

WESTERN AUSTRALIA.

MILK.

No. 27 of 1946.¹

(Affected by Act No. 113 of 1965.)

[As amended by Acts

- No. 18 of 1947, assented to 5th November, 1947;
- No. 74 of 1947, assented to 13th January, 1948;
- No. 41 of 1948, assented to 21st December, 1948;
- No. 50 of 1952, assented to 23rd December, 1952;
- No. 46 of 1954, assented to 8th December, 1954;
- No. 62 of 1960, assented to 2nd December, 1960;
- No. 70 of 1963, assented to 17th December, 1963;
- No. 15 of 1964, assented to 2nd October, 1964;
- No. 40 of 1965,² assented to 8th November, 1965;

and reprinted pursuant to the Amendments Incorporation Act, 1938.]

AN ACT to consolidate and amend the law relating to the regulation and organisation of the production, purchase, treatment, sale and distribution of milk for use by consumers within the State; to repeal the Metropolitan Milk Act, 1932-1944, and the Dairy Cattle Compensation Act, 1926; and for other purposes.

[Assented to 14th January, 1947.]

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 *Milk Act, 1946-1965*, and shall come into operation on a date to be fixed by proclamation.¹

Short title
and com-
mencement.
Amended by
No. 40 of
1965, s. 1.

¹ Came into operation 20th January, 1947. See *Gazette*, 17th January, 1947, p. 95.

² Came into operation 14th February, 1966. See *Gazette*, 11th February, 1966, p. 436.

Act divided
into Parts.
Amended by
No. 70 of
1963, s. 2;
No. 40 of
1965, s. 3.

2. This Act is divided into Parts as follows:—

PART I., ss. 3 to 7—PRELIMINARY.

PART II., ss. 8 and 9—DAIRY AREAS AND DISTRICTS.

PART III., ss. 10 to 21—THE MILK BOARD.

Division 1, ss. 10 to 17—Constitution of the Board.

Division 2, ss. 18 to 21—Proceedings of the Board.

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

PART IV., ss. 22 to 28—VESTING OF PROPERTY AND GENERAL POWERS AND DUTIES OF THE BOARD.

PART V., ss. 29 to 43—LICENSES.

PART VI., ss. 44 to 61—TESTING OF DAIRY CATTLE AND COMPENSATION.

Division 1, ss. 44 to 56—Testing of Dairy Cattle.

Division 2, ss. 57 to 61—Compensation.

PART VIA., ss. 62 to 64—MILK IMPROVEMENT SCHEME.

PART VII., ss. 65 to 76—MISCELLANEOUS.

SCHEDULE—ACTS REPEALED.

PART I.—PRELIMINARY.

Acts
repealed.

3. The Acts mentioned in the Schedule to this Act are hereby repealed.

Preserving
existing laws.
No. 49 of
1932, s. 2.

4. This Act shall not, except insofar as it expressly or impliedly indicates a contrary intention, affect the provisions of any other Act or of any regulation, by-law, order in council or proclamation.

Application
of this Act.
No. 38 of
1926, s. 4.
No. 49 of
1932, s. 5.

5. This Act shall apply and have effect in all parts of the State, except those parts which the Governor by proclamation from time to time declares shall be excluded from the operation of this

Act. Provided that any proclamation which excludes any part of the State from the operation of this Act may be revoked, varied or amended by a subsequent proclamation.

6. In this Act, unless the context requires otherwise—

Interpretation.
No. 38 of
1926, s. 2.
No. 49 of
1932, s. 3.
Amended
by No. 40
of 1965, s. 4.

“accommodation milk” means milk other than quota milk supplied by a dairyman for milk purposes for sale or treatment pursuant to a license issued under this Act;

“Board” means the Milk Board of Western Australia constituted by this Act;

“Chief Inspector of Stock” means the Chief Inspector of Stock under the Stock Diseases Act, 1895;

“Commissioner of Public Health” means the Commissioner of Public Health under the Health Act, 1911-1944;¹

“contract milk” means milk supplied by a dairyman under the terms of a written contract;

“cream” means that portion of the lacteal fluid of an animal in which either through rest or mechanical separation the greater portion of the fat has become concentrated.

Such portion shall—

- (i) be classed as cream, notwithstanding that it has been scalded, pasteurised, or preservatised;
- (ii) not be classed as cream when it is used or intended to be used in the manufacture of butter, cheese, condensed milk or dried milk;

“dairy” means any farm, dairy or other place where animals are kept for the purpose of producing milk for sale, and includes every stock-yard, milking yard, paddock, shed, stable, stall, and other place on, in, or about

¹ Now Health Act, 1911-1968.

a dairy in which animals are kept, depastured, or milked, or in which milk produced in the dairy is stored or treated prior to the 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;

“dairy cattle” means any bull over the age of nine months, and any cow or heifer over the age of twelve months kept in a dairy for dairying purposes;

“dairyman” means the owner or occupier of a dairy;

“Department” means the Department of Agriculture;

“disease” in relation to dairy cattle means tuberculosis, or actinomycosis, or any other disease of cattle which the Governor by proclamation declares to be a disease for the purposes of this Act; and “diseased” has a corresponding meaning;

“district” means a defined portion of a dairy 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;

“inspector of stock” means an inspector of stock under the Stock Diseases Act, 1895;

“metropolitan area” means that portion of the State including the City of Perth and the City of Fremantle which the Governor shall by order in Council from time to time constitute and declare to be the metropolitan area for the purposes of this Act;

“milk” means the lacteal fluid product of an animal when such fluid is intended for human consumption or use, notwithstanding that—

- (i) it is intended for or purchased for the production of cream; or

- (ii) it has been chilled, pasteurised, flavoured, or had any other substance added to it; or
- (iii) it is concentrated or solidified by freezing.

The term includes cream as hereinbefore defined, but does not include condensed milk or dried milk;

“milk store” means any shop, building, shed, place, cart, or other vehicle in which 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.

The term does not include a person who being the owner or occupier of a milk store uses exclusively for the treatment, manufacture, sale or distribution of ice cream all milk purchased or acquired by him.

“Minister” means the Minister for Agriculture and includes any other Minister of the Crown who temporarily acts as the Minister for Agriculture during the absence of that Minister;

“quota” or “quota milk” means the average daily quantity of milk actually produced and marketed by a dairyman 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;

“to sell” means to sell by wholesale or retail, and includes barter, supply for profits, 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, separation, testing, grading, cooling, refrigerating, bottling, or packing of milk; and “treat” has a corresponding meaning;

“veterinary surgeon” means a veterinary surgeon duly registered under the Veterinary Surgeons’ Act, 1911.¹

Administra-
tion of this
Act.

No. 38 of
1926, s. 3.
No. 49 of
1932, s. 4.

7. Subject to the Minister, this Act shall be administered by the Board.

PART II.—DAIRY AREAS AND DISTRICTS.

Dairy areas.
No. 49 of
1932, s. 19.

8. (1) The Governor may from time to time on the recommendation of the Minister by order in council—

- (a) constitute and declare to be a dairy area any specified portion of the State to which this Act applies and in which milk is produced or deemed to be produced for the purpose of sale by milk vendors to consumers whether in the metropolitan area or elsewhere;
- (b) define the boundaries of a dairy area;
- (c) alter the boundaries of a dairy area;

¹ Now see Veterinary Surgeons Act, 1960.

- (d) unite two or more dairy areas into one dairy area;
- (e) divide any dairy area into two or more dairy areas;
- (f) assign a name to a dairy area;
- (g) abolish a dairy area.

(2) For the purpose of the division of the same into districts for the purposes of section nine of this Act, the metropolitan area shall be deemed to be a dairy area constituted under subsection (1) of this section and known as the "Metropolitan dairy area."

9. (1) The Governor may from time to time on the recommendation of the Minister by order in council—

Districts.
No. 49 of
1932, s. 19.

- (a) divide any dairy area into districts;
- (b) define the boundaries of a district;
- (c) alter the boundaries of a district;
- (d) unite two or more districts into one district;
- (e) subdivide any district into two or more districts;
- (f) abolish any district.

(2) When a dairy area is divided into districts under subsection (1) of this section persons may, in the carrying on of business as milk vendors under this Act be restricted to any specified one or more of such districts.

PART III.—THE MILK BOARD.

Division 1—Constitution of the Board.

10. (1) For the purpose of carrying out the provisions of this Act there shall be a board, to be called "The Milk Board of Western Australia" constituted as hereinafter provided.

Milk Board
constituted.
No. 49 of
1932, s. 6.

(2) Such board shall be a body corporate with perpetual succession and a common seal and shall be capable in law of suing and being sued, and of

acquiring, purchasing, holding, exchanging, leasing and disposing of real and personal property, and of doing such other acts, matters, and things within the provisions of this Act as other corporate bodies may lawfully do.

(3) No member of the Board shall be personally liable for any act of the Board, but the Board alone shall be liable.

(4) The Board shall be successor to The Metropolitan Milk Board constituted under the Metropolitan Milk Act, 1932-1944.¹

(5) Until the due constitution of the Board under this Act, all the powers hereby conferred on the Board may be exercised by the said Metropolitan Milk Board, but such last-mentioned board shall on the constitution of the Board under this Act, be dissolved.

(6) The election of the present members of the Board is hereby validated and, notwithstanding anything contained in this or the preceding section, the present members of the Board shall hold office until a new Board is elected under this Act.

Constitution
of Board.
Substituted
by No. 41 of
1948, s. 3.
Amended by
No. 46 of
1954, s. 2.

11. (1) The Board shall comprise the offices of a member as Chairman and two other members of whom one, who shall be actively engaged in the business of dairymen licensed under this Act, is the representative of dairymen licensed under this Act and one is the representative of consumers of milk.

(2) The Governor shall appoint to each of those offices a person, who is recommended by the Minister.

(2a) (a) Before making a recommendation to the Governor for the appointment of a person to the office of member representing dairymen licensed under this Act, either in the first instance or thereafter whenever there is a vacancy in that office, the Minister shall give written notice to the body known as The Farmers' Union of Western Australia (Inc.) that it is his intention to make the recommendation.

¹ See Schedule to this Act.

(b) If within thirty days of the giving of the notice the body submits a panel of the names of three persons who are actively engaged in the business of dairyman licensed under this Act and are prepared to hold the office, the Minister shall recommend one of those persons for the appointment.

(c) If at the expiration of that period or such extension of that period as he thinks fit, and is hereby authorised to grant, he has not received the panel, the Minister shall recommend for the appointment, such person actively engaged in the business of dairyman licensed under this Act as he thinks fit.

(3) A person shall not be eligible for recommendation or appointment to, or to hold any of those offices, except the office of member representing dairymen licensed under this Act, if he—

- (a) is a dairyman, milk vendor or holder of a treatment license; or
- (b) is a member of any partnership or firm, or a director, officer, or member of, or receives, or is entitled to receive any benefit, remuneration or fee from, any association, society, company or other corporate body, directly or indirectly carrying on the business of, or having for or among its objects, the production, supply, treatment, or distribution of milk.

12. (1) The person appointed to the office of Chairman of the Board shall, subject to the provisions of this Act, hold office for a period of seven years from appointment, and on expiration of that period shall, subject to those provisions, be eligible for re-appointment.

Terms of Office of Members of the Board. Substituted by No. 41 of 1948, s. 4. Amended by No. 46 of 1954, s. 3.

(2) Each of the two persons appointed to the office of member of the Board shall, subject to the provisions of this Act, hold office for a period of three

years from appointment, and on the expiration of that period shall, subject to the provisions of this Act, be eligible for re-appointment.

(3) [*Repealed by No. 46 of 1954, s. 3.*]

Vacancies:
how created.
Amended by
No. 41 of
1948, s. 5.

13. A member of the Board shall vacate his seat as such member, if he resigns by writing under his hand given to the Minister, or if he dies, or becomes an insane person, or if he fails to attend meetings of the Board for three consecutive months without the leave of the Board first being obtained, or becomes incapable of carrying out his duties.

Vacancies to
be filled.
Amended by
No. 41 of
1948, s. 6.
[No. 49 of
1932, s. 9.]

14. (1) In case of a vacancy occurring in the office of an appointed member of the Board, the Governor shall as soon as reasonably may be, appoint a person to fill such vacancy, but the person so appointed shall hold office only during the unexpired portion of the term of his predecessor.

(2) [*Repealed by No. 41 of 1948, s. 6.*]

15. [*Repealed by No. 41 of 1948, s. 7.*]

Remunera-
tion of
members.
No. 49 of
1932, s. 16.

16. (1) 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.

(2) Such fees and expenses shall be charged upon and be paid out of the administration funds of the Board.

Administra-
tion funds.
Amended by
No. 62 of
1960, s. 2;
No. 70 of
1963, s. 3;
No. 40 of
1965, s. 5.
[No. 49 of
1932, s. 12.]

17. (1) The funds of the Board which may be used for defraying the costs and expenses of the administration of this Act (in this Act hereinafter referred to as "the administration funds") shall consist of—

- (a) license fees and other fees prescribed and payable to the Board;
- (b) moneys appropriated by Parliament and payable to the Board for the purposes of this Act;

- (ba) such moneys as the Board may borrow under and subject to the provisions of this Act;
- (c) (*deleted by No. 62 of 1960. S2*)
- (d) all other moneys which may come into the hands of the Board under and for the purposes of this Act.

(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.

Division 2—Proceedings of the Board.

18. (1) Meetings of the Board shall be held at such place and on such days as the Board shall appoint.

Meetings.
Amended by
No. 41 of
1948, s. 8.
[No. 49 of
1932, s. 13.]

(2) The chairman of the Board shall preside at all meetings of the Board at which he is present, and in his absence from any such meeting the members then present shall elect one of their number to be chairman of that meeting.

(3) Any two members of the Board shall form a quorum thereof.

(4) All questions at any meeting shall be determined by a majority of the votes of the members present, and in the event of an equal division of votes such question shall be deemed to be resolved in the negative.

19. 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.
No. 49 of
1932, s. 14.

20. In case of illness, other incapacity, or absence from the State of any member of the Board by

Deputy
members.
No. 49 of
1932, s. 15.

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.

Meetings to be conducted and business transacted in the manner prescribed.

21. The meetings of the Board shall be conducted and the business shall be transacted at such meetings in such manner as may be prescribed.

Division 3—Powers of Board to Borrow Money.

Power to borrow from Treasurer. Added by No. 70 of 1963; s. 4.

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 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. Added by No. 70 of 1963, s. 4.

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)

Investment
of sinking
fund.
Added by
No. 70 of
1963, s. 4.

of section twenty-one B of this Act as a sinking fund and all interest accruing thereon.

(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.

Added by
No. 70 of
1963, s. 4.
Amended by
No. 113 of
1965, s. 8.

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 ten cents for each inspection.

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

PART IV.—VESTING OF PROPERTY AND GENERAL POWERS AND DUTIES OF THE BOARD.

Vesting of
property.

22. On the due constitution of the Board under this Act, all the property and assets whatsoever of the Metropolitan Milk Board as constituted under the Metropolitan Milk Act, 1932-1944,¹ and all moneys standing to the credit of the Dairy Cattle Compensation Fund established under the Dairy Cattle Compensation Act, 1926,¹ shall, subject as hereinafter provided, vest in the Board and all the

¹ See Schedule to this Act.

liabilities of the said Metropolitan Milk Board shall become liabilities of the Board.

Provided that—

- (1) (a) moneys standing to the credit of the Dairy Cattle Compensation Fund aforesaid;
- (b) moneys standing to the credit of The Dairymen's Compensation Fund, and The Milk Vendors' Compensation Fund established under the Metropolitan Milk Act, 1932-1944,¹ respectively—

shall upon becoming vested in the Board under this section be placed to the credit of the Dairy Cattle Compensation Fund as established under and for the purpose of this Act, and be used and applied as authorised by the provisions of this Act; and

(2) All other moneys formerly held by the Metropolitan Milk Board aforesaid shall, upon becoming vested in the Board under this section, be placed to the credit of the ordinary administration funds of the Board and be used and applied for defraying the ordinary administration expenses of the Board under this Act.

23. (1) The Board may with the approval of the Minister purchase, take on lease, or otherwise acquire buildings or land and all such apparatus and plant and other property as the Board may think requisite for carrying into effect the purposes of this Act, and may from time to time sell or exchange or let any property acquired by or vested in the Board for the purposes of this Act.

Power to purchase property.

(2) All moneys resulting from the sale, exchange, or letting of any property by the Board may be applied in the purchase of property for the Board or the improvement of the property of the Board or in defraying the administration expenses of the Board as the Board may think fit and the Minister approve.

¹ See Schedule to this Act.

Officers of
the Board.
No. 49 of
1932, s. 17.

24. (1) The Board may appoint and pay out of the ordinary administration funds of the Board such officers as it considers necessary to enable it to carry out its functions and duties under this Act.

(2) For the purposes of this Act the Board may, with the approval of the Minister of Public Health, authorise any specified officer or officers in the employ of the Board to exercise the powers and functions of health inspectors under the provisions of the Health Act, 1911-1944,¹ if and so long as such officer or officers possess the qualifications necessary for appointment as a Health Inspector under the said Act.

Depart-
mental
inspectors.
No. 49 of
1932, s. 18.

25. (1) The Minister may, by notice in writing signed by him and published in the *Government Gazette*, authorise any inspectors of stock and other inspectors employed on the staff of the Department to be and act as inspectors for the Board under and for the purposes of this Act; and 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.

Powers and
functions of
the Board.
Amended by
No. 74 of
1947, s. 3;
No. 41 of
1948, s. 9;
No. 62 of
1960, s. 3;
No. 70 of
1963, s. 5;
No. 113 of
1965, s. 8.
[No. 43 of
1932, ss. 36
and 37.]

26. (1) Subject to this Act, and in particular to subsection (2) of this section, the Board is hereby charged with the following matters:—

- (A) the regulation and organisation of—
- (i) the production of milk in dairy areas;
 - (ii) the supply and sale of milk by dairymen to milk vendors;
 - (iii) the supply, sale and distribution of milk to consumers;

¹ Now Health Act, 1911-1968.

- (iv) the treatment of milk before sale and distribution to consumers, including subject to the provisions of the Health Act, 1911-1944,¹ and the regulations thereunder) the prescribing of conditions under which certain processes connected with or incidental to the treatment of milk shall be used or carried out;
 - (v) the prohibition of the use for human consumption in any form of milk which appears to be deleterious to health or unwholesome;
 - (vi) the transport, carriage and conveyance of milk produced in dairy areas;
 - (vii) 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.
- (B) (i) The prohibition of the employment in places used for the treatment of milk of persons in the carrying out of specified technical operations in connection with or incidental to the treatment of milk, unless such persons hold a certificate of competency from the Board;
- (ii) prescribing examinations for, and the issue of certificates of competency to be held by persons to qualify them for employment in the carrying out of specified technical operations in connection with or incidental to the treatment of milk;
- (iii) the prohibition of the use of separators in places used for the treatment of milk without the written consent of the Board.

¹ See Health Act, 1911-1968.

Milk.

- (C) The inspection of—
- (i) dairies, milk stores, milk, and places for the treatment of milk;
 - (ii) 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.
- (D) The issue and revocation of licenses and the classification in such manner and into such classes as the Board thinks fit of each of the kinds of business which under section thirty of this Act the respective licensees are entitled to carry on.
- (E) The inspection, and testing for disease, of dairy cattle in dairy areas as determined by the Minister.
- (F) 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, and to prevent the supply to consumers of milk which is not or is believed not to be fresh, clean and wholesome, or which is adulterated.
- (FA) Fixing minimum standards of quality for milk and cream, and preventing the supply of milk or cream which does not comply with the prescribed standard.
- (G) Subject to paragraph (I) hereof, the making settlement and approval of contracts for the supply of milk by dairymen to milk vendors.
- (H) Fixing the proportionate quantities of accommodation milk which dairymen shall be entitled to supply to milk vendors.

- (I) Fixing the minimum price or prices per gallon to dairymen for milk supplied in any dairy area:

Provided, 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 incidental to the production of milk; and
 - (iv) if necessary, a premium during periods of scarcity; and
- (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.

Provided that a different price or prices may be fixed in respect of milk produced in different dairy areas or parts thereof, whether sold to or purchased by a milk vendor in a district in the dairy area in which the milk was produced or in a district in a different dairy area.

- (J) Fixing the maximum price or prices which may be charged for milk sold by milk vendors to other milk vendors:

Provided that a different maximum price or prices may be fixed—

- (a) in respect of milk sold in different dairy areas or parts thereof; and
- (b) according to differences in grade, quality, description or quantity or place of delivery; and

- (c) according to whether the milk is sold in bulk, or in bottles, or in containers other than bottles.
- (K) Fixing the maximum rates for road transport of milk from and in dairy areas.
- (L) Fixing the maximum rate or rates which may be charged by any person for any particular services connected with the treatment of milk:
- Provided that a different rate or rates may be fixed for milk treated in different dairy areas or parts thereof.
- (La) Fixing the maximum price or prices at which milk may be sold by retail in any dairy area:
- Provided that a different maximum price or prices may be fixed—
- (a) in respect of milk delivered or sold in different dairy areas, or parts thereof, and
 - (b) according to differences in grade, quality, description or quantity, and
 - (c) according to whether the milk is sold in bulk, or in bottles, or in container other than bottles.
- (M) Defining the functions, authorities and duties of inspectors.
- (N) Prescribing conditions in relation to any of the matters specified in this section.
- (O) The issue of directions or orders to any dairyman, milk vendor, or other person to supply and sell milk in reasonable quantities to any person or class of persons or to any authority organisation or other body.
- (P) Any other matter which in the opinion of the Minister is incidental to any of the matters aforesaid.

(2) Nothing in subsection (1) of this section or elsewhere 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, 1911-1944,¹ or of the Chief Inspector of Stock or any inspectors of stock.

(3) (a) For the purpose of carrying out the duties imposed upon it by the provisions of this Act, the Board may require any person engaged in any of the businesses of dairyman, milk vendor, treatment, or transport of milk, to produce to the Board any books of account, and any other document kept or prepared in connection with the business, and to supply to the Board such other particulars in relation to the business as the Board shall require.

Board empowered to require production of accounts, etc.

(b) The Board may for a period not exceeding fourteen days retain the books, balance sheets, copies and documents produced as required and take copies of or extracts from them.

(c) Failure to comply with any requirement made pursuant to the provisions of this subsection constitutes an offence against this Act.

Penalty—One hundred dollars.

26A. (1) For the purposes of this section, unless the context requires otherwise—

“appointed day” means a day appointed by public notice pursuant to the provisions of this section;

“encumbrance” includes mortgage, charge, lien, pledge, trust, contract and any right in derogation of absolute ownership;

“interest” means any right, contingent or existing, in absolute ownership or under an encumbrance;

“milk delivered to the board” means milk delivered by and in the name of the dairyman producing it, in such quantities and at such times and places, and to such persons as the Board shall determine; and

Definitions. Added by No. 41 of 1948, s. 10. Amended by No. 113 of 1965, s. 8.

¹ See Health Act, 1911-1968.

“delivery of milk to the Board” and similar expressions shall have a corresponding meaning;

“public notice” means a notice given pursuant to the provisions of this section and published in the *Gazette* and a newspaper published in Perth;

“vested milk” means milk which becomes vested in and the property of the Board pursuant to the provisions of this section.

Circumstances in which certain milk to vest in Board.
 Cf. N.S.W. Milk Act, 1931-1936, s. 26.

(2) When in the opinion of the Board there is anything to prevent or likely to prevent the production or distribution of milk so that a state of emergency has in the opinion of the Board arisen or is about to arise in any district or part of a district, the Governor may, by public notice, fix the appointed day, on and from which, and until the Governor, as soon as the state of emergency has terminated, by public notice orders otherwise—

- (a) by virtue of this enactment, milk referred to in the notice shall become absolutely vested in and be the property of the Board freed from every interest which shall be converted into a claim for payment by the Board for that interest.
- (b) every dairyman referred to in the notice, shall comply with the requirements of this section as to the disposal of vested milk.

Provisions as to public notice.

(3) The public notice may—

- (a) provide for the vesting of the milk in the Board subject to the fulfilment of such conditions as shall be specified in the notice;
- (b) be amended from time to time or cancelled, or both, by subsequent public notice.

(4) Any public notice may refer to any person or thing generally or specifically, but shall not include any reference to milk required by a dairyman or his family for use as food.

(5) (a) On and from the appointed day every dairyman referred to, whether generally or specifically, in a public notice shall not dispose of vested milk otherwise than by delivery of the milk to the Board.

Restraint on dealings with vested milk.

(b) Any dairyman who disposes of, and any person, other than the Board, who acquires from, a dairyman, vested milk, commits an offence.

Penalty—Two hundred dollars.

(6) The Board may dispose of vested milk in such manner, as having regard to the purpose of this Act, the Board determines.

Power of Board to dispose of vested milk.

(7) Every delivery of vested milk to the Board shall, for the purposes of the provisions of the Health Act, 1912-1944,¹ relating to food, be deemed to be a sale of that milk to the Board by the dairyman in whose name it is delivered, and those provisions shall apply accordingly.

Cf. Health Act, 1912-1944 (Vol. I, 1939 reprint), Pt. VIII.

(8) The Board shall, out of the proceeds of vested milk disposed of by the Board under the provisions of this section, make appropriate provision for expenditure incurred in the treatment, carriage, distribution, and sale of the milk, the costs, charges and expenses of the administration by the Board of this Act, and any amounts necessary to repay advances made to the Board, and to provide a sinking fund in respect of any loan raised by the Board, and interest on the advance or loan; and subject to this Act shall make repayments in accordance with the provisions of the next succeeding subsection to each dairyman in respect of vested milk delivered to the Board by him.

Appropriation of proceeds of disposal of vested milk.

(9) (a) The Board shall pay to each dairyman, at such times as the Board shall determine, an amount calculated at the rate of the minimum price or prices applicable to or in respect of the vested milk delivered to the Board by the dairyman.

Payments to dairyman.

¹ See Health Act, 1911-1968.

(b) Where, in respect of any period which the Board determines to adopt, the Board has, out of the proceeds of vested milk delivered by dairymen at any particular place—

- (i) made the payments referred to in the last preceding paragraph; and
- (ii) made such provision for the matters referred to in the last preceding subsection as the Board deems reasonably appropriate to and in respect of the vested milk so delivered,

the Board shall distribute, among those dairymen in proportion to the quantity of vested milk delivered by each of them at that place during that period, so much of any balance, of the proceeds as the Board determines is available for the purpose.

Provision for
ascertaining
price.

(10) For the purposes of ascertaining the price to be paid to a dairyman for vested milk delivered to the Board, and for the purposes of this enactment, the Board's decision as to grade, quality, or description (Whether grade, quality, or description is prescribed or not), and as to the quantity or the conditions of production, supply, collection, treatment, or delivery, shall be final and conclusive.

Advances on
account.

(11) The Board may make or arrange for advances on account of vested milk delivered to the Board, and the advances and any payment made on account of that milk may be made at such time or times, and on such terms and conditions, and in such manner as the Board determines.

Effect of
vesting on
contracts.

(12) (a) Subject to the provisions of this subsection, whenever milk, which is or becomes the subject of a contract for sale and purchase, becomes or is vested milk on and from an appointed day fixed by public notice, the contract shall be null and void for the period during which the public notice remains operative.

(b) Notwithstanding any provision of the contract

to the contrary, it shall be construed and given effect as if it contained provisions—

- (i) that failure to make or accept delivery of the vested milk during that period shall not be a ground for repudiation, or damages for breach, of the contract; and
- (ii) that at any time, other than during that period, each delivery shall be regarded as being required to be made and accepted under a separate contract.

(c) Subject to the provisions of this subsection nothing contained in this subsection shall prejudice the rights or liabilities of any party to the contract, if those rights or liabilities arise under the contract at any time other than during that period.

(d) Any transaction or agreement with respect to milk which is the subject-matter of any contract or part of a contract declared by this section to be void to any extent shall also be void and of no effect to a corresponding extent, and any money paid in respect of any agreement or part of an agreement hereby made void or of any such transaction, shall, to the extent to which the contract or transaction is made void, be repaid, and the provisions of paragraph (b) of this subsection shall, with appropriate adaptations, apply in respect of the agreement or transaction.

(13) (a) Subject to the provisions of this subsection no proceedings shall be brought against the Board or any person acting under its authority by any person claiming to be entitled to any interest in any vested milk.

Remedy
against
Board
confined to
claim for
account.

(b) Subject to the provisions of this subsection, any person who, but for those provisions would be entitled to bring any such proceedings as are referred to in the last preceding paragraph, may adopt the delivery of vested milk to the Board as a delivery thereof by him to the Board, and may claim accordingly for an account of the payments due in respect thereof, and recover the amount found due in any court of competent jurisdiction as a debt to him by the Board.

(c) Notwithstanding the provisions of any other Act or any rule of law to the contrary, any such person as is referred to in the last preceding paragraph shall not be entitled—

- (i) so to claim an account, until he has given prior notice in writing to the Board, in the form and containing the particulars and of the duration prescribed, of the interest he claims in respect of the vested milk;
- (ii) to recover any part of the amount found due on the taking of the account, which has already been paid to other persons at the time of the receipt by the Board of the notice.

Notification
of encum-
brances to
Board.

(14) (a) Every dairyman, who produces vested milk, which is affected by an encumbrance at the appointed day, or becomes so affected after the appointed day, as the case may be, shall so soon as conveniently may be and within forty-eight hours of the appointed day, or that on which the vested milk becomes so affected thereafter, as the case may be, give to the Board a notice in writing, in the form and containing particulars prescribed, of the encumbrance.

(b) Any person, who knowingly fails to comply with the provisions of this subsection, is guilty of an offence against this Act.

Non-liability
of Board for
payments in
good faith,
etc.

(15) (a) Where the Board in good faith and without negligence has made any payment—

- (i) to a dairyman in respect of any interest claimed by him in any vested milk delivered by him to the Board or any person acting under its authority; or
- (ii) to any person entitled or claiming to be entitled through the dairyman in respect of that interest or any part of it; or
- (iii) to any person on the order of that dairyman or lastmentioned person in respect of that interest or any part of it,

the Board shall not be answerable to any other

person in respect of the payment, or in any action, suit, claim, or demand whatsoever for damages or otherwise in respect of that interest or any part of it.

(b) If prior to receiving notice of claim to payment for any interest in the vested milk, other than that made by the dairyman and referred to in the last preceding paragraph, Protection of Board.

the Board has in good faith and without negligence adjusted and settled with the dairyman, or any person entitled or claiming to be entitled through him or on his or that person's order, in respect of the claim made by him, or with any person who has made a claim in accordance with the provisions of paragraph (c) of subsection (13) of this section for the money payable thereunder,—

the Board shall not incur any liability to the true owner of that interest or any part thereof or to any party claiming through, under, or in trust for him:

Provided that the Board shall not be entitled to the protection of this subsection in respect of any moneys remaining in its hands at the time of receipt by it of notice of that other claim or thereafter coming to its hands in respect of the interest the subject matter of that other claim.

(c) This section shall not in any way prejudice or affect any rights between or among themselves of any parties claiming adversely to one another to be entitled to any interest in the vested milk the subject matter or part of the subject matter of any claim for payment.

(d) Subject to the provisions of paragraph (b) of this subsection the Board may plead those provisions in absolute bar of any proceedings by any such dairyman, transferee, or party as aforesaid in respect of such interest or any part thereof.

(16) No action, claim, or demand whatsoever shall lie, or be made or allowed by or in favour of any person whomsoever against Her Majesty, or the Minister or (save as in this Act provided) the Board or any officer or person acting in the execution of Protection of Crown and its officers.

the provisions of this Act for or in respect of any damage or loss or injury sustained or alleged to be sustained by reason of the passing of this Act or the publication of any public notice pursuant to the provisions of this section or of its operation, or of anything done or purporting to be done in good faith thereunder.

Consent of Board to sale or acquisition of certain businesses. Added by No. 41 of 1948, s. 10. Amended by No. 113 of 1965, s. 8.

26B. (1) No person, carrying on the business of dairyman, milk vendor or milk treatment under the authority of the appropriate license issued by the Board pursuant to the provisions of this Act shall dispose of the license without first having obtained the consent in writing of the Board.

Penalty—One hundred dollars.

(2) No person shall acquire any license referred to in the last preceding subsection without first having obtained the consent in writing of the Board.

Penalty—One hundred dollars.

(3) The Board, having regard to the objects of this Act, may grant or refuse its consent.

(4) (a) In any case where the Board refuses its consent under this section there shall be an appeal to the Minister within the prescribed time and manner.

(b) On the hearing of any such appeal the Minister may make such order as he thinks just.

Power of Board to require milk and cream delivered to householders, etc., to be pasteurised. *vide* "sale" s. 6.

Repealed and re-enacted by No. 15 of 1964, s. 2. Amended by No. 113 of 1965, s. 8.

27. (1) The Board may by notice published in the *Government Gazette* prescribe that before any milk or cream is delivered for sale by any person—

(a) to householders in any district specified in the notice, the milk or cream—

(i) shall be pasteurised in conformity with the provisions of the regulations for the time being in force, relating to pasteurised milk or cream; and

- (ii) shall be bottled and sealed or placed in a carton or other container and sealed in conformity with the provisions of the regulations for the time being in force; and
- (b) for human consumption to persons, other than householders, in any district specified in the notice, the milk or cream shall be pasteurised in conformity with the provisions of the regulations, for the time being in force, relating to pasteurised milk or cream.
- (2) Any notice made pursuant to this section takes effect as from the date specified in the notice and may be cancelled or from time to time varied by subsequent notice.
- (3) A person who fails to comply with the requirements of a notice made pursuant to this section commits an offence.

Penalty: One hundred dollars.

28. Notwithstanding anything contained in this Act, the Board in exercise of its powers under this Act shall be subject to the control of the Minister, and if any action or proceedings or intended action or proceedings is not approved by the Minister, he may by notice in writing addressed to and served on the chairman of the Board, 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.

Limitations of powers of Board in taking proceedings. No. 49 of 1932, s. 35.

PART V.—LICENSESES.

29. (1) Subject as otherwise expressly provided by this Act, a person shall not—

- (a) carry on business as a dairyman in any dairy area; or
- (b) carry on business as a milk vendor in any district; or

Prohibition against carrying on business as dairyman or milk vendor, or treating milk without license. Amended by No. 113 of 1965, s. 8. [No. 49 of 1932, s. 20.]

(c) treat milk intended for sale to consumers, except under the authority of the appropriate license issued by the Board under this Act.

Penalty—One hundred dollars or imprisonment for three months.

(2) Subsection (1) of this section shall not apply to any person who proves to the satisfaction of the Board that milk produced by him is not sold or intended for sale to consumers.

(3) For the purposes of this section the fact that any person who is the owner or occupier of any place where animals are kept for depasture or milking has delivered milk in any quantity of, or quantities aggregating, one gallon or more on any specified day to any person or persons (other than a member of the family of such owner or occupier or an employee of such owner or occupier) shall be *prima facie* evidence that such owner or occupier was carrying on business as a dairyman at the place hereinbefore mentioned.

(4) Notwithstanding anything in this Act contained, if any person shall prove to the satisfaction of the Board that all milk and cream acquired by him is so acquired solely for the purpose of manufacturing, the Board may, in its absolute discretion, and for such period or periods, and subject to such conditions (if any) as the Board shall think fit, grant to such person, and at any time alter, a certificate of exemption in the prescribed form; and such certificate, whilst in force and subject to the due compliance with and observance of its conditions (if any), shall exempt such person as aforesaid from the operation of this Act. If any person shall fail to comply with or observe any of the conditions relating to such certificate as aforesaid, the Board may, in its absolute discretion, forthwith revoke such certificate.

Provided that such person as aforesaid shall from time to time furnish to the Board as and when required, returns and other information relating to all milk and cream acquired by him, and shall at

all times permit an inspector to enter upon such person's premises and inspect his books and other records relating to his acquisition of milk and cream.

30. (1) Licenses which may be issued under this Act are as follows:—

Kinds of
licenses.
Amended by
No. 18 of
1947, s. 3;
No. 62 of
1960, s. 4;
No. 70 of
1963, s. 6.
[No. 49 of
1932, s. 21.]

- (i) A dairyman's license—which shall entitle the licensee to carry on the classification specified by the Board of the business or calling of a dairyman in specified premises in a specified dairy area, and to supply by wholesale milk produced on such premises for consumption or treatment in a district;
- (ii) a milk vendor's license—which may be in one of the following forms and have effect as follows:—
 - (a) A milkman's license—which shall entitle the licensee to carry on the classification specified by the Board of the business of selling milk in a specified district from any vehicle or vehicles used by the licensee for the distribution of milk from a specified depot or place in the district;
 - (b) a cream vendor's license—which shall entitle the licensee to carry on the classification specified by the Board of the business of selling cream from any vehicle or vehicles in a specified locality in a specified district;
 - (c) a milk shop license—which shall entitle the licensee to carry on the classification specified by the Board of the business of selling milk in a specified shop in a specified district;
 - (d) a milk store license—which shall entitle the licensee to carry on the classification specified by the Board of the business of selling milk in a particular store in a specified district

provided the milk is consumed in the store;

- (iii) a treatment license—which shall entitle the licensee to carry on the classification specified by the Board of the business of treating in a manner specified therein milk in specified premises within a specified district for use or consumption by consumers.

(2) Wherever in subsection (1) of this section the expression “district” is used, such expression shall mean a district constituted under and for the purposes of this Act whether situated within or outside the metropolitan area.

(3) Every license issued under this Act shall be so issued subject to the provisions of this Act and the regulations made thereunder.

(4) Every license shall be incapable of transfer or assignment except with the express approval in writing of the Board.

(4A) The Board shall not in any case issue a treatment license to any applicant therefor if by the issue of such license, such applicant shall become the licensee of 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.

(4B) The Board shall not give its approval to the transfer or assignment of a treatment license if the proposed transferee or assignee thereof is already the licensee of 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.

(4C) For the purposes of the last two preceding subsections, a proposed transferee or assignee of or an applicant for any treatment license—

- (a) being a partner or member of a firm or company which is or becomes a licensee of any treatment license; or
- (b) being a firm or company of which any partner or member is or becomes the licensee of any treatment license; or
- (c) being a firm or company the partners or members of which are the same or substantially the same persons as the partners or members of a firm or company which is or becomes the licensee of any treatment license—

shall be deemed to be the licensee of every treatment license, the licensee whereof is or becomes the firm or company of which the proposed transferee or assignee or the applicant is a partner or member, or the licensee whereof is or becomes a person who is a partner or member of the firm or company which is the proposed transferee or assignee or the applicant.

(4D) No person who is the licensee of a treatment license shall continue to hold such license if he is a partner or member of a firm or company which is or becomes the licensee of 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.

(5) (a) The fees respectively payable for the licenses referred to in subsection (1) of this section shall be as prescribed, and may be prescribed on a scale or scales varying in relation to the classification specified by the Board of the business which under that subsection the licensee is entitled to carry on.

(b) A scale of license fees prescribed in accordance with the provisions of paragraph (a) of this subsection may be based, where practicable, upon the quantity of milk sold or treated during the year immediately preceding the year in respect of which the license fees are payable, but where that basis is not practicable, or the board considers that that basis is not practicable, in respect of any license, a

separate scale or fixed fee may be prescribed therefor notwithstanding that the license is of the same kind as one included in a scale first-mentioned in this paragraph.

(6) No licensee under this section shall store or place, or have in his possession or under his control, any milk in any premises, district, depot, place, locality, shop or store, which has not been specified in a license issued to such licensee under subsection (1) of this section.

How licenses
obtained.
Amended by
No. 62 of
1960, s. 2.
[No. 49 of
1932, s. 22.]

31. (1) Every person who desires to obtain a license under this Act shall make application in writing in the prescribed form to the Board, and at the time of making the application shall pay to the Board the appropriate prescribed fee.

(1a) Where the Board issues a license under this Act to a person who has applied therefor, the fee paid for that license is irrecoverable by the applicant, but if in any case the Board refuses to issue the license applied for, it shall refund to the person applying for that license the fee paid by him when so applying.

(2) Licenses shall have effect until the thirtieth day of June next following the date of the issue thereof.

(3) Any person who on the thirtieth day of June next preceding the day of application for a license was the holder of the particular kind of license applied for under this Act shall be entitled to a period of fourteen days' grace after the said thirtieth day of June in which to apply for a license and shall not during such period of grace be liable to any penalty for carrying on business in terms of the license so held by him.

(4) (a) All licenses issued under the Metropolitan Milk Act, 1932-1944,¹ and in force at the commencement of this Act shall by force of this Act be deemed to be surrendered at the expiration of thirty days after the commencement of this Act.

¹ See Schedule to this Act.

(b) If the licensee under any license mentioned in paragraph (a) of this subsection desires to obtain a license under this Act in substitution for such surrendered license, he shall make application in writing in the prescribed form to the Board, and the Board shall deal with the same and exercise the same powers and authorities in regard thereto as it may exercise in relation to other applications for licenses under this Act.

(c) The prescribed license fee payable under section thirty of this Act shall not be payable in respect of any substituted license issued under this subsection.

32. (1) Any person to whom the Board has refused to issue a license under this Act may appeal to the Minister within the prescribed time and manner against the decision of the Board.

Appeal where license refused.
No. 49 of 1932, s. 23.

(2) On the hearing of the appeal the Minister may order the license applied for to be issued or may confirm the decision of the Board.

(3) The decision of the Minister shall be final.

33. (1) Whenever a person appeals against the decision of the Board refusing the issue of a license to such person, such person shall, pending the hearing of the appeal, refrain from doing in relation to milk any of those things for the doing of which the authority of the license refused is necessary under this Act.

Delivery or treatment of milk to be suspended pending appeal.
Amended by No. 41 of 1948, s. 11; No. 113 of 1965, s. 8.

Penalty—One hundred dollars and in addition a daily penalty of four dollars for every day or part of a day during which the offence is continued.

(2) [*Repealed by No. 41 of 1948, s. 11.*]

34. (1) Every person who in any year intends to produce milk for sale in any district (whether such district is comprised within the metropolitan area or not) or to bring into any such district for sale any milk other than milk for use as milk shall give notice thereof in writing in the prescribed form to

Returns to be furnished in respect of milk brought into districts other than for use as such.
Amended by No. 113 of 1965, s. 8.
[No. 49 of 1932, s. 24.]

the Board, and during such year or thereafter, shall submit to the Board at such times and places as may be specified such returns, giving information as to the quantities of milk handled and to the manner of its disposal as the Board may require.

Provided that the Board may by notice in writing signed by the chairman and published in the *Government Gazette* from time to time exempt persons from their obligation to comply with the provisions of this section when the district or districts in which milk is intended to be sold or brought as aforesaid is or are situate outside the metropolitan area.

(2) Any person who fails in any respect to comply with the provisions of subsection (1) of this section, when he is not exempted from such compliance shall be guilty of an offence.

Penalty—One hundred dollars.

Revocation
of licenses.
No. 49 of
1932, s. 25.

35. (1) (a) 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.

(b) Upon the conviction of any such person for any offence against the laws or regulations relating to public health, where such offence relates to the premises in respect of which the license is granted or to the conduct of the business carried on in connection with such premises, the Board may, at the request of the Commissioner of Public Health, forthwith revoke the license held by such person.

Provided that the Board shall, at the request of the Commissioner of Public Health, prohibit the sale of milk from such premises until such premises are made to comply with the requirements of the Health Act.¹

¹ See Health Act, 1911-1966.

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

(3) Sections thirty-two and thirty-three of this Act shall apply, with such adaptations as may be necessary in respect of the decision of the Board revoking the license held by a person in the same way and to the same extent as the said sections apply in relation to the decision of the Board refusing the issue of a license to a person under this Act.

Appeal and suspension of business pending hearing of appeal.

(4) Where the Board revokes a license and the licensee does not appeal against such revocation, or having appealed the revocation of the license is confirmed by the Minister, notice of such revocation of such license shall be given by the Board to the Commissioner of Public Health and to the local authority in whose district the license which has been revoked was exercised and to the depot, if any, to which the license holder had been supplying his milk.

36. Papers relating to any and all appeals to the Minister shall be laid upon the Table of both Houses of Parliament.

Appeal papers to be tabled.

37. A licensed person shall not mix or permit the mixing of any milk purchased or obtained for treatment with any other milk not purchased or obtained for treatment.

Penalty for mixing milk for treatment.

Amended by No. 113 of 1965, s. 8.
[No. 49 of 1932, s. 26.]

Penalty—One hundred dollars or imprisonment for three months.

38. (1) An unlicensed dairyman shall not sell or offer to sell or supply milk to a licensed dairyman for the purpose of or in connection with the business of the licensed dairyman.

Illicit dealing in milk.
Amended by No. 113 of 1965, s. 8.
[No. 49 of 1932, s. 27.]

(2) A licensed person shall not obtain milk for sale or treatment under his license from an unlicensed person.

(3) Any person who contravenes either subsection (1) or subsection (2) of this section shall be liable to a penalty of one hundred dollars or to imprisonment for three months.

Penalty for employing certain persons in connection with the treatment of milk.

Amended by No. 113 of 1965, s. 8.

39. Where in accordance with the requirements of the Board or the regulations only a person holding a prescribed certificate of competency issued to him by the Board may be employed in the use or carrying out of a specified process in relation to the treatment of milk, a person licensed to treat milk shall not employ in connection with the treatment of milk a person who does not hold a certificate of competency as aforesaid in contravention of the said requirements of the Board or of the said regulations.

Penalty—One hundred dollars.

40. [*Repealed by No. 62 of 1960, s. 6.*]

41. [*Repealed by No. 62 of 1960, s. 6.*]

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

No. 49 of 1932, s. 33.

42. 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.

Avoiding necessity to register premises with local authority.

No. 49 of 1932, s. 34.

43. Notwithstanding the provisions of any other Act, regulation, or by-law, any person who is the holder of a license under this Act in respect of any particular premises shall not be required to obtain a license for or obtain registration of the same premises from any local health authority or local board of health in order to enable him to occupy or carry on any premises as a dairy or sell dairy produce on or from the premises in question.

PART VI.—TESTING OF DAIRY CATTLE AND
COMPENSATION.

Division I.—Testing of Dairy Cattle.

44. It shall be the duty of every dairyman holding a dairyman's license under this Act, whilst he continues to hold such a license, to submit when and as often as he is requested by the Chief Inspector of Stock to do so all dairy cattle kept by him as such to inspection and for testing for disease by the Chief Inspector of Stock, an inspector of stock, a veterinary officer of the Department, or a veterinary surgeon authorised in writing for the purpose by the Chief Inspector of Stock.

Testing of
dairy cattle
for disease.
Repealed and
re-enacted
by No. 40
of 1965. s. 6.

45. [*Repealed by No. 40 of 1965, s. 7.*]

46. [*Repealed by No. 40 of 1965, s. 7.*]

47. [*Repealed by No. 40 of 1965, s. 7.*]

48. [*Repealed by No. 40 of 1965, s. 7.*]

49. [*Repealed by No. 40 of 1965, s. 7.*]

50. The Chief Inspector of Stock shall, when requested by the Board from time to time so to do, submit to the Board on the prescribed form a report setting forth the following particulars:—

Chief
Inspector of
Stock to
furnish
reports to
the Board.
Amended by
No. 40 of
1965, s. 8.

(a) The herds of dairy cattle inspected, the dates of such inspections, the number of cattle in each herd, and the names of the owners thereof;

(b) the number and description of dairy cattle found to be or suspected of being diseased, and the names of the owners of such cattle;

(c) [*deleted by No. 40 of 1965, s. 8.*]

over such period of time as may be specified by the Board.

51. [*Repealed by No. 40 of 1965, s. 9.*]

52. [*Repealed by No. 40 of 1965, s. 9.*]

53. [*Repealed by No. 40 of 1965, s. 9.*]

54. [*Repealed by No. 40 of 1965, s. 9.*]

Saving provision.

55. Nothing contained in this Act shall affect, limit or restrict or be deemed to affect, limit or restrict the operation or enforcement of any provision of the Stock Diseases Act, 1895, or any regulation, proclamation or order made or issued under that Act.

**Obstruction of inspectors, etc.
Amended by No. 113 of 1965, s. 8.**

56. A person shall not in any way obstruct, hinder or interfere with or attempt to obstruct, hinder or interfere with any inspector of stock, inspector, veterinary officer, veterinary surgeon, or officer of the Board, in the exercise of any of his powers or functions or the performance of any of his duties under this Act.

Penalty—One hundred dollars.

**Closure of Dairy Cattle Compensation Fund and application of moneys therein.
Repealed and re-enacted by No. 40 of 1965, s. 10.
Amended by No. 113 of 1965, s. 8.**

57. (1) Upon the date of the coming into operation of the Milk Act Amendment Act, 1965, the Dairy Cattle Compensation Fund established under the provisions of this section, as those provisions existed immediately prior to that date, and kept at the Treasury shall be closed and not be further operated upon except as provided by this section, and the moneys standing to the credit of that Fund at that date (including any moneys invested by the Board from that Fund) shall be appropriated and applied by the Treasurer—

- (a) in payment of the sum of Twenty thousand dollars to the credit of the account called the Cattle Industry Compensation Fund established under the provisions of the Cattle Industry Compensation Act, 1965, and kept at the Treasury; and

- (b) in payment of the balance of those moneys to the Board to be placed to the credit of the ordinary administration funds of the Board and used and applied for defraying the administration expenses of the Board under this Act.

(2) Upon the closure pursuant to this section of the Dairy Cattle Compensation Fund, any right to compensation or to claim compensation under this Act ceases and is extinguished and subject to the provisions of subsection (3) of this section the Board is discharged from all liability to pay compensation under this Act.

(3) Where at the date of the coming into operation of the Milk Act Amendment Act, 1965, any application for compensation made under the provisions of this Act, as those provisions existed immediately prior to that date, has not been finalised, that application shall be continued and finalised in accordance with those provisions as though the Milk Act Amendment Act, 1965, had not come into operation.

58. [*Repealed by No. 40 of 1965, s. 11.*]

59. [*Repealed by No. 40 of 1965, s. 11.*]

60. [*Repealed by No. 40 of 1965, s. 11.*]

61. [*Repealed by No. 40 of 1965, s. 11.*]

PART VIA.—MILK IMPROVEMENT SCHEME.

62. (1) The Board may at any time and from time to time cause to be prepared any scheme for improvement of the production, supply, delivery, distribution and quality of milk for consumers, and submit the same to the Minister for his consideration.

Heading
Amended by
No. 40 of
1965, p. 12.

Provision
for milk
improvement.
Amended by
No. 62 of
1980, s. 8.

(1a) A scheme for milk improvement referred to in subsection (1) of this section may contain provisions imposing penalties on persons, including the holders of licenses under this Act, who contravene the scheme or any part or provision thereof.

(2) Where the Minister approves of a scheme either without or with modifications, the Governor may on the recommendation of the Minister authorise the adoption of such scheme by the Board.

(3) If the Governor authorises the adoption of such scheme, notice thereof shall be published in the *Government Gazette*, and thereupon the Minister may, with the approval of the Governor, make regulations for implementing, enforcing or facilitating the operation of the scheme or any part or provision thereof.

Scientific
and technical
research.

63. The Board through its officers may undertake scientific and technical research for the purposes of improving the purity of milk supplies and generally for the improvement of milk production, treatment and distribution.

64. [*Repealed by No. 40 of 1965, s. 13.*]

PART VII.—MISCELLANEOUS.

Fees and
penalties
payable to
Board.

Amended by
No. 40 of
1965, s. 14.

[No. 49 of
1932, s. 39.]

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

(2) All fees and penalties received by the Board shall be paid to the credit of the ordinary administration funds of the Board.

Application
of adminis-
tration
funds.

Amended by
No. 40 of
1965, s. 15.

[No. 49 of
1932, s. 40.]

66. The administration 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.

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

Advances by Treasurer.
No. 49 of 1932, s. 41.

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

Accounts.
No. 49 of 1932, s. 42.

(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 be owing; and

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

69. 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.
No. 49 of 1932, s. 43.

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

Accounts to be balanced.
No. 49 of 1932, s. 44.

71. (1) The Board shall cause a full and true balance sheet of its assets and liabilities, together with a revenue and expenditure 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.
No. 49 of 1932, s. 46.

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

Annual
report.
No. 49 of
1932, s. 47.

72. The Board shall make and submit a yearly report of its proceedings to the Minister, together with a true copy of the accounts as then last audited and with a copy of the Auditor General's report thereon; and on receipt of same the Minister shall cause copies of such annual report and of such accounts with the Auditor General's report to be laid before both Houses of the Parliament.

Offences and
general
penalty.
Amended by
No. 113 of
1965, s. 8.

73. Any person who by any act or omission fails in any respect duly to observe and comply with any provision of this Act which imposes any duty upon him shall be guilty of an offence, and where no penalty is expressly prescribed in this Act in respect of any such offence, any person found guilty of such offence shall be liable to a penalty not exceeding one hundred dollars.

Offences to
be dealt with
summarily.

74. Any proceeding for an offence against this Act or the regulations may be instituted and dealt with summarily before Justices under and in accordance with the provisions of the Justices Act, 1902-1942.¹

How legal
proceedings
taken.
No. 49 of
1932, s. 28.

75. (1) Any proceedings, whether civil or penal, may be taken in the name of the Board by the secretary, or any officer of the Board authorised in that behalf by the Board.

(2) No proof shall be required of the appointment of the secretary or any officer as an officer of the Board, or of the authority of the secretary or officer to take civil or penal proceedings in the name of the Board, but the averment on the process that the secretary or officer aforesaid is so authorised shall be deemed to be conclusive proof of the fact.

¹ Now Justices Act, 1902-1968.

76. (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.

Regulations.
Amended by
No. 70 of 1963;
s. 8; No. 113
of 1965, s. 8.
[No. 38 of
1926, s. 10.
No. 49 of
1932, s. 38.]

(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.

(2) The regulations may impose—

- (a) a maximum penalty of One hundred dollars, with or without a minimum penalty of four dollars for a breach of any regulation; and
- (b) a daily penalty not exceeding four dollars for every day or part of a day in respect of

any breach of any regulation which continues after the date of notice of such breach served by the Board upon the defendant.

SCHEDULE.

ACTS REPEALED—SECTION 3.

Title and Number.

Dairy Cattle Compensation Act, 1926—38 of 1926.

Metropolitan Whole Milk Act, 1932—49 of 1932.

Metropolitan Whole Milk Act Amendment Act, 1933—28 of 1933.

Metropolitan Whole Milk Act Amendment Act, 1935—27 of 1935.

Metropolitan Milk Act Amendment Act, 1936—16 of 1936.

Metropolitan Milk Act Amendment Act, 1939—6 of 1939.

Metropolitan Milk Act Amendment Act, 1944—31 of 1944.