



ANALYSIS

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1972, No. 139

An Act to amend the Dairy Board Act 1961

[20 October 1972]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Dairy Board Amendment Act 1972, and shall be read together with and deemed part of the Dairy Board Act 1961 (hereinafter referred to as the principal Act).

2. Interpretation—(1) Section 2 of the principal Act is hereby amended by omitting from paragraph (b) of the definition of the expression “dairy produce”, the word “otherwise:”, and substituting the words “otherwise; and”.

(2) The said section 2 is hereby further amended by adding to the definition of the expression "dairy produce" (as so amended) the following paragraph:

"(c) Any compound or mixture that contains or is derived from milk, cream, or any product of milk or cream, and that is declared by Order in Council to be dairy produce for the purposes of this Act:".

3. Powers of Board as to acquisition and marketing of dairy produce—The principal Act is hereby amended by repealing section 17, and substituting the following section:

"17. (1) Without limiting any of the powers conferred on the Board by this Act or otherwise howsoever, the Board shall have full authority to make and carry out such arrangements as it thinks proper for any of the following purposes:

"(a) For the acquisition and marketing by the Board of dairy produce:

"(b) For the handling, pooling, transport, and storage of dairy produce:

"(c) For the consignment of dairy produce on such terms and in such quantities as it thinks fit:

"(d) For the insurance against loss of dairy produce:

"(e) For the establishment of a fund for the purpose of meeting any loss of or damage to dairy produce acquired by the Board or for the taking of such other steps as the Board thinks fit for that purpose:

"(f) For the further treatment, processing, or packing of dairy produce:

"(g) For furthering the sale of dairy produce overseas, whether by advertising, experimental shipments, or otherwise howsoever:

"(h) For prohibiting, restricting, and controlling the export of any dairy produce other than by the Board:

"(i) Generally for all such matters as are necessary for the exercise of the functions and powers of the Board under this Part of this Act.

"(2) Notwithstanding anything in section 2 or section 16 of this Act, for the purposes of paragraphs (a) to (g) of subsection (1) of this section, the expression 'dairy produce' shall include—

"(a) Any goods or produce (which would not, but for this paragraph, be dairy produce) that contain more than 30 percent by weight of dairy produce, and that are intended for export; and

- “(b) Any other goods or produce (which would not, but for this paragraph, be dairy produce) that contain any dairy produce, and that are intended for export, and that are declared by Order in Council to be dairy produce for the purposes of paragraphs (a) to (g) of subsection (1) of this section; and
- “(c) Any milk sold to the Board by a co-operative dairy company for the purposes of manufacture into a product intended for export.”

4. Meetings of Authority—Section 23 of the principal Act is hereby amended by inserting, after subsection (3), the following subsection:

“(3A) Notwithstanding anything in subsection (3) of this section, it shall be sufficient for the purpose of considering any price or advance that is to be fixed by the Board after consultation with the Authority, if at any meeting of the Authority the number of members appointed under paragraph (b) of subsection (2) of section 19 of this Act being present, and the number of members appointed under paragraph (c) of subsection (2) of the said section 19 being present, are equal.”

5. New sections (as to prices for dairy produce) substituted—(1) The principal Act is hereby amended by repealing section 26 (as substituted by section 3 (1) of the Dairy Board Amendment Act 1965), and substituting the following sections:

“26. Means of determining prices for dairy produce other than butter—Except for the fixing of prices for butter, the prices of all dairy produce that pursuant to this Act is acquired or is to be acquired by the Board shall be determined according to such formula or other means of determination as shall be proposed by the Board and receive the consent of the Minister of Agriculture and Fisheries and of the Minister of Finance before the 30th day of November 1972, or such later date as may be prescribed by Order in Council, and as thereafter may, with the prior consent of those Ministers, be amended from time to time by the Board.

“26A. Fixing prices for butter—(1) Not later than 1 month after the commencement of each season or such later date as may be determined by the Board, the Authority shall fix the prices to be paid by the Board for butter which becomes the property of the Board during that season.

“(2) In fixing prices for butter under this section the Authority shall have regard to the following matters:

“(a) The necessity in the public interest of maintaining the stability and efficiency of the dairy industry:

“(b) The amount which dairy produce acquired by the Board is realising, and market prospects for the season in respect of which prices for butter are required to be fixed:

“(c) The present and prospective state of the accounts established under subsection (1) of section 32 of this Act:

“(d) Any submissions made by the Board:

“(e) Any other matters deemed to be relevant.

“(3) If after the prices for butter have been fixed in respect of any season the Authority is of the opinion that the prices in respect of butter purchased by the Board should be increased, the Authority may fix new prices by way of increase and the Board may make consequential increases in the advance prices to be paid for dairy produce. Any increase of the prices to be paid by the Board may be made to operate retrospectively for that season from such date as the Authority or, as the case may require, the Board thinks fit.

“(4) Any price for butter fixed under this section in respect of any season shall not, by more than 5 percent, exceed or be less than the maximum price for butter fixed under this section in respect of any period during the last preceding season.

“(5) Notification of the prices fixed for butter, and of any alterations in those prices, shall be published in the *Gazette*.

“26B. Fixing prices for cheese—(1) As soon as practicable after prices are fixed for butter in respect of any season, the Board shall after consultation with the Authority fix an advance price for cheese acquired or to be acquired by the Board in that season.

“(2) As soon as practicable after the close of each season the Board shall after consultation with the Authority fix an interim final price for cheese acquired by the Board in that season.

“(3) At the same time as the Board determines the difference between advances made to dairy companies and the sum payable in accordance with the formula or other means of determination for the time being in force under section 26 of this Act, the Board shall also determine the final price for cheese.

“(4) The prices fixed for cheese shall be fixed at a rate which, having regard to the market realisation of cheese, provides, as a result of applying the formula or other means of determination for the time being in force under section 26 of this Act to the returns received by producers of whole milk manufactured into butter and other dairy produce, for producers of whole milk manufactured into cheese an equitable return. In determining advance prices for cheese, the amount to be taken into account as the value of other dairy produce shall be equivalent to the prices fixed for that produce under section 26c of this Act.

“26c. **Fixing prices for other dairy produce**—(1) For such dairy produce other than butter and cheese as the formula or other means of determining prices for the time being in force under section 26 of this Act may prescribe, the Board, at the commencement of each season, shall, after consultation with the Authority, assess the returns which it estimates will be realised from the sale of that dairy produce to be manufactured in that season, and thereafter shall fix advance prices to be paid to dairy companies for the dairy produce to be acquired by the Board, according to the formula or other means of determination for the time being in force under section 26 of this Act at a rate which, except with the agreement of the Authority, shall not in total exceed 75 percent of the assessed total returns for the dairy produce.

“(2) The Board may at any time reassess the returns which it estimates will be realised from the sale of dairy produce to which subsection (1) of this section relates, and, after consultation with the Authority, make consequential changes in the advance prices of that produce within the limits prescribed by the formula or other means of determination for the time being in force under section 26 of this Act.

“(3) Before the 20th day of June in each year the Board, after consultation with the Authority, shall—

“(a) Determine the total returns which it estimates will be realised from the sale of the dairy produce to which subsection (1) of this section relates acquired or to be acquired by it in respect of the immediately preceding season; and

“(b) To the extent that estimates in respect of earlier seasons require to be reassessed having regard to actual or prospective realisations, reassess the returns which have been received or which it estimates will be received from the sale of all such

dairy produce acquired by it in respect of seasons before the immediately preceding season; and

- “(c) Pay to or recover from the dairy companies from which the said dairy produce has been acquired any difference between the advances made and the sum which shall be payable in accordance with the formula or other means of determination for the time being in force under section 26 of this Act as a consequence of the estimate then made.

“26D. **General provisions applying to the fixing of prices—**
In fixing prices under any provision of sections 26 to 26C of this Act, the following provisions shall apply:

- “(a) Different prices may be fixed in respect of different kinds of dairy produce, or in respect of different grades or qualities of the same kind of dairy produce, or different prices may be fixed in respect of the same kind or grade or quality of dairy produce by reason of the kind or quality of the packages in which the dairy produce is contained or by reason of any other special conditions or circumstances that, in the opinion of the Authority or, as the case may require, the Board, warrant the fixing of different prices:

- “(b) Without limiting the provisions of paragraph (a) of this section, different prices may be fixed in respect of the same kind or grade or quality of dairy produce according to whether or not the milk or cream used in the manufacture of the dairy produce was produced from dairy herds which, pursuant to regulations under the Animals Act 1967, are registered as being free from tuberculosis or brucellosis:

- “(c) The Authority may provide for the computation and determination by the Board of such matters as the Authority thinks necessary with respect to—

“(i) The amount of any deduction in price to be made in respect of insurance premiums paid or payable by the Board in connection with the insurance of dairy produce acquired by the Board:

“(ii) The amount of any deduction in price to be made in respect of any money paid or payable by the Board in connection with the establishment of a fund for the purpose of reimbursing the Board for any loss of or damage to dairy produce acquired

by the Board or used by the Board to reimburse itself for any such loss or damage:

“(iii) The amount of any addition or deduction in price to be made in respect of the manufacture of any dairy produce which has been specially manufactured, prepared, or packed at the request or with the approval of the Board:

“(d) Any determination by the Board under paragraph (c) of this section shall be final and binding on all persons concerned, and the prices payable by the Board for dairy produce shall be deemed to be adjusted accordingly.”

(2) The principal Act is hereby further amended, consequentially, by repealing section 40A (as inserted by section 6 of the Dairy Board Amendment Act 1965).

6. Adjustment where local price not equivalent to export price—Section 27 of the principal Act is hereby amended by adding the following subsection:

“(8) For the purposes of this section, the term ‘butter’ includes anhydrous milkfat.”

7. Disposal of annual surplus—Section 28 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Subject to the provisions of this section, if at the end of any trading period it appears to the Board that the amount obtained for butter, cheese, and other dairy produce acquired for marketing and accounted for by any of the accounts that the Board maintains for the marketing of products which contain milkfat and are purchased by the Board, so far as the milkfat is concerned, on the basis of the purchase price for butter, that are sold beyond New Zealand by the Board during that period (after taking into consideration any amount paid from the Dairy Industry Account for payment into the Product Development Fund established under section 42A of this Act) has exceeded the amount paid by the Board in acquiring and marketing that butter, cheese, and other dairy produce, the amount of the excess assessed by the Board (in this Part referred to as the annual surplus) shall be applied as follows:

“(a) So much of the annual surplus as the Board thinks fit shall be paid to the dairy companies from which the butter, cheese, or other dairy produce was

acquired in respect of the trading period in proportion to the quantity of the milkfat used in production:

“Provided that, except with the consent of the Minister, the amount paid under this paragraph shall not exceed 50 percent of the annual surplus:

“(b) So much of the annual surplus as has not been expended under paragraph (a) of this subsection shall be transferred to the Dairy Industry Reserve Account.”

8. Dairy produce levies—Section 41 of the principal Act is hereby amended by inserting in subsection (1), after the words “dairy produce manufactured”, the words “, or intended to be manufactured,”.

9. Superannuation for employees of dairy companies—Section 45 of the principal Act is hereby amended—

(a) By adding to subsection (1) the words “or for any other class or classes of employees as the Minister of Finance may from time to time approve.”:

(b) By inserting in subsection (2), after the words “dairy produce manufactured”, the words “, or intended to be manufactured,”.

10. Provisions with respect to loans—Section 64 of the principal Act is hereby amended by repealing paragraph (a) of the proviso to subsection (1) (as substituted by section 6 (1) of the Dairy Board Amendment Act 1967), and substituting the following paragraph:

“(a) Such amounts in respect of money borrowed by the Board from the Reserve Bank of New Zealand as may from time to time be approved in writing by the Minister of Finance who may grant his approval subject to such terms and conditions as he thinks fit; and”.

11. Consequential repeals—The following enactments are hereby consequentially repealed:

(a) Subsection (1) of section 3, and sections 5 and 6, of the Dairy Board Amendment Act 1965:

(b) Section 3 of the Dairy Board Amendment Act 1967.