

METROPOLITAN WHOLE MILK.

23° GEO. V., No. XLIX.

No. 49 of 1932.

AN ACT to provide for the regulation and organisation of the production, purchase, treatment, sale and distribution of Whole Milk for use by consumers within the Metropolitan Area.

[Assented to 30th December, 1932.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Metropolitan Whole Milk Act, 1932*, and shall come into operation on a day to be fixed by proclamation.* Short title and commencement.

2. Neither this Act nor the provisions of this Act nor any regulations made under this Act shall be deemed to repeal any other Act passed prior to the commencement of this Act or any provision of such Act or any regulation or by-law made under such Act; but where this Act or any provision thereof or any regulation made under this Act is inconsistent with or repugnant to any other Act or to any provision of any other Act or to any other regulation or by-law, this Act and the provisions thereof and the regulations made thereunder shall prevail, and every other Act, provision, regulation, or by-law aforesaid shall be read and construed as subject to this Act and the provisions thereof and to the regulations made under this Act. Saving provisions.

* 21st January, 1933. *Gazette* 20th January, 1933.

Interpretation.

3. In this Act, subject to the context—

- “Accommodation milk” means milk other than quota milk supplied by a dairyman for whole milk purposes for sale or treatment pursuant to a license issued under this Act.
- “Board” means the Metropolitan Whole Milk Board constituted by this Act.
- “Contract milk” means milk supplied by a dairyman under the terms of a written contract.
- “Dairy” means any farm, dairy, or other place where animals are kept for the purpose of producing milk for sale, and includes every stockyard, milking yard, paddock, shed, stable, stall and other place on, in or about a dairy in which animals are kept, depastured or milked, or in which the milk produced in the dairy is stored or treated prior to removal from the dairy.
- “Dairy area” means a defined portion of the State as constituted and declared to be a dairy area under this Act.
- “Dairyman” means the owner or occupier of a dairy.
- “Department” means the Department of Agriculture.
- “District” means a defined portion of the Metropolitan Area as constituted and declared to be a district under this Act.
- “Inspector” means an inspector appointed or acting under the authority of this Act.
- “Metropolitan area” means the metropolitan area constituted and declared under this Act.
- “Milk” means the natural lacteal fluid product of an animal, intended for human consumption as milk, and includes fresh cream for use other than in the manufacture of butter.
- “Milk store” means any shop, building, shed, place, cart or other vehicle, in or from which milk is treated, sold or distributed, or in or from which milk after treatment is offered for sale and distribution to consumers.

“Milk vendor” means any person who is the occupier or holder of a milk store, and also any person who by himself or by his employee receives or accepts milk to be forwarded or supplied to a milk store or to consumers otherwise than as a carrier. The term includes a dairyman who sells milk retail to consumers, but does not include a dairyman who sells milk wholesale to persons other than consumers.

“Quota” or “quota milk” means the average daily quantity of milk actually produced and marketed by a dairyman under a written contract during the months from March to May, both inclusive, in each year, or any other similar period of production which the Board may from time to time determine.

“Surplus milk” means the milk produced by a dairyman in excess of quota milk and accommodation milk and supplied by him for whole milk purposes for sale or treatment pursuant to a license issued under this Act.

“Minister” means the Minister for Agriculture.

“To sell” means to sell by wholesale or 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 or suffer or allow to be sold, offered or exposed for sale, and refers only to selling for human consumption; and “sale” and “sold” have a corresponding meaning.

“Treatment” includes the examination, cleansing, pasteurisation, testing, grading, cooling, refrigerating, bottling or packing of milk; and “treat” has a corresponding meaning.

4. Subject to the Minister, this Act shall be administered by the Board. Administration of this Act.

5. The metropolitan area shall be that portion of the State including the city of Perth and the city of Fremantle which the Governor shall by proclamation from time to time constitute and declare to be the metropolitan area for the purposes of this Act. Metropolitan area.

Metropolitan Whole
Milk Board.

6. (1.) A Board, to be called "The Metropolitan Whole Milk Board," is hereby constituted.

(2.) The Board shall consist of five members, as follows:—

- (a) Two members as representatives of the consumers who shall be appointed by the Governor, but such members not to be engaged or interested in the production or vending of milk, or the members of any milk producers' or milk vendors' organisation;
- (b) Two members as representatives of the dairymen, one of whom shall be elected by those dairymen, being owners or occupiers of dairies within the district defined by Order in Council made under the Dairy Cattle Compensation Act, 1926, and published in the *Gazette* on the eleventh day of November, 1927, who are for the time being owners of dairy cattle registered under that Act, and one by those registered dairymen outside that area;
- (c) One member appointed by the Governor who shall be chairman, with a casting vote, but such member not to be engaged or interested in the production or vending of milk.

Terms of office of
members of Board.

7. Subject to sections eight and nine of this Act, the members of the Board shall hold office for two years and be eligible for re-appointment or for re-election as the case may be.

First members of
the Board.

8. (1.) All the first members of the Board shall, as soon as may be after the commencement of this Act, be appointed by the Governor upon the recommendation of the Minister, who before making any recommendation shall consult with any association or associations of dairymen as regards persons to be recommended as their representatives respectively, but who nevertheless may use his own discretion when making recommendations.

(2.) All the members of the Board appointed under this section shall hold office until the thirtieth day of June, one thousand nine hundred and thirty-four, but thereafter shall, subject to this Act, be eligible for re-appointment or for re-election as the case may be.

9. (1.) On a day to be fixed by the Minister and being at least three months prior to the thirtieth day of June, one thousand nine hundred and thirty-four, the first election shall be held for the election of elective members of the Board, and prior to the said last-mentioned date the Minister shall nominate two persons for appointment as the representatives of the consumers on the Board.

Election of members.

(2.) In case of a vacancy occurring in the office of any elected member, an election shall be held to fill the vacancy, but the member then elected shall hold office only for the remainder of the term of his predecessor.

10. (1.) Elections of elective members of the Board shall be held at the place and time and in the manner prescribed.

Elections.

(2.) Every dairyman who is duly licensed under this Act on the day fixed for an election shall be entitled to vote in the election of members to represent the class to which he belongs.

11. All expenses incurred in holding elections shall be borne and paid by the Board out of its funds.

Expenses of elections.

12. The funds of the Board shall consist of the fees prescribed and payable to the Board, moneys appropriated by Parliament and payable to the Board for the purposes of this Act, and all other moneys which may come into the hands of the Board under and for the purposes of this Act.

Funds of the Board.

13. (1.) Any three members of the Board shall form a quorum thereof.

Proceedings of Board.

(2.) At all meetings of the Board the chairman of the Board shall preside, if present, and in his absence from any meeting the members then present shall elect one of their number to be chairman of that meeting.

(3.) Whenever the members are not unanimous as to any matter, such matter shall be decided by the majority of votes, and the decision so arrived at shall be the decision of the Board.

14. No act or proceeding of the Board shall be invalid or be prejudiced by reason only of the fact that at the time when such act or proceeding is done, taken, or commenced there is a vacancy in the office of any member.

Acts of Board not invalidated by vacancy.

Deputy members.

15. In case of illness, other incapacity, or absence from the State of any member of the Board by reason whereof the member is likely to be unable to perform his duties for three months, the Governor may, on the recommendation of the Minister, appoint some person of the class to which the sick, incapacitated or absent member belongs, to act in his place as a member of the Board during the sickness, incapacity, or absence of such member.

Remuneration of members.

16. The fees and expenses to be paid to and received by members of the Board for their services shall be such as may be prescribed from time to time.

Officers of the Board.

17. The Board may, subject in each case to the approval of the Minister, appoint and pay out of the funds of the Board such officers as it considers necessary to enable it to carry out its duties and functions, such officers shall not in any way interfere or exercise the functions of health inspectors.

Departmental inspectors.

18. (1.) The Minister may, by notice in writing signed by him and published in the *Government Gazette*, authorise any inspectors on the staff of the department to be inspectors under and for the purposes of this Act. All such inspectors, when performing any duties under this Act, shall be deemed to be performing such duties for the Board.

(2.) The Minister may fix the remuneration (if any) to be paid by the Board to departmental inspectors acting for the Board, and such remuneration shall be payable by the Board out of its funds.

Dairy areas and districts.

19. The Minister may from time to time, by notice published in the *Government Gazette*—

(a) constitute and declare any defined portion of the State to be a dairy area in which milk is produced or deemed to be produced for the purpose of sale by milk vendors to consumers in the metropolitan area; and

(b) divide the metropolitan area into districts in which persons may, subject to this Act, carry on business as milk vendors.

20. (1.) No person shall carry on business as a dairyman in any dairy area, and no person shall carry on business as a milk vendor in any district except on the authority of a license issued by the Board under this Act.

Dairyman and milk vendors to be licensed.

Penalty: Fifty pounds or imprisonment for three months

(2.) Subsection one of this section shall not apply to any person, notwithstanding that he is carrying on business as a dairyman in a dairy area, who proves to the satisfaction of the Board that the milk produced by him is not sold or intended for sale to consumers in the metropolitan area.

21. No person, other than a licensed dairyman or a licensed milk vendor, shall treat milk intended for sale to consumers in the metropolitan area except on the authority of a license issued by the Board under this Act.

Persons treating milk to be licensed.

Penalty: Fifty pounds or imprisonment for three months.

22. Every person who desires to carry on business as a dairyman in any dairy area, or as a milk vendor in any district, or to treat milk intended for sale to consumers in the metropolitan area, shall make application in writing to the board in the prescribed form in each and every year.

Applications for licenses.

23. (1.) Licenses under this Act may be issued by the Board in the prescribed form on payment of the prescribed fee.

Licenses.

(2.) Licenses issued on or before the first day of July or within fifteen days thereafter shall be deemed to be in force from the first day of July, and shall have effect until the thirtieth day of June next following. Licenses issued after the fifteenth day of July in any year shall have effect as from the date of issue thereof until the thirtieth day of June next following.

(3.) A dairyman's license shall have effect only in the dairy area within which the dairy of the dairyman is situated. A milk vendor's license shall have effect only in the district within which the milk vendor carries on business as a milk vendor. A license for the treatment of milk shall have effect only in the building or place in which milk is treated.

(4.) A dairyman's license shall be issued only in respect of a particular dairy area; a milk vendor's license shall be

issued only in respect of a particular district; and a license for the treatment of milk shall be issued only in respect of a particular building or place.

(5.) Every license shall state therein the particular dairy area, or the particular district, or the particular building or place in respect whereof it is issued.

(6.) Any person to whom the Board has refused to issue a license under this section may appeal, as prescribed, against the Board's decision to a resident or police magistrate or the magistrate of a local court sitting within the metropolitan area, and the magistrate may order the license to be issued or may confirm the decision of the Board, as shall be just, and effect shall be given to his decision.

Revocation of
licenses.

24. (1.) Upon the conviction of any person holding a license under this Act for any offence against this Act or any regulation made under this Act, the Board may forthwith revoke the license held by such person:

Provided that such person may appeal, as prescribed, against the Board's decision to a resident or police magistrate or the magistrate of a local court sitting within the metropolitan area, and the magistrate may reverse or confirm the revocation as shall be just.

(2.) A license may be revoked under this section by notice in writing signed by the chairman of the Board with the approval of the Board and served upon the person whose license is revoked.

Compensation
funds.

25. (1.) For the purposes of this Act there shall be established two compensation funds to be administered by the Board and to be known respectively as "The Dairymen's Compensation Fund" and "The Milk Vendors' Compensation Fund."

(2.) For the purpose of maintaining the said funds—

(a) every licensed dairyman shall contribute to the Dairymen's Compensation Fund at a rate to be prescribed by regulations, but not to exceed one-sixteenth of a penny per gallon for every gallon of milk produced by him; and

(b) every licensed milk vendor and every person holding a license for the treatment of milk shall

contribute to the Milk Vendors' Compensation Fund at a rate to be prescribed by regulations but not to exceed one-sixteenth of a penny per gallon for every gallon of milk sold or treated by him, as the case may be;

- (3.) the contributions payable under this section shall be assessed and be paid at such times and in such manner as may be prescribed by regulations.

26. (1.) Whenever any person holding any license under this Act is, upon the expiration of such license, refused a fresh license of the same kind, and such refusal is confirmed on appeal when such refusal is appealed against, such person may, subject to the regulations, apply to the Board for payment to him of compensation in respect of such refusal, and the Board may grant or refuse such application.

Licensees may be compensated in certain cases.

(2.) Whenever compensation is granted to any person under this section, such compensation shall be paid out of the Compensation Fund to which he has contributed under section twenty-five of this Act.

(3.) Whenever application is made for payment of compensation under this section, such application shall be heard and determined by the Board in the manner prescribed by the regulations; and if the application is approved the Board shall assess the amount of compensation to be paid at such sum as it thinks fair and equitable, having regard to all the circumstances of the case.

(4.) Any applicant aggrieved by the refusal of the Board to grant compensation, or dissatisfied with the amount of compensation as assessed by the Board may, subject to the regulations, appeal from such refusal or such assessment to a resident or police magistrate or to a magistrate of a local court sitting within the metropolitan area, who may confirm, reverse or vary the decision of the Board appealed from, as shall seem just.

27. Nothing in this Act or in any other Act shall be deemed to give to any person carrying on business as a dairyman or as a milk vendor or treating milk at the commencement of this Act, a right to the issue to him of a license under this Act, or to give to any person holding a license under this Act a right to a renewal of such license upon the expiry thereof.

Persons not to be deemed to have a right to the issue of licenses.

Where a person is required to obtain a license under any other Act, regulation or by-law, a license issued to such person under this Act shall be deemed to be sufficient.

28. Where under any other Act, regulation or by-law in force at the commencement of this Act a person carrying on business as a dairyman or as a milk vendor or treating milk is required to obtain a license under such Act, regulation or by-law, and such person is also required by this Act to obtain a license from the Board under this Act, a license issued to such person under this Act shall be deemed to be sufficient compliance by such person with the requirements of such other Act, regulation or by-law so far as they relate to the obtaining of a license by such person as aforesaid.

Limitation of Powers of Board in taking proceedings.

29. Notwithstanding anything hereinbefore contained, the Board in the exercise of its powers shall be subject to the control of the Minister, and if any action or proceeding, or intended action or proceeding by the Board is not approved by the Minister, he may, by notice in writing addressed to and served on the chairman, prohibit such action or proceeding, either absolutely or subject to such condition as he may think fit, and effect shall be given by the Board to such notice.

Powers and functions of the Board.

30. Subject to this Act, the Board is hereby charged with the following matters:—

- (1) the regulation and organisation of—
 - (a) the production of milk in dairy areas;
 - (b) the supply and sale of milk by dairymen to milk vendors;
 - (c) the supply, sale, and distribution of milk to consumers in the metropolitan area;
 - (d) the treatment of milk before sale and distribution to consumers in the metropolitan area;
 - (e) the prohibition of the use for human consumption in any form of milk which appears to be deleterious to health or unwholesome;
 - (f) the transport, carriage and conveyance of milk produced in dairy areas;
 - (g) plant, machinery, appliances, containers, and other things used or reputed to be used in connection with the production, supply, sale, distribution, treatment, transport, carriage and conveyance of milk;
- (2) the inspection of—
 - (a) dairies, milk stores, milk, and places for the treatment of milk;

- (b) plant, machinery, appliances, containers and other things used or reputed to be used in connection with the production, supply, sale, distribution, treatment, transport, carriage, and conveyance of milk;
- (3) the issue and revocation of licenses;
- (4) measures and means which in the opinion of the Board are requisite and necessary to provide a regular supply of fresh, clean, and wholesome milk to consumers in the metropolitan area;
- (5) subject to paragraph (7) hereof, the making, settlement and approval of contracts for the supply of milk by dairymen to milk vendors;
- (6) fixing the proportionate quantities of accommodation milk which dairymen shall be entitled to supply to milk vendors;
- (7) fixing the minimum price per gallon to dairymen for milk supplied:

Provided that as regards—

- (a) milk, other than surplus milk, such price shall be fixed in accordance with—
 - (i) butter fat content and value; and
 - (ii) bacterial test; and
 - (iii) added value for services involving production of whole milk; and
 - (iv) if necessary, a premium during periods of scarcity;
- (b) surplus milk, such price shall be fixed in accordance with its butter fat content and at ruling butter fat rates, less a charge approved by the Board for separation or other treatment carried out by the milk vendor;
- (8) fixing the maximum price or prices at which milk may be sold by retail;
- (9) fixing maximum rates for road transport of milk from dairy areas to milk stores to be paid by dairymen to milk vendors;
- (10) fixing the value of services and premium for the purposes of paragraph (7) hereof:

- (11) defining the functions, authorities and duties of inspectors;
- (12) any other matter which, in the opinion of the Minister, is incidental to any of the matters aforesaid.

Application of
Health Act,
1911-1932.

31. Nothing in this Act shall be deemed in any way to affect or prejudice the rights, powers, and duties of inspectors appointed under the Health Act, 1911-1932.

Regulations.

32. (1.) The Minister may, with the approval of the Governor, make regulations prescribing forms and fees and other matters and things which by this Act are contemplated, required or permitted to be prescribed, or which appear to him to be necessary or convenient to be prescribed, for the purpose of enabling the Board effectually to perform and carry out its powers, functions, and duties under this Act, and for the purpose of effectually carrying out any of the provisions of this Act, or for better effecting the objects or purposes of this Act.

(2.) Such regulations may impose a penalty not exceeding fifty pounds for a breach of any regulation.

Fees and penalties
payable to Board.

33. All fees prescribed and all penalties imposed and recovered under this Act or the regulations shall be payable to the Board.

Application of the
funds of the
Board.

34. The funds of the Board as and when received shall be paid to the credit of an account in the name of the Board at a bank to be approved by the Minister, and shall be chargeable with the remuneration and expenses of the members of the Board, the salaries and wages payable by the Board, and with all other expenditure for which the Board is liable under this Act or which is lawfully incurred by the Board in the performance and carrying out of its powers, functions and duties under this Act.

Advances by
Treasurer.

35. The Treasurer may make advances, out of moneys appropriated by Parliament to such purpose, to enable the Board to defray any expenditure for which the funds of the Board may for the time being be insufficient, and such advances with interest shall be a charge upon the funds of the Board.

36. The Board shall cause books to be provided and kept, and true and regular accounts to be entered therein—

Accounts.

(a) of all moneys received and paid by the Board, and of all moneys owing to and by the Board, and of the several purposes for which such moneys shall have been received and paid and owing; and

(b) of all the assets and liabilities of the Board.

37. All such books shall be open to the inspection of the Auditor General and any person authorised by him to inspect the same.

Books may be inspected.

38. The Board shall cause its accounts to be balanced every year on the thirtieth day of June.

Accounts to be balanced.

39. Every dairyman holding a dairyman's license under this Act may, whilst he continues to hold such license, register the dairy cattle kept by him in or in connection with his dairy for the purpose of his business carried on pursuant to such license, under and in accordance with the provisions of the Dairy Cattle Compensation Act, 1926, as if that Act applied to such dairy cattle and, notwithstanding anything to the contrary contained in that Act, the provisions of the said Act shall apply to such registered dairy cattle.

Dairy Cattle Compensation Act, 1926, to apply in certain cases.

40. (1.) The Board shall cause a full and true balance sheet of the assets and liabilities, together with a revenue account or profit and loss account for each year and such other statements as may be necessary, to be compiled from the books and submitted to the Auditor General for audit.

Accounts to be audited.

(2.) The Auditor General shall, in respect to such accounts, have all the powers conferred on him by the Audit Act, 1904.

41. The Board shall, once at least in every year, furnish to the Minister a true copy of the accounts so audited, and copies of such accounts, together with the Auditor General's report thereon, shall be laid before both Houses of Parliament.

Copies of accounts as audited to be furnished.

42. This Act shall continue in force until the thirty-first day of December, one thousand nine hundred and thirty-five, and no longer.

Duration of Act.