

Approved for Reprint, 16th February, 1972

WESTERN AUSTRALIA.

DAIRY PRODUCTS MARKETING REGULATION.

No. 34 of 1934.¹

(Affected by Act No. 113 of 1965.)

[As amended by Acts:

No. 40 of 1936, assented to 11th December, 1936;

No. 37 of 1937, assented to 18th January, 1937;

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

AN ACT relating to the treatment, distribution, and sale of certain Dairy Products and for other purposes incidental thereto.

[Assented to 28th December, 1934.]

BE it enacted—

1. This Act may be cited as the *Dairy Products Marketing Regulation Act, 1934-1937*, and shall come into operation on a day to be fixed by proclamation.¹

Short title and commencement. Amended by No. 37 of 1937, s. 4.

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

Act divided into Parts.

PART I. (ss. 3 to 7)—PRELIMINARY.

PART II. (ss. 8 to 19)—DAIRY PRODUCTS MARKETING BOARD.

PART III. (ss. 20 to 28)—LICENSES.

PART IV. (ss. 29 to 41)—ADMINISTRATION AND STABILISATION.

PART V. (ss. 42 to 49)—FINANCIAL.

PART VI. (ss. 50 to 59)—MISCELLANEOUS.

¹ Came into operation 1st February, 1935. See *Gazette* 25/1/35, p. 128.

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PART I.—PRELIMINARY.

Operation.

3. Subject as hereinafter provided, this Act shall operate and have effect throughout the State:

Provided that the Governor may, on the recommendation of the Minister, from time to time by proclamation exempt any part of the State defined in such proclamation from the operation of this Act, and may, on the like recommendation, by proclamation revoke or vary any such first-mentioned proclamation.

Construction.

4. This Act shall be construed subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the Parliament of the State, to the intent that any portion thereof which may be held to be in excess of that power shall, to the extent to which it is so in excess, be deemed to be severable from the other portions of this Act, and not to affect the validity or operation thereof.

Saving provisions.

5. Neither this Act nor any provision of this Act shall be deemed to repeal the Dairy Industry Act, 1922, or the Agricultural Products Act, 1929, or any provisions thereof respectively; but where this Act or any provision of this Act is inconsistent with or repugnant to the Dairy Industry Act, 1922, or the Agricultural Products Act, 1929, or any provision of either of such Acts, this Act and the provisions of this Act shall prevail, and the Dairy Industry Act, 1922, and the Agricultural Products Act, 1929, shall be read and construed as subject to this Act.

Administration.

6. Subject to the Minister, this Act shall be administered by the Dairy Products Marketing Board constituted under this Act.

Interpretation.

Amended by
No. 40 of
1936, s. 2.

7. In this Act, subject to the context—

“Board” means the Dairy Products Marketing Board constituted under this Act.

“Butter” includes margarine, milled butter, and farm butter.

“Butter-fat” means the pure fat of milk.

“Co-operative company” means a company registered as such under the provisions of the Companies Act Amendment Act, 1929.¹

“Dairy products” includes butter, cheese, and milk intended for manufacture into butter and cheese, and also such other products manufactured from milk (not being “milk” within the meaning of that term as defined in and for the purposes of the Metropolitan Milk Act, 1932-1935²) as the Governor may from time to time on the recommendation of the Board by regulation declare to be dairy products under and for the purposes of this Act.

“Dairy products factory” means a building or place where dairy products are prepared or manufactured, or where cream is treated preparatory to manufacture into dairy products for sale.

“Dealer” means any person who purchases or receives dairy products for the purposes of resale wholesale or sale wholesale.

The term includes a person residing in this State and carrying on business in this State as a dealer merely as the servant, agent, or representative of another person carrying on business at a principal place of business situated elsewhere than within this State; and such servant, agent, or representative whilst carrying on such business as aforesaid shall be subject to the provisions of this Act in the same manner and to the same extent as if he were carrying on such business for his own benefit.

“Department” means the Department of Agriculture.

¹ Now see Companies (Co-operative) Act, 1943-1959.

² Now Milk Act, 1946.

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“Export parity price” means the wholesale selling price for the time being in London of Australian dairy products, after allowing for freight, insurance, exchange, duties and all other charges.

“Farm butter” means butter manufactured on any premises other than premises licensed as a dairy produce factory under the Dairy Industry Act, 1922.

“Inspector” means an inspector appointed or acting under the authority of this Act.

“Manufacturer” means a person who in a dairy products factory carries on the business of manufacturing dairy products for sale;

Provided that the term shall include a producer who manufactures for sale, either wholesale or retail, twenty pounds or more of butter or cheese in any one week.

“Margarine” includes any solid or semi-solid substance made from animal or vegetable fats or oils, or any combination thereof, the fatty contents of which are not derived exclusively from milk, and which is used or capable of being used as a substitute for butter. The term does not include dripping or lard.

“Milled butter” means butter which is a mixture or blend of two or more butters originally packed under separate names or brands, and which have been mixed or blended at a place other than where manufactured and packed.

“Minister” means the Minister for Agriculture.

“Packer” means any person who, whether as owner or occupier carries on business in a packing place.

“Packing place” means any building, structure, or other place whatsoever in which bulk butter is packed or wrapped in containers or wrappers prior to distribution for sale by persons, whether such building, structure or other place is or is not used for any other purpose.

“Producer” means a person who from his own cows or from leased cows or from other cows on his property produces milk intended for use for the manufacture at a dairy products factory of dairy products for sale.

“Public notice” means notice published in the *Government Gazette* and in a newspaper published in Perth.

“Quota” means the proportion of dairy products manufactured by a manufacturer within Western Australia in the course of his intra-State trade or commerce in Western Australia.

Cf. N.S.W.,
No. 17 of
1933, s. 2;
Vic. No. 4204,
24 Geo. V., s.
2; Qld., No.
14 of 1933,
s. 3.

“Renovated butter” means the product obtained by re-treating butter without the addition of any substance except milk, buttermilk, cream, water or salt, or any other substance permitted under the Health Act 1911-1933.¹

“Sell” includes barter or exchange; and

“Sale” has a corresponding meaning.

“Storage place” means a building or place where dairy products are stored by or for a manufacturer or by or for a dealer pending export or sale or resale thereof within the State for stabilisation purposes under and in accordance with the provisions of this Act and the regulations, and for the purpose of deriving benefit from the Dairy Products Stabilisation Fund in respect of the dairy products so stored.

¹ Now Health Act, 1911-1970.

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PART II.—DAIRY PRODUCTS MARKETING BOARD.

Dairy
Products
Marketing
Board.
Amended by
No. 40 of
1936, s. 3.
Cf. N.S.W.,
No. 17 of
1933, s. 3.
Vict., No.
4204,
24 Geo. V.,
s. 3.

8. (1) A Board, to be called "The Dairy Products Marketing Board," is hereby constituted for the purposes of this Act.

(2) The Board shall consist of seven members appointed by the Governor.

(3) Of the members so appointed—

- (a) one shall be nominated by the Minister as the Government representative, and shall be chairman of the Board;
- (b) one shall be nominated by the Minister as and shall be the representative of the consumers;
- (c) one shall be nominated by co-operative companies licensed under this Act as manufacturers, and one shall be nominated conjointly by other companies and persons licensed under this Act as manufacturers, provided that no company or person shall be eligible to make a nomination unless such company or person produces at least fifty-two tons of dairy products per annum;
- (d) two shall be producers nominated by the producers (other than producers who are manufacturers) within this State, whether incorporated or not; and
- (e) one shall be nominated by the dealers licensed under this Act who purchase more than one ton of the same class of dairy produce per week.

(4) Nominations pursuant to subsection (3) hereof shall be made in the manner prescribed.

(5) If no nomination or no sufficient nomination of a person as representative of the bodies or persons referred to in subsection (3) hereof is made within fourteen days after the prescribed nomination day, in the case of members to be appointed, the Governor may appoint any person as a member of the Board as representative of the bodies or persons in respect of the representative of which no nomination or no sufficient nomination has been made.

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(6) Until the first representatives under paragraphs (c), (d), and (e) of subsection (3) have been nominated, the Governor may appoint four other persons to act in the place of such representatives, together with the representatives appointed under paragraphs (a) and (b) of the said subsection as the Board: and the first Board as so constituted may exercise and perform all the powers, functions, and duties of the Board under this Act until the first-mentioned first representatives are nominated.

9. The member of the Board appointed by the Governor to be chairman thereof shall hold office during the pleasure of the Governor; and, subject to subsection (6) of section eight, the remaining members shall hold office for the period of two years from the date of their appointment, but shall be eligible for renomination and reappointment:

Tenure of
office.
Amended by
1936, s. 4.
No. 40 of

Provided that the first representative of the consumers may be appointed temporarily only until the first representatives under paragraphs (c), (d), and (e) of subsection (3) of section eight have been appointed.

Provided further that, as from and after the commencement of this proviso, the members appointed from time to time by the Governor as the representatives of the producers shall retire from office in rotation, and that for the purpose of commencing such rotation the following provisions shall apply in relation to the said members appointed by the Governor next following the commencement of this proviso, that is to say:—

- (a) where such two members were nominated after an election under the regulations held for the purpose of such nomination, the member who received the smaller number of votes at the election shall retire first and shall so retire at the end of the year next following the date of his appointment, and the other member shall hold office for two years next following the date of his appointment;

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- (b) where such two members were nominated without the necessity of an election to ascertain such nomination, or were nominated after an election and at such election both received the same number of votes, then in either of such cases the one of such members to retire first shall be determined by lot between them, and the member then to retire first shall do so at the end of the year next following his appointment, and the other member shall hold office for two years after the date of his appointment;
- (c) after the rotation has been commenced in the manner provided for in paragraphs (a) and (b) hereof one member shall be nominated and appointed by the Governor as one of the representatives of the producers in each and every year and shall hold office for two years from the date of his appointment.

The Board to
be a body
corporate.

10. (1) The Board shall be a body corporate, under the name of "The Dairy Products Marketing Board," with perpetual succession and a common seal, and shall be capable of suing and being sued in its corporate name, and of acquiring, holding, and disposing of real and personal property.

Acts of Board
not
invalidated
by vacancy.

(2) 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.

Proceedings
of Board.

11. (1) Any four members of the Board shall form a quorum thereof.

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

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

(4) The chairman of the Board when presiding at any meeting of the Board shall have a deliberative vote, and, in case of an equality of votes, shall also have a casting vote.

12. Any member may resign from the Board by notice in writing signed by him and given to the Governor. Resignation.

13. Any person who has his affairs under liquidation, or is an undischarged bankrupt or insolvent, or has been convicted of an indictable offence, or is undergoing sentence of imprisonment, or becomes an insane person, shall be disqualified from being appointed or from continuing as a member of the Board. Disqualification.

14. (1) The office of member of the Board shall be vacated— Vacancies.

- (a) if he is or has become disqualified under this Act; or
- (b) if without leave obtained from the Board in that behalf he has been absent from more than three consecutive meetings of the Board; or
- (c) upon death or resignation.

(2) Where the office of any member of the Board becomes vacant and a person is appointed to fill such vacancy, such person shall hold office only for the unexpired portion of the term of office of his predecessor.

Deputy
members.

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

Remunera-
tion of
members.

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

Officers of
the Board.

17. The Board may appoint and employ and pay out of its funds such officers, inspectors, and clerks as it considers necessary to enable the Board to carry out its duties and functions.

Departmental
inspectors.

18. (1) The Minister may by public notice authorise any inspectors on the staff of the department to be inspectors under and for the purposes of this Act. All such inspectors, when performing any duties under this Act, shall be deemed to be performing such duties for the Board.

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

Funds of the
Board.

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

PART III.—LICENSES.

20. (1) No person shall carry on the business of a dealer or of a manufacturer unless he shall have first applied for and obtained a license from the Board under this Act; provided that any person who is at the commencement of this Act already carrying on the business of a dealer or of a manufacturer may apply to the Board for the requisite license at any time within one month after the commencement of this Act, and may continue to carry on business in the meantime:

Dealers and manufacturers to be licensed. Amended by No. 40 of 1936, s. 5; No. 113 of 1965, s. 8.

Provided further, the Board may refuse to grant a license to manufacture dairy products if it considers that the establishment of additional factories is not in the best interests of the industry.

Board may refuse to grant license to manufacture dairy products.

(2) Application for a license as a dealer or manufacturer shall be made to the Board in the prescribed form, and shall be accompanied by the prescribed license fee, and by such particulars as may be prescribed or required by the Board.

(3) Any person who fails to apply for a license as required by this section shall be guilty of an offence.

Penalty: Two hundred dollars, and, in addition, a daily penalty of four dollars for every day during which the offender carries on business in contravention of this section, after complaint of such offence has been made.

21. (1) No person shall use or occupy any storage place as a storage place for dairy products unless and until such storage place is licensed under this Act.

Storage places to be licensed. Amended by No. 113 of 1965, s. 8.

Penalty: One hundred dollars, and, in addition, a daily penalty of four dollars for every day on which the storage place is used or occupied in contravention of this section.

(2) Application for a license for a storage place shall be made to the Board in the prescribed form, and shall be accompanied by the prescribed license

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fee; and the applicant shall also furnish such particulars as are prescribed, or as the Board may require.

(3) No license for a storage place shall be granted under this Act unless and until it conforms in all respects with the conditions prescribed by the regulations.

Packing
places to be
licensed.
Added by
No. 40 of
1936, s. 6.
Amended by
No. 113 of
1965, s. 8.

21A. (1) No packer shall use or occupy any packing place as a packing place for dairy products unless and until such packing place is licensed under this Act.

Penalty: One hundred dollars, and, in addition, a daily penalty of four dollars for every day or part of a day on which the packing place is used or occupied in contravention of this section.

(2) Application for a license for a packing place shall be made to the Board in the prescribed form and shall be accompanied by the prescribed license fee; and the applicant shall also furnish such particulars as are prescribed or as the Board may require.

(3) No license for a packing place shall be granted under this Act unless and until it conforms in all respects with the conditions prescribed by the regulations.

Licenses to
be annual.

22. All licenses required under this Act shall be applied for annually on or before the first day of July in each and every year, and shall have effect for one year.

Provided that, where a license is applied for within fifteen days after the first day of July, such license shall be deemed to have been applied for as from such first day of July; and where such license is applied for on a day more than fifteen days after the first day of July in any year, such license shall take effect as from the day when the license is actually granted and shall continue in force until the thirtieth day of June next ensuing and no longer.

23. Where application for any license required by this Act is made in any year after the thirty-first day of December, the applicant shall be required to pay only one half of the amount of the license fee prescribed in respect of the class of license applied for.

Reduction of license fee in certain cases.

24. (1) All licenses required under this Act, when granted, shall be issued by the Board in the prescribed form.

Licenses to be in prescribed form.
Amended by No. 40 of 1936, s. 7.

(2) Nothing in this Act or in any other Act shall be deemed to give to any person carrying on business as a manufacturer or dealer, or using or occupying a storage place for the storage of dairy products, or using or occupying a packing place for the packing of dairy products 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 of a renewal of such license upon the expiry thereof.

25. (1) The Board may grant or refuse any license required by and applied for under this Act.

Power to grant, refuse, and cancel licenses.
Amended by No. 40 of 1936, s. 8.

(2) The Board may cancel the license of any dealer or manufacturer or the license for a storage place or the license for a packing place, if the dealer or the manufacturer or the person using or occupying the storage place or the packing place, as the case may be, is convicted of any offence under this Act or the regulations, or if, in the opinion of the Board, such dealer, manufacturer, or person aforesaid is acting in such manner as to defeat or delay or embarrass the Board in carrying out its functions and duties under this Act.

Provided that, where the Board has refused to grant any license applied for, or has cancelled any license granted by the Board under this Act, any person aggrieved by such refusal or cancellation, may appeal, as prescribed, against the decision of the Board to a stipendiary magistrate sitting in a court

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in Perth; and such magistrate, on hearing the appeal, may confirm such refusal or cancellation, or may order the Board to grant the license, or restore the license which has been cancelled, as to him may seem just, and effect shall be given to such decision.

License for a storage place may be transferred. Amended by No. 40 of 1936, s. 9.

26. (1) The license for a storage place or for a packing place may, subject to this Act and the regulations, be transferred from the holder thereof to any person taking over from such holder the use or occupation of the licensed storage place or of the licensed packing place.

(2) Application for the transfer of the license of a storage place or of a packing place shall be made to the Board in the prescribed form, and shall be signed by both the transferor and the transferee, and shall be accompanied by the prescribed transfer fee.

(3) When the license for a storage place or for a packing place is transferred under this section, the Board shall cause a memorandum of such transfer in the prescribed form to be indorsed on the license transferred, and to be signed by the chairman of the Board.

Power to require return and particulars. Amended by No. 40 of 1936, s. 10; No. 113 of 1965, s. 8.

27. (1) The Board, in addition to any other powers conferred upon it by this Act, may by notice in writing under the hand of the chairman of the Board given to any producer, dealer, or manufacturer, or to any person using or occupying any storage place or any packing place, require such producer, dealer, manufacturer, or person aforesaid to furnish in writing to the Board such returns and particulars in relation to his business as carried on by him under this Act as the Board may deem necessary for the purposes of this Act; and the Board may specify in such notice a time within which such returns and particulars shall be furnished.

(2) Any person who fails or refuses to comply with the requisitions of any such notice within the time limited by such notice, or who furnishes any untrue return or particulars shall be guilty of an offence.

Penalty: One hundred dollars.

28. A license under this Act may be cancelled by the Board by notice in writing signed by the chairman of the Board, with the approval of the Board, and served upon the person whose license is revoked.

Licenses, how cancelled.

PART IV.—ADMINISTRATION AND STABILISATION.

29. (1) Subject to this Act every licensed dealer and licensed manufacturer shall in every year contribute towards the expenditure to be incurred by the Board during that year in the administration of this Act, and in carrying out its duties and functions under this Act.

Contribution by dealers and manufacturers to expenditure. Amended by No. 40 of 1936, s. 11.

(2) The amount of the contribution to be paid by each dealer and manufacturer shall be determined by the Board in each and every year, and shall be paid by such dealer and manufacturer at the times, in the instalments and in the manner hereinafter mentioned.

(3) Prior to the first day of July in each and every year, or as soon thereafter as possible, the Board shall cause to be prepared an estimate of the expenditure to be incurred during the year commencing on the said first day of July by the Board, in the administration of this Act and in carrying out its functions and duties, and shall thereupon determine the amount of the contribution to be paid by each dealer and manufacturer for such year under this section.

(4) As and when the Board has determined the amount of the contribution as aforesaid, the Board shall cause notice thereof to be given to each licensed manufacturer and each licensed dealer.

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(5) The Governor may from time to time by Order in Council declare that the provisions of this section shall not apply to manufacturers or dealers manufacturing or dealing in any particular kind of dairy product specified in the Order in Council, and while such Order in Council remains in force persons manufacturing or dealing in the particular kind of dairy product specified in the Order in Council shall be exempt from the provisions of this section:

Provided that, where a manufacturer or dealer is manufacturing or dealing in the kind of dairy product specified in the said Order in Council and also is manufacturing or dealing in another kind of dairy product not specified in such Order in Council, such manufacturer or dealer shall be exempt from the provisions of this section only in respect of that part of his business which consists of manufacturing or dealing in the kind of dairy product specified in the said Order in Council, and shall still remain subject to the provisions of this section in respect of that part of his business which consists of manufacturing or dealing in the other kind of dairy product not specified in the said Order in Council.

Stabilisation
Fund.
Amended by
No. 40 of
1936, s. 12.

30. (1) For the purposes of this Act there shall be established a special fund, to be administered by the Board through a separate trust account, and to be known as "The Dairy Products Stabilisation Fund."

(2) For the purpose of maintaining the said fund, but subject to this Act, every licensed dealer and manufacturer shall in each and every month contribute and pay to the Board at the times, in the instalments and in the manner hereinafter mentioned, such amount as may be determined by the Board from time to time in respect of dairy products produced in Western Australia and sold by or through such dealer or manufacturer.

(3) The Governor may from time to time by Order in Council declare that the provisions of this section shall not apply to manufacturers or dealers manufacturing or dealing in any particular kind of dairy

product specified in the Order in Council, and while such Order in Council remains in force persons manufacturing or dealing in the particular kind of dairy product specified in the Order in Council shall be exempt from the provisions of this section:

Provided that, where a manufacturer or dealer is manufacturing or dealing in the kind of dairy product specified in the said Order in Council and also is manufacturing or dealing in another kind of dairy product not specified in such Order in Council, such manufacturer or dealer shall be exempt from the provisions of this section only in respect of that part of his business which consists of manufacturing or dealing in the kind of dairy product specified in the said Order in Council, and shall still remain subject to the provisions of this section in respect of that part of his business which consists of manufacturing or dealing in the other kind of dairy product not specified in the said Order in Council.

31. Notwithstanding anything to the contrary contained in sections twenty-nine and thirty of this Act—

- (1) (a) no dealer or manufacturer shall be required to contribute in any year to the expenditure of the Board under section twenty-nine of this Act an amount exceeding a sum equal to one per centum of the gross proceeds in that year derived by him from carrying on his business as a dealer or manufacturer, as the case may be; and
- (b) no dealer or manufacturer shall be required to contribute and pay in any year to the Dairy Products Stabilisation Fund under section thirty of this Act an amount exceeding a sum equal to thirty-three per centum of the gross proceeds in that year derived by him

Provisions relating to payments of contributions to expenditure and to the Stabilisation Fund.

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

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from carrying on his business as a dealer or manufacturer, as the case may be; and

- (c) no producer who is a manufacturer within the meaning of this Act shall be required in any week to make any contribution either under section twenty-nine or section thirty in respect of dairy products manufactured by him for sale in that week when the total weight of such dairy products is less than twenty pounds.
- (2) As and when a manufacturer receives milk or cream from a producer, or himself produces milk or cream for the purpose of using the same for the manufacture of dairy products, he shall deduct from the amount of the then market value of the dairy product to be manufactured therefrom, to be determined and as determined from time to time by the Board, an amount calculated at the rate of the contribution to the expenditure of the Board for the time being payable by him under section twenty-nine of this Act in respect of the then market value aforesaid, and also an amount calculated at the rate of the contribution to the Dairy Products Stabilisation Fund for the time being payable by him under section thirty of this Act in respect of the then market value aforesaid, and thereafter such manufacturer shall pay the amounts so deducted respectively to the Board at the times and in the manner prescribed, and at the same time furnish to the Board returns in the prescribed form showing how the amounts so deducted and paid are arrived at. The payments so received by the Board shall be so received in satisfaction respectively *pro tanto* of the contributions payable by the manufacturer under sections twenty-nine and thirty of this Act respectively.

- (3) As and when a dealer purchases or receives for sale dairy products from a producer (not being a manufacturer), he shall deduct from the purchase price paid by him, or from the gross proceeds received by him on the sale of such dairy products (as the case may be), an amount calculated at the rate of the contribution to the expenditure of the Board for the time being payable by him under section twenty-nine of this Act in respect of the gross purchase price paid by him as aforesaid, or of the gross proceeds received by him from the sale of the dairy products received by him for sale as aforesaid (as the case may be), and also an amount calculated at the rate of the contribution to the Dairy Products Stabilisation Fund for the time being payable by him under section thirty of this Act in respect of the gross purchase price paid by him as aforesaid, or of the gross proceeds received by him from the sale of the dairy products received by him for sale as aforesaid (as the case may be); and thereafter such dealer shall pay the amounts so deducted respectively to the Board at the time and in the manner prescribed, and at the same time furnish to the Board returns in the prescribed form showing how the amounts so deducted and paid are arrived at. The payments so received by the Board shall be so received in satisfaction respectively *pro tanto* of the contributions payable by the dealer under sections twenty-nine and thirty of this Act respectively.
- (4) The amount of any contribution payable by a manufacturer or dealer under either section twenty-nine or section thirty of this Act shall, until paid by him to the Board, be a debt due from such manufacturer or dealer to the Board, and shall be recoverable at the suit of the Board in any court of competent jurisdiction.

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- (5) Where a manufacturer or dealer inadvertently or without any wrongful intent fails to deduct the amount of any contribution payable by him under either section twenty-nine or section thirty of this Act, as required by this section, but nevertheless has paid the amount of such contribution to the Board, the manufacturer or dealer shall be entitled to recover the amount of the contribution so paid by him as aforesaid as a debt due to him from the producer concerned.
- (6) If any manufacturer or dealer by any act or omission, either on the part of himself or any of his servants or agents, or by means of any false or incorrect return, evades or attempts to evade payment of any contribution payable by him under this Act, or by any other means defrauds or attempts to defraud the Board of any contribution payable by him under this Act, such manufacturer or dealer shall be guilty of an offence.

Penalty: Two hundred dollars.

- (7) Where a manufacturer or dealer is convicted of an offence under subsection (6) hereof, the Court hearing the complaint may, in addition to imposing a penalty, order the defendant to pay the amount of any contribution to which the complaint relates; and the amount so ordered to be paid shall be recoverable in the same way as the penalty is recoverable.

Powers and functions of the Board.
Amended by No. 40 of 1936, s. 13; No. 37 of 1937, s. 2.

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

- (1) The regulation and organisation of—
- (a) the sale and distribution of dairy products;

- (b) the storage of dairy products in storage places;
 - (b1) the packing of dairy products in packing places;
 - (c) plant, machinery, appliances, containers, and other things used or reputed to be used in connection with the sale and distribution of dairy products;
- (2) the inspection of plant, machinery, appliances, containers, and other things used or reputed to be used in connection with the sale and distribution of dairy products;
 - (3) the issue and cancellation of licenses;
 - (4) the enforcement of quotas;
 - (5) subject to any other Act, the regulation and organisation, with a view to cheapening the cost, of transport of milk and cream for use in the manufacture of dairy products from the premises of the producer to the dairy products factory;
 - (6) defining the functions, authorities, and duties of inspectors;
 - (6a) subsidising or assisting by expenditure of money all means which in the opinion of the Board are or will be or are likely to be conducive to an increase in the sales of dairy products manufactured in Western Australia:
 - Provided that no money shall be expended under this paragraph without the approval and concurrence of the Minister in every case;
 - (7) any other matter which in the opinion of the Minister is incidental to any of the matters aforesaid.

Application
of Health
Act,
1911-1933.¹

33. Nothing in this Act shall be deemed in any way to affect or prejudice the rights, powers, and duties of inspectors appointed under the Health Act, 1911-1933.¹

Determina-
tion and
promulga-
tion of
quota.
Amended by
No. 40 of
1936, s. 14.
Cf. N.S.W.,
No. 17 of
1933, s. 6.
Vict., No.
4204,
24 Geo. V.,
s. 6.
Qld., No. 14
of 1933, s. 9.

34. (1) The Minister may from time to time, after ascertaining that the supply and distribution of dairy products to consumers thereof in Western Australia will be insured, determine what is to be the quota for the purposes of this Act, and by public notice promulgate the same. The quota so determined and promulgated shall remain in force until the Minister by public notice cancels the prior notice by which the quota was promulgated.

(2) A quota may be determined for any dairy product generally, or different quotas may be determined for one or more particular grades of any dairy product.

Certain sales
prohibited.
Substituted
by No. 40 of
1936, s. 15.
Amended by
No. 113 of
1965, s. 8.
Cf. N.S.W.,
No. 17 of
1933, s. 7;
Vict., No.
4204;
24 Geo. V.,
s. 8;
Qld., No. 14
of 1933, s. 10.

35. (1) Subject to subsection (2) of this section, no manufacturer or dealer shall, whilst a quota promulgated under section thirty-four of this Act remains in force, sell in the course of intra-State trade or commerce within the State of Western Australia dairy products manufactured by such manufacturer or held by such dealer in excess of such quota.

Penalty: One thousand dollars.

(2) A manufacturer or dealer may sell dairy products as aforesaid in excess of the quota upon and subject to the following conditions, namely—

- (a) He shall first make application to and obtain from the Board a permit to sell dairy products in excess of the quota.
- (b) If so required by the Board as a consideration for the granting of the permit, he shall pay to the Board for the credit of the Dairy Products Stabilisation Fund in respect of the dairy product sold under the authority

¹ Now Health Act, 1911-1970.

of the permit, an amount, to be determined and as determined by the Board but not to exceed a sum calculated in respect of the dairy product sold as aforesaid on the basis of the amount of the difference between the export parity price of the dairy product on the day of the sale and the market price thereof ruling in Western Australia on the same day as declared by the Board.

- (c) Application for a permit under this subsection shall be in writing in the prescribed form signed by the applicant, and shall contain such particulars as may be prescribed or are required by the Board.
- (d) Permits granted by the Board under this subsection shall be in writing in the prescribed form, and be signed by the chairman of the Board or any authorised officer or member of the Board.
- (e) The Board may grant or refuse a permit under this subsection at its discretion; and a refusal to grant a permit shall be final and conclusive.

36. (1) The Board may from time to time determine in connection with and for the purposes of the application of moneys in the Dairy Products Stabilisation Fund the quantities, classes or qualities of any dairy products which—

Dairy products intended for storage and export.
Substituted by No. 40 of 1936, s. 16.
Amended by No. 113 of 1965, s. 8.

- (a) may be stored by any manufacturer pending sale or export by him; and
- (b) may be sold by any manufacturer to dealers for storage pending sale or export by such dealers; and
- (c) may be stored by any dealer pending sale or export by him:

Dairy Products Marketing Regulation.

Provided that, when in respect of any dairy product a quota has been determined under section thirty-four of this Act and is in force, any quantity determined by the Board under this subsection in respect of such dairy product while such quota remains in force shall be a quantity in excess of such quota.

(2) No manufacturer or dealer shall withdraw from storage any portion of any dairy product stored by him under this section without first obtaining from the Board a permit so to do.

Penalty: Two hundred dollars.

(3) When a quota has been determined under section thirty-four of this Act and is in force, nothing in this section shall operate so as to prevent a manufacturer or dealer with the permission of the Board and in accordance with regulations storing in a storage place, instead of selling within Western Australia, dairy products within the said quota as well as dairy products in excess of such quota as authorised by subsection (1) of this section.

(4) Where dairy products within the quota are stored in a storage place with the permission of the Board under subsection (3) hereof, then subject to this Act and the regulations the manufacturer or dealer so storing the same shall be eligible for benefit from the Dairy Products Stabilisation Fund in respect of such dairy products.

(5) Where any manufacturer or dealer desires to withdraw from storage any portion of any dairy product stored by him under and for the purpose of this section, whether such dairy product so stored is within the quota or in excess of the quota (if any) in force when such dairy product was placed in storage, or whether such dairy product was placed in storage when there was not any quota in force in relation thereto, he shall first make application to and obtain from the Board a permit so to do. The application shall be in writing in the prescribed form, signed by the applicant, and shall contain

such particulars as may be prescribed or as may be required by the Board, including *inter alia* the following particulars:—

- (a) the purpose for which the dairy product is proposed to be withdrawn;
- (b) if the dairy product is being withdrawn for the purpose of sale within Western Australia, the names and addresses of the intended purchasers of the dairy product to be withdrawn, the quantity proposed to be sold to such purchasers respectively, and the purchase price to be paid by such purchasers respectively.

(6) The Board may grant or refuse any application for permit made under subsection (5) hereof, or may grant a permit with such modifications or subject to any conditions whatever which the Board may think fit to impose, including *inter alia* conditions relating to—

- (a) the quantity of dairy product which may be sold to any proposed purchaser named in the application for the permit;
- (b) the quantity which the applicant must sell to any other known purchaser not named in such application but desirous of purchasing from the applicant a portion of the dairy product to be withdrawn by the applicant; and
- (c) the purchase price which the applicant may charge against the purchasers of any portion of the dairy product to be withdrawn by the applicant.

(7) Any refusal by the Board to grant a permit and any condition to the granting of a permit imposed by the Board as provided for in subsection (6) hereof shall be final and conclusive and be binding upon the applicant.

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(8) Every permit granted by the Board under subsection (6) hereof for the purposes of subsection (2) hereof shall be in writing in the prescribed form and be signed by the chairman of the Board.

(9) If any applicant to whom a permit has been granted by the Board under subsection (6) hereof subject to any condition knowingly fails in any respect duly to observe, perform, or comply with such condition he shall be guilty of an offence against this Act.

Penalty: Two hundred dollars.

(10) If any person who has made application under subsection (6) hereof for a permit to withdraw a portion of his dairy product from storage as required by subsection (2) hereof subsequently withdraws such application, or refuses to accept the permit granted pursuant to such application by reason of any condition imposed by the Board in relation to the granting of such permit, and when requested by the Board so to do refuses within a time specified by the Board to accept the permit granted and to withdraw from storage the quantity of dairy product specified in the permit and to dispose of the same in accordance with the conditions imposed by the Board in relation to and upon the granting of the permit, the Board may demand from such person repayment forthwith in full without any deduction whatsoever, whether specified as an allowable deduction under section forty-one of this Act or not, to the Board of all moneys previously paid by the Board to such person out of the Dairy Products Stabilisation Fund either as a loan, advance, compensation, premium, or otherwise howsoever in respect of the quantity of the dairy product specified in the said permit under section forty-one of this Act.

(11) When a demand for repayment is made upon any person under subsection (10) hereof, the amount of repayment demanded shall be a debt owing by the person upon whom the demand is made to the Board, and shall be recoverable from such

person at the suit of the Board in any court of competent jurisdiction: Provided that, when the amount demanded has been paid to or recovered by the Board in full, the portion of the dairy product mentioned in the permit, acceptance of which was refused as aforesaid, shall be delivered by the Board to the applicant for such permit or his nominee on demand free of all conditions.

37. (1) The Board may by public notice or other notice in writing require all or any manufacturers and dealers to furnish to the Board, within a time specified by such notice, returns of all dairy products stored, exported, or sold by the manufacturer, or purchased and stored and exported by the dealer under the authority of section thirty-six of this Act.

Power to Board to require returns of dairy products sold by manufacturers under s. 36 of this Act.
Amended by No. 40 of 1936, s. 17.

(2) The Board may by public notice or other notice in writing require all packers or any packer to furnish to the Board within a time specified by such notice returns of all dairy products packed by such packers or packer in their or his licensed packing place.

38. The moneys in the Dairy Products Stabilisation Fund shall not in any circumstances or in any respect be used or applied in respect of any dairy product sold by a manufacturer or purchased by a dealer for purposes of export, or of storage in a storage place within the meaning of section thirty-six of this Act, in excess of the quantities as determined and in force for the time being under the said section thirty-six or in respect of any dairy product which is by Order in Council declared to be excluded from the provisions of section thirty of this Act.

Moneys in Dairy Products Stabilisation Fund not to be applied in respect of dairy products in excess of quantities fixed under s. 36 of this Act.
Amended by No. 40 of 1936, s. 18.

39. No dairy product shall be exported from the State of Western Australia or stored in a storage place until the same has been graded and marked as required by the Dairy Industry Act, 1922.

Dairy products for export or storage to be graded and marked.
Amended by No. 113 of 1965, s. 8.

Penalty: Two hundred dollars.

Dairy products for storage to be stored in a licensed storage place. Amended by No. 113 of 1965, s. 8.

40. No dairy products intended for storage shall be stored unless—

- (a) the same are of a standard approved by the Board for storage purposes; and
- (b) the same are stored in a storage place licensed under this Act.

Penalty: Two hundred dollars.

Application of moneys in Dairy Products Stabilisation Fund. Amended by No. 40 of 1936, s. 19; No. 37 of 1937, s. 3; No. 113 of 1965, s. 8.

41. (1) Whenever any registered manufacturer or dealer exports any dairy product, and on the day of shipment the export parity price of such dairy product is lower than the market price thereof in Western Australia as declared by the Board, the Board may, subject to section thirty-eight of this Act, pay out of moneys in the Dairy Products Stabilisation Fund to such manufacturer or dealer such amount by way of compensation as the Board may determine in accordance with rates to be fixed by the Board from time to time, but not exceeding a sum calculated at the rate of the amount of the difference between the said export parity price and the said market price of the dairy product, and thereafter the following provisions shall apply:—

- (a) if, upon the sale of the dairy product exported the manufacturer or dealer proves to the satisfaction of the Board, that notwithstanding the receipt by him of the compensation already paid to him, and after taking the amount thereof into account the net profit realised by the sale is less than the net profit which would have been realised if on the day of shipment the said dairy product had been sold in Western Australia at the market price thereof then ruling in Western Australia as declared by the Board, the Board may pay out of the Dairy Products Stabilisation Fund to such manufacturer or dealer such further amount by way of further compensation as the Board may determine, but not exceeding the amount of the difference between the net profit

actually realised as aforesaid and the net profit which would have been realised if the said dairy product had been sold in Western Australia as aforesaid;

- (b) if upon the sale of the dairy product exported the manufacturer or dealer realises a net profit (after taking into account the compensation already received by him as aforesaid) which is greater than the net profit which he would have realised if on the day of shipment he had sold such dairy product in Western Australia at the market price thereof then ruling in Western Australia as declared by the Board, the manufacturer or dealer shall, when he has received the proceeds of the said sale, pay to the Board for the credit of the Dairy Products Stabilisation Fund such amount as is equivalent to the amount of the difference between the net profit actually realised by the sale and the net profit which would have been realised if the dairy product had on the day of shipment been sold in Western Australia as aforesaid; and
- (c) any amount payable by a manufacturer or dealer under the next preceding paragraph (b) shall be a debt owing by him to the Board and shall be recoverable at the suit of the Board in any court of competent jurisdiction.

(2) Whenever any registered manufacturer or dealer places any dairy product in storage for the purpose of subsequent sale or export as authorised by this Act, and on the day when such dairy product is placed in storage the export parity price thereof is lower than the market price thereof in Western Australia as declared by the Board, the Board may, subject to section thirty-eight of this Act, advance out of moneys in the Dairy Products Stabilisation Fund to such manufacturer or dealer by way of loan such amount as the Board may determine, in accordance with rates to be fixed by the Board from time

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to time, but not exceeding a sum calculated upon the basis of the amount of the difference between the said export parity price and the said market price, and thereafter the following provisions shall apply:—

(a) if, when any portion of the said dairy product is withdrawn from storage and sold by the manufacturer or dealer, the market price of such dairy product in Western Australia as declared by the Board is equal to or less than the market price thereof in Western Australia on the day when such dairy product was placed in storage as aforesaid as declared by the Board, such manufacturer or dealer shall, when the proceeds of the sale of the dairy product have been received by him, pay to the Board for the credit of the Dairy Products Stabilisation Fund the amount of the said advance previously made to him as aforesaid, less such of the following amounts as are approved and determined by the Board, namely:—

- (i) costs of storage;
- (ii) an amount calculated on the basis of the drop in the market price of the dairy product, as hereinbefore mentioned, when there has been a drop in such market price as aforesaid;
- (iii) the amount of any loss in value of the dairy products as the result of any deterioration during storage;
- (iv) the amount of any premium paid to the manufacturer or dealer under subsection (3) or subsection (3a) of this section;
- (v) any other incidental loss:

Provided that, where as a result of a drop in the market price in Western Australia of the dairy product, whilst it is in storage, below

the market price in Western Australia of such dairy product as declared by the Board at the time when such dairy product was placed in storage, the aggregate amount of the deductions per hundredweight (cwt.) of the dairy product sold approved and determined by the Board in accordance with this paragraph to be deducted from the proceeds of the sale of the dairy product sold exceeds the amount of the advance per hundredweight (cwt.) made by the Board under this subsection in respect of the dairy product sold, the manufacturer or dealer shall not only be released and discharged from all liability to repay to the Board any portion of the said advance, but in addition the Board may out of moneys in the Dairy Products Stabilisation Fund pay to the manufacturer or dealer by way of compensation for loss occasioned by the storage of the dairy product such amount as the Board may determine for and in respect of each hundredweight (cwt.) of the dairy product sold but not exceeding an amount calculated upon the basis of the difference between the aggregate amount per hundredweight (cwt.) of the deductions aforesaid and the amount per hundredweight (cwt.) of the advance aforesaid; and

- (b) if, when any portion of the dairy product is withdrawn from storage and sold by the manufacturer or dealer, the market price thereof in Western Australia as declared by the Board is greater than the market price thereof in Western Australia on the day when such dairy product was placed in storage as aforesaid as declared by the Board, such manufacturer or dealer shall,

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when the proceeds of the sale of the dairy product have been received by him, pay to the Board for the credit of the Dairy Products Stabilisation Fund the following amounts, namely:—

- (i) the amount of the said advance previously made to him as aforesaid, less such of the following amounts as are approved and determined by the Board, that is to say:—
 - (a) costs of storage; and
 - (b) the amount of any loss in value of the dairy product as the result of any deterioration during storage; and
 - (c) the amount of any premium paid to the manufacturer or dealer under subsection (3) or subsection (3a) of this section; and
 - (d) any other incidental amount; and
 - (ii) an amount equivalent to a sum calculated at the rate of the amount of the difference between the market price ruling in Western Australia as declared by the Board on the day of the sale and the market price ruling in Western Australia as declared by the Board on the day when the said dairy product was placed in storage as aforesaid;
- (c) any amounts payable by a manufacturer or dealer to the Board under either paragraph (a) or paragraph (b) of this subsection shall be a debt owing by him to the Board, and shall be recoverable at the suit of the Board in any court of competent jurisdiction.

(3) The Board may, out of the moneys in the Dairy Products Stabilisation Fund, from time to time pay to the manufacturers of any dairy product a premium in accordance with rates to be fixed from time to time by the Board in respect of so much of the dairy product manufactured by such manufacturers as the Board shall determine is of "choice" quality.

(3a) The Board may, out of the moneys in the Dairy Products Stabilisation Fund, from time to time pay to manufacturers and dealers in respect of dairy products stored by them in a storage place in accordance with section thirty-six of this Act a premium in accordance with rates to be fixed from time to time by the Board, but not exceeding five-twelfths of a cent per pound avoirdupois of such dairy products so stored as aforesaid.

(4) The Board may from time to time fix a scale of rates for payment of advances or compensation or premium for the purposes of this section, and may fix such scale of rates for and in respect of the various grades of a dairy product.

(5) The payment of advances and compensation and premium under this section, and of the amount of any such advance or compensation or premium, shall be at the absolute discretion of the Board, whose decision shall be final; and advances or compensation or premium under this section shall be paid only to manufacturers and dealers (as the case may be) who have in all respects complied with the provisions of this Act and the regulations.

(6) Application for payment of an advance or compensation or premium under this section shall be made to the Board in the prescribed form, and shall be accompanied by such returns and particulars as may be prescribed, or as may be required by the Board.

(7) The Board may, by public notice, declare that advances or compensation or premium under this section will be payable in respect only of dairy

products exported and sold, or of dairy products manufactured (as the case may be) during such period of a year as may be specified in such notice.

PART V.—FINANCIAL.

Application
of the funds
of the Board.
Amended by
No. 40 of
1936, s. 20.

42. (1) The funds of the Board (other than the Dairy Products Stabilisation Fund) 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.

(2) The contributions to the Dairy Products Stabilisation Fund as and when received by the Board shall be paid to the credit of such fund in an account at a bank to be approved by the Minister and shall be applied in the manner and for the purposes authorised by this Act.

(3) The Board may create reserve accounts in connection with its ordinary administration funds and the Dairy Products Stabilisation Fund of such amounts respectively as the Governor may from time to time approve, and may place to the credit of such reserve accounts out of the administration funds or out of the Dairy Products Stabilisation Fund (as the case may be) any moneys from time to time not immediately required for the purposes for which the said funds respectively are created under this Act.

(4) The Board may invest any money in any reserve account mentioned in subsection (3) hereof by way of fixed deposit with the bank in which the various funds of the Board are banked upon such terms as may be mutually arranged between the Board and the bank; and any interest or profit derived by the Board from such investment shall be paid to the credit of the ordinary administration

fund or to the credit of the Dairy Products Stabilisation Fund according to the reserve account out of which the moneys have been invested.

(5) Where by reason of moneys in the reserve account being invested as provided for in subsection (4) hereof, the moneys for the time being in the ordinary administration funds of the Board are not sufficient to meet the financial obligations of the Board, the Board may, as an alternative to obtaining advances from the Treasurer under section forty-three of this Act, with the approval of the Governor borrow from the bank, in which moneys from the reserve account are invested as aforesaid, by way of an overdraft on current account such amount as the bank may be willing to lend on the security of the said fixed deposit investment and as may be required by the Board; and any interest payable by the Board to the bank in respect of the money borrowed shall be paid, and the amount borrowed shall be repaid out of the ordinary administration fund of the Board or out of the reserve account created in connection therewith, as the Board may think fit.

(6) Where by reason of moneys in the reserve account being invested as provided for in subsection (4) hereof or otherwise, the moneys for the time being in the Dairy Products Stabilisation Fund are not sufficient to enable the Board to make necessary payments out of such fund, the Board may, as an alternative to obtaining advances from the Treasurer under section forty-three of this Act, with the approval of the Governor do either or both of the following things, namely:

- (a) make advances to the Dairy Products Stabilisation Fund out of the Board's ordinary administration funds or out of the reserve account (if any) created in connection therewith; or
- (b) borrow from the bank in which moneys from the reserve account created in connection with the Dairy Products Stabilisation Fund

are invested as aforesaid, by way of overdraft on current account such amount as the bank may be willing to lend on the security of the said fixed deposit investment and as may be required by the Board for the purpose of the Dairy Products Stabilisation Fund:

Provided that any advances made out of the ordinary administration fund or out of the reserve account created in connection therewith as provided for in paragraph (a) above shall, as soon as moneys are available for the purpose, be repaid to the fund or the reserve account from which the advances were made out of the Dairy Products Stabilisation Fund or the reserve account created in connection therewith as the Board shall think fit; and any money borrowed from the bank as provided for in paragraph (b) above, together with any interest payable in respect thereof shall be repaid and paid respectively to the bank out of the Dairy Products Stabilisation Fund or the reserve account created in connection therewith as the Board shall think fit.

Board may
refund
surplus
money in
Dairy
Products
Stabilisation
Fund.
Added by
No. 40 of
1936, s. 21.

42A. The Board may, with the approval of the Governor and subject to regulations from time to time after the expiration of any financial year, distribute by way of refund any moneys or any portion of the moneys then in the Dairy Products Stabilisation Fund, excluding moneys then credited in any reserve account created in connection with such fund, which appear in the accounts of the Board as a surplus of moneys in the said fund to and among those persons who in the financial year then completed actually bore the expense incurred by the payment of contributions to the said fund during such financial year:

Provided that before any approval is granted by the Governor for any distribution under this section, the Board shall prepare and submit to the Governor a proposal in writing showing the amount to be

distributed, the persons to participate in such distribution, and the amounts or proportions to be paid to such persons.

43. (1) The Treasurer may make advances out of moneys appropriated by Parliament to such purpose, to enable the Board to defray any expenditure for which the funds of the Board may for the time being be insufficient, and such advances, with interest, as fixed by the Treasurer, shall be a charge upon the funds of the Board other than the Dairy Products Stabilisation Fund.

Advances by
Treasurer.
Amended by
No. 40 of
1936, s. 22.

(2) If at any time the Treasurer is unable to make advances to the Board as provided for in subsection (1) of this section, and the Board is unable, by reason of not having any funds invested or for any other reason, to borrow from a bank by means of an overdraft on current account as provided for in section forty-two of this Act, and moneys for the time being in the Dairy Products Stabilisation Fund are not sufficient to enable the Board to make to any person willing to store dairy products for purposes of deriving benefit from the Dairy Products Stabilisation Fund in accordance with this Act, payments in accordance with this Act out of the said Fund, the Board may with the approval of the Governor do either or both of the following things, namely:—

- (a) Borrow such amount as may be required by the Board for such purpose from any bank, corporation, or person willing to lend the same on the security of the Dairy Products Stabilisation Fund upon such terms and conditions as may be mutually arranged between the Board and the lender; and in such case the repayment of the sum so borrowed, together with interest payable thereon shall be a charge upon the said Dairy Products Stabilisation Fund; or

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- (b) By arrangement with any bank, corporation, or person willing to lend direct to the person willing to store dairy products as aforesaid, money up to the amount which the Board is willing and authorised by this Act to pay to such person out of the Dairy Products Stabilisation Fund to guarantee to such bank, corporation, or person on the security of the Dairy Products Stabilisation Fund repayment with interest thereon of such amount as such bank, corporation, or person may lend pursuant to such arrangement; and in such case any principal or interest which the Board may be required as guarantor aforesaid to repay to such bank, corporation, or person as lender aforesaid shall be a charge upon the Dairy Products Stabilisation Fund; Provided that if and when after the Board as guarantor aforesaid has made payment to any bank, corporation, or person as lender, any payment is recovered by the Board from the person to whom money was lent by such bank, corporation, or person, shall be placed to the credit of the Dairy Products Stabilisation Fund.

Accounts.

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

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

Books may be inspected.

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

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

Accounts to be balanced.

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

Accounts to be audited.

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

(3) The costs of such audit shall be paid by the Board out of its funds.

48. The Board may, and shall, if so required by the Minister, cause its accounts to be audited once at least in every three months by an auditor appointed and paid by the Board out of its funds.

Periodical audit of accounts.

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

Copies of accounts as audited to be furnished.

PART VI—MISCELLANEOUS.

50. (1) No producer shall deliver dairy products sold by him to a licensed manufacturer or dealer, except at the premises of such manufacturer or dealer, or to his authorised representative.

Producers to deliver dairy products sold to licensed manufacturers or dealers at their premises.

(2) Any person who commits any act in contravention of this section shall be guilty of an offence.

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

Penalty: Two hundred dollars.

Sale of dairy products by certain persons prohibited. Amended by No. 113 of 1965, s. 8.

51. (1) No person shall sell dairy products unless he is—

- (a) a producer; or
- (b) a licensed manufacturer; or
- (c) a licensed dealer; or
- (d) a person who has purchased the dairy products from a licensed manufacturer or dealer; or
- (e) a storekeeper—other than in the metropolitan area—who proves to the satisfaction of the Board that he has purchased the dairy product direct from the producer for sale retail in his store in the ordinary course of business.

(2) Any person who commits any act in contravention of this section shall be guilty of an offence.

Penalty: Two hundred dollars.

Powers of inspectors.

52. (1) Whenever and wherever an inspector has reasonable grounds for believing that dairy products are exposed or offered for sale, or are in process of transport for the purpose of sale, an inspector may enter and inspect any place and examine any dairy product in such place, and may require the owner or person for the time being in charge of such dairy product to open any package, or if no such owner or person is present, may himself open any package.

(2) If an inspector has reasonable grounds for believing that with respect to any package or lot of dairy products there is a contravention of or failure

to comply with this Act or the regulations, he may take possession of and retain such package or lot of dairy products for such time as may be necessary to enable him properly to inspect and examine the same, but such inspector shall take all reasonable precautions to protect such package or lot of dairy products from injury, damage, theft, or loss to the owner until any proceedings that may be taken in respect thereof for an offence are disposed of.

(3) Such package or lot of dairy products shall at all times during such retention thereof by the inspector be at the risk and expense of the owner thereof.

(4) In the event of an inspector taking possession of and retaining any package or lot of dairy products in the absence of the owner, he shall do so in the presence of a reputable witness, and shall affix to any such package or lot a statement giving his name and the date of his inspection, and shall as soon as practicable notify the owner that he has taken possession of and retained such package or lot.

53. Where it is made to appear to the satisfaction of the Board, or of an inspector or other officer of the Board, or to any member of the police force at the time of discovering an offence—

Protection
of certain
wrongdoers.

- (a) that the person primarily liable has used all due diligence to avoid a breach of this Act or the regulations; and
- (b) by what person the offence has been committed; and
- (c) that it has been committed without the knowledge, consent, or connivance of the person primarily liable

the Board, or inspector, officer, or member of the police force aforesaid shall proceed against the person whom he believes to be the actual offender without first proceeding against the person primarily liable.

Packages of dairy products to be marked. Amended by No. 113 of 1965, s. 8.

54. (1) Every person who packs any dairy products intended for sale, shall in manner prescribed legibly and durably mark upon or cause to be marked upon every such package containing any of such dairy products—

- (a) the name of the packer of such dairy products or the registered brand or registered mark (if any), or the stamp of such packer;
- (b) a mark, as prescribed for the purpose of indicating the classification, grade and quality of the dairy product contained in the package; and
- (c) the quantity of dairy product contained in the package.

(2) Any person who fails to observe any of the provisions of this section shall be guilty of an offence.

Penalty: One hundred dollars.

Interference with inspectors and officers. Amended by No. 113 of 1965, s. 8.

55. Any person who in any way resists, interferes with, hinders, or obstructs the Board or any member of the Board, or any inspector or other officer of the Board in the exercise or discharge of any power, authority, function, or duty under this Act, shall be guilty of an offence.

Penalty: Two hundred dollars or imprisonment for six months.

56. Every person who omits to do anything directed to be done, or does anything forbidden to be done by or under this Act or the regulations, shall be liable to the penalty expressly provided therefor; and if no penalty is expressly provided therefor, shall be liable to a penalty of a sum not exceeding two hundred dollars.

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

57. In any proceedings in respect of offences under this Act—

Evidence.

- (a) no proof shall be required of the authority of the inspector or other officer of the Board to take the proceedings or of his appointment as such inspector or officer; and
- (b) the person whose name is marked on the outside or inside of any package containing dairy products intended for sale as the seller or packer thereof shall be deemed to be the seller or packer thereof until the contrary is proved.

58. 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 the Board or any member of the Board, or any inspector or officer of the Board acting in the administration of this Act, for or in respect of any damage, loss, or injury sustained or alleged to be sustained by reason of the passing of this Act, or of its operation, or of anything *bona fide* done or purporting to be done under this Act.

Indemnity.

59. (1) The Minister may, with the approval of the Governor, make regulations prescribing forms and fees and other matters and things which by this

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

Dairy Products Marketing Regulation.

Act are contemplated, required, or permitted to be prescribed, or which appear to him necessary or convenient to be prescribed for the purpose of effectually carrying out the provisions of this Act, or for better effecting the objects and purposes of this Act.

(2) Such regulations may impose a penalty not exceeding one hundred dollars for a breach of any regulations.