



ANALYSIS

<p>Title</p> <p>1. Short Title and commencement</p> <p>2. Interpretation</p> <p>3. New Zealand Dairy Board established</p> <p>4. Terms of office of directors</p> <p>5. Extraordinary vacancies</p> <p>6. Powers of Board as to acquisition and marketing of dairy produce</p> <p>7. Establishing values for milkfat and solids-not-fat</p>	<p>8. Adjustment where local price for dairy produce not equivalent to export price</p> <p>9. Dairy Industry Reserve Account</p> <p>10. Delegation of powers of Board</p> <p>11. Contracts of Board</p> <p>12. Remuneration and travelling expenses</p> <p>13. Dairy Industry Loans Council</p> <p>14. Chairman of Council Schedule</p>
---	---

1980, No. 81

An Act to amend the Dairy Board Act 1961

[17 December 1980]

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 1980, and shall be read together with and deemed part of the Dairy Board Act 1961 (hereinafter referred to as the principal Act).

(2) Subject to section 8 (3) of this Act, this Act shall come into force on the day on which it receives the Governor-General's assent.

2. Interpretation—Section 2 of the principal Act is hereby amended by repealing the definition of the term “Minister”, and substituting the following definition:

“‘Minister’ means the Minister of Agriculture.”

3. New Zealand Dairy Board established—(1) Section 3 (2) of the principal Act is hereby amended—

- (a) By omitting the word “members”, wherever it appears, and substituting, in each case, the word “directors”:
- (b) By omitting the expression “13”, and substituting the expression “14”:
- (c) By adding the following paragraph:

“(d) One director, who shall be a member of the New Zealand Milk Board nominated under any of paragraphs (a) to (c) of section 3 (2) of the Milk Act 1967, appointed by that Board.”

(2) Section 2 of the principal Act is hereby amended by inserting, after the definition of the term “dairy produce”, the following definition:

“‘Director’ means a director of the Board:”

(3) The principal Act is hereby consequentially amended in the manner indicated in the Schedule to this Act.

(4) Section 3 (2) (f) of the Milk Act 1967 (as substituted by section 2 (1) of the Milk Amendment Act 1980) is hereby consequentially amended by omitting the word “member”, where it secondly appears, and substituting the word “director”.

(5) Section 5 (2A) of the Milk Act 1967 (as inserted by section 2 (2) of the Milk Amendment Act 1980) is hereby consequentially amended by omitting the word “member”, where it secondly appears, and substituting the word “director”.

4. Terms of office of directors—(1) The principal Act is hereby amended by repealing section 4 (as amended by section 2 of the Dairy Board Amendment Act 1965), and substituting the following section:

“4. (1) Except as otherwise provided by this Act, a director shall be appointed or elected—

“(a) In the case of a person who before his appointment or election has attained the age of 68 years, for a term expiring with the 30th day of June in the year following the year of his appointment or election:

“(b) In the case of a person who before his appointment or election has attained the age of 64 years but has not attained the age of 68 years, for a term expiring with the 30th day of June next following the 68th anniversary of his birth:

“(c) In any other case, for a term expiring with the 30th day of June in the fourth year following the year of his appointment or election.

“(2) Notwithstanding subsection (1) of this section, every director, unless he sooner vacates his office under section 7 of this Act, shall continue in office until his successor comes into office.”

(2) Section 2 of the Dairy Board Amendment Act 1965 is hereby consequentially repealed.

5. Extraordinary vacancies—Section 7 of the principal Act is hereby amended by inserting, after subsection (2), the following subsection:

“(2A) Where a director appointed under section 3 (2) (d) of this Act ceases to be a member of the New Zealand Milk Board, his office as a director shall thereupon become vacant; and the vacancy shall be deemed to be an extraordinary vacancy.”

6. Powers of Board as to acquisition and marketing of dairy produce—Section 17 of the principal Act (as substituted by section 3 of the Dairy Board Amendment Act 1972) is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) 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 prohibiting, restricting, and controlling, the export otherwise than by the Board to any country specified in that behalf by the Governor-General by Order in Council of any compound or mixture (packed otherwise than for retail sale without further processing or packaging, and otherwise than in units of 2 kg or less) that—

“(a) Contains not less than 60 percent by weight of dairy produce; and

“(b) In the opinion of the Board is used, or capable of being used, substantially in substitution for the dairy produce contained in it, or for any component of that dairy produce.”

7. Establishing values for milkfat and solids-not-fat—(1) Section 26 of the principal Act (as substituted by section 7 of the Dairy Board Amendment Act 1975) is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Not later than one month after the commencement of each season, or such later date as the Board determines, the Authority shall establish—

“(a) The value (per kilogram) of milkfat; and

“(b) The value (per kilogram of milkfat) 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) The said section 26 is hereby further amended by repealing subsection (3), and substituting the following subsections:

“(3) The sum of the values for milkfat and solids-not-fat established in respect of any season shall not be greater by more than 10 percent nor less by more than 5 percent than the sum of the maximum values for those components of milk established during the previous season unless—

“(a) The Board so recommends; and

“(b) The Minister approves; and

“(c) The Authority is satisfied that the maintenance of the economic viability of the dairy industry so requires.

“(3A) Before establishing in respect of any season a value for milkfat or solids-not-fat that is greater by more than 10 percent or less by more than 5 percent than the maximum value for that component of milk established during the previous season, the Authority shall consider the effect that the relativity between that value and the value established or, as the case may be, proposed to be established in respect of that season for the other component of milk will have on—

“(a) Persons who supply only one of those components for manufacture; and

“(b) Long term capital investment and herd breeding programmes within the dairy industry.”

(3) Section 26 (4) of the principal Act is hereby consequentially amended by omitting the expression “subsection (3)”, and substituting the expression “subsections (3) and (3A)”.

(4) Sections 36 (2) (a) and 51 of the principal Act are hereby amended by omitting the words “subsection (3) of section 33”, and substituting in each case the expression “section 33 (8)”.

8. Adjustment where local price for dairy produce not equivalent to export price—(1) The principal Act is hereby amended by repealing section 27, and substituting the following section:

“27. (1) In this section, unless the context otherwise requires,—

“ ‘Acquisition price’, in relation to any dairy produce, means the price at the time when, in the opinion of the Board, that produce was manufactured, payable by the Board for dairy produce of that class acquired by the Board:

“ ‘Approved class of dairy produce’ means dairy produce of a kind or description for the time being approved for the purposes of this section by the Board with the concurrence of the Minister:

“ ‘Notional price’ means a notional price fixed under this section; and, in relation to any approved class of dairy produce, means a notional price for the time being fixed in respect of dairy produce of that class.

“(2) The Board may at any time fix, in respect of any approved class of dairy produce, a notional price which shall take effect from such date (not being earlier than the date on which it is fixed) as the Board specifies in that behalf.

“(3) The Board may at any time amend any notional price for the time being in force; and any amendment shall take effect on a date (not being earlier than the date on which the original notional price took effect) that is either—

“(a) A date specified in that behalf by the Board at the time of making the amendment; or

“(b) A date upon which conditions specified in that behalf by the Board at the time of making the amendment have been fulfilled.

“(4) Where the Board amends any notional price, it shall specify a period of such number of whole months as it thinks fit from the date on which the amendment takes effect during which subsections (6) and (8) of this section shall apply in respect of the approved class of dairy produce concerned.

“(5) Subject to subsection (6) of this section, the Board may pay to every dairy company that satisfies the Board that, during any month when a notional price was in force in respect of an approved class of dairy produce, it disposed of any dairy produce of that class otherwise than to the Board, the amount (if any) by which the value of that dairy pro-

duce calculated on the basis of its acquisition price exceeded the value of that dairy produce calculated on the basis of that notional price.

“(6) Where, in the opinion of the Board, any dairy produce is disposed of otherwise than to the Board during a month that forms part of a period to which this subsection applies, the amount (if any) payable under subsection (5) of this section to the dairy company that manufactured it shall be the sum of—

“(a) The amount (if any) by which the value of that dairy produce calculated on the basis of its acquisition price exceeded the higher of the following amounts:

“(i) The value of that dairy produce calculated on the basis of the notional price for dairy produce of that class that came into force at the commencement of that period:

“(ii) The value of that dairy produce calculated on the basis of the notional price for dairy produce of that class that was in force immediately before that commencement; and

“(b) Such sum as the Board thinks fit, being not less than the product of a quantity of dairy produce that bears the same proportion to the total quantity of dairy produce of that class, in the opinion of the Board, manufactured by that company, and disposed of otherwise than to the Board, in the 12 months before the commencement of that period, as that period bears to 12 months, and the lower of the following:

“(i) The difference between the prices specified in subparagraphs (i) and (ii) of paragraph (a) of this subsection:

“(ii) The amount (if any) by which the lower of those prices is less than the acquisition price of that dairy produce.

“(7) Subject to subsection (8) of this section, the Board may recover from every dairy company that, in the opinion of the Board, during any month when a notional price was in force in respect of an approved class of dairy produce, disposed of any dairy produce of that class otherwise than to the Board, the amount (if any) by which the value of that dairy produce calculated on the basis of that notional price exceeded the value of that dairy produce calculated on the basis of its acquisition price, by—

- “(a) Directing that company to pay that amount to the Board; or
- “(b) Deducting that amount from any money payable by the Board to that company; or
- “(c) So directing as to part of that amount and so deducting the residue.

“(8) Where, in the opinion of the Board, any dairy produce is disposed of otherwise than to the Board during any month that forms part of a period to which this subsection applies, the amount (if any) recoverable under subsection (7) of this section from the dairy company that manufactured it shall be the sum of—

- “(a) The amount (if any) by which the value of that dairy produce calculated on the basis of its acquisition price was less than the lower of the following amounts:
 - “(i) The value of that dairy produce calculated on the basis of the notional price for dairy produce of that class that came into force on the commencement of that period; and
 - “(ii) The value of that dairy produce calculated on the basis of the notional price for dairy produce of that class that was in force immediately before that commencement; and
- “(b) Such sum as the Board thinks fit, being not more than the product of a quantity of dairy produce that bears the same proportion to the total quantity of dairy produce of that class manufactured by that company and, in the opinion of the Board, disposed of otherwise than to the Board, in the 12 months before the commencement of that period as that period bears to 12 months, and the lower of the following:
 - “(i) The difference between the prices specified in subparagraphs (i) and (ii) of paragraph (a) of this subsection:
 - “(ii) The amount (if any) by which the higher of those prices is greater than the acquisition price of that dairy produce.

“(9) As soon as is practicable after the end of every season the Board shall, as the case may require, pay to or recover as aforesaid from each dairy company such amounts as, in the opinion of the Board, are necessary to make the total amounts under this section paid to that company by the Board or, as

the case may require, recovered from that company by the Board, in respect of dairy produce manufactured by it, and disposed of otherwise than to the Board during that season, equal to the amounts that would have been so paid or recovered if all amounts during that season payable under this section had been calculated on the basis of the appropriate acquisition prices adjusted to take account of any relevant payments calculated in respect of that season under section 28 of this Act.

“(10) As soon as is practicable after the 31st day of May in each year, the Board shall, as the case may require, pay to or recover as aforesaid from each dairy company such amounts as, in the opinion of the Board, are necessary to make the total amounts under this section paid to that company by the Board or, as the case may require, recovered from that company by the Board in respect of dairy produce manufactured by it, and disposed of otherwise than to the Board during the previous 12 months, equal to the amounts that would have been so paid or recovered if all amounts payable in respect of dairy produce of the class concerned under subsection (6) (b) or subsection (8) (b) of this section during any period specified under subsection (4) of this section occurring during that 12 months had been calculated on the basis of the quantity of dairy produce of that class manufactured by that company disposed of otherwise than to the Board during each month forming part of that period.

“(11) All money paid or recovered by the Board under this section shall be paid out of or into the Dairy Industry Account.”

(2) The following provisions are hereby consequentially repealed:

(a) Section 4 of the Dairy Board Amendment Act 1965:

(b) Section 6 of the Dairy Board Amendment Act 1972.

(3) This section shall be deemed to have come into force on the 1st day of April 1980.

9. Dairy Industry Reserve Account—(1) Section 34 of the principal Act is hereby amended by repealing subsections (1) and (2) (as substituted by section 10 of the Dairy Board Amendment Act 1975).

(2) Section 28 of the principal Act is hereby amended—

(a) By omitting from subsection (4) (a) the words “in any sectional reserve account”:

(b) By repealing subsection (4) (b):

(c) By repealing subsection (11).

(3) Section 10 of the Dairy Board Amendment Act 1975 is hereby consequentially repealed.

10. Delegation of powers of Board—(1) The principal Act is hereby amended by inserting, after section 48, the following section:

“48A. (1) The Board may, in respect of any particular matter or class of matter, or in respect of any particular area within or outside New Zealand, by writing under its seal delegate to any director or officer of the Board, or to the holder for the time being of any specified office under the Board, or to any other person whomsoever, any of its powers under this Act (including a power to execute deeds on behalf of the Board, but not including this power of delegation), so that the delegated powers may be exercised by him in respect of the matter or class of matter or area, specified in the instrument of delegation.

“(2) Subject to any general or special directions or conditions given or imposed by the Board, a person to whom any powers are so delegated may exercise them in the same manner and with the same effect as if they had been conferred on him directly by this Act and not by delegation.

“(3) Every person purporting to act pursuant to any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

“(4) Every delegation under this section shall be revocable at will; and no delegation shall prevent the exercise of any power by the Board.”

(2) Section 49 (1) of the principal Act is hereby consequentially amended by omitting the word “Any”, and substituting the words “Subject to section 48A of this Act, any”.

11. Contracts of Board—(1) Section 49 (2) of the principal Act (as substituted by section 12 of the Dairy Board Amendment Act 1975) is hereby amended by omitting the words “member or officer of the Board authorised specifically or generally to sign it”, and substituting the words “person acting on behalf of and under the express or implied authority of the Board”.

(2) Section 49 (3) of the principal Act (as substituted as aforesaid) is hereby amended by omitting the words “member or officer of the Board acting under the authority of the Board”, and substituting the words “person acting on behalf of and under the express or implied authority of the Board”.

12. Remuneration and travelling expenses—The principal Act is hereby amended by repealing section 56, and substituting the following section:

“56. (1) The Board shall pay to the directors, and to the members of any committee appointed under section 13 of this Act, such fees, salary, allowances, and travelling allowances and expenses, as the Board by resolution from time to time determines.

“(2) The Board shall pay to members of the Authority, and members of the Council, such fees, salary, allowances, and travelling allowances and expenses, as the Minister of Finance, after having regard to any recommendation in that behalf made to him by the Board, from time to time approves, either generally or in any particular case.”

13. Dairy Industry Loans Council—(1) Section 58 of the principal Act is hereby amended by repealing subsections (2) and (3), and substituting the following subsection:

“(2) The Council shall comprise:

“(a) Five directors, appointed by the Minister on the nomination of the Board:

“(b) The Secretary to the Treasury:

“(c) The Director-General of Agriculture and Fisheries:

“(d) The General Manager of the Rural Banking and Finance Corporation of New Zealand:

“(e) The Governor of the Reserve Bank of New Zealand.”

(2) Section 61 of the principal Act is hereby consequentially amended by repealing subsection (1), and substituting the following subsection:

“(1) In the absence from any meeting of the Council of any member specified in any of paragraphs (b) to (e) of section 58 (2) of this Act, any officer of the Treasury, the Ministry of Agriculture and Fisheries, the Rural Banking and Finance Corporation of New Zealand, or the Reserve Bank of New Zealand, as the case may be, authorised by him in that behalf may attend that meeting in his stead, and while so attending shall be deemed to be a member of the Council; and the fact that any such officer attends and acts as a member at any such meeting shall be conclusive proof of his authority to do so.”

(3) Section 62 (3) of the principal Act is hereby consequentially amended by omitting the expression “4”, and substituting the expression “5”.

14. Chairman of Council—The principal Act is hereby amended by repealing section 60, and substituting the following section:

“60. The Council shall from time to time, as the office becomes vacant, elect a Chairman from among its members.”

SCHEDULE

Section 3 (3)

CONSEQUENTIAL AMENDMENTS TO PRINCIPAL ACT

Provision amended	How amended
Section 3 (3)	By omitting the words "member of the Board" and, where it secondly appears, the word "member", and substituting, in both cases, the word "director".
Section 5 (1)	By omitting the words "its members at the first meeting of the Board held after the commencement of this Act and thereafter in the month of June in each succeeding", and substituting the words "the directors in the month of June in each".
Section 5 (2)	By omitting the words "after the commencement of this Act the Board may, from among its members", and substituting the words "the Board may from among the directors,".
Section 6 (1)	By omitting the words "member of the Board" and, where it secondly appears the word "member", and substituting, in both cases, the word "director".
Section 6 (2)	By omitting the words "member of the Board" and, where it secondly, thirdly, fourthly, and fifthly, occurs, the word "member", and substituting, in each case, the word "director".
Section 6 (3)	By omitting the words "member of the Board" and, where it secondly occurs, the word "member", and substituting, in both cases, the word "director".
Section 7 (1)	By omitting the words "member of the Board", and substituting the word "director".
Section 7 (2)	By omitting the words "member of the Board", and substituting the word "director".
Section 7 (3)	By omitting the word "member", and substituting the word "director".
Section 7 (4)	By omitting the word "member", and substituting the word "director".
Section 8 (1)	By omitting the words "member of the Board" and where it secondly and thirdly occurs, the word "member", and substituting, in each case, the word "director". By omitting the word "members", and substituting the word "directors".

SCHEDULE—*continued*CONSEQUENTIAL AMENDMENTS TO PRINCIPAL ACT—*continued*

Provision amended	How amended
Section 8 (1) (b)	By omitting the word "members", and substituting the word "directors".
Section 12	By omitting the word "members", and substituting the word "directors".
Section 13 (3)	By omitting the words "member of the Board", and substituting the word "director".
Section 54	By omitting the words "members of the Board", and substituting the word "directors". By inserting, after the word "as", the words "directors or".

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