



ANALYSIS

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1975, No. 120

An Act to amend the Dairy Board Act 1961

[10 October 1975]

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 and commencement—(1) This Act may be cited as the Dairy Board Amendment Act 1975, and shall be read together with and deemed part of the Dairy Board Act 1961 (hereinafter referred to as the principal Act).

(2) This Act shall be deemed to have come into force on the 1st day of June 1975.

2. General functions of Board—(1) Section 14 (1) (a) of the principal Act is hereby repealed.

(2) Section 14 (1) (b) of the principal Act is hereby amended by omitting the words “other than butter and cheese”.

(3) Section 14 (1) (f) of the principal Act is hereby amended by omitting the words “butter and cheese”, and substituting the words “dairy produce”.

(4) Section 14 of the principal Act is hereby further amended by repealing subsection (2), and substituting the following subsection:

“(2) It shall also be a function of the Board to report to the Minister from time to time concerning trends and prospects for dairy produce in overseas markets and to consult with the Minister on the measures to be taken if any such trend, or any movement in costs or other trend or occurrence in New Zealand, is or is likely to be prejudicial to the economic stability of the dairy industry.”

3. Dairy produce to which this Part of this Act applies—Section 16 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) This Part of this Act shall apply with respect to all dairy produce that is intended for export.”

4. Board to acquire dairy produce—(1) The principal Act is hereby amended by repealing section 18, and substituting the following section:

“18. (1) The Board shall inform the supplier of any dairy produce that it proposes to acquire pursuant to this Part of this Act, either by notice in writing delivered to him or by notice in the *Gazette*, of the time at which or the event upon the happening of which the ownership of the dairy produce will pass to the Board; and that dairy produce shall become the property of the Board at that time or, as the case may be, upon that event:

“Provided that the said notice may also prescribe events upon the happening of which, after dairy produce has become the property of the Board thereunder, that dairy produce will become the property of the supplier again; and if any such event so happens, that dairy produce shall then become the property of the supplier, and any money paid to the supplier by the Board in respect thereof shall become a debt due to the Board by the supplier and may be deducted by the Board from any money thereafter payable to the supplier by the Board.

“(2) The Board may include in any notice given pursuant to subsection (1) of this section details of the manner in which the supplier of any dairy produce is to deal with it

after it has become the property of the Board pursuant to that notice; and the supplier shall, after that dairy produce has become the property of the Board, deal with it accordingly.

“(3) Where at any time after any dairy produce becomes the property of the Board under this section it is found to be contaminated or to contain foreign matter to such an extent that it does not conform to the specifications prescribed in the Board’s order for that produce, the Board may deduct from any amount payable by it to the supplier an amount equal to the difference between the price paid or payable by the Board for the affected dairy produce (plus all costs and expenses incurred by the Board in disposing of the dairy produce and in compensating the purchaser from the Board of the dairy produce) and the amount for which the Board disposed of it:

“Provided that this subsection shall not apply to any dairy produce proved by the supplier to have become contaminated or to have acquired foreign matter after it became the property of the Board and without negligence on the part of the supplier.

“(4) Whenever dairy produce has become the property of the Board in accordance with subsection (1) of this section, the price thereof, as fixed in accordance with this Part of this Act, shall become payable, and, after deduction therefrom of any money payable to the Board by the supplier thereof, whether pursuant to section 41 of this Act or otherwise, shall be paid to that supplier as soon as practicable after the passing of ownership thereof to the Board:

“Provided that if the price payable for the said dairy produce has not been fixed at the time when it becomes payable as provided in this subsection, the Board may make advances on account of the amount payable, pending its ascertainment, and, if the amounts advanced exceed the amount ascertained to be payable, the amount of the excess shall be repayable forthwith to the Board, and may be deducted by the Board from any money payable to the supplier who received the advances.

“(5) Any dairy produce that has become the property of the Board in accordance with this section may be withheld from export if, in the opinion of the Board, it is required for consumption or use in New Zealand, or the Board may, if it thinks fit, sell any such dairy produce to any person who undertakes to export and market it in accordance with any agreement made with the Board.”

(2) Section 2 of the Dairy Board Amendment Act 1967 is hereby repealed.

5. Function of Authority—The principal Act is hereby further amended by repealing section 24, and substituting the following section:

“24. The general function of the Authority shall be to establish, in accordance with this Part of this Act, the value to be placed upon milkfat and solids-not-fat in the determination by the Board of the prices payable by the Board for dairy produce acquired by it, and to report to the Minister, at the time it meets to establish values pursuant to section 26 of this Act, and at any other time it thinks fit, on the extent to which, in the opinion of the Authority, any circumstances may have or be likely to have an adverse effect on the stability and economic viability of the dairy industry.”

6. Authority to consult Minister—The principal Act is hereby further amended by repealing section 25, and substituting the following section:

“25. Notwithstanding anything to the contrary in this Act, the Authority shall consult with the Minister before it establishes any values under this Act.”

7. Fixing prices for dairy produce—(1) The principal Act is hereby further amended by repealing the heading “*Fixing Prices for Butter and Cheese*”, and sections 26, 26A, 26B, 26C, and 26D (as substituted by section 5 (1) of the Dairy Board Amendment Act 1972), and substituting the following heading and sections:

“Fixing Prices for Dairy Produce

“26. Establishing values for milkfat and solids-not-fat—(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 establish the value of milkfat and the value of solids-not-fat to be used by the Board in determining the price to be paid by the Board for dairy produce acquired by it during that season.

“(2) In so establishing values for milkfat and solids-not-fat, 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; and

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

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

“(d) Any submissions made by the Board; and

“(e) Any other matters thought relevant by the Authority.

“(3) No value for milkfat or solids-not-fat established under this section in respect of any season shall be greater by more than 10 percent or less by more than 5 percent than the maximum value for that component of milk established under this section during the last preceding season:

“Provided that upon the recommendation of the Board and with the prior approval of the Minister the Authority may establish a value for milkfat or solids-not-fat in milk greater by more than 10 percent than the maximum for that component of milk established during the last preceding season pursuant to this section if, in the opinion of the Authority, the maintenance of the economic viability of the dairy industry so requires.

“(4) Subject to subsection (3) of this section, if, after the values for milkfat and solids-not-fat have been established in respect of any season, the Authority is of the opinion that either or both of those values should be increased, the Authority may establish a new value or values by way of increase, and the Board may make consequential increases in prices paid or to be paid for dairy produce.

“(5) Any new value of milkfat or solids-not-fat established pursuant to subsection (4) of this section may be made to operate retrospectively from such date (being no earlier than the commencement of the season in which it is established) as the Authority thinks fit.

“(6) For the season that commenced on the 1st day of June 1975 only, the following values shall be deemed to have been established by the Authority and shall be deemed to be greater by 5 percent than values established under this section for the season that commenced on the 1st day of June 1974:

“(a) For milkfat, the residual value obtained by deducting from the price of butter as fixed by the Authority for that season all costs of manufacture and delivery to f.o.b.:

“(b) For solids-not-fat, the residual value obtained by deducting from the sales receipts and the Board’s assessed values of unsold stocks of solid-not-fat products manufactured in the preceding season all costs of manufacture and delivery to f.o.b.

“26A. **Formulas for calculation of prices**—(1) Subject to section 26B of this Act, before the 30th day of November 1975 or such later date as may be prescribed by Order in Council, the Board shall establish formulas for the calculation of prices to be paid by it for all dairy produce acquired or to be acquired by it on or after the 1st day of June 1975, and may at any time and from time to time thereafter amend or replace any formula so established or establish further formulas.

“(2) Without limiting the powers of the Board, the Board may establish or amend formulas pursuant to this section so as to achieve or tend to achieve any or all of the following results:

“(a) Different prices for different kinds of dairy produce:

“(b) Different prices for different grades or qualities of dairy produce:

“(c) Different prices for dairy produce contained in different packaging:

“(d) Different prices for dairy produce produced in different periods:

“(e) Different prices for quantities of dairy produce made in different degrees of conformity with any manufacturing programme or quota requirements of the Board:

“(f) Different prices for dairy produce from dairy herds differing as to the extent to which they are, as the case may be, registered or tested as being free from tuberculosis, brucellosis, or such other disease as the Minister, by notice in the *Gazette*, may specify.

“26B. **Ministerial consent required**—No formula shall be established, replaced, or amended by the Board pursuant to section 26A of this Act without the prior consent of the Minister and the Minister of Finance.

“26c. **Fixing prices for dairy produce**—(1) As soon as practicable after a new value for milkfat or solids-not-fat has been established pursuant to section 26 of this Act, the Board shall determine, according to the appropriate formulas, the gross prices to be paid for dairy produce for that season or, as the case may be, the residue thereof.

“(2) Where the Authority has made an increase in the value of milkfat or solids-not-fat to operate retrospectively, the Board may make any consequential increase in price for dairy produce containing that component of milk, operate retrospectively from such date after the date of the increase in value as it thinks fit.

“(3) The Board may deduct from the gross price to be paid for any dairy produce, calculated according to subsection (1) of this section, all or any of the following amounts:

“(a) A proportionate amount of any insurance premiums paid or payable by the Board in connection with the insurance of dairy produce acquired by the Board:

“(b) Any money payable to or retainable by the Board in connection with the establishment of a fund for the purpose of reimbursing the Board for any loss or damage to dairy produce acquired by the Board, or used by the Board to reimburse itself for any such loss or damage, or used by the Board to provide for losses by way of bad debts or debtor defaults:

“(c) An amount in respect of any materials or services supplied by the Board in connection with the manufacture of the dairy produce.”

(2) Section 5 of the Dairy Board Amendment Act 1972 is hereby repealed.

8. Assessment of sectional accounts and disposal of annual surpluses—(1) The principal Act is hereby further amended by repealing section 28, and substituting the following section:

“28. (1) As soon as practicable after the end of each season, the Board shall assess the balance in each sectional account of the Dairy Industry Account at that date by deducting from the amounts received or to be received for the dairy produce the proceeds from whose sale is or is to be recorded in that account the amounts paid or payable by the Board in acquiring and marketing that dairy produce.

“(2) For the purpose of subsection (1) of this section the amount to be received in respect of any unsold stocks shall not exceed the total cost of their acquisition, insurance, and storage.

“(3) If the assessment of a sectional account pursuant to this section indicates a surplus, the Board shall submit to the Minister proposals for dealing with it.

“(4) In formulating any proposals to be submitted to the Minister pursuant to this section, the Board shall take into account the following considerations:

“(a) The desirability of repaying as quickly as practicable any debit in any sectional reserve account in the Dairy Industry Reserve Account; and

“(b) The amount of any debit balance for the season in the other sectional account; and

“(c) The profitability and economic position of the dairy farming industry at the time.

“(5) Without the prior agreement of the Minister, the Board shall not submit to the Minister pursuant to subsection (3) of this section any proposal involving the distribution to suppliers from a sectional account of more than half of the surplus in it.

“(6) If within 21 days of the submission to him by the Board of a proposal for dealing with a surplus in a sectional account the Minister advises the Board that in his opinion the proposal would affect adversely the national economy and the stability of the dairy industry, the Board shall not deal in any way with the surplus without his prior consent.

“(7) If within 21 days of the submission to him of a proposal for dealing with a surplus in a sectional account the Minister has not so advised the Board, he shall be deemed to have consented to the proposal.

“(8) Where the Minister has consented to any proposal for dealing with a surplus in a sectional account involving the distribution of any part thereof, the Board shall as soon as practicable distribute that part to the suppliers from whom the Board acquired during the season dairy produce in respect of which the surplus has arisen, on such fair and equitable formula established pursuant to section 26 of this Act as the Board may determine.

“(9) So much of any surplus in a sectional account as may not be distributed pursuant to this section shall be transferred to the Dairy Industry Reserve Account.

“(10) If the assessment of a sectional account pursuant to this section indicates a deficit, the amount of that deficit shall be transferred as a debit to the Dairy Industry Reserve Account.

“(11) The calculation of the balance of the solids-not-fat sectional account for the season ending with the 31st day of May 1976 shall be made after acquisition of all stocks unsold

at the 1st day of June 1975 at the values placed thereon by the Board in its assessment of the trading result of the season that ended with the 31st day of May 1975.”

(2) Section 7 of the Dairy Board Amendment Act 1972 is hereby repealed.

9. Sectional accounts—Section 33 of the principal Act is hereby amended by repealing subsections (3) and (4), and substituting the following subsections:

“(3) The Board shall establish 2 sectional accounts within the Dairy Industry Account, and shall record therein, in accordance with this section, details of all payments made into or out of the Dairy Industry Account on or after the 1st day of June 1975.

“(4) Subject to subsection (5) of this section, the Board shall record in one sectional account details of payments arising out of transactions involving dairy produce that in the opinion of the Board consist essentially of milkfat, and shall record in the other details of payments arising out of transactions involving dairy produce that in the opinion of the Board consist essentially of solids-not-fat.

“(5) If any payment made into or out of the Dairy Industry Account arises out of a transaction involving dairy produce consisting of such a mixture of milkfat and solids-not-fat that in the opinion of the Board the dairy produce consists essentially of both milkfat and solids-not-fat, the Board may record all details of that payment in one sectional account, or may record details of such proportion of that payment as it thinks fit in one sectional account and details of the residue in the other.

“(6) If any payment made into or out of the Dairy Industry Account cannot in the opinion of the Board be related directly to any dairy produce, the Board may record all details of that payment in one sectional account, or may record details of such proportion of that payment as it thinks fit in one sectional account and details of the residue in the other.

“(7) The balance standing to the credit of the Dairy Industry Account after the completion of accounting transactions for the year that ended with the 31st day of May 1975 shall be deemed to have arisen out of transactions involving dairy produce consisting essentially of milkfat, and details thereof shall be recorded in the appropriate sectional account.

“(8) Subject to subsection (9) of this section, the Reserve Bank may grant to the Board and the Board may receive from the Reserve Bank, accommodation by way of overdraft in aid of the Dairy Industry Account, and that account may be overdrawn accordingly.

“(9) Except with the prior consent in writing of the Minister of Finance, the Dairy Industry Account shall not be overdrawn by an amount exceeding the difference between the total cost of acquiring all dairy produce under this Part of the Act (including the value of unsold stock carried over from the preceding accounting period) plus all amounts paid by the Board as on-costs relating to storage, insurance, advertising, salaries, administration, and all other costs not being Capital Expenditure, and the total sum received by the Board from sales of that dairy produce:

“Provided that the Reserve Bank shall be entitled to accept a certificate in writing signed by a person duly authorised by the Board as conclusive evidence of the size of that amount.”

10. Dairy Industry Reserve Account—Section 34 of the principal account is hereby amended by repealing subsections (1) and (2), and substituting the following subsections:

“(1) The Board shall establish within the Dairy Industry Reserve Account a sectional reserve account for each sectional account in the Dairy Industry Account.

“(2) The Board shall record in the appropriate sectional reserve account details of every surplus and deficit transferred to the Dairy Industry Reserve Account pursuant to section 28 of this Act.”

11. Superannuation for employees of dairy companies—

(1) Section 45 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) As a contribution by companies towards the scheme, there shall be paid to the Board by every company not exempt as hereinafter provided from the provisions of this section an amount proportionate to the contributions of the members of the scheme employed by each company and a further amount, by way of a special levy on dairy produce manufactured or intended for manufacture for sale by the company, each such amount to be fixed from time to time by the Board at rates not exceeding in any case the maximum charge prescribed by regulations under this Act.”

(2) The said section 45 is hereby further amended by adding the following subsection:

“(8) Notwithstanding section 46 of this Act, any money received by the Board pursuant to this section, and any money and investments held in the Dairy Industry Superannuation Account, may from time to time be invested or re-invested by the Board in any investment authorised for the investment of the New Zealand Superannuation Fund by section 27 of the New Zealand Superannuation Act 1974.”

(3) Section 9 (b) of the Dairy Board Amendment Act 1972 is hereby repealed.

12. Contracts of Board—Section 49 of the principal Act is hereby amended by repealing subsections (2) and (3), and substituting the following subsections:

“(2) Any contract that, if made between private persons, must be signed by the parties to be charged therewith shall, if made by the Board, be either under the common seal of the Board, or signed by a member or officer of the Board authorised specifically or generally to sign it.

“(3) Any contract that, if made between private persons, may be made orally may be similarly made by or on behalf of the Board by any member or officer of the Board acting with the authority of the Board.”

13. Repeals—Sections 9, 11, 32 (3), 32 (4), 70, 71, and 72 of the principal Act are hereby repealed.

This Act is administered in the Ministry of Agriculture and Fisheries.
