



## ANALYSIS

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1956, No. 56

**An Act to amend the Dairy Products Marketing Commission Act 1947**  
[25 October 1956]

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 Products Marketing Commission Amendment Act 1956, and shall be read together with and deemed part of the Dairy Products Marketing Commission Act 1947 (hereinafter referred to as the principal Act).

(2) Except as provided by subsection six of section thirteen of this Act, this Act shall come into force on the first day of August, nineteen hundred and fifty-seven.

**2. Definitions**—Section two of the principal Act is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

“‘Authority’ means the Dairy Products Prices Authority established under this Act:

“‘Council’ means the Dairy Industry Loans Council established under this Act.”

**3. Constitution of Commission**—(1) Section three of the principal Act is hereby amended by repealing subsection two, and substituting the following subsections:

“(2) The Commission, the members of which shall be appointed by the Governor-General on the recommendation of the Minister, shall consist of:

“(a) Three persons, who shall be appointed as representatives of the Government of New Zealand:

“(b) Two persons, being members of the Dairy Board, nominated at the annual conference of the Dairy Board:

“(c) Two persons, not being members of the Dairy Board, nominated at the annual conference of the Dairy Board.

“(2A) The persons appointed pursuant to paragraph (b) and paragraph (c) of subsection two of this section shall be nominated by the delegates attending the annual conference of the Dairy Board next preceding the date of any such appointment in accordance with a resolution made in that behalf by those delegates.”

(2) Notwithstanding the provisions of the principal Act, the members of the Commission in office at the commencement of this Act shall continue in office until their successors are appointed in accordance with section three of the principal Act, as amended by subsection one of this section, and shall then retire from office.

(3) Section seven of the principal Act is hereby repealed.

**4. Chairman of Commission**—The principal Act is hereby amended by repealing section four, and substituting the following section:

“4. The Chairman of the Commission shall be elected by the Commission from among its members at a meeting held in the month of August, nineteen hundred and fifty-seven, and thereafter in the month of August in each succeeding year.”

**5. Term of office of members of Commission—**(1) The principal Act is hereby amended by repealing section five, and substituting the following section:

“5. (1) Except as otherwise provided by this Act, every member of the Commission shall be appointed for a term of four years, but may from time to time be reappointed.

“(2) Notwithstanding anything to the contrary in this Act, every member of the Commission, unless he sooner vacates his office, shall continue in office until his successor comes into office.

“(3) With respect to the first members of the Commission appointed under paragraph (a) of subsection two of section three of this Act, the following provisions shall apply:

“(a) One of those members shall retire at the expiration of two years from the date of their appointment, another of those members shall retire at the end of three years from that date, and the other member shall retire at the end of four years from that date:

“(b) The member so to retire at the end of two years shall be determined by agreement of the three members, and the member so to retire at the end of three years shall be determined by agreement of the two members then remaining; and failing agreement on either occasion, the member then to retire shall be determined by lot.

“(4) With respect to the first members of the Commission appointed under paragraph (b) of subsection two of section three of this Act, the following provisions shall apply:

“(a) One of those members shall retire at the expiration of one year from the date of their appointment, and the other member shall retire at the end of three years from that date:

“(b) The member so to retire at the end of one year shall be determined by agreement of the two members; and failing agreement the member then to retire shall be determined by lot.

“(5) With respect to the first members of the Commission appointed under paragraph (c) of subsection two of section three of this Act, the following provisions shall apply:

“(a) One of those members shall retire at the expiration of two years from the date of their appointment, and the other member shall retire at the end of four years from that date:

“(b) The member to retire at the end of two years shall be determined by agreement of the two members; and failing agreement the member then to retire shall be determined by lot.”

(2) Section two of the Dairy Products Marketing Commission Amendment Act 1953 is hereby repealed.

**6. Extraordinary vacancies**—Section six of the principal Act is hereby amended by repealing subsections two, three, and four, and substituting the following subsections:

“(2) If any member of the Commission dies, or resigns, or is removed from office, or, having been nominated as a member of the Dairy Board, ceases to be a member of that Board, his office shall become vacant and the vacancy shall be deemed to be an extraordinary vacancy.

“(3) In the case of an extraordinary vacancy in respect of a member appointed pursuant to paragraph (a) of subsection two of section three of this Act, the Governor-General may appoint some qualified person to fill the vacancy. Any such appointment shall be made in the same manner as the appointment of the vacating member.

“(4) In the case of an extraordinary vacancy in respect of a member appointed pursuant to paragraph (b) or to paragraph (c) of subsection two of section three of this Act, the Governor-General may appoint some qualified person nominated pursuant to a postal ballot conducted by the Dairy Board for the purpose among the delegates attending the last preceding annual conference of the Dairy Board.

“(4A) In every case the person appointed to fill an extraordinary vacancy shall be appointed for the residue of the term for which the vacating member was appointed.”

**7. Meetings of Commission**—(1) Section eight of the principal Act is hereby amended by repealing subsection four, and substituting the following subsection:

“(4) At all meetings of the Commission the quorum necessary for the transaction of business shall be four members,

including at least one member appointed pursuant to paragraph (a) of subsection two of section three of this Act.”

(2) Section eight of the principal Act is hereby further amended by omitting from subsection eight the words “In the case of an equality of votes the Chairman of the Commission shall also have a casting vote.”

**8. Commission to report to Dairy Board**—Subsection two of section eleven of the principal Act is hereby amended by inserting, after the word “Minister”, the words “and to the Dairy Board”.

**9. New sections inserted**—(1) The principal Act is hereby amended by inserting, after section fifteen, the following sections:

“**15A. Dairy Products Prices Authority**—(1) There is hereby established an Authority, to be called the Dairy Products Prices Authority.

“(2) The Authority, the members of which shall be appointed by the Governor-General on the recommendation of the Minister, shall consist of:

“(a) One member, who shall be appointed as Chairman:

“(b) One member, who shall be appointed as a representative of the Government of New Zealand:

“(c) Seven other members, who shall be the members of the Commission.

“(3) Before recommending that any person be appointed as Chairman of the Authority, the Minister shall obtain the approval of the Dairy Board to the appointment.

“**15B. Term of office of members of Authority**—(1) Except as otherwise provided by this Act, every member of the Authority shall be appointed for a term of four years, but may from time to time be reappointed.

“(2) Notwithstanding anything to the contrary in this Act, every member of the Authority, unless he sooner vacates his office, shall continue in office until his successor comes into office.

“**15c. Extraordinary vacancies**—(1) Any member of the Authority may at any time be removed from office by the Governor-General for disability, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Governor-General, or may at any time resign his office by written notice given to the Minister.

“(2) If any member of the Authority dies, or resigns, or is removed from office, or, having been appointed as a member of the Commission, ceases to be a member of the Commission, his office shall become vacant and the vacancy shall be deemed to be an extraordinary vacancy.

“(3) In the case of an extraordinary vacancy the Governor-General may appoint some qualified person to fill the vacancy. Any such appointment shall be made in the same manner as the appointment of the vacating member.

“(4) Any person appointed to fill an extraordinary vacancy shall be appointed for the residue of the term for which the vacating member was appointed.

“(5) The powers of the Authority shall not be affected by any vacancy in the membership thereof.

“15D. **Meetings of Authority**—(1) The first meeting of the Authority shall be held on a day to be appointed in that behalf by the Minister.

“(2) Subsequent meetings of the Authority shall be held at such times and places as the Authority from time to time appoints.

“(3) The Chairman shall preside at all meetings of the Authority at which he is present.

“(4) In the absence of the Chairman from any meeting of the Authority the members present shall appoint one of their number to be the Chairman of that meeting.

“(5) All questions before the Authority shall be decided by a majority of the valid votes recorded thereon.

“(6) Subject to the provisions of this Act, the Authority may regulate its procedure in such manner as it thinks fit.

“15E. **Functions of Authority**—The principal functions of the Authority shall be—

“(a) To determine, in accordance with this Act, the prices which the Commission is to pay for butter and cheese which is acquired by the Commission; and

“(b) To authorise payments under section sixteen B of this Act of surplus amounts received in respect of the sale of butter and cheese.”

(2) Section eleven of the principal Act, as amended by section three of the Dairy Products Marketing Commission Amendment Act 1948, is hereby further amended by omitting the words “to determine as hereinafter provided the prices which it is to pay therefor, to control the export of dairy

produce other than butter or cheese”, and substituting the words “to control the export of dairy produce other than butter or cheese”.

(3) Section three of the Dairy Products Marketing Commission Amendment Act 1948 is hereby repealed.

(4) Section twelve of the principal Act is hereby amended by repealing the proviso thereto.

(5) Subsection two of section fifteen of the principal Act is hereby amended by omitting the words “the next succeeding section”, and substituting the words “this Act”.

(6) Subsection one of section twenty-three of the principal Act is hereby amended by omitting the words “which the Commission fixes pursuant to section sixteen of”, and substituting the words “fixed pursuant to”.

(7) Subsection one of section thirty of the principal Act is hereby amended by inserting, after the words “of the Commission”, the words “or of the Authority”.

**10. Fixing cost of production of butter**—The principal Act is hereby amended by repealing section sixteen, and substituting the following section:

“16. (1) As soon as practicable after the commencement of this Act the basic cost of production of butter in respect of the season ending on the thirty-first day of July, nineteen hundred and fifty-eight, shall, having regard to both farm and factory costs, be fixed by agreement between the Minister and the Dairy Board.

“(2) Within one month of the commencement of each season subsequent to the season ending on the thirty-first day of July, nineteen hundred and fifty-eight, the Authority shall fix the cost of production of butter for that subsequent season by making any necessary adjustment in accordance with any movement of costs affecting the production of butter which has taken place since the cost of production was last fixed under this section.

“(3) If, after the cost of production of butter has been fixed for any season (including the first season for which any such cost is fixed), the Authority is of opinion that costs affecting the production of butter have so increased as to warrant an increase in the amount fixed as the cost of production for that season, the Authority may fix a new cost of production.”

**11. Prices to be paid for butter and cheese**—The principal Act is hereby amended by inserting after section sixteen, as substituted by section ten of this Act, the following section:

“16A. (1) The prices to be paid by the Commission in respect of butter and cheese which becomes the property of the Commission shall be fixed by the Authority in respect of each season as soon as may be after the cost of production of butter has been fixed under section sixteen of this Act in respect of that season.

“(2) Different prices may be fixed in respect of different kinds of butter or cheese, or in respect of different grades or qualities of the same kind of butter or cheese, or different prices may be fixed in respect of the same kind or grade or quality of butter or cheese by reason of the kind or quality of the packages in which the butter or cheese is contained or by reason of any other special conditions or circumstances that, in the opinion of the Authority, warrant the fixing of different prices.

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“(3) If, after prices have been fixed in respect of any season for butter, the cost of production of butter has been increased in respect of that season, the Authority may fix new prices by way of increase. Any increase of the prices to be paid by the Commission may be made to operate retrospectively from such date as the Authority fixes as the date from which the cost of production has increased as aforesaid.

“(4) In fixing prices for butter under this section regard shall be had to the following matters:

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

“(b) The cost of production for the time being fixed under section sixteen of this Act:

“(c) The amount which butter and cheese acquired by the Commission is realising:

“(d) The ruling level of prices for farm products other than dairy produce:

“(e) The estimated cost to the Commission of marketing the butter or cheese concerned, and also the cost of the general administration of this Act:

“(f) Any recommendation made by the Dairy Board:

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

“(5) Any price for butter fixed under this section shall, in respect of the first season for which prices are so fixed, not be less than ninety-five per cent of the basic cost of production fixed under subsection one of section sixteen of this Act, and,



in respect of any subsequent season, shall not be less than ninety-five per cent of the maximum amount fixed under this section in respect of any period during the last preceding season.

“(6) The price for cheese fixed under this section shall be such amount as the Authority determines having regard to—

“(a) The cost of production of cheese as compared with the cost of production for the time being fixed for butter; and

“(b) The desirability of ensuring that dairy produce will be produced in such quantity and in such proportions as will be of the greatest benefit to the dairy industry.

“(7) If, after the prices have been fixed in respect of any season, the Authority is of opinion that the price in respect of cheese purchased by the Commission should be increased, the Authority may fix a new price by way of increase. Any such increase may be made to operate retrospectively from such date as the Authority thinks fit.

“(8) Notification of the prices fixed under this section and of any increase thereof shall be published in the *Gazette*.

“(9) Notwithstanding anything to the contrary in the foregoing provisions of this Act, if the Dairy Industry Account discloses a debit or if it appears to the Authority that the Dairy Industry Account is likely to disclose a debit at any time within the next succeeding twelve months, the Authority, before it fixes any prices under this section, shall consult with the Minister thereon.”

**12. Disposal of annual surplus**—The principal Act is hereby amended by inserting, after section sixteen A, as inserted by section eleven of this Act, the following section:

“16B. (1) Subject to the provisions of this section, if at the end of any trading period it appears to the Commission that the amount obtained for butter and cheese exported and sold during that period has exceeded the amount paid by the Commission in acquiring that butter and cheese, the amount of the excess assessed by the Commission shall, unless the Dairy Board otherwise agrees, be applied:

“(a) In equalising the price paid for butter acquired for export by the Commission during the season in which the trading period ends with the maximum cost of production fixed in respect of any such butter; and

“(b) In paying for cheese acquired for export by the Commission during that season an equivalent amount per pound of butterfat for cheese to the amount per pound of butterfat for butter represented by any payment made in respect of that season under paragraph (a) of this subsection:

“Provided that no payment for butter shall be made under paragraph (a) of this subsection unless a corresponding equivalent payment per pound of butterfat for cheese is made under paragraph (b) of this subsection.

“(2) If the amount of the excess referred to in subsection one of this section has not been expended under that subsection, the balance remaining, or so much of that balance as the Authority thinks fit, shall be expended, or used for the benefit of the dairy industry, in such manner as the Authority, after consultation with the Dairy Board, thinks fit, having regard to—

“(a) Any recommendation made by the Dairy Board; and

“(b) The amount, if any, standing to the credit of the Dairy Industry Account.

“(3) All payments authorised under this section shall be paid by the Commission out of the Dairy Industry Account.

“(4) For the purposes of this section the expression ‘trading period’ means a period of twelve months ending on the thirty-first day of May in any year.”

### **13. Additional payments from Dairy Industry Account—**

(1) If in respect of any period of twelve months ending on the thirty-first day of May, nineteen hundred and fifty-six, or on the thirty-first day of May, nineteen hundred and fifty-seven, the Commission is satisfied that the amount obtained for butter and cheese exported and sold during the period concerned has exceeded the amount paid by the Commission in acquiring that butter and cheese, the amount of the excess assessed by the Commission shall, unless the Dairy Board otherwise agrees, be applied:

(a) In equalising the price paid for butter acquired for export during the season in which the period concerned ends with the production costs referred to in subsection three of this section in respect of any such butter; and

- (b) In paying for cheese acquired for export by the Commission during that season an equivalent amount per pound of butterfat for cheese to the amount per pound of butterfat for butter represented by any payment made in respect of that season under paragraph (a) of this subsection:

Provided that no payment for butter shall be made under paragraph (a) of this subsection unless a corresponding equivalent payment per pound of butterfat for cheese is made under paragraph (b) of this subsection.

(2) If the amount of the excess referred to in subsection one of this section has not been expended under that subsection, the balance remaining, or so much of the balance as the Commission thinks fit, shall be expended, or used for the benefit of the dairy industry, in such manner as the Commission, after consultation with the Dairy Board, thinks fit, having regard to—

- (a) Any recommendation made by the Dairy Board; and
- (b) The amount standing to the credit of the Dairy Industry Account.

(3) For the purposes of paragraph (a) of subsection one of this section the farm production cost of butterfat for butter for the season ending on the thirty-first day of July, nineteen hundred and fifty-six, shall be deemed to be 37·425 pence per pound, and for the season ending on the thirty-first day of July, nineteen hundred and fifty-seven, shall be deemed to be thirty-eight pence per pound. The factory cost of production of butter shall be such amount as may be determined by the Commission in respect of each season to which this subsection relates.

(4) All payments authorised under this section shall be paid from the Dairy Industry Account and shall be in addition to any payments authorised to be paid from that account under the principal Act.

(5) For the purpose of determining under subsection one of section eighteen of the principal Act the price that would have been paid by the Commission if butter or cheese had been acquired by the Commission for export, any amount paid under subsection one of this section or subsection one of section sixteen B of the principal Act (as inserted by section twelve of this Act) shall be deemed to be part of any such price.

(6) This section shall be deemed to have come into force on the first day of May, nineteen hundred and fifty-six.

**14. Marketing of milk powder**—(1) The principal Act is hereby amended by repealing section eighteen B, as inserted by section four of the Dairy Products Marketing Commission Amendment Act 1953, and substituting the following section:

“18B. (1) Without limiting the powers conferred on the Commission by this Act or otherwise howsoever, the Commission shall have authority to make arrangements with the New Zealand Co-operative Dairy Company Limited (in this section referred to as the New Zealand Company) and with all other companies registered under the Co-operative Dairy Companies Act 1949 and engaged in the manufacture of milk powder (in this section referred to as the Companies) for the co-ordination of the marketing of all milk powder manufactured in New Zealand and intended for export; and for this purpose the Commission may—

“(a) Join with the New Zealand Company and the Companies in setting up a committee to be known as the Milk Powder Committee consisting of three members of the Commission (one of whom shall be Chairman), three nominees of the New Zealand Company, and one nominee of the Companies:

“(b) Agree to exercise in relation to milk powder manufactured in New Zealand and intended for export all or any of the powers of the Commission under section fourteen of this Act in accordance with the recommendations of the Milk Powder Committee from time to time made to the Commission.

“(2) Any arrangements made under subsection one of this section may enure for such period not exceeding six years as may be agreed upon between the Commission, the New Zealand Company, and the Companies, and may be renewed from time to time for such further periods not exceeding ten years at any one time as may be agreed upon between the Commission, the New Zealand Company, and the Companies, and may provide that all questions arising at any meeting of the Milk Powder Committee shall be decided by a three-fourths majority of the votes of the members of that Committee and shall otherwise be upon such terms and conditions as may be agreed upon between the Commission, the New Zealand Company, and the Companies.

“(3) Subject to the provisions of this section, the parties authorised under this section to set up the Milk Powder Committee may from time to time make such arrangements as they

think fit as to the term of office of members of the Committee, the appointment of deputies of members, the meetings of the Committee, and the regulation of the procedure of the Committee.”

(2) Section four of the Dairy Products Marketing Commission Amendment Act 1953 is hereby repealed.

**15. New sections inserted**—The principal Act is hereby amended by inserting, after section twenty-two, the following new sections:

**“22A. Dairy Industry Loans Council**—(1) There is hereby established a Council, to be called the Dairy Industry Loans Council.

“(2) The Council shall consist of—

“(a) Three members of the Commission nominated by the Commission, who shall be appointed by the Minister:

“(b) Three members of the Dairy Board nominated by that Board, who shall be appointed by the Minister:

“(c) The Secretary to the Treasury:

“(d) The Director-General of Agriculture.

**“22B. Term of office of members of Council**—(1) Every appointed member of the Council shall hold office during the pleasure of the Minister.

“(2) Any appointed member of the Council may at any time be removed from office by the Minister for disability, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Minister, or may at any time resign his office by writing addressed to the Minister.

“(3) If any appointed member of the Council dies, or resigns, or is removed from office, or, having been nominated by the Commission, ceases to be a member of the Commission or, having been nominated by the Dairy Board, ceases to be a member of that Board, his office shall become vacant and the vacancy shall be deemed to be an extraordinary vacancy.

“(4) In the case of an extraordinary vacancy, the Minister may appoint some qualified person to fill the vacancy. Any such appointment shall be made in the same manner as the appointment of the vacating member.

“(5) The powers of the Council shall not be affected by any vacancy in the membership thereof.

**“22c. Deputies—**(1) In the absence from any meeting of the Council of the Secretary to the Treasury or the Director-General of Agriculture, any officer of his Department authorised by him in that behalf may attend the meeting in his stead, and while so attending, shall be deemed to be a member of the Council.

“(2) In the absence from any meeting of the Council of any member appointed on the nomination of the Commission, any other member of the Commission authorised by the Commission in that behalf may attend the meeting in his stead, and while so attending shall be deemed to be a member of the Council.

“(3) In the absence from any meeting of the Council of any member appointed on the nomination of the Dairy Board, any other member of the Dairy Board authorised by the Board in that behalf may attend the meeting in his stead, and while so attending shall be deemed to be a member of the Council.

“(4) No such appointment of a deputy, and no acts done by a deputy as such, and no acts done by the Council while any deputy is acting as such, shall in any proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased.

**“22d. Meetings of Council—**(1) The first meeting of the Council shall be held on a day appointed in that behalf by the Minister.

“(2) Subsequent meetings of the Council shall be held at such times and places as the Council from time to time appoints.

“(3) At all meetings of the Council five members shall form a quorum.

“(4) All questions before the Council shall be decided by a majority of the valid votes recorded thereon.

“(5) Subject to the provisions of this Act, the Council may regulate its procedure in such manner as it thinks fit.

**“22e. Functions of Council—**The functions of the Council shall be—

“(a) To approve of loans from the Dairy Industry Account, on such terms and conditions as the Council thinks fit, to any company registered under the Co-operative Dairy Companies Act 1949 or to any association of any such companies for any purpose approved from time to time in that behalf by the Minister and the Dairy Board:

“(b) To approve of loans from the Dairy Industry Account, on such terms and conditions as the Council thinks fit, for any purpose which the Minister and the Dairy Board agree are necessary or desirable in the interests of any primary industry.

“22F. **Provisions with respect to loans**—(1) There shall be paid by the Commission out of the Dairy Industry Account all money required for loans approved by the Council pursuant to this Act:

“Provided that no payment shall be made from the Dairy Industry Account under this section if the payment would result in the total amount for the time being owing to the Commission in respect of all such loans exceeding two million pounds.

“(2) The power to make loans approved by the Council is in addition to the power of investment conferred by subsection seven of section nineteen of this Act and any such loan shall be administered by the Commission in accordance with the terms and conditions approved in that behalf by the Council.

“22G. **Functions of Dairy Board in connection with loans**—(1) All applications for loans under section twenty-two E of this Act shall be forwarded to the Dairy Board and referred by that Board to the Council.

“(2) The Dairy Board shall have the functions of assisting the Council so far as any such assistance may be required by the Council in the exercise of its functions under this Act.”

**16. Amending provisions relating to offences**—Paragraph (a) of subsection one of section thirty-five of the principal Act is hereby amended by omitting the words “or with any direction given by the Commission under this Act”.

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