

WESTERN AUSTRALIA

DAIRY INDUSTRY AMENDMENT ACT 1994

No. 96 of 1994

AN ACT to amend the *Dairy Industry Act 1973*.

[Assented to 5 January 1995.]

The Parliament of Western Australia enacts as follows:

Short title

1. This Act may be cited as the *Dairy Industry Amendment Act 1994*.

Principal Act

2. In this Act, the *Dairy Industry Act 1973** is referred to as the principal Act.

[* *Reprinted as at 14 June 1984.*

For subsequent amendments see 1993 Index to Legislation of Western Australia, Table 1, p. 56.]

Section 3 repealed

3. Section 3 of the principal Act is repealed.

Section 5 amended

4. Section 5 of the principal Act is amended —

- (a) in the definition of “dairyman”, by deleting “or dairy farm”;
- (b) in the definition of “inspector”, by deleting “and a reference to an inspector includes, unless the context otherwise requires, a reference to an Authority inspector and a reference to a Department inspector”;
- (c) by deleting the definition of “milk” and substituting the following definitions —

“

“**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;

”;

- (d) in the definition of “quota”, by deleting “milk or butter fat delivery”;
- (e) in the definition of “quota year”, by deleting “or any succeeding period of twelve months thereafter”;
- (f) in the definition of “supplementary quota”, by deleting “milk, or butter fat delivery”;
- (g) by deleting the definition of “treatment” and substituting the following definition —

“

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

”;

and

- (h) by deleting each definition mentioned in the Table to this paragraph —

TABLE

“Authority inspector”, “butter fat”, “Chief, Division of Dairying and Food Technology”, “cold store”, “cream”, “dairy area”, “dairy farm”, “dairy produce”, “dairy produce factory”, “dairy produce premises”, “dealer”, “Department”, “Department inspector”, “depot”, “district”, “filled milk”, “grade”, “grading”, “milk distributor”, “person”, “section”, “store” and “vendor”.

Section 6 repealed

5. Section 6 of the principal Act is repealed.

Section 7 amended

6. (1) Section 7 (1) of the principal Act is amended —

- (a) in paragraph (c), by deleting “produce premises or any dairy produce premises of a class” and substituting the following —

“

or milk processing plant or class of dairy or
milk processing plant;

”;

and

- (b) in paragraph (d), by deleting “dairy produce or any milk or dairy produce” and substituting the following —

“ milk ”.

(2) Section 7 (1a) of the principal Act is repealed.

(3) Section 7 (2), (3), and (4) of the principal Act are amended by deleting “or (1a) of this section” in each place where it occurs.

(4) Section 7 (5) of the principal Act is amended by deleting “of this section”.

(5) Section 7 (6) of the principal Act is amended by deleting “of (1a) of this section”.

Section 9 repealed and sections substituted

7. Section 9 of the principal Act is repealed and the following sections are substituted —

“

Minister may give directions

9. (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.

Minister to have access to information

9A. (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 10 amended

8. Section 10 (2) of the principal Act is amended —

- (a) after paragraph (c), by inserting the following —
“ and ”; and
- (b) by deleting paragraph (d).

Section 11 repealed and a section substituted

9. Section 11 of the principal Act is repealed and the following section is substituted —

“

Constitution of Authority

11. (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.

(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.

”.

Membership of Authority on commencement of this Act

10. (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.

Section 12 repealed and a section substituted

11. Section 12 of the principal Act is repealed and the following section is substituted —

“

Tenure of office of Authority members

12. 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 13 amended

12. (1) Section 13 (1) of the principal Act is amended by deleting “Governor” in each place where it occurs and substituting the following —

“ Minister ”.

(2) Section 13 (2) of the principal Act is amended by deleting “Governor shall appoint a person on the written nomination of the Minister,” and substituting the following —

“ Minister shall appoint a person ”.

(3) Section 13 (3) of the principal Act is amended —

- (a) by deleting “Governor may, on the recommendation of the Minister, on such terms and conditions including terms and conditions as to payment of remuneration allowances and expenses, as the Governor may determine,” and substituting the following —

“ Minister may ”; and

- (b) by deleting paragraph (a) and substituting the following paragraph —

“

- (a) may perform the functions of the member of whom he is the deputy;

”.

Section 14 amended

13. Section 14 (2) of the principal Act is amended by deleting “other than the member appointed to represent the Department” and substituting the following —

“ , including a deputy appointed under section 13 (3) ”.

Section 15 amended

14. (1) Section 15 (2) of the principal Act is amended —

- (a) in paragraph (c), by deleting “four members entitled to vote” and substituting the following —

“ 3 members ”; and

- (b) by deleting “paragraph (e) of subsection (2) of section 11” and substituting the following —

“ section 11 (3) (c) ”.

(2) Section 15 (4) of the principal Act is amended by deleting paragraph (a) and substituting the following paragraph —

“ (a) 3 members form a quorum; ”.

(3) Section 15 (5) of the principal Act is amended by deleting “Subject to subsection (6) of this section, each” and substituting the following —

“ Each ”.

(4) Section 15 (6) of the principal Act is repealed.

Section 17 amended

15. Section 17 of the principal Act is amended —

- (a) by deleting the subsection designation “(1)”; and
- (b) by deleting “duties and”.

Section 18 amended

16. Section 18 (1) of the principal Act is amended by inserting after “of the Department”, the following —

“ of Agriculture ”.

Heading to Part II, Division 2 deleted and substituted

17. Part II of the principal Act is amended by deleting the heading to Division 2 and substituting the following heading —

“ *Division 2 — Functions of the Authority* ”.

Section 22 amended

18. (1) Section 22 (1) of the principal Act is amended by deleting paragraphs (a), (b) and (c) and substituting the following paragraphs —

“

- (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) Section 22 (2) of the principal Act is amended —

- (a) by deleting paragraphs (a), (b), (c), (d) and (e) and substituting the following paragraphs —

“

- (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;

”;

(b) in paragraphs (f) and (g) by deleting “or butter fat or both” in each place where it occurs;

(c) by inserting after paragraph (g) the following paragraph —
“

(ga) may initiate, conduct or cause to be
conducted the promotion of sales of
milk;

”;

(d) in paragraph (h) —

(i) by deleting “diary” and substituting the
following —

“ dairy ”; and

(ii) by deleting the full stop and substituting the
following —

and “ ; and ”;

(e) by inserting after paragraph (h), the following
paragraph —

“

(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) After section 22 (2) of the principal Act the following subsections are inserted —

- “
- (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 22A repealed

19. Section 22A of the principal Act is repealed.

Section 23 amended

- 20.** (1) Section 23 (1) of the principal Act is amended —
- (a) by deleting paragraph (a) and substituting the following paragraph —
- “
- (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) in paragraph (b), by deleting “issued, under this Act, that are to be applied, imposed or made where milk or dairy produce complies or fails to comply with the

grades and standards to which paragraph (a) of this subsection refers" and substituting the following —

"

that are to be applied, imposed or made where milk complies or does not comply with a standard mentioned in paragraph (a)

”;

(c) in paragraph (c), by deleting “of this subsection”;

(d) by deleting paragraph (d); and

(e) in paragraph (e) —

(i) by deleting “powers and”; and

(ii) by deleting “the functions of carrying out such further powers, duties and” and substituting the following —

“ such other ”.

(2) Section 23 (2) of the principal Act is amended by deleting “Penalty: \$1 000.” and substituting the following —

“

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 24 amended

21. Section 24 of the principal Act is amended —

- (a) by deleting “Except where section 55A applies, the” and substituting the following —

“ The ”; and

- (b) by inserting after “insert conditions” the following —

“
including conditions in relation to the
indemnification of the Authority
”.

Section 25 amended

22. Section 25 of the principal Act is amended by deleting “the first quota year under this Act shall commence” and substituting the following —

“ a quota year commences ”.

Section 26 amended

23. (1) Section 26 (1) of the principal Act is repealed and the following subsection is substituted —

“
(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) Section 26 (2) of the principal Act is amended by deleting “specified dairy produce premises or proposed dairy produce premises” and substituting the following —

“ a specified dairy or proposed dairy. ”.

Section 27 repealed and a section substituted

24. Section 27 of the principal Act is repealed and the following section is substituted —

“

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

27. 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 27A repealed and a section substituted

25. Section 27A of the principal Act is repealed and the following section is substituted —

“

Allocation of quotas

27A. (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 28 repealed and a section substituted

26. Section 28 of the principal Act is repealed and the following section is substituted —

“

Determination of quota applications

28. (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 29 amended

27. (1) Section 29 (1) of the principal Act is repealed and the following subsection is substituted —

“

(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) Section 29 (2) of the principal Act is amended by deleting “supply such additional quantities of milk or butter fat” and substituting the following —

“ produce such additional quantities of milk

”

(3) Section 29 (3) of the principal Act is amended —

(a) by deleting “supplied, or the quantity of dairy produce likely to be manufactured” and substituting the following —

“ produced ”;

(b) in paragraph (c) —

(i) by deleting “of this subsection”; and

(ii) by deleting “or butter fat or both”;

and

(c) in paragraph (d) —

(i) by deleting “of this subsection”;

(ii) by deleting “the prescribed form” and substituting the following —

“ a form approved by it ”; and

(iii) by deleting “or butter fat”.

(4) Section 29 (4) of the principal Act is amended by deleting “of this section”.

Section 30 amended

28. (1) Section 30 (1) of the principal Act is repealed and the following subsection is substituted —

“

(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) Section 30 (2) and (3) of the principal Act are repealed.

(3) Section 30 (4) of the principal Act is repealed and the following subsection is substituted —

“

(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.

”.

(4) Section 30 (5), (6a) and (7) of the principal Act are repealed.

(5) Section 30 (8) of the principal Act is amended —

- (a) by deleting “under subsection (2) of this section”;
- (b) by deleting “in writing on that ground only to the Quota Appeals Committee established under this Act”; and
- (c) by deleting “and the applicant shall set out in his appeal the grounds on which the appeal is made” and substituting the following —

“

to a Local Court in accordance with rules of court

”.

(6) Section 30 (9) and (10) of the principal Act are repealed and the following subsection is substituted —

“

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

”.

(7) Section 30 (11) of the principal Act is amended by deleting the penalty at the foot of that subsection and substituting the following —

“

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 30A amended

29. (1) Section 30A (2) of the principal Act is amended —

(a) by deleting paragraph (a) and substituting the following paragraph —

“

(a) a sale of the whole interest of the
applicant in the quota;

”;

(b) in paragraph (b) —

(i) by deleting “subject to any directions given by the Minister to the Authority as to the maintenance of minimum and maximum quota levels,”; and

(ii) after “parent,”, by inserting the following —

“ sibling, ”;

and

- (c) by deleting “objectives” and substituting the following —

“ purposes ”.

- (2) Section 30A (3) of the principal Act is amended —

- (a) by deleting “or part of a quota surrendered to the Authority”;

- (b) by deleting “objectives” and substituting the following —

“ purposes ”; and

- (c) by deleting “, premises, businesses” and substituting the following —

“ or dairies ”.

Section 31 repealed and a section substituted

30. Section 31 of the principal Act is repealed and the following section is substituted —

“

Appeals in relation to granting of quotas

31. (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.

”.

Provisions as to Quota Appeals Committee repealed

31. Sections 32, 33, 34, 35, 36, 37 and 38 of the principal Act are repealed.

Section 39 amended

32. Section 39 (3) of the principal Act is repealed and the following subsections are substituted —

“

(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 40 repealed and a section substituted

33. Section 40 of the principal Act is repealed and the following section is substituted —

“

Authority may request production of milk in excess of quota

40. (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 41 amended

34. Section 41 of the principal Act is amended —

- (a) by deleting “Auhority” and substituting the following —

“ Authority ”;

- (b) in paragraph (a), by deleting “exercising its powers and performing its duties” and substituting the following —

“ performing its functions ”; and

- (c) in paragraph (c), by deleting “and dairy produce”.

Section 42 repealed

35. Section 42 of the principal Act is repealed.

Section 43 amended

36. (1) Section 43 (1) of the principal Act is amended by deleting “powers and”.

(2) Section 43 (2) of the principal Act is amended —

- (a) by deleting “of this section”; and

- (b) by deleting “exercise or discharge by the Authority of any of its powers or” and substituting the following —

“ performance by the Authority of any of its ”.

(3) Section 43 (4) of the principal Act is amended —

- (a) by deleting “any powers” and substituting the following —

“ any functions ”; and

- (b) by deleting “carrying out or exercise of any of the powers” and substituting the following —

“ performance of any function ”.

Section 44 amended

37. (1) Section 44 (1) of the principal Act is amended —

- (a) by deleting “carrying out the functions and powers conferred upon, and the duties imposed upon, it by” and substituting the following —

“ performing its functions under ”; and

- (b) by deleting paragraphs (a) and (b) and substituting the following paragraphs —

“

- (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,

”.

(2) Section 44 (2) of the principal Act is amended —

- (a) by deleting “of this section”; and
- (b) by deleting “Penalty: \$1000.” and substituting the following —

“

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) Section 44 (3) of the principal Act is amended by deleting “of this section”.

Section 45 repealed

38. Section 45 of the principal Act is repealed.

Section 46 repealed and a section substituted

39. Section 46 of the principal Act is repealed and the following section is substituted —

“

Fixing of payments for milk and milk components

46. (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).

”

Sections 47 and 48 repealed

40. Sections 47 and 48 of the principal Act are repealed.

Section 49 amended

41. (1) Section 49 (1) of the principal Act is amended —

- (a) by deleting “price or rate” and substituting the following —

“ payment ”; and

- (b) by deleting paragraph (a).

(2) Section 49 (2) of the principal Act is amended by deleting “of this section”.

(3) Section 49 (3) and (4) of the principal Act are repealed and the following subsections are substituted —

“

(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 50 amended

42. (1) Section 50 (1) of the principal Act is amended —

- (a) by deleting “, a component of milk or any declared dairy produce” and substituting the following —

“ or a milk component ”;

- (b) by deleting “any price” and substituting the following —

“ any payment ”;

- (c) by deleting “, the component of milk or the declared dairy produce” and substituting the following —

“ or milk component ”; and

- (d) by deleting “the price or charge” and substituting the following —

“ the payment ”.

(2) Section 50 (2) of the principal Act is repealed and the following subsection is substituted —

“

(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 52 repealed and a section substituted

43. Section 52 of the principal Act is repealed and the following section is substituted —

“

Licences

52. (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.

”.

Savings

44. (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.

Section 53 repealed and a section substituted

45. Section 53 of the principal Act is repealed and the following section is substituted —

“

No licence unless dairy registered

53. 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 55 amended

46. Section 55 (1) of the principal Act is amended —

(a) by deleting “the prescribed form” and substituting the following —

“ a form approved by the Authority ”; and

- (b) by deleting “or the Department”.

Section 55A repealed

- 47.** Section 55A of the principal Act is repealed.

Section 56 amended

- 48.** Section 56 of the principal Act is amended —

- (a) in subsection (2), by deleting “the prescribed form” and substituting the following —

“ a form approved by the Authority ”; and

- (b) in subsection (3a) by deleting “or 58A”.

Section 57 amended

- 49.** (1) Section 57 (1) of the principal Act is amended —

- (a) by deleting paragraph (a) and substituting the following paragraph —

“

- (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;

”;

and

- (b) by deleting paragraph (d) and substituting the following paragraph —

“

- (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) Section 57 (2) of the principal Act is repealed and the following subsection is substituted —

“

- (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) Section 57 (4) of the principal Act is repealed and the following subsections are substituted —

“

- (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 58 amended

50. (1) Section 58 (1) and (2) of the principal Act are repealed and the following subsections are substituted —

“

(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.

”.

(2) Section 58 (3) of the principal Act is amended by deleting “of a licence under this section by the Authority” and substituting the following —

“ under subsection (2) of a licence ”.

Section 58A amended

51. Section 58A of the principal Act is amended —

- (a) by repealing subsection (1);
- (b) in subsection (2), by deleting “subsection (1) of this section” and substituting the following —

“ section 58 (1) ”;

- (c) in subsection (3), by deleting “subsection (1)” and substituting the following —

“ section 58 (1) ”; and

- (d) in subsection (5) —

- (i) by deleting “this section” and substituting the following —

“ section 58 (1) or (2) ”; and

- (ii) by deleting “sell or deliver milk or dairy produce” and substituting the following —

“

produce milk or carry on the business
of a milk processing plant, as the case
may be,

”.

Sections 59 and 60 repealed

52. Sections 59 and 60 of the principal Act are repealed.

Section 61 repealed and a section substituted

53. Section 61 of the principal Act is repealed and the following section is substituted —

“

Vesting of milk in the Authority

61. (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 62 repealed and a section substituted

54. Section 62 of the principal Act is repealed and the following section is substituted —

“

Acceptance and disposal of milk

62. (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 63 repealed and a section substituted

55. Section 63 of the principal Act is repealed and the following section is substituted —

“

Payment for accepted milk

63. (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 64 repealed and a section substituted

56. Section 64 of the principal Act is repealed and the following section is substituted —

“

Evidence of quantity etc. of milk accepted by Authority

64. (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 65 amended

57. Section 65 of the principal Act is amended by deleting “delivered to” and substituting the following —

“ accepted by ”.

Section 66 amended

58. (1) Section 66 (1) of the principal Act is amended —

- (a) by deleting “referred to in subsection (1) of section 61”; and

- (b) by deleting “subsection (6) of section 62” and substituting the following —

“ section 62 (3) ”.

- (2) Section 66 (2) of the principal Act is amended by deleting “of this section”.

- (3) Section 66 (4) of the principal Act is repealed.

Section 67 amended

- 59.** (1) Section 67 (1) of the principal Act is amended —

- (a) by deleting “delivered by a dairyman to, and accepted by, the Authority” and substituting the following —

“ accepted by the Authority from a dairyman ”;
and

- (b) by deleting “who delivered the milk”.

- (2) Section 67 (2) of the principal Act is amended —

- (a) by deleting “of this section” in each place where it occurs; and

- (b) by deleting “delivery of the milk to the Authority as a delivery thereof by him to the Authority” and substituting the following —

“
acceptance of the milk as acceptance by the
Authority from him

”.

(3) Section 67 (3) of the principal Act is amended by deleting “of this section”.

Section 68 amended

60. (1) Section 68 (1) of the principal Act is amended by deleting “Every person delivering milk to the Authority” and substituting the following —

“ A dairyman who produces milk ”.

(2) Section 68 (2) of the principal Act is amended by inserting after “Act.” the following —

“

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 69 amended

61. Section 69 of the principal Act is amended —

- (a) in paragraph (a), by deleting “delivering or causing to be delivered any milk to the Authority or any person acting under its authority” and substituting the following —

“

from whom the Authority has accepted
milk

”;

and

- (b) in paragraph (c), by deleting “of this section”.

Section 71 amended

62. (1) Section 71 (1) of the principal Act is amended by deleting “exercise of its powers and” and substituting the following —

“ performance of its ”.

(2) Section 71 (2) of the principal Act is amended by deleting “of this section,”.

Section 72 amended

63. Section 72 (1) of the principal Act is amended by deleting “carrying out its powers and” and substituting the following —

“ performing its ”.

Section 76 amended

64. Section 76 of the principal Act is amended in paragraph (b) —

(a) by deleting “expediture” and substituting the following —

“ expenditure ”; and

(b) by deleting “and carrying out of its powers, authorities, functions and duties” and substituting the following —

“ of its functions ”.

Section 80 repealed

65. Section 80 of the principal Act is repealed.

Section 81 amended

66. (1) Section 81 (2) of the principal Act is amended —

(a) by deleting “from” and substituting the following —

“ of the chairman or 2 members of ”; and

(b) by deleting “of this section”.

(2) Section 81 (3) of the principal Act is amended by deleting “of this section”.

Part III headings deleted and substituted

67. The headings to Part III and Division 1 of Part III of the principal Act are deleted and the following headings are substituted —

“

**PART III — CONTROL OF QUALITY AND
PRODUCTION OF MILK AT DAIRIES**

Division 1 — Registration and inspectors

”.

Section 82 repealed

68. Section 82 of the principal Act is repealed.

Section 83 repealed and a section substituted

69. Section 83 of the principal Act is repealed and the following section is substituted —

“

Dairies to be registered

83. (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.

”

Savings

70. (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.

Section 83A inserted

71. After section 83 of the principal Act the following section is inserted —

“

Application for, suspension and cancellation of registration

83A. 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 84 amended

72. Section 84 of the principal Act is amended —

(a) by deleting “82” and substituting the following —

“ 22 (1) (d) ”; and

(b) by deleting “health surveyor” and substituting the following —

“ environmental health officer ”.

Section 85 amended

73. Section 85 (1), (2) and (3) of the principal Act are repealed and the following subsections are substituted —

“

(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.

”

Section 86 repealed and a section substituted

74. Section 86 of the principal Act is repealed and the following section is substituted —

“

Certificate of inspector's appointment

86. (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 87 amended

75. Section 87 (1) of the principal Act is amended —

- (a) in paragraph (a), by deleting “produce premises, shop” and substituting the following —

“ , milk processing plant ”;

- (b) in paragraph (a) (ii), by deleting “preparation, production, treatment, storage, packing or sale of milk, filled milk or dairy produce” and substituting the following —

“
production, treatment, storage or collection
of milk at a dairy or milk processing plant
”;

- (c) by deleting paragraph (b);

- (d) by deleting paragraph (c) and substituting the following paragraph —

“
(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;
”;

and

(e) in paragraph (d) —

(i) by deleting “, filled milk or dairy produce”; and

(ii) by deleting “, filled milk or dairy produce,”.

Section 88 amended

76. (1) Section 88 (1) of the principal Act is amended —

(a) by deleting “a Department” and substituting the following —

“ an ”;

(b) by deleting paragraph (a) and substituting the following paragraph —

“

(a) any dairy is in an unclean condition
or is otherwise unfit for the purposes
for which it is used;

”;

(c) in paragraph (b), by deleting “on any dairy produce premises, or any conveyance, vehicle, aircraft or ship used for the carriage of milk or dairy produce, is in an unclean or unwholesome” and substituting the following —

“ in any dairy is in an unclean ”;

(d) in paragraph (c), by deleting “or of dairy produce on any dairy produce premises” and substituting the following —

“ in any dairy ”;

(e) in paragraph (d) —

(i) by deleting “on any dairy produce premises” and substituting the following —

“ in any dairy ”; and

(ii) by deleting “or dairy produce”;

(f) in paragraph (e) —

(i) by deleting “dairy produce premises” and substituting the following —

“ a dairy ”; and

(ii) by deleting “or dairy produce”;

and

(g) by deleting “produce premises or of the conveyance, vehicle, aircraft or ship, as the case may be, or their respective agents,”.

(2) Section 88 (1a) of the principal Act is repealed.

(3) Section 88 (2) of the principal Act is amended —

(a) by deleting “A Department inspector, and in relation to a conveyance or vehicle an Authority inspector acting pursuant to subsection (1a) of this section, may, by notice under subsection (1a) of this section” and substituting the following —

“

An inspector may, by notice under subsection (1)

”;

(b) in paragraph (a) —

- (i) by deleting “produce premises,”; and
- (ii) by deleting “thereon, or the conveyance, vehicle, aircraft or ship, as the case may be,” and substituting the following —

“ at the dairy ”;

(c) in paragraph (b) —

- (i) by deleting “diary produce premises” and substituting the following —

“ dairy ”;

- (ii) by deleting “, conveyance, vehicle, aircraft or ship, as the case may be,”; and
- (iii) by deleting “or dairy produce”;

(d) in paragraph (c), by deleting “produce premises”;

(e) in paragraph (d), by deleting “or dairy produce”; and

(f) in paragraph (f) —

- (i) by deleting “or dairy produce”; and
- (ii) by deleting “produce premises”.

(4) Section 88 (3) of the principal Act is amended by deleting paragraph (a) and substituting the following paragraph —

“

(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.

”.

(5) Section 88 (4) of the principal Act is repealed and the following subsection is substituted —

“

(4) A notice shall not be given under subsection (2) (f) without the prior written approval of the manager.

”.

(6) Section 88 (5) of the principal Act is amended —

(a) by deleting “a Department” and substituting the following —

“ an ”; and

(b) by deleting “paragraph (b) of subsection (2) of this section” and substituting the following —

“ subsection (2) (b) ”.

(7) Section 88 (6) of the principal Act is amended by deleting “exercising any of the powers conferred by this section, shall report to the Chief, Division of Dairying and Food Technology thereon” and substituting the following —

“

performing a function under this section shall report the performance of the function to the manager

”.

Section 89 repealed and a section substituted

77. Section 89 of the principal Act is repealed and the following section is substituted —

“

Power to condemn milk, etc.

89. (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 90 repealed

78. Section 90 of the principal Act is repealed.

Section 91 amended

79. Section 91 of the principal Act is amended by deleting "Penalty: \$1000." and substituting the following —

"

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.

".

Heading to Part III, Division 2 deleted and substituted

80. Part III of the principal Act is amended by deleting the heading to Division 2 and substituting the following heading —

" ***Division 2 — Miscellaneous*** "

Sections 92, 93 and 93A repealed and sections substituted

81. Sections 92, 93 and 93A of the principal Act are repealed and the following sections are substituted —

"

Offences relating to sale or use of unwholesome milk

92. 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.

Offence of exposing milk to contamination

93. 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 94 amended

82. Section 94 of the principal Act is amended —

- (a) by deleting “exercise of any powers or functions” and substituting the following —

“ performance of a function ”; and

- (b) by deleting the penalty at the foot of that section and substituting the following —

“

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 95 repealed

83. Section 95 of the principal Act is repealed.

Section 96 amended

84. Section 96 of the principal Act is amended —

- (a) by deleting “or the Department”; and

- (b) by deleting “recoverd” and substituting the following —

“ recovered ”.

Section 97 amended

85. (1) Section 97 (1) of the principal Act is amended —

- (a) by deleting the semicolon at the end of paragraph (e) and substituting a full stop; and
- (b) by deleting paragraph (f).

(2) Section 97 (2) of the principal Act is repealed and the following subsection is substituted —

“

(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 98 amended

86. (1) Section 98 (1) of the principal Act is amended —

- (a) by deleting “or the Department, as the case requires,”; and
- (b) by deleting “Authority or the Department” and substituting the following —

“ Authority ”.

(2) Section 98 (2) of the principal Act is amended —

- (a) by deleting “or the Department,”; and
- (b) by deleting “or the Department in” and substituting the following —

“ in ”.

Section 99 amended

87. Section 99 of the principal Act is amended by deleting “or member of the Quota Appeals Committee,”.

Section 100 amended

88. Section 100 of the principal Act is amended in paragraph (b) —

- (a) in subparagraph (i), by deleting “powers, authorities, duties or”;
- (b) by deleting the semicolon at the end of subparagraph (iii) and substituting a comma; and
- (c) by deleting subparagraph (iv).

Section 101 amended

89. (1) Section 101 (2) of the principal Act is amended —

- (a) by deleting “of this section”;
- (b) by deleting paragraph (a) and substituting the following paragraph —

“

- (a) standards for, and testing of, the quality and composition of milk and milk components and certification of such standards and test results;

”;

- (c) by deleting paragraph (aa);

- (d) by deleting paragraphs (b) and (c) and substituting the following paragraphs —

“

(b) the production of milk at dairies;

(c) the sale by the Authority of milk vested in, and accepted by, the Authority;

”;

- (e) in paragraph (d), by deleting “dairy produce premises and stores” and substituting the following —

“ dairies ”;

- (f) in paragraph (e) —

- (i) by deleting “on dairy produce premises” and substituting the following —

“ at dairies ”; and

- (ii) by deleting “and dairy produce”;

- (g) in paragraph (f), by deleting “on dairy produce premises” and substituting the following —

“ at dairies ”;

- (h) by deleting paragraph (h) and substituting the following paragraph —

“

(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) by deleting paragraphs (i) and (j) and substituting the following paragraph —

“

(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) by deleting paragraph (m);
- (k) in paragraph (n), by deleting “minimum and maximum fees payable for each class of licence” and substituting the following —

“ fees payable for licences ”;

- (l) in paragraph (o), by deleting “, filled milk or dairy produce that has been seized or” and substituting the following —

“ that has been ”; and

- (m) in paragraph (p), by deleting “, treating or grading milk or dairy produce or employed as product makers for such classes of product as are prescribed” and substituting the following —

“ milk or milk components ”.

- (2) Section 101 (3) and (4) of the principal Act are repealed.

Section 102 inserted

90. The principal Act is amended by inserting after section 101 the following section —

“

Review

102. (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.

(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.

”.

Payments to milk distributors and vendors leaving industry

91. (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.

Consequential amendment

92. The *Constitution Acts Amendment Act 1899** is amended in Part 3 of Schedule V by deleting the item relating to the Quota Appeals Committee established under the principal Act.

[* *Reprinted as at 6 April 1993.*

For subsequent amendments see 1993 Index to Legislation of Western Australia, Table 1, p. 46 and Acts Nos. 23 and 53 of 1993 and 6 and 9 of 1994.]