

Western Australia

Dairy Industry Act 1973

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Dairy Industry Act 1973

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Schedule

NOTES

Western Australia

Dairy Industry Act 1973

An Act to consolidate and amend the law relating to the Dairy Industry and Milk and Dairy Produce; to repeal the *Dairy Industry Act 1922-1969*, the *Dairy Products Marketing Regulation Act 1934-1937* and the *Milk Act 1946-1971*, and for incidental and other purposes.

Part I — Preliminary

1. Short title

This Act may be cited as the *Dairy Industry Act 1973*¹.

2. Commencement

This Act or any provision of this Act shall come into operation on such date as is, or on such dates as are, respectively, fixed by proclamation¹.

[3. *Repealed by No. 96 of 1994 s.3.*]

4. Repeals

- (1) The Acts specified in the Schedule to this Act are hereby repealed.
- (2) Without limiting the operation of the provisions of the *Interpretation Act 1918*, and sections 15 and 16 of that Act in particular, it is hereby declared that the repeal of any Act by this Act does not affect any document made or anything done under any Act so repealed, and each such document or thing, so far as it is subsisting or in force at the time of the repeal and could have been made or done under this Act, shall continue and have effect as if it had been made or done under the corresponding provision of this Act, and as if that provision had been in force when the document was made or the thing was done.

[Section 4 amended by No. 56 of 1983 s.39.]

5. Definitions

In this Act, unless the contrary intention appears —

“**Authority**” means the Dairy Industry Authority of Western Australia established under this Act;

“**commencing date**” means the date on which this Act comes into operation;

“dairy” means any premises used for or in connection with the stalling, feeding or milking of cattle for the purposes of producing milk which is supplied or to be supplied for profit or sale;

“dairyman” means a person who carries on business as a producer of milk pursuant to a licence at a dairy;

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

“licence” means a licence issued under this Act;

“manager” means the person for the time being holding the office of manager of the Authority or if that office ceases to exist, the office prescribed for the purposes of this definition, and includes the person for the time being acting in the place of the firstmentioned person;

“medical practitioner” means a person who is registered under the *Medical Act 1894* and who has a current entitlement to practise under that Act;

“milk” means the lacteal fluid product of cows produced for human consumption and includes a substance that has milk as an ingredient and is prescribed by regulation as a substance to be treated as milk for the purposes of this Act;

“milk component” means a substance, or combination of substances, present in milk;

“milk processing plant” means any premises where milk is treated, prepared or packed preparatory to sale;

“quota” means a quota granted to a person by the Authority under section 28;

“quota year” means the period of twelve months commencing on the date fixed by the Authority by notice under section 25;

“sell” means sell by wholesale or by retail and includes barter, supply for profit, offer for sale, receive for sale, have in possession for sale, expose for sale, send, forward or deliver for sale, cause, suffer or allow to be sold, offered, or

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exposed for sale and “**sale**” and “**sold**” have corresponding meanings;

“**supplementary quota**” means a supplementary quota granted to a person by the Authority under section 29;

“**treatment**”, in relation to milk, includes the cleansing, testing, refrigeration or preserving of the milk and “**treat**” has a corresponding meaning.

[Section 5 amended by No. 45 of 1980 s.3; No. 63 of 1981, Schedule; No. 56 of 1983 s.3; No. 96 of 1994 s.4.]

[6. Repealed by No. 96 of 1994 s.5.]

7. Application of Act Exemptions

(1) The Minister may, by order published in the *Government Gazette*, declare that all or any by provisions of this Act specified in the order, do not apply according to the order to, or in respect of, —

- (a) any area or areas of the State;
- (b) any person or any person of a class;
- (c) any dairy or milk processing plant or class of dairy or milk processing plant;
- (d) any milk or milk of a class,

specified in the order.

[(1a) repealed]

(2) An order made under subsection (1) shall take effect according to its tenor from a date specified therein, being a date that is not earlier than the date the order is published in the *Government Gazette*.

(3) An order made under subsection (1) may be absolute, or may be subject to such conditions as the Minister thinks fit as specified in the order.

- (4) For the purposes of subsection (1) a class may be defined by reference to such circumstances or factors as the Minister thinks fit and specifies in the order made under that subsection.
- (5) When a person to whom an order made under paragraph (b) of subsection (1) applies, fails to comply with any condition to which the order was subject, the Minister may, by order published in the *Government Gazette*, amend the order by excluding that person from the operation thereof.
- (6) The Minister may, by notice published in the *Government Gazette* cancel or amend an order made under subsection (1).
[Section 7 amended by No. 45 of 1980 s.4; No. 96 of 1994 s.6.]

8. Saving existing laws

Unless otherwise expressly provided in this Act, this Act does not affect the provisions of any other Act that relates to the dairy industry or the manufacture, distribution, control, regulation, sale or consumption of milk or dairy produce, or the regulations, local laws, by-laws, rules, orders in council, proclamations or other statutory instruments made thereunder.

[Section 8 amended by No. 14 of 1996 s.4.]

9. Minister may give directions

- (1) The Minister may give directions in writing to the Authority with respect to the performance of its functions, either generally or in relation to a particular matter, and the Authority shall give effect to any such direction.
- (2) The text of any direction given under subsection (1) shall be included in the annual report submitted by the accountable authority of the Authority under section 66 of the *Financial Administration and Audit Act 1985*.
- (3) A direction under this section shall be served on the manager or the chairman of the Authority.

[Section 9 inserted by No. 96 of 1994 s.7.]

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9A. Minister to have access to information

- (1) The Minister is entitled —
- (a) to have information in the possession of the Authority;
and
 - (b) where the information is in or on a document, to have,
and make and retain copies of, that document.
- (2) For the purposes of subsection (1) the Minister may —
- (a) request the Authority to furnish information to the
Minister;
 - (b) request the Authority to give the Minister access to
information;
 - (c) for the purposes of paragraph (b) make use of the staff
of the Authority to obtain the information and furnish it
to the Minister.
- (3) The Authority shall comply with a request under subsection (2)
and make its staff and facilities available to the Minister for the
purposes of paragraph (c) of that subsection.
- (4) In this section —
- “document”** includes any tape, disc or other device or medium
on which information is recorded or stored mechanically,
photographically, electronically or otherwise;
- “information”** means information specified, or of a description
specified, by the Minister that relates to the functions of the
Authority.

[Section 9A inserted by No. 96 of 1994 s.7.]

**Part II — Dairy Industry Authority of Western
Australia**

**Division 1 — Constitution and proceedings of the Authority
and transfer of assets, etc., to the Authority**

10. Establishment of Authority

- (1) For the purposes of this Act, there shall be established a body by the name of the Dairy Industry Authority of Western Australia.
- (2) The Authority —
 - (a) is a body corporate, with perpetual succession;
 - (b) shall have a common seal;
 - (c) in its corporate name, may acquire, hold and dispose of real and personal property; and
- [(d deleted)]*
- (e) may sue and be sued in its corporate name.
- (3) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Authority affixed to a document and shall presume that it was duly affixed.

[Section 10 amended by No. 96 of 1994 s.8.]

11. Constitution of Authority

- (1) After the commencement of the *Dairy Industry Amendment Act 1994* the Authority shall consist of 5 members appointed by the Minister in accordance with this section.
- (2) The Minister shall appoint a person to represent the consumers of milk and that person shall be the chairman of the Authority.

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- (3) The other 4 members shall be appointed as follows —
- (a) 2 shall be persons nominated by one or more dairymen and appointed by the Minister after consultation with the bodies known by the names “Western Australian Farmers Federation (Inc.)” and the “Milk Industry Liaison Committee (Inc.)” or by such other names as either body may adopt;
 - (b) one shall be a person nominated by the body known by the name “Dairy Products Manufacturers’ Association of Western Australia” or such other name as the body may adopt or by any other body, whether corporate or unincorporate, which in the Minister’s opinion has knowledge of the operations of milk processing plants; and
 - (c) one shall be a person who has qualifications determined by the Minister to be relevant to the functions of the Authority.
- (4) If a nomination has not been made under paragraph (a) or (b) of subsection (3) within the time prescribed for submitting the nominations to the Minister, the Minister may appoint such person as the Minister thinks fit and a person appointed in accordance with this subsection shall hold office in accordance with paragraph (a) or (b) of that subsection as the case may be.
- (5) The time by which nominations for the purposes of this section are to be submitted, and the manner in which the nominations are to be made, may be prescribed by regulation.

[Section 11 inserted by No. 96 of 1994 s.9.]

12. Tenure of office of Authority members

Subject to section 13 —

- (a) the chairman of the Authority holds office for 5 years;
- (b) the other 4 members of the Authority hold office for 3 years,

and where the term of office of any member expires, that member is eligible for renomination and reappointment.

[Section 12 inserted by No. 96 of 1994 s.11.]

13. Vacancy in office

- (1) Any member of the Authority may be removed from office at any time by the Minister for disability, inefficiency, neglect of duty, misconduct or insolvency and thereupon his office becomes vacant and, without limiting the operation of the foregoing, the office of any member becomes vacant if —
 - (a) he resigns his office by writing under his hand addressed to the Minister;
 - (b) he dies; or
 - (c) he fails to attend three consecutive meetings of the Authority without having first obtained leave to do so from the Authority, unless his failure to so attend is occasioned by illness or other unavoidable cause.
- (2) Where a vacancy occurs in the office of member of the Authority otherwise than by reason of the expiration of that member's term of office, the Minister shall appoint a person to fill that office for the unexpired portion of the term for which that member was appointed.
- (3) During the absence or illness of a member of the Authority whereby the member is likely to be unable to perform his duties as such member for a period of three months or more consecutively, the Minister may appoint a fit and proper person as a deputy of that member and the person so appointed while he holds office as such deputy —
 - (a) may perform the functions of the member of whom he is the deputy;

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- (b) shall be deemed to be a member of the Authority and shall represent the same interests as the member of whom he is the deputy.

[Section 13 amended by No. 96 of 1994 s.12.]

14. Certain members part time

- (1) A member of the Authority is not required to devote the whole of his time to the duties of his office.
- (2) A member of the Authority, including a deputy appointed under section 13 (3), shall receive out of the funds of the Authority such remuneration, allowances and expenses as may be prescribed.
- (3) The Minister may grant leave of absence to a member of the Authority on such terms and conditions as the Minister determines.

[Section 14 amended by No. 96 of 1994 s.13.]

15. Meetings of the Authority

- (1) The Authority shall hold such meetings as are necessary for the performance of its functions.
- (2) The Chairman of the Authority may convene a meeting of the Authority —
- (a) at his discretion; or
- (b) pursuant to a determination of the Authority,
- and shall convene a meeting of the Authority —
- (c) on the requisition of 3 members, signed by those members; or
- (d) if the Minister so directs,

and in default any such meeting may be convened by the member of the Authority appointed under section 11 (3) (c), but

the chairman shall preside at all meetings of the Authority at which he is present.

- (3) Where the chairman of the Authority is absent from a meeting of the Authority, the members of the Authority who are present at that meeting shall elect one of their number to be the chairman of that meeting.
- (4) At a meeting of the Authority —
 - (a) 3 members form a quorum;
 - (b) a question arising at the meeting shall be determined by a majority of the valid votes of the members of the Authority present at the meeting and in the event of an equal division of votes, the question shall be deemed to be resolved in the negative.
- (5) Each member of the Authority including the chairman thereof who is present at a meeting of the Authority has one deliberative vote only.

[(6) repealed]

- (7) Subject to this Act the Authority may regulate its procedure in such manner as it thinks fit.

[Section 15 amended by No. 56 of 1983 s.7; No. 96 of 1994 s.14.]

16. Vacancy in membership not to affect exercise of powers by the Authority

- (1) The powers of the Authority are not affected by any vacancy in the membership of the Authority, and if a quorum is present all acts and proceedings of the Authority are valid and effectual, notwithstanding the vacancy.
- (2) All acts and proceedings of the Authority are, notwithstanding any defect in the appointment of any member of the Authority or deputy thereof, or that any such member or deputy was disqualified or not entitled to act, as valid as if the member or

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Division 1 Constitution and proceedings of the Authority and transfer of assets, etc., to the Authority

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the deputy had been duly appointed and was qualified to act, and had acted, as a member or deputy, and as if the Authority had been duly and fully constituted.

17. Appointment of staff

Subject to this Act, the Authority may appoint, employ and pay out of the funds of the Authority such officers and employees as it considers necessary to enable it to effectively carry out its functions under this Act.

[Section 17 amended by No. 56 of 1983 s.39; No. 96 of 1994 s.15.]

18. Saving of certain rights

- (1) Where a person became, pursuant to section 17 (2), an officer or employee of the Authority or of the Department of Agriculture⁷, nothing in this Act prejudices or affects any right that, immediately before the commencing date, had accrued or was accruing under the *Public Service Arbitration Act 1966*, the *Public Service Act 1978*⁶, the *Superannuation and Family Benefits Act 1938*, the *Milk Act 1946*, the *Dairy Products Marketing Regulation Act 1934* or any other Act, to that person, and any such right so accruing shall, until lawfully terminated or varied, continue to accrue as if —

- (a) the repeals and amendments effected by this Act had not been made; and
- (b) service with the Authority or the Department, as the case may be, were service for the purposes of the Act pursuant to which the right had accrued or was accruing,

but no such officer or employee is entitled to claim in respect of the same period of service a benefit under this Act and another Act.

- (2) An officer of the Public Service or an employee within the meaning of the *Superannuation and Family Benefits Act 1938*, appointed to the service of the Authority —

- (a) shall retain any rights that have accrued to or are accruing to him as such an officer or employee; and
- (b) may continue to contribute to any fund or account and is entitled to receive any deferred or extended leave and any payment, pension or gratuity,

as if he had continued to be such an officer or employee during his service with the Authority, and for the purposes of this subsection, his service with the Authority shall be deemed to be service for the purposes of that Act and of the *Public Service Act 1978*⁶, but no such officer or employee is entitled to claim, in respect of the same period of service a benefit under this Act and another Act.

[Section 18 amended by No. 56 of 1983 s.39; No. 96 of 1994 s.16.]

19. Manager of Authority

- (1) Subject to this section, the Authority shall from time to time appoint a person to be the manager of the Authority on such terms and conditions as are determined by the Authority and approved by the Minister, and any person so appointed shall vacate the office of manager in accordance with those terms and conditions.

[(2) repealed]

- (3) The manager shall be responsible to the Authority for the conduct and organization of the business of the Authority.

[Section 19 amended by No. 56 of 1983 s.39.]

19A. Status of manager, and of officers and employees, of Authority who are members of Senior Executive Service

Notwithstanding anything in section 17, 18 or 19, to the extent that there is in the case of a person who is appointed under —

- (a) section 17 to be an officer or employee; or
- (b) section 19 to be the manager,

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of the Authority and who is a member of the Senior Executive Service within the meaning of the *Public Service Act 1978*⁶ an inconsistency between this Act and that Act that Act shall prevail.

[Section 19A inserted by No. 113 of 1987 s.32.]

20. Transfer of assets and liabilities, etc., to Authority

(1) On the commencing date —

- (a) the Milk Board of Western Australia constituted under the *Milk Act 1946*, and the Dairy Products Marketing Board constituted under the *Dairy Products Marketing Regulation Act 1934* (in this section referred to as “the dissolved Boards”) are hereby dissolved and cease to exist and the appointment of the respective members thereof cancelled;
- (b) all real and personal property and every right and interest therein, and the management and control thereof, that immediately before that date was vested in or belonged to either of the dissolved Boards, shall by force of this section, without any conveyance, transfer or assignment be transferred to, vested in, and belong to, the Authority for the purposes of this Act, subject to any debts, trusts and liabilities affecting them;
- (c) all rights accruing or accrued to either of the dissolved Boards in respect of any property vested in and belonging to the Authority by virtue of this section —
 - (i) are vested in and belong to the Authority; and
 - (ii) may be enforced by the Authority;

- (d) all contracts, agreements and undertakings made by either of the dissolved Boards and all securities lawfully given to or by either of those dissolved Boards and in force immediately before that date, have effect as contracts, agreements and undertakings, by and with the Authority and securities given to or by the Authority, and may be enforced by and against the Authority accordingly;
 - (e) all debts due and money payable by either of the dissolved Boards and all claims liquidated and unliquidated recoverable against either of those Boards shall be debts due, and moneys payable by, and claims recoverable against, the Authority;
 - (f) any legal or other proceedings that might but for this section, have been continued or commenced by or against either of the dissolved Boards in its corporate name may be continued or commenced by or against the Authority in its corporate name.
- (2) No attornment to the Authority by a lessee from either of the dissolved Boards shall be required.

21. Construction of laws and documents

A reference in —

- (a) any Act, regulation, by-law or other law of the State; and
- (b) any statutory instrument or other document,

in force immediately before the commencing date, to the Milk Board of Western Australia or the Dairy Products Marketing Board shall, unless the context requires otherwise, be read and construed respectively as a reference to the Authority.

Division 2 — Functions of the Authority

[Heading inserted by No. 96 of 1994 s.17.]

22. Functions, etc., of the Authority

- (1) Subject to this Act, the Authority is hereby charged with —
 - (a) the regulation of the production of milk at dairies;
 - (b) the acceptance of, payment for, and sale of, milk by the Authority;
 - (c) the regulation of the amount of production of milk so as to ensure, so far as is practicable, the continuous availability of milk; and
 - (d) for the purposes of ensuring the wholesomeness and purity of milk, the control of the quality, production and treatment of milk at dairies.

- (2) The Authority —
 - (a) may determine and give effect to policies for ensuring the future production of milk and for effecting economies at dairies;
 - (b) may facilitate, from time to time, the introduction and use of new types of dairy technology;
 - (c) may determine and give effect to policies to rationalize the storage and treatment of milk;
 - (d) may inquire into and regulate the operations of dairies, dairymen and milk processing plants and administer quotas;
 - (e) may issue, cancel or suspend licences or classes of licence;
 - (ea) may register dairies or classes of dairies, cancel or suspend such registration and may issue certificates in relation to registration status;

- (f) may carry out the making, settlement and approval of contracts for the supply of milk by dairymen to the Authority or such other person as the Authority determines;
 - (g) may fix the quantity of milk in excess of his quota that a dairyman is entitled to supply to the Authority or such other person as the Authority determines;
 - (ga) may initiate, conduct or cause to be conducted the promotion of sales of milk;
 - (h) may provide funds for research or investigation by, and the education and training of, such persons as the Authority determines with a view to improving the dairy industry; and
 - (i) may pay the whole or part of the costs of transporting milk to areas in the State outside the metropolitan region as defined in the *Metropolitan Region Town Planning Scheme Act 1959*.
- (3) The Authority may from time to time appoint committees of such of its members or such of its members and other persons, as it thinks fit and may discharge or alter any committee so appointed.
- (4) Subject to the directions of the Authority and to the terms of any delegation under section 43 (1), each committee may determine its own procedures.

[Section 22 amended by No. 45 of 1980 s.5; No. 56 of 1983 s.8; No. 96 of 1994 s.18.]

[22A. Repealed by No. 96 of 1994 s.19.]

23. Further powers of Authority

- (1) The Authority —
 - (a) may determine standards for the quality and composition of milk that are in addition, and not inferior, to those prescribed under the *Health Act 1911*;

- (b) may determine the premiums and penalties or differential rates of payment or the periods of suspension of licences that are to be applied, imposed or made where milk complies or does not comply with a standard mentioned in paragraph (a);
- (c) may determine the conditions upon which, and the circumstances when the premiums, penalties or differential rates of payment or periods of suspension to which paragraph (b) refers will be applied or imposed;

[(d) deleted]

- (e) may, by instrument in writing, appoint persons to act as agents for the Authority and may authorize those persons to carry out on behalf of the Authority such of its functions as are agreed to between the Authority and any such agent, including, if it is so agreed between the Authority and any such agent, the function of accepting or selling on behalf of the Authority milk that is or may be vested in the Authority pursuant to this Act and such other functions as are incidental thereto and have been so agreed, and the Authority may by subsequent instrument vary or revoke any instrument of appointment of a person as its agent.

- (2) A determination made by the Authority pursuant to this section has effect according to its tenor, and a person who fails to comply with the determination commits an offence.

Penalty: Individual — \$2 000 for a first offence and \$5 000 for a second or subsequent offence.

Body corporate — \$10 000 for a first offence and \$25 000 for a second or subsequent offence.

[Section 23 amended by No. 56 of 1983 ss.38 and 39; No. 20 of 1989 s.3; No. 96 of 1994 s.20.]

24. Power of Authority to impose conditions and fix liquidated damages

The Authority may in an agreement, authority, licence or certificate insert conditions including conditions in relation to the indemnification of the Authority and may fix a sum as and by way of liquidated damages for any breach of conditions and those damages are recoverable accordingly.

[Section 24 amended by No. 45 of 1980 s.7; No. 96 of 1994 s.21.]

25. Commencing date

The Authority may, by notice published in the *Government Gazette*, fix a date as the date on which a quota year commences.

[Section 25 amended by No. 96 of 1994 s.22.]

26. Applications for quotas, etc.

- (1) The Authority shall invite applications to be made in the manner and form approved by it for the grant of a quota for the production of milk.
- (2) A person, whether or not a dairyman, may, by application delivered to the Authority apply for the grant to him of a quota in respect of a specified dairy or proposed dairy, the location or proposed location of which is identified in the application.

[Section 26 amended by No. 56 of 1983 s.9; No. 96 of 1994 s.23.]

27. Authority to provide Minister with information etc. as to determination of quota applications

Before the Authority considers applications made under section 26 in respect of a quota year the Authority shall submit to the Minister a written statement setting out —

- (a) the quantity of milk that will be required to ensure that consumers in the State are adequately catered for; and
- (b) its recommendations as to the bases or principles on which applications for a quota in respect of that quota year should be determined.

[Section 27 inserted by No. 96 of 1994 s.24.]

27A. Allocation of quotas

- (1) The assessment of the amount of any quota (expressed as a quantity of milk to be produced in the quota year) shall be fixed by reference to the quantity of milk referred to in section 27 (a), and the determination of the application for the grant of a quota in any year may be made having regard to —

- (a) the likelihood or otherwise of a continuity and certainty of production;
- (b) the geographical distribution of dairies producing milk in accordance with quotas; and
- (c) the physical characteristics of the dairy specified in the application, with particular reference to whether it is, or is likely to be, registered under this Act,

whether or not the applicant was the holder of a quota at the time the application was made.

- (2) The grant of a quota in respect of a dairy or proposed dairy —
 - (a) shall not have or take effect unless —
 - (i) the holder is or becomes a dairyman; and
 - (ii) the dairy is or becomes registered under this Act; and
 - (b) subject to paragraph (a), has effect —
 - (i) from the date specified therein; or

- (ii) where the applicant was not a dairyman and no date is specified in the grant, in accordance with the terms of the grant.

[Section 27A inserted by No. 96 of 1994 s.25.]

28. Determination of quota applications

- (1) Subject to section 27 and to subsections (2), (4) and (5), the Authority shall consider any application made to it in the manner and form approved by the Authority, for a quota to produce milk in respect of a quota year, and shall either grant a quota to the applicant or refuse the application and in either case shall advise the applicant in writing of its decision.
- (2) Where the Authority grants a quota under this section or approves the transfer of the quota to another person under section 30 (4), the Authority shall issue a quota certificate stating —
 - (a) the name and address of the person to whom the quota is granted or transferred, and if the person is a body corporate, the registered office or principal place of business in the State of that person, and the quota year for which the quota has been granted;
 - (b) a description sufficient to identify the location of the dairy to which the quota relates;
 - (c) the quantity of milk that may be produced under the quota during the quota year; and
 - (d) the conditions for the acceptance by the Authority of any milk under the quota during the quota year.
- (3) Subject to section 39 and subsection (4), a quota authorizes the person to whom it is granted under this section or transferred under section 30 (4), to produce, at the dairy stated during the quota year, the quantity of milk stated, in the most recently issued certificate.

- (4) Notwithstanding that in a quota certificate the Authority may have required that milk be produced from a specified dairy, the Authority may in writing consent to the production of the milk at another dairy registered under this Act, and in such a case, the certificate has effect as if varied according to that consent.
- (5) Where more than one quota is granted in respect of one dairy, different conditions may be applied to each quota but the conditions shall be stated in the certificate issued in respect of each quota.

[Section 28 inserted by No. 96 of 1994 s.26.]

29. Supplementary quotas

- (1) Where the Authority is of the opinion that the quantity of milk likely to be produced during any part of a quota year will be insufficient to meet the estimated demand for milk during that part of the year, the Authority may increase the quantity of milk that may be produced under any quota or may grant to the holders of quotas for that year in accordance with this section supplementary quotas and issue to such holders certificates for the supplementary quotas.
- (2) The Authority shall grant supplementary quotas only —
 - (a) with such approval of the Minister and in accordance therewith; and
 - (b) to persons who hold quotas for the quota year in which the supplementary quotas are granted,and a person to whom a supplementary quota is so granted is authorized thereby, during the period specified for the purpose in the supplementary quota certificate issued to him, to produce such additional quantities of milk as are set forth in that certificate.
- (3) Where the Authority is of opinion that the quantity of milk likely to be produced during any part of a quota year —
 - (a) will be more than sufficient; or

(b) will be insufficient,

to meet the demand therefor for that part of the quota year, as estimated by the Authority, the Authority —

(c) may, in a case to which paragraph (a) refers, by notice in writing sent to any such holder of a quota as the Authority determines inform that holder that the quantity of milk which is specified in the quota certificate held by him has been reduced by such amount for such period as is specified in the notice;

(d) may, in a case to which paragraph (b) refers if the Authority is of opinion that the holders of quotas and supplementary quotas will be unable to make up the insufficiency, on the application in a form approved by it of any dairymen or of its own motion, grant to any dairyman a quota for the supply of such quantity of milk for such period as is specified in the certificate.

- (4) Any notice given by the Authority under paragraph (c) of subsection (3) and any quota granted by the Authority under paragraph (d) of that subsection shall have effect according to its tenor and any such quota while it remains in force shall be deemed to be a quota granted under section 28.

[Section 29 amended by No. 96 of 1994 s.27.]

30. Transfer of quotas

- (1) The Authority shall submit to the Minister, on the request of the Minister, a written statement setting out the Authority's recommendations as to the bases or principles on which applications under this section should be determined.

[(2) and (3) repealed]

- (4) Any person who holds a quota may apply to the Authority, in a form approved by the Authority, for the Authority's approval of the transfer of the whole or part of the quota to persons or by

means specified in the application and if the Authority approves the application, the Authority shall issue a new quota certificate.

[(5) repealed]

[(6) and (6a) repealed]

[(7) repealed]

(8) Where an applicant for a transfer of a quota or part of a quota considers that the Authority failed in considering his application to comply with, or give effect to, the directions given to it in that regard by the Minister, the applicant may within 28 days of receiving from the Authority written advice of the decision of the Authority with respect to that application appeal against the refusal of the Authority to approve the transfer of a quota or part of a quota to a Local Court in accordance with rules of court.

(9) The Local Court shall hear and determine the appeal and its decision is final and shall be given effect by the Authority.

[(10) repealed]

(11) A person shall not, without the prior approval in writing of the Authority granted under this section, be capable of effecting a transfer of a quota or part of a quota from himself to another, and a person who purports so to do commits an offence.

Penalty: Individual — \$2 000 for a first offence and \$5 000 for a second or subsequent offence.

Body corporate — \$10 000 for a first offence and \$25 000 for a second or subsequent offence.

[Section 30 amended by No. 76 of 1982 s.3; No. 56 of 1983 ss.12 and 38; No. 20 of 1989 s.3; No. 96 of 1994 s.28.]

30A. Consideration of applications under s.30.

(1) Subject to the provisions of section 30 and to this section, the Authority shall consider each application made to it in accordance with section 30 and approve or refuse the

application and shall, in either case, advise the applicant in writing of its decision.

- (2) Where an application for approval to the transfer of a quota or part of a quota relates to —
- (a) a sale of the whole interest of the applicant in the quota;
 - (b) the transfer of a part of a quota between members of the family of the applicant, the proposed transferee being a dairyman who is the parent, sibling, spouse or child of the applicant; or
 - (c) a transfer of a share or interest in a partnership of which the applicant is a member, on the withdrawal from that partnership of any member,

and the Authority is satisfied that the purposes of this Act will not thereby be prejudiced and that any directions given by the Minister have been observed, the application shall be approved by the Authority.

- (3) In determining any application made under section 30 the Authority shall have regard to the matters referred to in section 27A, and in relation to any applications for the grant of a quota, the Authority may from time to time formulate and implement policies considered by the Authority to be in the interests of the industry and consistent with the purposes of this Act making different provision as between different parts of the State, classes of dairyman or dairies requirements or other circumstances as determined by the Authority.

[Section 30A inserted by No. 56 of 1983 s.13; amended by No. 96 of 1994 s.29.]

31. Appeals in relation to granting of quotas

- (1) Where an applicant for a quota considers that the Authority failed, in considering his application, to comply with, or give effect to, any relevant direction given to it by the Minister, the applicant may within 28 days of receiving written advice of the

Authority's decision in relation to the application, appeal to a Local Court in accordance with rules of court, against —

- (a) the refusal of the Authority to grant him a quota;
 - (b) the quantity of milk to be produced under the quota certificate issued to him; or
 - (c) the conditions set out in the quota certificate issued to him.
- (2) The Local Court shall hear and determine the appeal and its decision is final and shall be given effect by the Authority.

[Section 31 inserted by No. 96 of 1994 s.30.]

[32-38. Repealed by No. 96 of 1994 s.31.]

39. Cancellation of quota

- (1) Where the Authority is satisfied that the holder of a quota or supplementary quota —
- (a) has been granted the quota or supplementary quota erroneously or as a result of any false or misleading statement or representation;
 - (b) has withheld information or has provided false information concerning the quota or supplementary quota; or
 - (c) is no longer a dairyman, whether by reason of the cancellation or suspension of his licence, or otherwise,

the Authority may by notice in writing by certified mail advise the person specified in the notice that on a day, being not less than 14 days from the day the notice is sent to the person, the Authority intends for reasons so specified to consider whether or not the quota or supplementary quota should be varied or cancelled as specified in the notice, and that if he so desires he may submit reasons in writing opposing the proposed cancellation or variation.

- (2) On the day specified in the notice, or on any later day to which the matter is adjourned by the Authority, the Authority shall decide, after considering all the reasons submitted by or on behalf of the person who holds the quota or supplementary quota, whether or not to vary or cancel the quota or supplementary quota.
- (3) A person whose quota or supplementary quota has been varied or cancelled by the Authority under this section may appeal against the variation or cancellation to a Local Court in accordance with rules of court.
- (4) The Local Court shall hear and determine the appeal and its decision is final and shall be given effect by the Authority.

[Section 39 amended by No. 56 of 1983 s.15; No. 96 of 1994 s.32.]

40. Authority may request production of milk in excess of quota

- (1) The Authority may, in writing, require the holder of a quota to produce such greater quantity of milk during such period as the Authority specifies in its request.
- (2) Where the holder of a quota —
 - (a) fails to comply with a request made under subsection (1); and
 - (b) does not satisfy the Authority that his failure to so comply was due to reasons beyond his control,

the Authority may, in any succeeding quota year, decline to grant to that holder a quota for the production of a greater quantity of milk than the quantity specified in the quota issued for the quota year in which the holder failed to comply with the request.

[Section 40 inserted by No. 96 of 1994 s.33.]

41. Power of Authority to obtain information, etc.

The Authority may —

- (a) obtain any information it considers necessary or expedient for performing its functions under this Part;
- (b) obtain assistance or advice from any person or organization; or
- (c) enter into arrangements, either on its own account or jointly with any person or organization, for the promotion of the sale and use of milk, including arrangements for the registration and use of any trade mark, symbol or slogan and for the sharing of expenditure or income related thereto.

[Section 41 amended by No. 56 of 1983 s.17; No. 96 of 1994 s.34.]

[42. Repealed by No. 96 of 1994 s.35.]

43. Delegation

- (1) The Authority may, with the approval of the Minister, delegate to any person or body any of its functions under this Act except this power of delegation.
- (2) The Authority may at any time revoke a delegation given under subsection (1), and a delegation so given does not prevent the performance by the Authority of any of its functions.
- (3) Any payment due to any person or body for the performance of a function delegated thereto by the Authority may be made from the funds of the Authority.
- (4) Any person or body to whom any functions have been delegated by the Authority under this section shall be deemed to be an authorized officer of the Authority in connection with the performance of any function so delegated.

[Section 43 amended by No. 96 of 1994 s.36.]

44. Power of Authority to require books of account, etc.

(1) For the purpose of performing its functions under this Act the Authority may require any person engaged in the business of —

- (a) dairyman;
- (b) collecting or transporting milk from a dairy;
- (c) purchasing milk from the Authority; or
- (d) a milk processing plant or of selling milk,

to produce to the Authority or make available for inspection by a duly authorized officer of the Authority, any books of account, and any other documents kept or prepared in connection with the business and to supply to the Authority or that officer such other particulars in relation to the business as the Authority may reasonably require.

(2) A person who without reasonable excuse refuses or fails to produce any book of account or other document when duly required to do so under subsection (1) is guilty of an offence.

Penalty: Individual — \$2 000 for a first offence and \$5 000 for a second or subsequent offence.

Body corporate — \$10 000 for a first offence and \$25 000 for a second or subsequent offence.

(3) The Manager or any officer of the Authority authorized in writing by him in that behalf is a duly authorized officer for the purposes of subsection (1).

[Section 44 amended by No. 56 of 1983 ss.19 and 38; No. 20 of 1989 s.3; No. 96 of 1994 s.37.]

[45. Repealed by No. 96 of 1994 s.38.]

46. Fixing of payments for milk and milk components

(1) The Authority may, from time to time but subject to section 23 (1) (b) and (c), fix the minimum payment or

payments to be paid to dairymen for milk or milk components after taking into account any or all of the following —

- (a) the quality and composition of the milk or milk component;
 - (b) the part of the State or time of the year in which the milk was produced;
 - (c) the conditions or methods of collection or transport from the dairy of the milk;
 - (d) any premium that may be applied during a time of scarcity of milk;
 - (e) any current quota or supplementary quota fixed by the Authority under section 28 or 29 in relation to the milk and whether the milk produced is within or surplus to that quota;
 - (f) the purpose for which the milk or milk component is to be used;
 - (g) any other matter that in the opinion of the Authority is incidental to any of the matters mentioned in this section.
- (2) The Authority may, from time to time, revoke or vary any payment fixed by it under subsection (1).

[Section 46 inserted by No. 96 of 1994 s.39.]

[47-48. Repealed by No. 96 of 1994 s.40.]

49. Power of Authority to notify prices and rates

- (1) For the purpose of fixing any payment which may be fixed by the Authority in accordance with section 46, the Authority —

[(a) deleted]

- (b) may conduct an investigation or may cause an investigation to be conducted for the purpose of obtaining such further information as it considers necessary for that purpose; and

- (c) may have regard to such other information as the Authority considers necessary or desirable for that purpose.
- (2) For the purpose of conducting an investigation under subsection (1), the Authority has the like powers and authority to summon witnesses and receive evidence as are conferred upon a Royal Commission appointed under the *Royal Commissions Act 1968* or a Commissioner thereof, and that Act shall apply, with the necessary modifications, to any witness summoned by or appearing before the Authority.
- (3) The Authority is to notify the public of the payments fixed, revoked or varied by the Authority under section 46 by causing to be published in a daily newspaper with circulation throughout the State a notice of such payments.
- (4) A payment fixed, revoked or varied under section 46 has effect from the day of publication of the notice under subsection (3) or at such later time as specified in the notice.

[Section 49 amended by No. 56 of 1983 ss.22 and 39; No. 96 of 1994 s.41.]

50. Effect of price fixing on agreements

- (1) If after any agreement is made for the sale and purchase of milk or a milk component, the Authority, in the exercise of its powers under section 46, notifies any payment that affects either directly or indirectly the price to be paid or charged under that agreement for the milk or milk component, that agreement shall, on and from the date the notification takes effect, be deemed to be altered so that the payment so notified shall be substituted for the agreed price or charge in the agreement.
- (2) A payment notified by the Authority under section 47 (3) does not apply to the price of any milk or milk component where the agreement was made, and the milk or milk component was supplied, before the day on which the payment took effect.

[Section 50 amended by No. 96 of 1994 s.42.]

[51. Repealed by No. 56 of 1983 s.39.]

Division 3 — Licences

52. Licences

- (1) Subject to any order made under section 7, a person shall not carry on the business of —
- (a) a producer of milk; or
 - (b) a milk processing plant,

in any area of the State unless he is licensed to do so.

Penalty: Individual — \$2 000 for a first offence and \$5 000 for a second or subsequent offence and where the offence is continuing, a further fine of \$200 for each day or part of a day on which the offence continues after conviction.

Body corporate — \$10 000 for a first offence and \$25 000 for a second or subsequent offence and where the offence is continuing, a further fine of \$1 000 for each day or part of a day on which the offence continues after conviction.

- (2) Subsection (1) does not apply to a person who proves to the court that the milk produced, treated or prepared by him is not sold or intended for sale.
- (3) For the purposes of this section, the fact that the owner or occupier of any place where animals are kept for depasturing or milking —
- (a) has supplied milk in any quantity of, or quantities aggregating, 10 or more litres; or
 - (b) has supplied a milk component in a quantity or quantities in the aggregate that may reasonably be expected to be obtained only from 10 or more litres of milk,

on any one day to a person, other than a member of the family or an employee of the owner or occupier, is evidence of the fact that the owner or occupier was carrying on the business of a producer of milk at that place.

- (4) Without derogating from the generality of section 101 or of subsection (1), regulations may provide for licences of a kind not mentioned in that subsection where it appears to the Governor on the recommendation of the Authority that such a licence should be prescribed for the purposes of section 22, and differing provisions may be prescribed in relation to any kind of licence under this section by reference to differing qualities or compositions of milk, classes of persons or businesses or to particular areas of the State or circumstances.

[Section 52 inserted by No. 96 of 1994 s.43.]

53. No licence unless dairy registered

The Authority shall not issue a licence to a producer of milk unless each dairy to which the proposed licence relates is registered under this Act.

[Section 53 inserted by No. 96 of 1994 s.45.]

54. Transfer of licence

- (1) A licence shall not be transferred from one person to another except with the prior consent in writing of the Authority.
- (2) The Authority, having regard to the objects of this Act, may grant or refuse its consent to the transfer of a licence.

55. Application for licence

- (1) An application for a licence shall be made to the Authority in a form approved by the Authority and shall be accompanied by the fee prescribed for the licence to which the application relates, and by such particulars as may be prescribed and such particulars (if any) as may be requested of the applicant by the Authority.

- (2) If the Authority refuses to issue the licence to the applicant the amount of the fee that accompanied the application for the licence shall be refunded to the applicant.

[Section 55 amended by No. 96 of 1994 s.46.]

[55A. Repealed by No. 96 of 1994 s.47.]

56. Term of licence

- (1) Subject to this Act every licence shall take effect on and from the date it is granted and shall continue in force until the next succeeding 30th day of June.
- (2) Every licence may be renewed by the Authority for a period of 12 months on application being made to it in a form approved by the Authority for that purpose.
- (3) An application for a renewal of a licence —
- (a) shall be accompanied by the prescribed fee for the renewal of the licence to which the application relates; and
 - (b) shall be made at any time before the licence expires.
- (3a) A licence which is suspended under section 58 may be renewed without affecting the continuance of the suspension or of any authorization under section 58A (5).
- (4) The holder of a licence is not entitled as of right to the renewal of the licence upon the expiry thereof.

[(5), (6), (7) repealed]

[Section 56 amended by No. 45 of 1980 s.11; No. 56 of 1983 s.39; No. 96 of 1994 s.48.]

57. Power of Authority to refuse to issue licence etc.

- (1) The Authority may refuse to grant any licence to, or may cancel any licence issued to, any person —

- (a) if he has been convicted of any offence under the *Dairy Industry Act 1922*, the *Milk Act 1946*, this Act, Division 2 of Part VIII of the *Health Act 1911* where the offence was committed before 6 November 1988 or Division 4 of Part VIIA of the *Health Act 1911* where the offence was committed on or after 6 November 1988;
 - (b) if in the opinion of the Authority he is not a fit and proper person to hold the licence;
 - (c) if in the opinion of the Authority it is necessary or desirable in the public interest, or to enable the Authority to effectively carry out or give effect to any of the provisions of this Act, to refuse to issue or to cancel the licence;
 - (d) on the written request of the Commissioner for Health, upon the conviction of the person for an offence under a written law relating to public health if the offence relates to the dairy in respect of which the licence is issued.
- (2) The Authority shall cancel a licence if the registration of the dairy in respect of which the licence is issued has been cancelled.
- (3) Before cancelling a licence under this section the Authority shall give written notification to the holder of the licence of the grounds upon which the Authority proposes to cancel the licence.
- (4) A person so notified or a person whose application for a licence has been refused may appeal against the cancellation or refusal to a Local Court in accordance with rules of court.
- (5) The Local Court shall hear and determine the appeal and its decision is final and shall be given effect by the Authority.

[Section 57 amended by No. 56 of 1983 s.25; No. 96 of 1994 s.49.]

58. Suspension of licences by Authority

(1) Where —

- (a) any milk produced under a licence does not comply with a provision of, or standard prescribed by or set under, this Act or Division 4 of Part VIIA of the *Health Act 1911*; or
- (b) the holder of a licence has not complied with any condition of the licence,

subject to section 58A (3), the Authority may suspend the licence for a period determined by the Authority as being appropriate in the circumstances of the case.

- (2) The Authority shall suspend a licence if the registration of the dairy in respect of which the licence is issued has been suspended but shall revoke the suspension of the licence when the suspension of the registration has been revoked.
- (3) The suspension under subsection (2) of a licence takes effect when notice in writing of the suspension signed by the manager on behalf of the Authority is served upon the holder of the licence to which the notice relates.

[Section 58 amended by No. 56 of 1983 s.26; No. 96 of 1994 s.50.]

58A. Suspension of certain licences for breach of a condition

(1) *[repealed]*

- (2) The Authority shall before it suspends a licence under section 58 (1) notify the holder of the licence in writing of the default complained of, and give him an opportunity within a period specified in the notice, being not less than 7 days after the receipt thereof, to —
 - (a) remedy the default and satisfy the Authority that he has taken all steps reasonably available to him to ensure that the default will not recur; and

- (b) make such representations concerning the default and the proposed suspension as he may wish to make.
- (3) The Authority may suspend a licence under section 58 (1) only where, after the expiration of the period referred to in subsection (2), the holder of the licence has failed to remedy the default or the Authority is not satisfied as mentioned in paragraph (a) of that subsection.
- (4) The Authority may exercise the powers conferred by this section in respect of the breach of a condition, notwithstanding that the holder of the licence has not been convicted for that breach; and the exercise of the said powers does not preclude the taking of proceedings and the imposition of any punishment.
- (5) Where the Authority has under section 58 (1) or (2) suspended the operation of a licence, it may in writing authorize another person, for such period as it thinks fit, to produce milk or carry on the business of a milk processing plant, as the case may be, as if he were the holder of the suspended licence; and a person so authorized shall for the purposes of this Act be deemed to be the holder of the licence according to the tenor of such authorization.

[Section 58A inserted by No. 45 of 1980 s.12; amended by No. 56 of 1983 s.39.; No. 96 of 1994 s.51]

[59-60. Repealed by No. 96 of 1994 s.52.]

Division 4 — Vesting of milk in the authority

61. Vesting of milk in the Authority

- (1) All milk produced in the State is, by force of this provision, absolutely vested in, and the property of, the Authority.
- (2) Milk vested in the Authority under subsection (1) and accepted by the Authority, is so vested, freed from all mortgages, charges, liens, pledges, interests, trusts and all other encumbrances affecting the milk, and the rights and interests of

any person in that milk are converted into a claim for payment for the quantity of the milk so accepted.

[Section 61 inserted by No. 96 of 1994 s.53.]

62. Acceptance and disposal of milk

- (1) Nothing in this Act requires the Authority to accept milk vested in it.
- (2) The Authority may dispose of milk vested in, and accepted by, it to other persons.
- (3) A person shall not supply, sell or deliver milk to a person other than the Authority unless he has the written permission of the Authority to do so.
- (4) A person shall not buy or receive any milk knowing that it is supplied, sold or delivered contrary to subsection (3).

Penalty: applicable to subsections (3) and (4):

Individual — \$2 000 for a first offence and \$5 000 for a second or subsequent offence.

Body corporate — \$10 000 for a first offence and \$25 000 for a second or subsequent offence.

[Section 62 inserted by No. 96 of 1994 s.54.]

63. Payment for accepted milk

- (1) All milk accepted by the Authority is subject to the standards of quality and composition prescribed by, or set under, this Act.
- (2) The Authority shall, out of the proceeds of milk disposed of by it, make provision for —
 - (a) expenditure incurred in the disposition of the milk, the costs, charges and expenses of the administration of this Act by the Authority, and any amounts necessary to repay advances made to the Authority;
 - (b) a sinking fund in respect of any loan raised by the Authority; and

- (c) interest on any such advance or loan,
and subject to subsection (3), make payments to each dairyman
in respect of the milk accepted from him.
- (3) The Authority shall, at such times as it thinks fit, pay to each
dairyman in respect of the milk accepted by the Authority from
him, an amount calculated at the rate of the appropriate payment
notified under section 49 (3).
- (4) Where milk produced under a share-farming or partnership
agreement is accepted by the Authority, the Authority may
make payment to each of the parties to the agreement in
accordance with their interests in the milk.

[Section 63 inserted by No. 96 of 1994 s.55.]

64. Evidence of quantity etc. of milk accepted by Authority

- (1) Where milk has been accepted by the Authority —
- (a) the quantity of the milk, or the quantity of a particular
quality or composition of the milk, the person from
whom and time and place at which the milk was
accepted, shall be deemed to have been such quantity,
person, time or place;
 - (b) the purpose for which any of the milk is used or to be
used, shall be deemed to be the purpose; and
 - (c) the conditions under which any of the milk was
produced, stored, treated or collected, shall be deemed to
be the conditions,

as may at any time after the acceptance be determined by the
Authority or by an officer of the Authority authorized in writing
by it for that purpose.

- (2) In any legal proceedings by or against the Authority, a
certificate signed by the chairman or 2 members of the
Authority —
- (a) to the effect that —

- (i) no milk;
- (ii) no milk of a specified quality or composition;
- (iii) a quantity of milk; or
- (iv) a quantity of milk of a specified quality or composition,

was, at a specified time, accepted by the Authority from a specified person at a specified place, used or to be used for a specified purpose; and

- (b) as to the conditions under which any quantity of milk was produced, stored, treated or collected,

is conclusive evidence of the matters specified in the certificate and any such certificate shall not be challenged, reviewed or called in question by any court on any account whatsoever.

- (3) A determination under subsection (1) or a certificate under subsection (2) of a matter in respect of which such a determination has been made, has effect whether or not the milk —

- (a) was of the quantity, quality or composition;
- (b) was used or to be used for the purpose;
- (c) was produced, stored, treated or collected under the conditions; or
- (d) was accepted from the person, at the time and place,

specified in the determination.

- (4) No proceedings shall be taken in any court in any circumstances in relation to any act or thing done or omitted to be done under, or purportedly under, this section by the Authority or an officer of the Authority.

[Section 64 inserted by No. 96 of 1994 s.56.]

65. Advances by Authority

The Authority may make or arrange for the making of advances on account of milk accepted by the Authority, and any of those advances and any payment made on account of any of that milk may be made at such time or times, and on such terms and conditions, and in such manner as the Authority thinks fit.

[Section 65 amended by No. 96 of 1994 s.57.]

66. Avoidance of contracts for sale of milk

- (1) Every contract, whether made before, on, or after the commencing date, or provision in any such contract, so far as it relates to milk, is and shall be deemed to have been void and of no effect as from the date upon which the contract was made, except in so far as the contract relates to milk that has been accepted by the Authority or to the supply, sale or delivery of milk, the supply, sale or delivery of which is not prohibited under section 62 (3), or the contract has been completed at the commencing date.
- (2) Any provision in a contract, being a provision referred to in subsection (1), shall be deemed to be severable.
- (3) Any transaction or contract with respect to milk that is the subject matter of any contract or provision of a contract declared by this section to be void is also void and of no effect, and any money paid pursuant to any such contract or provision or to any such transaction shall be repayable.

[(4) repealed]

[Section 66 amended by No. 96 of 1994 s.58.]

67. Remedy against Authority confined to claim for account

- (1) Subject to this section, no proceedings shall be brought in any court against the Authority or any person acting under its authority by any person claiming to be entitled under any bill of sale, mortgage, charge, lien or other encumbrance over, of or

upon any milk accepted by the Authority from a dairyman, or claiming to be the true owner of that milk, as against the dairyman.

- (2) Any person who but for subsection (1) would have been entitled to bring any such proceedings as are referred to in subsection (1), may adopt the acceptance of the milk as acceptance by the Authority from him, and may claim accordingly for an account of the payments due in respect thereof, and recover the amount due in any court of competent jurisdiction as a debt.
- (3) Notwithstanding the provisions of any Act or any rule of law to the contrary, any such person as is referred to in subsection (2) is not entitled to make any such claim for an account of the payments due in respect of the milk as is so referred to, or any part of those payments, unless he has given prior notice in writing to the Authority of all relevant particulars of the bill of sale, mortgage, charge, lien, or other encumbrance, or the claim of ownership, and then only for such part of those moneys as has not been paid to any other person at the time of the receipt by the Authority of the notice.

[Section 67 amended by No. 56 of 1983 s.29; No. 96 of 1994 s.59.]

68. Duty to give notice of encumbrances

- (1) A dairyman who produces milk which is subject to any bill of sale, mortgage, charge, lien or encumbrance or in respect of which he has entered into any contract in derogation of his title to supply the milk as the absolute owner thereof (and whether the bill of sale, mortgage, charge, lien, or encumbrance, or contract was made before, on, or after the commencing date) shall, within one month after the making thereof, give to the Authority a notice in writing of all relevant particulars of the bill of sale, mortgage, charge, lien, encumbrance, or contract.

- (2) A person who wilfully fails to comply with the provisions of this section is guilty of an offence against this Act.

Penalty: Individual — \$2 000 for a first offence and \$5 000 for a second or subsequent offence.

Body corporate — \$10 000 for a first offence and \$25 000 for a second or subsequent offence.

[Section 68 amended by No. 56 of 1983 s.30; No. 96 of 1994 s.60.]

69. Authority not liable for payments made in good faith

Where the Authority in good faith and without negligence has made any payment —

- (a) to a dairyman from whom the Authority has accepted milk;
- (b) to any person entitled or claiming to be entitled through that dairyman; or
- (c) to any person on the order of that dairyman or of a person referred to in paragraph (b),

the Authority is not answerable to any other person in respect of that payment for the milk or any part thereof, or in any action, suit, claim, or demand for damages or otherwise.

[Section 69 amended by No. 96 of 1994 s.61.]

70. Authority protected in certain cases

- (1) If before receiving notice of claim to any payment for milk vested in the Authority or to the chose in action or any part thereof the subject matter of that payment the Authority has in good faith and without negligence made that payment in whole or in part, in accordance with the provisions of this Division, the Authority does not, to the extent to which it has made that payment, incur any liability to the true owner of the milk or chose in action or any part thereof or to any person claiming through, under, or in trust for him.

- (2) This section does not in any way prejudice or affect any rights *inter se* of any parties claiming adversely to one another to be entitled to the milk or chose in action the subject matter or part of the subject matter of any claim for payment.
- (3) The Authority may plead this section in absolute bar of any proceeding by any dairyman, transferee, or party referred to in the preceding provisions of this section in respect of any such milk or chose in action or part.

Division 5 — Power of Authority to borrow money

71. Power of Treasurer to make advances to the Authority

- (1) If at any time the funds of the Authority are not sufficient for the purpose of defraying the costs, charges and expenses incurred by it in the performance of its functions under the Act the Treasurer may advance to the Authority on such terms and conditions as are agreed between the Treasurer and the Authority such amounts of money as are sufficient for the time being to make up the deficiency.
- (2) The amount of any advance made pursuant to subsection (1) is a charge upon the revenue of the Authority and is repayable by the Authority to the Treasurer as and when money becomes available to the Authority to make the repayment.

[Section 71 amended by No. 98 of 1985 s.3; No. 96 of 1994 s.62.]

72. Authority may borrow money

- (1) For the purposes of performing its functions under this Act, the Authority is authorized with the prior approval in writing of the Minister and the Treasurer to borrow money upon such terms and conditions only as the Treasurer approves.
- (2) The Treasurer on behalf of the State is hereby authorized to guarantee, on such terms and conditions as he thinks fit,

repayment of any money borrowed by the Authority under this section and the payment of interest thereon.

- (3) The Treasurer shall cause any money required for fulfilling any guarantee given by him pursuant to this section, to be charged to the Consolidated Fund which is hereby to the necessary extent appropriated accordingly, and the Treasurer shall cause any sums received or recovered by him from the Authority or otherwise in respect of a sum so charged by the Treasurer to be credited to the Consolidated Fund.

[Section 72 amended by No. 98 of 1985 s.3; No. 6 of 1993 s.11; No. 96 of 1994 s.63; No. 49 of 1996 s.64.]

73. Investment of sinking fund

- (1) The Authority shall invest in its name, in such securities as the Treasurer thinks fit, all moneys set aside for the purpose of redeeming any loan raised pursuant to section 72 as a sinking fund and all interest accruing thereon.
- (2) The Authority shall from time to time —
- (a) apply the accumulated sinking fund in payment of the principal of any loan raised by the Authority pursuant to this Division when the loan becomes payable; and
 - (b) apply that fund in the redemption of any security issued or created pursuant to this Division.

[Section 73 amended by No. 56 of 1983 s.31.]

[74. Repealed by No. 56 of 1983 s.39.]

Division 6 — General provisions relating to the Authority

75. Funds of the Authority

- (1) The funds of the Authority shall consist of —
- (a) all licence fees and other fees prescribed by or under this Act, which fees shall be paid to the Authority;

- (b) any money appropriated by Parliament and payable to the Authority for the purposes of this Act;
 - (c) any money that the Authority may borrow under and subject to the provisions of this Act; and
 - (d) all other money that the Authority receives under and for the purposes of this Act.
- (2) Any funds of the Authority not immediately required for the purposes of this Act may, with the approval of the Treasurer, be invested as trust funds may be invested under Part III of the *Trustees Act 1962*.

[Section 75 amended by No. 45 of 1980 s.13; No. 1 of 1997 s.18.]

76. Certain expenditure to be paid out of the funds of the Authority

The funds of the Authority —

- (a) shall be paid from time to time as they are received by it, to the credit of an account in the name of the Authority kept at a bank to be approved by the Minister; and
- (b) shall be chargeable with the remuneration and expenses of the members of the Authority, the salaries and wages payable by the Authority and with all other expenditure for which the Authority is liable under this Act or which is lawfully incurred by the Authority in the performance of its functions under this Act.

[Section 76 amended by No. 96 of 1994 s.64.]

77. Application of *Financial Administration and Audit Act 1985*

The provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Authority and its operations.

[Section 77 inserted by No. 98 of 1985 s.3.]

[78-79. Repealed by No. 98 of 1985 s.3.]

[80. Repealed by No. 96 of 1994 s.65.]

81. Power of manager etc., to take proceedings for the Authority

- (1) Any information, complaint or other legal proceedings under this Act may be laid or taken in the name of the Authority by the manager or by any other officer thereof authorized in that behalf either generally or in any particular case.
- (2) In any proceedings the production of a certificate of the chairman or 2 members of the Authority that any person has been so authorized is conclusive evidence of his authority and evidence that his authority to act as provided in subsection (1) remains in force.
- (3) The manager or other officer of the Authority shall, out of the Funds of the Authority, be reimbursed all damages, costs, charges and expenses to which he becomes liable by reason of anything done by him pursuant to subsection (1).

[Section 81 amended by No. 96 of 1994 s.66.]

**Part III — Control of quality and production of milk
at dairies**

[Heading inserted by No. 96 of 1994 s.67.]

Division 1 — Registration and inspectors

[Heading inserted by No. 96 of 1994 s.67.]

[82. Repealed by No. 96 of 1994 s.68.]

83. Dairies to be registered

- (1) A person shall not use premises, or cause or permit premises to be used, as a dairy, unless the premises are registered under this Act as a dairy.

Penalty: Individual — \$2 000 for a first offence and \$5 000 for a second or subsequent offence and where the offence is continuing, a further fine of \$200 for each day or part of a day on which the offence continues after conviction.

Body corporate — \$10 000 for a first offence and \$25 000 for a second or subsequent offence and where the offence is continuing, a further fine of \$1 000 for each day or part of a day on which the offence continues after conviction.

- (2) The Authority may take such measures and use such means as are necessary to prevent the production of milk —
- (a) on premises other than a dairy registered under this Act; and
 - (b) other than milk that complies with standards prescribed by, or set under, this Act.

[Section 83 inserted by No. 96 of 1994 s.69.]

83A. Application for, suspension and cancellation of registration

Sections 55, 56, 57 (1), (3), (4) and (5), 58 (1) and (3) and 58A (2), (3) and (4) apply to the registration of dairies as if the

references in those provisions to licences were references to registration.

[Section 83A inserted by No. 96 of 1994 s.71.]

84. Saving of rights, etc., of certain inspectors

Nothing contained in this Act and in particular in section 22 (1) (d) or 83 shall be construed as affecting or prejudicing the rights, powers and duties of any environmental health officer appointed under the *Health Act 1911*, or an inspector of stock appointed under the *Stock Diseases (Regulations) Act 1968*, or an inspector for the purposes of the *Cattle Industry Compensation Act 1965*.

[Section 84 amended by No. 96 of 1994 s.72.]

85. Inspectors

- (1) The Authority shall appoint inspectors —
 - (a) to supervise the production and quality of milk at dairies; and
 - (b) to enable the Authority to perform effectively its functions under this Act.
- (2) For the purposes of this Act the Authority may, with the prior approval of the Minister for Health, authorize any specified inspector to perform the functions of environmental health officers under the *Health Act 1911*, if and so long as the inspector is qualified for appointment as an environmental health officer under that Act.
- [(3) repealed]*
- (4) For the purposes of facilitating the carrying out of his duties an inspector may be accompanied by any interpreter, technical adviser, or workman who the inspector thinks competent and necessary to assist him in making any inspection or examination, and any reference to an inspector in this Act in the context of the right of entry or in relation to the powers or duties

conferred or imposed by this Act shall be deemed to include a reference to a person of the kind referred to in this subsection when that person is accompanied by, and acting in the course of his duties on behalf of, an inspector.

- (5) In the exercise of his powers under this Act an inspector shall conform so far as is practicable to any reasonable requirement of a person owning or using the land, premises, or thing inspected which is requested by that person in order to prevent the working of any business or the conduct of any operations being thereby obstructed; but subject to the compliance by the inspector with the requirements of this Act an inspector may for the purpose of the exercise of his powers and the discharge of his duties require a person having the custody or control of any land, premises or thing in respect to which the inspector is authorized to exercise any power to furnish such reasonable access to apparatus, facilities and other assistance and relevant information as he is capable of furnishing to that inspector.

[Section 85 amended by No. 56 of 1983 s.32; No. 96 of 1994 s.73.]

86. Certificate of inspector's appointment

- (1) The Authority shall provide each inspector with a certificate signed by the chairman of the Authority as evidence of the inspector's appointment.
- (2) An inspector, on applying for admission to a place for the purposes of this Act, shall, if so required by the occupier or person apparently in charge of the place, present for that person's inspection the certificate of the inspector's appointment.

[Section 86 inserted by No. 96 of 1994 s.74.]

87. Powers of inspectors as to inspection, etc., of dairy produce premises

- (1) An inspector may, for the purposes of the execution of this Act, do all or any of the following things —
- (a) enter and inspect at all reasonable times any dairy, milk processing plant or other premises and require the production of and examine —
 - (i) any certificate of registration, books, accounts, papers, records or documents for the purpose of ascertaining if the provisions of this Act have been complied with;
 - (ii) any equipment, utensils, machinery, ingredients or materials therein that are used or which he believes on reasonable grounds are being, or are likely to be, used in the production, treatment, storage or collection of milk at a dairy or milk processing plant;
 - [(b) deleted]*
 - (c) open or order to be opened any package which contains or which he believes on reasonable grounds contains milk or a milk component or material or ingredients used in the production or treatment of milk;
 - (d) examine and take in the prescribed manner such quantity of samples of any milk or any materials, ingredients or water used in connection with the production of milk as is necessary to have them examined or analysed;
 - (e) such other things as may be prescribed.
- (2) An inspector who has taken any sample under this section may forward it to an expert for examination or to a duly qualified analyst for analysis, who upon receipt thereof, shall as soon as practicable examine, or as the case may be, analyse the sample, and shall give to the inspector forwarding the sample a

certificate signed by the expert or analyst of the result of the examination or analysis.

- (3) An inspector who takes a sample pursuant to this section shall, before submitting it for examination or analysis, deal with the sample in manner prescribed.

[Section 87 amended by No. 45 of 1980 s.14; No. 56 of 1983 s.39; No. 96 of 1994 s.75.]

88. Further powers of inspectors

- (1) If, after inspection made pursuant to this Act, an inspector is satisfied that —
- (a) any dairy is in an unclean condition or is otherwise unfit for the purposes for which it is used;
 - (b) any utensil, equipment, machinery, apparatus, material or thing in any dairy is in an unclean condition, or is unfit for the purpose for which it is used;
 - (c) the water supply from which water is obtained and used in connection with the production of milk in any dairy is impure or unwholesome;
 - (d) any ingredients or materials found in any dairy are prohibited or are otherwise unfit to be used in the production of milk;
 - (e) any person employed in connection with a dairy is affected with disease, so that any milk is likely to be contaminated,

he may, by notice in writing in the prescribed form, require the owner of the dairy to comply with any direction specified in the notice.

[(1a) repealed]

- (2) An inspector may, by notice under subsection (1), direct that —
- (a) the dairy or any utensils, equipment, machinery, material, apparatus or thing at the dairy shall be cleaned, disinfected, and rendered wholesome to the satisfaction of the inspector;
 - (b) any such dairy, utensils, equipment, machinery, material, apparatus or thing shall not be used in connection with milk for the period specified in the notice, or until the inspector is satisfied that it or they are fit for use;
 - (c) any such water supply shall not be used in connection with the dairy unless it is treated to the satisfaction of the inspector;
 - (d) the use of any such ingredients or materials in the production of milk be prohibited;
 - (e) any such person who is affected with disease be effectively segregated;
 - (f) no milk shall be removed from such dairy during any period specified in the notice.
- (3) (a) A notice shall not be given under subsection (1) (e) or (2) (e) unless the inspector has obtained from a medical practitioner, a certificate that the person mentioned in that paragraph is affected with a disease likely to contaminate milk.
- (b) Such a notice shall continue in force until the person to whom it relates produces to the inspector a certificate from a medical practitioner that the person is free from disease.
- (4) A notice shall not be given under subsection (2) (f) without the prior written approval of the manager.
- (5) Notwithstanding the foregoing provisions of this section, where an inspector is of opinion that any utensil, equipment, machinery, material, apparatus or thing to which subsection (2) (b) refers is unfit for the purpose for which it is intended to be used, or is being used —

- (a) he may mark it in such a manner as to make it readily identifiable and may by notice in writing in the prescribed form direct that it shall not be used for that purpose until such time as the inspector is satisfied that it is fit to be used for that purpose; or
 - (b) if he is of opinion that such utensil, equipment, machinery, material, apparatus or thing is incapable of being made fit to be used for that purpose, the inspector shall forthwith mark it in manner sufficient to identify it and condemn it, and while it remains condemned by the inspector it shall not be used for that purpose.
- (6) An inspector, immediately after performing a function under this section shall report the performance of the function to the manager, who may vary or cancel any requirement or direction so given and the requirement or direction as so varied shall be given effect accordingly.

[Section 88 amended by No. 45 of 1980 s.15; No. 63 of 1981, Schedule; No. 56 of 1983 s.34; No. 96 of 1994 s.76.]

89. Power to condemn milk, etc.

- (1) If an inspector is satisfied that —
- (a) milk inspected by him is unfit for human consumption;
 - (b) any milk is, or has been, produced or sold contrary to this Act;
 - (c) any milk does not comply with a standard prescribed by, or set under, this Act; or
 - (d) any preserving agent used or intended to be used in connection with the treatment of milk, or any disinfectant, does not comply with this Act or by reason of its composition is unsuitable,

he may by order condemn it.

- (2) Any milk, preserving agent or disinfectant that has been condemned becomes the property of the Crown, and shall be disposed of as the Minister directs or as may be prescribed.

[Section 89 inserted by No. 96 of 1994 s.77.]

[90.] *Repealed by No. 96 of 1994 s.78.]*

91. Offence of failure to comply with order of inspector

A person who, without lawful excuse, contravenes or fails to comply with an order or direction of an inspector given pursuant to this Act commits an offence against this Act.

Penalty: Individual — \$2 000 for a first offence and \$5 000 for a second or subsequent offence.

Body corporate — \$10 000 for a first offence and \$25 000 for a second or subsequent offence.

[Section 91 amended by No. 56 of 1983 s.38; No. 20 of 1989 s.3; No. 96 of 1994 s.79.]

Division 2 — Miscellaneous

[Heading inserted by No. 96 of 1994 s.80.]

92. Offences relating to sale or use of unwholesome milk

A dairyman shall not sell or supply or permit to be sold or supplied, or hold himself out as being able to sell, or use or permit to be used —

- (a) any milk while it remains condemned under section 89;
- (b) any milk that is unfit for human consumption;
- (c) any milk that does not comply with the standards prescribed by, or set under, this Act; or

- (d) any milk that has been produced or treated at a dairy by or with the help of any person who is unable or unwilling to obtain from a medical practitioner a certificate to the effect that the person is not affected with a disease likely to contaminate milk.

Penalty: Individual — \$2 000 for a first offence and \$5 000 for a second or subsequent offence.

Body corporate — \$10 000 for a first offence and \$25 000 for a second or subsequent offence.

[Section 92 inserted by No. 96 of 1994 s.81.]

93. Offence of exposing milk to contamination

A dairyman shall not expose milk to influences likely to contaminate the milk or produce deterioration in the quality of the milk.

Penalty: Individual — \$2 000 for a first offence and \$5 000 for a second or subsequent offence.

Body corporate — \$10 000 for a first offence and \$25 000 for a second or subsequent offence.

[Section 93 inserted by No. 96 of 1994 s.81.]

[93A. Repealed by No. 96 of 1994 s.81.]

94. Offence of obstructing, etc.

A person shall not —

- (a) resist, interfere with, hinder or obstruct the Authority or any member or officer of the Authority or any agent appointed by the Authority to receive milk that is vested in the Authority, or any inspector; or
- (b) without lawful excuse refuse to give any information required of him, or give any false information to any inspector or other such member or officer,

in the performance of a function under this Act.

Penalty: Individual — \$2 000 for a first offence and \$5 000 for a second or subsequent offence.

Body corporate — \$10 000 for a first offence and \$25 000 for a second or subsequent offence.

[Section 94 amended by No. 56 of 1983 s.38; No. 20 of 1989 s.3; No. 96 of 1994 s.82.]

[95.] *Repealed by No. 96 of 1994 s.83.]*

96. Recovery of fees, etc.

Any fee, charge or money due to the Authority under the provisions of this Act may be recovered as a debt in a court of competent jurisdiction.

[Section 96 amended by No. 96 of 1994 s.84.]

97. Proof of certain matters not required

- (1) In any legal proceedings by or against the Authority no proof is required, until evidence is given to the contrary, of —
 - (a) the constitution of the Authority;
 - (b) any resolution of the Authority;
 - (c) the appointment of any member or any officer of the Authority;
 - (d) the presence of a quorum at any meeting at which any question is determined or any act is done by the Authority;
 - (e) the authority of any person to take proceedings in respect of offences against this Act.

- (2) In any proceedings in respect of offences under this Act the onus of proving any exemption under section 7 lies on the defendant.

[Section 97 amended by No. 45 of 1980 s.19; No. 96 of 1994 s.85.]

98. Proceedings

- (1) No proceedings in respect of offences against this Act shall be taken otherwise than by the Authority or by some person with the authority of the Authority.
- (2) Proceedings in respect of offences against this Act may be taken by the Authority or by some person authorized by the Authority in that behalf, either generally or specially.

[Section 98 amended by No. 96 of 1994 s.86.]

99. Indemnity

No action, claim or demand lies or shall be made or allowed by or in favour of a person against Her Majesty, or the Minister, or the Authority or any member thereof, or any officer or person acting in good faith in the execution of this Act, for or in respect of any damage, loss or injury sustained, or alleged to be sustained, by reason of the operation of this Act, or anything done in good faith in the execution, or purported execution, of this Act.

[Section 99 amended by No. 96 of 1994 s.87.]

100. Evidence

In any proceedings in any court or before any persons having by law or consent of parties authority to hear, receive and examine evidence —

- (a) any printed paper purporting to be —
 - (i) an order or notice made and published under this Act; and
 - (ii) printed by the Government Printer,
is evidence that an order or notice in the words printed in that paper was duly made and published under this Act; and
- (b) a certificate purporting to be signed by the chairman or two members of the Authority certifying —

- (i) that a person has been appointed as the delegate of the Authority under section 43 and specifying what functions of the Authority were delegated to him and the period during which he was a delegate;
- (ii) that a person was appointed as an authorized agent to receive on behalf of the Authority any milk that is vested in the Authority, and that the appointment has not been revoked;
- (iii) that on a day, or during a period, specified in the certificate, a person was or was not licensed and, if the certificate certifies that he was so licensed, certifying the conditions to which the licence issued to him was subject and the activities he was authorized to carry on by that licence,

is *prima facie* evidence of the facts stated therein.

[Section 100 amended by No. 45 of 1980 s.20; No. 96 of 1994 s.88.]

101. Regulations

- (1) The Governor may make regulations prescribing all matters that are contemplated, required or permitted by this Act for carrying out or giving effect to the objects of this Act or which appear to him to be necessary or convenient to be prescribed for the effectual carrying out of this Act and any such regulation may confer upon a person or body specified in the regulation a discretionary authority.
- (2) Without limiting the generality of the powers conferred by subsection (1) the Governor may make regulations for or with respect to —
 - (a) standards for, and testing of, the quality and composition of milk and milk components and certification of such standards and test results;

[(aa) deleted]

Dairy Industry Act 1973

Part III Control of quality and production of milk at dairies

Division 2 Miscellaneous

s. 101

- (b) the production of milk at dairies;
- (c) the sale by the Authority of milk vested in, and accepted by, the Authority;
- (d) the construction, alteration and maintenance of dairies;
- (e) the provision, construction and equipment of laboratories at dairies and the provision of staff in those laboratories for the purposes of ensuring the wholesomeness and purity of milk;
- (f) the cleaning and sterilizing of cans, vessels, utensils, appliances and equipment used at dairies;
- (g) the particulars to be kept by dairymen in respect of their herds;
- (h) the books and records to be kept by, and the returns to be made to the Authority by persons engaged in the production, treatment or storage of milk at, or collection or transport of milk from, dairies, the purchase of milk from the Authority and the processing or selling of milk;
- (i) the inspection of dairies, milk processing plants and such other premises as are specified in the regulations for the purposes of this Act;
- [(j) deleted]*
- (k) the forms for use under this Act;
- (l) the making of payments in respect of milk vested in the Authority;
- [(m) deleted]*
- (n) prescribing the licences required under and for the purposes of this Act and the fees payable for licences, and the methods by which the fees are assessed and the fees to be paid for any other act, matter or thing done under this Act;
- (o) the methods by which any milk that has been condemned may be treated, destroyed or disposed of;

- (p) the qualifications to be possessed by, and the examinations to be passed by, persons employed in testing milk or milk components and the issue of certificates of competency to such persons or to such other classes of persons as may be prescribed and the renewal and cancellation of such certificates.

[(3) and(4) repealed]

- (5) The regulations —
 - (a) may adopt, either wholly or in part and either specifically or by reference any of the standard rules, codes or methods relating to the dairy industry, of any specified body or institution;
 - (b) may require any matter or thing to be verified by statutory declaration.
- (6) A regulation may impose a penalty not exceeding \$2 000 for any breach thereof and in the case of a continuing offence, whether of commission or of omission to a daily penalty of \$200 or each day or part thereof that the offence continues after the offender is convicted.

[Section 101 amended by No. 45 of 1980 s.21; No. 56 of 1983 ss.37 and 38; No. 20 of 1989 s.3; No. 96 of 1994 s.89.]

102. Review

- (1) The Minister shall carry out a review of the operation and effectiveness of this Act by 30 June 1998 and in the course of that review the Minister shall consider and have regard to —
 - (a) the effectiveness of the operations of the Authority and the need for the continuation of its functions;
 - (b) the extent, if any, to which the matters prescribed by this Act should continue to be prescribed; and
 - (c) such other matters as appear to the Minister to be relevant to the operation and effectiveness of this Act.

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- (2) The Minister shall prepare a report based on the review and shall, as soon as practicable after the report is prepared, cause it to be laid before each House of Parliament.

[Section 102 inserted by No. 96 of 1994 s.90.]

Schedule

[s. 4]

Dairy Industry Act 1922-1969

Dairy Products Marketing Regulation Act 1934-1937

Milk Act 1946-1971

Notes

¹ This is a compilation of the *Dairy Industry Act 1973* and includes the amendments effected by the other Acts referred to in the following Table.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Dairy Industry Act 1973</i>	92 of 1973	27 Dec 1973	Sections 61-70: 1 Jul 1974; balance: 11 Mar 1974 (see <i>Gazette</i> 1 Mar 1974 p.648)
<i>Dairy Industry Act Amendment Act 1979</i>	7 of 1979	17 May 1979	17 May 1979
<i>Dairy Industry Amendment Act 1980</i>	45 of 1980	12 Nov 1980	10 Dec 1980 (see section 2)
<i>Acts Amendment (Statutory Designations) and Validation Act 1981, section 4</i>	63 of 1981	13 Oct 1981	13 Oct 1981
<i>Dairy Industry Amendment Act 1982</i>	76 of 1982	29 Oct 1982	18 Nov 1982 (see section 2 and <i>Gazette</i> 12 Nov 1982 p.4443)
<i>Dairy Industry Amendment Act 1983</i>	56 of 1983	13 Dec 1983	Sections 5-7 and 14: 14 Feb 1984; Sections 4, 8, 24, 32-35: 1 Apr 1984; balance: 1 Jan 1984 (see <i>Gazette</i> 30 Dec 1984 p.5016)
<i>Acts Amendment (Financial Administration and Audit) Act 1985, section 3</i>	98 of 1985	4 Dec 1985	1 Jul 1986 (see section 2 and <i>Gazette</i> 30 Jun 1986 p.2255)
<i>Acts Amendment (Public Service) Act 1987, section 32, Schedule 2, item 36</i>	113 of 1987	31 Dec 1987	16 Mar 1988 (see section 2 and <i>Gazette</i> 16 Mar 1988 p.813)
<i>Agricultural Legislation (Penalties) Amendment Act 1989,</i>	20 of 1989	1 Dec 1989	15 Dec 1989 (see section 2 and <i>Gazette</i> 15 Dec 1989 p.4513)

Short title	Number and year	Assent	Commencement
section 3, Schedule 1, item 15			
<i>Financial Administration Legislation Amendment Act 1993</i> , section 11	6 of 1993	27 Aug 1993	Deemed operative 1 Jul 1993 (see section 2)
<i>Acts Amendment (Public Sector Management) Act 1994</i> , section 3 (2)	32 of 1994	29 Jun 1994	1 Oct 1994 (see section 2 and <i>Gazette</i> 30 Sep 1994 p.4948)
<i>Dairy Industry Amendment Act 1994</i>	96 of 1994	5 Jan 1995	2 Feb 1995
<i>Local Government (Consequential Amendments) Act 1996</i> , section 4	14 of 1996	28 Jun 1996	1 Jul 1996 (see section 2)
<i>Financial Legislation Amendment Act 1996</i> , section 64	49 of 1996	25 Oct 1996	25 Oct 1996 (see section 2 (1))
<i>Trustees Amendment Act 1997</i> , Section 18	1 of 1997	6 May 1997	16 Jun 1997 (see section 2 and <i>Gazette</i> 10 Jun 1997 p.2661)

² Section 10 of the *Dairy Industry Amendment Act 1994* (Act No. 96 of 1994) reads as follows —

“

10. Membership of Authority on commencement of this Act

- (1) In this section, “**Authority**” has the same meaning as it has in the principal Act.
- (2) A person who —
 - (a) was appointed under section 11 (2) (a), (b), (c) or (f) of the principal Act to be a member of the Authority; and
 - (b) is a member of the Authority immediately before the commencement of this Act,

continues to be a member of the Authority as if the principal Act had not been amended by this Act.

- (3) A person who —
- (a) was appointed under section 11 (2) (d) or (e) of the principal Act to be a member of the Authority; and
 - (b) is a member of the Authority immediately before the commencement of this Act,
- ceases to be a member of the Authority on the day that this Act commences.
- (4) Nothing in subsection (3) affects the eligibility of a person mentioned in subsection (2) to be appointed as a member of the Authority under section 11 of the principal Act as amended by this Act..

”.

³ Section 44 of the *Dairy Industry Amendment Act 1994* (Act No. 96 of 1994) reads as follows —

“

44. Savings

- (1) In this section, “**dairyman**” and “**dairy produce factory**” have the same meanings as they had in the principal Act before the commencement of this Act.
- (2) Section 52 (1) of the principal Act as amended by this Act does not apply to a dairyman in respect of whom, or a dairy produce factory in respect of which, a licence had been issued under section 52 (1) of the principal Act before the commencement of this Act and is carrying on business in accordance with that licence..

”.

⁴ Section 70 of the *Dairy Industry Amendment Act 1994* (Act No. 96 of 1994) reads as follows —

“

70. Savings

- (1) In this section, “**dairy produce premises**” has the same meaning as it had in the principal Act before the commencement of this Act.
- (2) Section 83 (1) of the principal Act as amended by this Act does not apply to persons using, or causing or permitting to be used, dairy produce premises which had been registered under section 83 (1) of the principal Act before the commencement of this Act and where the use of the premises is in accordance with the certificate of registration..

”.

⁵ Section 91 of the *Dairy Industry Amendment Act 1994* (Act No. 96 of 1994) reads follows —

“

91. Payments to milk distributors and vendors leaving industry

- (1) In this section, “**milk distributor**” and “**vendor**” have the same meanings as they had in the principal Act before the commencement of this Act.
- (2) Subject to subsection (3), the Authority may make payments to a milk distributor or a vendor who enters into an arrangement to sell or otherwise not continue in the business of milk distribution or milk vending, as the case may be, where the arrangement includes a restraint of trade provision that meets the Authority’s requirements.
- (3) Subsection (2) applies only in respect of applications for payment that are received by the Authority before 1 July 1995.

”.

⁶ Under section 112 (1) of the *Public Sector Management Act 1994*, a reference to the *Public Service Act 1978* is to be read as a reference to the *Public Sector Management Act 1994*.

⁷ Now known as Agriculture Western Australia.

