

MILK.

12° Elizabeth II., No. LXX.

No. 70 of 1963.

AN ACT to amend the Milk Act, 1946-1960.

[Assented to 17th December, 1963.]

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

Short title
and citation.1. (1) This Act may be cited as the *Milk Act Amendment Act, 1963*.Vol. 13 of the
Reprinted
Acts.
Approved
for reprint
27th May,
1958, and
amended by
Act No. 62
of 1960.

(2) In this Act the Milk Act, 1946-1960, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Milk Act, 1946-1963.

2. Section two of the principal Act is amended by adding immediately below the word, "Board" in line nine, the following passage—

S. 2
amended.

Division 3, ss. 21A to 21D—Powers of Board to Borrow Money.

3. Section seventeen of the principal Act is amended—

S. 17
amended.

(a) by adding immediately after the section number, "17." in line one, the subsection designation, "(1)";

(b) by adding after paragraph (b), the following paragraph—

(ba) such moneys as the Board may borrow under and subject to the provisions of this Act; ; and

(c) by adding a subsection as follows—

(2) Any administration funds of the Board may, until required by the Board for the purposes of this Act, be temporarily invested as the Treasurer may direct in any securities in which money in the Public Account, as that account is defined in the Audit Act, 1904, may lawfully be invested, and all interest derived from such investment shall be paid to the Board.

4. The principal Act is amended by adding after Division 2 of Part III, the following Division—

Division 3
added to
Part III.

Division 3—Powers of Board to Borrow Money.

21A. (1) When the administration funds of the Board are not sufficient to meet in full the expenditure incurred by the Board under this Act, the Board, in addition to any other power to borrow money conferred on it by this Act and notwithstanding the provisions of any

Power
to borrow
from
Treasurer.

other Act, may with the consent of the Governor requisition the Treasurer for any moneys required by the Board for the purpose of meeting that expenditure, and the Treasurer may pay to the Board forthwith the amount so requisitioned out of moneys available to him, being moneys appropriated by Parliament for the purpose.

(2) The Board shall pay to the Treasurer in respect of moneys so requisitioned and paid by the Treasurer to the Board interest at such rate and at such times as the Governor determines.

(3) Moneys so requisitioned by and paid to the Board and interest payable thereon are a charge upon the moneys from time to time comprising the administration funds of the Board and upon any works, undertakings and other assets vested in the Board.

Power
to borrow
on issue of
debentures,
etc.

21B. (1) Subject to this section and notwithstanding the provisions of any other Act, the Board may at any time, with the consent of the Governor, borrow money on the security of its revenues or upon a guarantee as provided in subsection (3) of this section—

- (a) for the construction of works or buildings;
- (b) for providing funds for the effectual exercise by the Board of the powers conferred by this Act;
- (c) to discharge the principal money and interest thereon of any existing loan or for the consolidation of the debts of the Board; or
- (d) for any other purpose approved by the Governor.

(2) The Governor shall not consent pursuant to subsection (1) of this section unless and until a written proposal specifying, subject to this section—

- (a) the term and particulars of the proposed loan;

- (b) the rate of interest to be paid on the proposed loan;
- (c) the purposes to which the money proposed to be borrowed by the Board is to be applied; and
- (d) the manner in which the loan is to be repaid,

is first submitted by the Board to, and approved by, the Minister.

(3) The Treasurer may, in the name and on behalf of the Crown in right of the State, guarantee repayment of principal and interest on any moneys borrowed by the Board under this section, being a loan other than a loan on the security of its revenues.

(4) Any moneys borrowed by the Board pursuant to this section—

- (a) may be raised as one loan or as several loans; and

- (b) may be raised —

- (i) by the issue of debentures payable to bearer with interest coupons attached;
 - (ii) by the creation and issue of inscribed stock to be called “The Milk Board of Western Australia Inscribed Stock”;
 - (iii) partly as provided by subparagraph (i), and partly as provided by subparagraph (ii), of this paragraph; or
 - (iv) in such other manner as may be prescribed or as the Governor may approve.

(5) All debentures and inscribed stock, respectively, issued or created pursuant to this section—

- (a) shall be in the form prescribed;

- (b) shall, with all interest payable thereon, be charged and secured on the revenues of the Board;
- (c) shall bear interest at such rate, and be redeemable on such date and at such place, as the Board may with the consent of the Governor determine;
- (d) may, with the consent of the holder or the registered owner thereof, as the case may be, be paid off at any time before the due date for repayment at not more than the face value thereof; and
- (e) whether original or not, shall rank *pari passu* in point of charge without any preference or priority one over another.

(6) Interest secured by any debentures or inscribed stock issued or created pursuant to this section shall be payable half-yearly on days and at places determined by the Board.

(7) The Board may, at the request of the holder of any debenture or of the registered owner of any inscribed stock issued or created pursuant to this section, in lieu thereof issue to him stock or debentures, as the case may be, in respect of the same loan and of the same interest.

(8) For the purpose of making provision to pay off either the whole or a part of any loan raised by the Board pursuant to this section, the Board may, with the consent of the Governor, borrow the money necessary for that purpose before the loan or part thereof becomes repayable.

(9) The due payment of moneys borrowed on the security of the revenues of the Board pursuant to this section and the interest thereon

is hereby guaranteed by the Treasurer in the name and on behalf of the Crown in right of the State, and any liability of the Crown arising by virtue of this subsection is payable out of moneys in the Public Account as defined in the Audit Act, 1904, which to the necessary extent is appropriated accordingly.

(10) The Board shall set aside half-yearly by way of a sinking fund, for the purpose of redeeming any loan raised pursuant to this section, an amount calculated at a rate approved by the Governor and the Treasurer.

(11) Any trustee, unless expressly forbidden by the instrument, if any, creating the trust, may invest any trust moneys in his hands in any debentures or inscribed stock issued or created pursuant to this section, and the investment shall be deemed to be an investment that is authorised by the Trustees Act, 1962.

(12) Any debentures or inscribed stock issued or created by the Board pursuant to this section is a lawful investment for any money that a body corporate incorporated by or under any Act is authorised or directed to invest, in addition to any other investments expressly provided for the investment of the moneys.

(13) The Board or any officer of the Board shall not receive any notice of a trust, whether express, implied or constructive, in relation to any debenture or inscribed stock issued or created pursuant to this section.

21C. (1) The Board shall invest in the name of the Board, in such securities as the Treasurer thinks fit, all moneys set aside pursuant to subsection (10) of section twenty-one B of this Act as a sinking fund and all interest accruing thereon.

Investment
of sinking
fund.

(2) The Board shall from time to time—

- (a) apply the accumulated sinking fund in payment of the principal of any loan raised by the Board 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.

Register of
debentures
and inscribed
stock.

21D. (1) The Board 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.

(2) Each register may be inspected at all reasonable times by any person on payment of one shilling for each inspection.

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

S. 26
amended.

5. Section twenty-six of the principal Act is amended—

- (a) by adding after the passage, “delivery;” in the last line of paragraph (J) of subsection (1), the word, “and”;
- (b) by adding after paragraph (b) of the proviso to paragraph (J) of subsection (1), the following paragraph—
 - (c) according to whether the milk is sold in bulk, or in bottles, or in containers other than bottles. ;

- (c) by substituting for the passage, "quantity." in the last line of paragraph (La) of subsection (1), the passage, "quantity, and"; and
- (d) by adding after paragraph (b) of the proviso to paragraph (La) of subsection (1), the following paragraph—
 - (c) according to whether the milk is sold in bulk, or in bottles, or in containers other than bottles. .

6. Section thirty of the principal Act is amended— S. 30
amended.

- (a) by substituting for the words, "more than one quarter of the total number of treatment licenses issued or to be issued" in lines four and five of subsection (4A), the passage, "treatment licenses exceeding four in number, or the whole number equal to or nearest to but not exceeding forty per centum of the total treatment licenses issued or to be issued, whichever of those numbers is the greater";
- (b) by substituting for the passage, "one-quarter or more of the total number of treatment licenses" in lines four and five of subsection (4B), the passage, "the number, or more than the number, of treatment licenses that a licensee is permitted to hold under the provisions of subsection (4A) of this section"; and
- (c) by substituting for the passage, "one-quarter or more of the total number of treatment licenses" in lines four and five of subsection (4D), the passage, "the number, or more than the number, of treatment licenses that a licensee is permitted to hold under the provisions of subsection (4A) of this section".

S. 44
amended.

7. Section forty-four of the principal Act is amended by substituting for the passage commencing with the word, "deemed" in line five of subsection (3) down to and including the word, "funds", being the last word in that subsection, the passage, "paid by the Board out of the Dairy Cattle Compensation Fund established under section fifty-seven of this Act".

S. 61
amended.

8. Section sixty-one of the principal Act is amended by deleting the words, "at least once annually" in lines four and five of paragraph (j).

S. 76
amended.

9. Section seventy-six of the principal Act is amended by adding after subsection (1), the following subsection—

(1a) Without limiting the generality of the provisions of subsection (1) of this section, the Minister may, with the approval of the Governor, make regulations—

- (a) regulating the issue of debentures and the creation of inscribed stock under Division 3 of Part III of this Act;
- (b) for the payment of brokerage and other fees in connection with the making, procuring, negotiation and obtaining any loan of money borrowed under that Division;
- (c) providing for the transmission and transfer of debentures and inscribed stock issued and created under that Division and the noting and registration of such transmissions and transfers, and for the replacement of lost or defaced debentures or certificates relative to inscribed stock; and
- (d) providing generally for any matter not inconsistent with the provisions of this Act with respect to or in connection with such debentures or inscribed stock.