



NEW ZEALAND

ANALYSIS

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| <p>Title.</p> <p>1. Short Title.</p> <p><i>New Zealand Milk Board</i></p> <p>2. New Zealand Milk Board.</p> <p>3. Section 4 of Milk Amendment Act 1951 (as to membership of New Zealand Milk Board) amended.</p> <p>4. Section 9 of Milk Amendment Act 1951 (as to meetings) amended.</p> <p>5. Deputies of members during incapacity.</p> <p>6. Officers of New Zealand Milk Board.</p> <p>7. Particular powers of New Zealand Milk Board.</p> <p>8. Section 14 of Milk Amendment Act 1951 (as to functions of New Zealand Milk Board) amended.</p> <p>9. Repeal of provision for Department of Agriculture to be agent of Board.</p> <p>10. Delegation of powers or functions of New Zealand Milk Board to committees.</p> <p>11. Section 18 of Milk Amendment Act 1951 (as to power to fix prices and conditions of sale of milk) amended.</p> | <p>12. Section 23 of Milk Amendment Act 1951 (as to levy on milk) amended. Commencement.</p> <p>13. Milk Industry Account.</p> <p>14. Subsidiary accounts.</p> <p>15. Restriction of borrowing powers.</p> <p>16. Remuneration and travelling allowances and expenses.</p> <p>17. Section 108 of principal Act (as to inspections by Board) amended.</p> <p>18. Section 110 of principal Act (as to authentication of notices of Board) amended.</p> <p>19. Section 112 of principal Act (as to annual report and accounts of Board) amended.</p> <p style="text-align: center;"><i>Miscellaneous</i></p> <p>20. Statements and reports of Milk Authorities to be sent to New Zealand Milk Board.</p> <p>21. Section 65A of principal Act (as to zoning of milk rounds) amended.</p> <p>22. Records to be kept in respect of production or treatment, etc., of milk.</p> <p>23. Section 18 of Milk Amendment Act 1951 (as to fixing of prices and conditions of sale of milk) to apply to City of Wellington.</p> <p>24. Validation of acts done in anticipation of this Act.</p> |
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1953, No. 78

AN ACT to amend the Milk Act 1944.

Title.

[26 November 1953

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

Short Title.

1944, No. 30

1. This Act may be cited as the Milk Amendment Act 1953, and shall be read together with and deemed part of the Milk Act 1944 (hereinafter referred to as the principal Act).

New Zealand Milk Board

New Zealand
Milk Board.
1951, No. 41

2. (1) The Central Milk Council, as reconstituted by section four of the Milk Amendment Act 1951, shall hereafter be known as the New Zealand Milk Board.

(2) All references to the Central Milk Council in any Act, regulation, rule, by-law, order, or other enactment, or in any contract, agreement, deed, instrument, application, licence, notice, or other document whatsoever shall hereafter be read as references to the New Zealand Milk Board, which is hereby declared for all purposes to be the same body corporate as the Central Milk Council.

(3) Subsection one of section two of the principal Act is hereby consequentially amended by repealing the definition of the expressions "Council" and "Central Milk Council".

Section 4
of Milk
Amendment
Act 1951 (as
to membership
of New
Zealand Milk
Board)
amended.

3. (1) Section four of the Milk Amendment Act 1951 is hereby amended by repealing paragraph (e) of subsection one, and substituting the following paragraphs:

"(e) One member, who shall be deemed to be representing the interests of women and children, and who shall be nominated by the Minister for the Welfare of Women and Children:

"(f) One member, who shall be appointed as representative of the Government."

(2) The said section four is hereby further amended by omitting from subsection one the words "seven members", and substituting the words "eight members".

(3) Section five of the said Act is hereby consequentially amended by omitting from subsection one the words "except in the case of the member deemed to be representing the interests of women and children, who shall be appointed on the recommendation of the Minister for the Welfare of Women and Children".

4. Section nine of the Milk Amendment Act 1951 is hereby amended by repealing subsection four, and substituting the following subsections:

Section 9
of Milk
Amendment
Act 1951 (as
to meetings)
amended.

1951, No. 41

“(4) All or any of the following persons may attend any meeting of the New Zealand Milk Board, and may speak at the meeting on any matter before the Board, namely:

“(a) The Director-General of Agriculture, or any officer of the Department of Agriculture authorized by him in that behalf:

“(b) An officer of the Dairy Division of the Department of Agriculture authorized by the Director-General in that behalf:

“(c) The Director-General of Health, or any officer of the Department of Health authorized by him in that behalf.

“(4A) Any person attending any meeting pursuant to paragraph (a) of the last preceding subsection may also vote as a member on any matter before the Board at that meeting if—

“(a) The member appointed under paragraph (f) of subsection one of section four of this Act is absent from the meeting; or

“(b) If that member is acting as the Deputy Chairman and no deputy is acting for that member under this Act.

“(4B) Except as provided in this section, no person attending a meeting under subsection four of this section shall take any part in the proceedings of the Board.”

5. The Milk Amendment Act 1951 is hereby amended by inserting, after section ten, the following section:

“10A. (1) In any case in which the Minister is satisfied that the Chairman or any other member of the New Zealand Milk Board is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, the Minister may appoint a deputy to act for the Chairman or for that other member during his incapacity. In the case of the incapacity of the Chairman his deputy shall be the person holding office as Deputy Chairman under section ten of this Act, or, if there is no person holding that office, the deputy may or may not be one of the other members

Deputies of
members
during
incapacity.

of the Board; and if one of the other members is appointed under this section as the deputy of the Chairman some other person may be appointed as the deputy of that member.

“(2) Every deputy appointed under this section to act for any member whose appointment to the Board was made on the nomination of any person or body of persons under section four of this Act shall be appointed on the nomination of that person or body, and shall be a person who would be qualified for appointment as a member.

“(3) Any deputy appointed under this section shall, while he acts as such, be deemed for all purposes to be a member of the Board, and the deputy of the Chairman shall have all the powers of the Chairman.

“(4) No appointment of a deputy and no acts done by him as such, and no acts done by the Board 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.”

6. The Milk Amendment Act 1951 is hereby further amended by repealing section eleven, and substituting the following section:

“11. (1) The New Zealand Milk Board may appoint such officers and employees as it deems necessary for the efficient carrying out of its functions and duties.

“(2) Any person in the service of the Crown may be appointed to be an officer or employee of the Board, but no person shall be entitled to hold office concurrently as an officer or employee of the Board and as a servant of the Crown except—

“(a) In the case of a person subject to the Public Service Act 1912, with the consent of the Public Service Commission; and

“(b) In any other case, with the consent of the Minister of the Crown to whose control he is subject.

“(3) The Board may out of its funds subsidize the National Provident Fund or any other fund or scheme established with the approval of the Minister of Finance for the purpose of providing superannuation or retiring allowances for its officers and employees.”

Officers of
New Zealand
Milk Board.
1951, No. 41

See Reprint
of Statutes,
Vol. VII,
p. 522

7. The Milk Amendment Act 1951 is hereby further amended by inserting, after section fourteen, the following section:

Particular powers of New Zealand Milk Board. 1951, No. 41

“14A. (1) Without limiting the generality of the provisions of section fourteen of this Act, it is hereby declared that for the purposes of this Act the New Zealand Milk Board shall have power—

“(a) To buy and sell milk:

“(b) To purchase or hire, and to sell or otherwise dispose of, any plant, machinery, or equipment required for the collection, supply, treatment, transport, and delivery of milk, and for providing cool storage for milk and milk products; and to maintain and operate any such plant, machinery, or equipment as aforesaid:

“(c) To lease any land or building, or any part of any land or building, required by it for the purposes of providing office accommodation or otherwise for the purposes of exercising any of its functions or powers, and, with the prior approval of the Minister, to purchase any land or building required for any such purpose as aforesaid; and to sell or otherwise dispose of the same when no longer required.

“(2) The Board may be appointed to act as agent for the Crown in the operation and maintenance of any undertaking or works belonging to the Crown and established for the treatment of milk, and for that purpose shall have, as such agent, all the powers referred to in subsection one of this section, and such other powers as are necessary for or incidental to the operation and maintenance of any such undertaking or works as aforesaid.”

8. (1) Section fourteen of the Milk Amendment Act 1951 is hereby amended by adding to subsection one the following paragraphs:

Section 14 of Milk Amendment Act 1951 (as to functions of New Zealand Milk Board) amended.

“(p) With the prior approval of the Minister given either generally or specially, to enter into any contract with any person for the supply of milk by that person for consumption in any school, kindergarten, day nursery, or other similar institution:

“(q) To act as agent for the Crown in all matters relating to the carrying out of any contract entered into by or on behalf of the Crown, before the commencement of this paragraph, for the supply of milk by any person for consumption in any school, kindergarten, day nursery, or other similar institution.”

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

“(5) The Board shall have all such powers as are necessary for or incidental to the performance of its functions.”

(3) Section fifteen of the said Act is hereby amended by inserting, after the word “functions”, in both places where that word occurs, the words “and powers”.

9. Section sixteen of the Milk Amendment Act 1951 is hereby repealed.

Repeal of provision for Department of Agriculture to be agent of Board.
1951, No. 41

10. (1) The Milk Amendment Act 1951 is hereby further amended by repealing section seventeen, and substituting the following section:

“17. (1) The New Zealand Milk Board may from time to time appoint committees consisting of two or more persons, whether members of the Board or not; and may from time to time, with the prior approval of the Minister, delegate to any such committee, either generally or particularly, any of the functions or powers of the Board.

“(2) Every such committee shall be subject in all things to the control of the Board, and shall carry out all directions, general or special, of the Board in relation to the committee or its affairs.

“(3) Subject to the provisions of subsection two of this section, the committee may exercise or perform any function or power so delegated to it in the same manner and with the same effect as if it had been conferred on the committee directly by this Act and not by delegation.

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

Delegation of powers or functions of New Zealand Milk Board to committees.

“(5) Any delegation made under this section may in like manner be revoked at any time.

“(6) No delegation under this section shall prevent the exercise of any function or power by the Board.”

(2) Section twenty-two of the Milk Amendment Act 1951 is hereby consequentially amended by omitting from subsection three the words “subsections four, six, and seven”, and substituting the words “subsections four to six”.

1951, No. 41

11. (1) Section eighteen of the Milk Amendment Act 1951 is hereby amended as follows:

Section 18 of Milk Amendment Act 1951 (as to power to fix prices and conditions of sale of milk) amended.

(a) By omitting from subsection one the words “Subject to the provisions of subsection four of this section”:

(b) By repealing subsection four.

(2) The said section eighteen is hereby further amended by adding to subsection one the following proviso:

“Provided that while any moneys are payable out of the Consolidated Fund by way of subsidy in respect of the town milk industry the prices, margins, and allowances payable to milk producers and associations of milk producers in respect of milk supplied to such associations may be fixed by Order in Council in accordance with recommendations made by the Minister after consultation with the New Zealand Milk Board.”

(3) The said section eighteen is hereby further amended by inserting, after subsection two, the following subsection:

“(2A) Any Order in Council under this section may provide—

“(a) For payments to be made by the New Zealand Milk Board for the purpose of ensuring that persons to whom the Order in Council applies receive the prices, margins, or allowances to which they are entitled under the Order in Council:

“(b) For payments to be made to the Board for the purpose of ensuring that such persons as aforesaid do not receive more than the prices, margins, or allowances to which they are entitled as aforesaid,—

and may prescribe the persons or classes of persons to or by whom such payments are to be made and the circumstances in which and conditions subject to which

they are to be made, and may make such provision as may be necessary for the recovery of amounts so payable."

Section 23
of Milk
Amendment
Act 1951 (as
to levy on
milk)
amended.
1951, No. 41

12. (1) Section twenty-three of the Milk Amendment Act 1951 is hereby amended by inserting, after subsection four, the following subsection:

"(4A) At any time while any moneys are payable by way of subsidy out of the Consolidated Fund in respect of the town milk industry, no levy shall be imposed under this section except with the prior approval of the Minister, and any levy so imposed shall not be altered except with the prior approval of the Minister."

(2) The said section twenty-three is hereby further amended as follows:

(a) By repealing the proviso to subsection one:

(b) By inserting at the beginning of subsection one the words "Subject to the provisions of subsection four A of this section":

(c) By omitting from subsection four the words "subsection three", and substituting the words "subsections three and four A".

(3) The said section twenty-three is hereby further amended by adding to subsection six the following proviso:

"Provided that while any moneys are payable by way of subsidy out of the Consolidated Fund in respect of the town milk industry, the amount of the levy, or any part thereof, may, except as may be otherwise provided by any regulations for the time being in force, be paid and collected in such manner as the Minister directs."

Commencement.

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

Milk Industry
Account.

13. (1) The Milk Amendment Act 1951 is hereby further amended by repealing section twenty-five, and substituting the following section:

"25. (1) For the purposes of this Act and the principal Act there shall be established at the Reserve Bank of New Zealand an account to be known as the Milk Industry Account.

"(2) The Milk Industry Account shall be operated upon by cheque signed by or on behalf of the Chairman of the New Zealand Milk Board and countersigned by

or on behalf of the Audit Office. For the purposes of this subsection the Board may from time to time authorize any member or officer of the Board to sign cheques on behalf of the Chairman.

“(3) 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 Milk Industry Account, and that account may be overdrawn accordingly:

“Provided that the amount of the accommodation by way of overdraft shall not at any time exceed such sum as may for the time being be authorized by the Minister of Finance, who in giving any such authority may impose such conditions in respect thereof as he thinks fit.

“(4) The grant by the Reserve Bank of accommodation by way of overdraft as aforesaid shall not, for the purposes of section fourteen of the Reserve Bank of New Zealand Act 1933, be deemed to be the making of unsecured loans or advances. 1933, No. 11

“(5) There shall from time to time be payable into the Milk Industry Account all moneys derived from the operations of the Board or payable to the Board and any other moneys that may lawfully be payable to the Account.

“(6) There may from time to time be paid out of the Milk Industry Account all moneys payable by the Board, and all costs, charges, and expenses whatsoever incurred by the Board, in the exercise of its functions and powers.

“(7) Any moneys of the Board that are available for investment may from time to time be invested—

“(a) In New Zealand Government securities:

“(b) On deposit in the Bank of New Zealand or in the Post Office Savings Bank:

“(c) In any manner, or in any securities, that may from time to time be authorized by the Minister of Finance.”

(2) The Central Milk Council Account established at the Reserve Bank of New Zealand under the Milk Amendment Act 1951 is hereby abolished. 1951, No. 41

(3) All moneys standing to the credit of the Central Milk Council Account at the passing of this Act shall be transferred to and form part of the Milk Industry Account.

(4) All moneys which, if this section had not been passed, would have been payable into or out of the Central Milk Council Account shall be paid into or out of the Milk Industry Account.

Subsidiary
accounts.
1951, No. 41

14. The Milk Amendment Act 1951 is hereby further amended by repealing section twenty-six, and substituting the following section:

“26. (1) The New Zealand Milk Board may from time to time open at the Reserve Bank of New Zealand or at any branch or agency of the Bank of New Zealand such imprest or subsidiary accounts as it deems necessary or desirable for the exercise of its functions and powers.

“(2) Every account under this section shall be operated upon by cheque signed by such person or persons as may from time to time be authorized in that behalf by the Board.”

Restriction of
borrowing
powers.

15. The Milk Amendment Act 1951 is hereby further amended by inserting, after section twenty-six (as substituted by the last preceding section), the following section:

“26A. The New Zealand Milk Board shall not borrow any moneys or mortgage or charge any of its property without the prior consent in writing of the Minister of Finance:

“Provided that nothing in this section shall apply with respect to any borrowing by way of overdraft from the Reserve Bank of New Zealand in accordance with section twenty-five of this Act.”

Remuneration
and travelling
allowances and
expenses.
1951, No. 79

16. (1) The Milk Amendment Act 1951 is hereby further amended by repealing section twenty-seven (as substituted by subsection one of section ten of the Fees and Travelling Allowances Act 1951), and substituting the following section:

“27. The New Zealand Milk Board shall pay to its members and to the members of any committee appointed by the Board remuneration by way of fees, salary, or allowances and travelling allowances and

expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly." 1951, No. 79

(2) The Second Schedule to the Fees and Travelling Allowances Act 1951 is hereby consequentially amended by repealing so much thereof as relates to the Milk Amendment Act 1951. 1951, No. 41

17. (1) Section one hundred and eight of the principal Act, as amended by section ten of the Marketing Amendment Act 1948 and section two of the Marketing Amendment Act 1953, is hereby further amended by omitting from subsection one the words "any member thereof and any officer of the Department of Agriculture", and substituting the words "any member or officer thereof". Section 108 of principal Act (as to inspections by Board) amended. 1948, No. 54 1953, No. 11

(2) The Schedule to the Marketing Amendment Act 1948 is hereby consequentially amended by repealing so much thereof as relates to section one hundred and eight of the principal Act.

18. Section one hundred and ten of the principal Act is hereby amended by omitting from subsection one, and also from subsection two, the word "Director", and substituting in each case the words "Chairman or another member or any officer". Section 110 of principal Act (as to authentication of notices of Board) amended.

19. (1) Section one hundred and twelve of the principal Act (as substituted by section thirty-three of the Milk Amendment Act 1951) is hereby amended as follows: Section 112 of principal Act (as to annual report and accounts of Board) amended.

(a) By omitting from subsection one the word "June", and substituting the word "November":

(b) By omitting from subsection one the word "March", and substituting the word "August".

(2) The first report, statement of accounts, and balance sheet to be prepared by the New Zealand Milk Board after the passing of this Act shall be for the period that commenced on the first day of April, nineteen hundred and fifty-three, and ends on the thirty-first day of August, nineteen hundred and fifty-four, and that

period shall be deemed for the purposes of this Act and of the principal Act to be the financial year of the Board ending on the last-mentioned date.

Miscellaneous

Statements and reports of Milk Authorities to be sent to New Zealand Milk Board.

20. (1) Section ten of the principal Act is hereby amended by omitting from paragraph (b) the word "Director", and substituting the words "New Zealand Milk Board".

(2) Section fifty-four of the principal Act is hereby amended by omitting the word "Director", and substituting the words "New Zealand Milk Board".

Section 65A of principal Act (as to zoning of milk rounds) amended.
1951, No. 41

21. Section sixty-five^A of the principal Act (as inserted by section forty-five of the Milk Amendment Act 1951) is hereby amended by omitting from subsection eight the words "and may increase the specified gallonage in respect of that milk round by an amount equivalent to the amount in respect of which such consideration is payable", and substituting the following words: "In imposing the condition the Milk Authority shall state whether the consideration to be paid by the licensee is charged by way of purchase price for the goodwill of the excess gallonage to which the consideration relates or is charged by way of rental therefor. Where the consideration is charged by way of purchase price, the Milk Authority shall increase the specified gallonage in respect of that milk round by an amount equivalent to the excess gallonage to which the consideration relates".

Records to be kept in respect of production or treatment, etc., of milk.

22. The principal Act is hereby amended by inserting, after section one hundred and thirteen, the following section:

"113A. Every person carrying on any business that includes the production, collection, treatment, storage, distribution or sale of milk shall for the purposes of this Act keep proper books and accounts, and such other records as may from time to time be required by notice in writing given to that person by the New Zealand Milk Board, and shall, except as otherwise authorized by the New Zealand Milk Board, preserve such books, accounts, and records as aforesaid for a period of not less than five years."

23. (1) Section one hundred and twenty of the principal Act is hereby amended by adding the following subsection:

“(3) Prices, margins, rates of allowances, or conditions may be fixed or prescribed under section eighteen of the Milk Amendment Act 1951 with respect to the City of Wellington, and the provisions of that section shall extend and apply accordingly.”

(2) The said section one hundred and twenty is hereby amended by omitting from subsection one the words “the next succeeding subsection”, and substituting the words “this section”.

24. All documents made and all things whatsoever done by or on behalf of the Central Milk Council before the passing of this Act which could have been made or done by or on behalf of the New Zealand Milk Board if this Act had then been in force are hereby validated and declared to have been lawfully made and done.

Section 18
of Milk
Amendment
Act 1951 (as
to fixing of
prices and
conditions of
sale of milk)
to apply to
City of
Wellington.
1951, No. 41

Validation of
acts done in
anticipation
of this Act.