Authority on any matter relating to its functions and powers.

### Immunity from liability

**49**—A member of the Authority or a committee is not personally liable for an honest act or omission done or made in the exercise or purported exercise of a power or the performance or purported performance of a function under this Act.

### Records

**50**—(1) The holder of a licence must—

- (a) provide the Authority with any return or information relating to milk or dairy produce the Authority requires; and
- (b) at all reasonable times, permit an authorized officer to inspect and take copies of any records required to be kept under this Act or a Code of Practice.

(2) The Authority must not divulge any information obtained under this section which identifies or is attributable to a person without that person's consent in writing.

### False and misleading statements

**51**—A person, in giving any information under this Act, must not—

- (a) make a statement knowing it to be false or misleading; or
- (b) omit any matter from a statement knowing that without that matter the statement is misleading.

Penalty: Fine not exceeding 50 penalty units.

### Regulations

**52**—(1) The Governor may make regulations for the purposes of this Act.

(2) The regulations may—

- (a) provide that a contravention of, or a failure to comply with, any of the regulations is an offence; and

(b) in respect of such an offence, provide for the imposition of a fine not exceeding 10 penalty units and, in the case of a continuing offence, a further fine not exceeding 2 penalty units for each day during which the offence continues.

(3) Regulations may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations.

(4) Regulations may apply, adopt or incorporate any matter contained in any document, code, standard, rule, specification or method issued, formulated, prescribed, adopted or published by any authority or body as in force at a particular date.

### **Savings and transitional provisions**

53—Schedule 2 has effect in respect of savings and transitional provisions.

### **Repeal**

54—The Acts specified in Schedule 3 are repealed.

### **Administration of Act**

55—Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990*—

- (a) the administration of this Act is assigned to the Minister for Primary Industry and Fisheries; and
  - (b) the department responsible to the Minister for Primary Industry and Fisheries in relation to the administration of this Act is the Tasmanian Dairy Industry Authority.
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**SCHEDULE 1**

## Section 6 (3)

**MEMBERSHIP AND MEETINGS OF AUTHORITY****Interpretation**

1—In this Schedule, “**member**” means a member of the Authority.

**Term of office**

2—A member is to be appointed for such period, not exceeding 3 years, as is specified in the member’s instrument of appointment.

**Holding other office**

3—The holder of an office who is required under any Act to devote the whole of his or her time to the duties of that office is not disqualified from—

- (a) holding that office and also the office of a member;  
or
- (b) accepting any remuneration payable to a member.

**Remuneration of members**

4—A member is entitled to be paid such remuneration, allowances and expenses as the Minister determines.

**Vacation of office**

5—(1) A member vacates office if the member—

- (a) dies; or
- (b) resigns; or
- (c) is removed from office under subclause (2) or (3).

(2) The Minister may remove a member from office if the member—

- (a) is absent from 3 consecutive meetings of the Authority without the permission of the Authority; or

Schedule 1—*continued*

- (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an assignment of the member's remuneration or estate for their benefit; or
- (c) is convicted, in Tasmania or elsewhere, of a crime or an offence punishable by imprisonment for 12 months or longer.

(3) The Minister may remove a member from office if satisfied that the member is unable to perform adequately or competently the duties of office.

**Filling of vacancies**

6—(1) If the office of a member referred to in paragraph (a) or (b) of section 6 (1) becomes vacant, the Minister may appoint a person selected from nominations received under those paragraphs to the vacant office for the remainder of that member's term of office.

(2) If the office of a member referred to in section 6 (1) (c) or (d) becomes vacant, the Minister may appoint a suitable person to the vacant office for the remainder of that member's term of office.

**Convening of meetings**

7—The chairperson—

- (a) may convene a meeting of the Authority at any time; and
- (b) must convene a meeting if so requested in writing by 2 other members or so directed by the Minister.

**Procedure at meetings**

8—(1) The quorum at any duly convened meeting of the Authority is 3 members.



Schedule 1—*continued*

(2) Any duly convened meeting of the Authority at which a quorum is present is competent to transact any business of the Authority.

(3) Questions arising at a meeting of the Authority are to be determined by a majority of votes of the members present and voting.

(4) A telephone or video conference between members is a meeting of the Authority at which the members participating in the conference are present.

**Chairperson**

9—(1) The chairperson of the Authority is to preside at all meetings of the Authority.

(2) If the chairperson of the Authority is not present at a meeting of the Authority a member elected by the members present is to preside at that meeting.

(3) The person presiding at a meeting of the Authority has a deliberative vote and, in the event of an equality of votes, the motion is lost.

**Minutes**

10—The Authority is to cause full and accurate minutes to be kept of its proceedings at meetings.

**General procedure**

11—Subject to this Schedule, the procedure for the calling of, and for the conduct of business at, meetings of the Authority is as determined by the Authority.

Schedule 1—*continued***Validity of proceedings**

12—(1) An act or proceeding of the Authority or of a person acting under the direction of the Authority is not invalid by reason only that at the time when the act or proceeding was done, taken or commenced there was a vacancy in the membership of the Authority.

(2) An act or proceeding of the Authority or of a person acting under the direction of the Authority is valid even if—

- (a) the appointment of a member of the Authority was defective; or
- (b) a person appointed as a member of the Authority was disqualified from acting as, or incapable of being, such a member.

**Presumptions**

13—In any proceedings by or against the Authority, unless evidence is given to the contrary, proof is not required of—

- (a) the constitution of the Authority; or
  - (b) any resolution of the Authority; or
  - (c) the appointment of any member; or
  - (d) the presence of a quorum at any meeting of the Authority.
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## SCHEDULE 2

## Section 53

## SAVINGS AND TRANSITIONAL PROVISIONS

**Interpretation**

1—In this Schedule—

“**commencement day**” means the day on which this Act commences;

“**former Authority**” means the Tasmanian Dairy Industry Authority established under the repealed Act;

“**repealed Act**” means the *Dairy Industry Act 1976*.

**Licences**

2—(1) A licence to carry on the business of a dairyman in force under the repealed Act immediately before the commencement day is, on that day, a dairy farmer’s licence in force under this Act subject to the same terms and conditions.

(2) A licence to carry on the business of a milk or dairy produce vendor in force under the repealed Act immediately before the commencement day is, on that day, a milk vendor’s licence in force under this Act subject to the same terms and conditions.

(3) A licence to carry on the business of a manufacturer of dairy produce in force under the repealed Act immediately before the commencement day is, on that day, a manufacturer’s licence in force under this Act subject to the same terms and conditions.

(4) A licence to carry on the business of packing or storing milk or dairy produce or of treating milk in force under the repealed Act immediately before the commencement day is, on that day, a processor’s licence in force under this Act subject to the same terms and conditions.

**Property, rights, obligations and liabilities of former Authority**

3—Any property, rights, obligations and liabilities of the former Authority which existed immediately before the commencement day are, on that day, vested in, or incurred by, the Authority.

Schedule 2—*continued*

**Investments and money of former Authority**

4—Any investments and money standing to the credit of the former Authority immediately before the commencement day is, on that day, vested in the Authority.

**Contracts and agreements by former Authority**

5—Any contract or agreement made by the former Authority before the commencement day—

(a) continues, on or after that day, on the same terms and conditions; and

(b) is, on or after that day, enforceable by the Authority.

**Member of former Authority**

6—Any person who was a member of the former Authority immediately before the commencement day is, on that day, a member of the Authority until the term of office expires.

**Employees of former Authority**

7—Any person who was appointed or employed under the repealed Act immediately before the commencement day continues, on that day, to be appointed or employed under this Act.

**Orders**

8—Any order made by the former Authority under the repealed Act relating to prices and rates in respect of any dairy produce, milk or component of milk is, on that day, a farm gate price under this Act.

Schedule 2—*continued***Herd Improvement Account**

9—On the commencement day, any money standing to the credit of the Herd Improvement Account established under the *Herd Improvement Act 1977* may be applied for the general purposes of the Authority.

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**SCHEDULE 3**

Section 54

**REPEALS**

*Dairy Industry Act 1976* (No. 113 of 1976)

*Dairy Industry Amendment Act 1980* (No. 33 of 1980)

*Dairy Produce Act 1932* (23 Geo. V No. 37)

*Dairy Produce Act 1978* (No. 80 of 1978)

*Herd Improvement Act 1977* (No. 4 of 1977)

*Herd Improvement Amendment Act 1988* (No. 66 of 1988)

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