



## ANALYSIS

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1980, No. 60

**An Act to amend the Milk Act 1967**

[16 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**—This Act may be cited as the Milk Amendment Act 1980, and shall be read together with and deemed part of the Milk Act 1967 (hereinafter referred to as the principal Act).

**2. Constitution of New Zealand Milk Board**—(1) Section 3 of the principal Act is hereby amended by repealing subsections (2) to (6), and substituting the following subsections:

“(2) The Board shall comprise the Director-General of Agriculture and Fisheries, and the following members who shall be appointed by the Governor-General on the recommendation of the Minister:

“(a) One member nominated by the Town Milk Producers’ Federation of New Zealand Incorporated to represent milk producers in the Provincial District of Auckland:

“(b) One member so nominated to represent milk producers in the Provincial Districts of Taranaki, Hawke’s Bay, and Wellington:

“(c) One member so nominated to represent milk producers in the South Island:

“(d) Two members nominated by the Dominion Federation of Milk Vendors Incorporated:

“(e) One member nominated by the Executive Committee of the New Zealand Federation of Milk Stations Incorporated:

“(f) One member, who shall be a member of the New Zealand Dairy Board elected under section 3 (2) (b) of the Dairy Board Act 1961 or appointed under section 3 (2) (c) of that Act, nominated by that Board:

“(g) One member nominated jointly by the Municipal Association of New Zealand Incorporated and the New Zealand Counties Association Incorporated:

“(h) One member who shall represent the interests of consumers.

“(3) No person shall be appointed under subsection (2) of this section if he is an employee of the Town Milk Producers’ Federation of New Zealand Incorporated, the Dominion Federation of Milk Vendors Incorporated, the New Zealand Federation of Milk Stations Incorporated, or the New Zealand Dairy Board.

“(4) No person shall be appointed under paragraph (d) or paragraph (e) of subsection (2) of this section if he is a milk producer.

“(5) No person shall be appointed under subsection (2) (e) of this section if he is a milk vendor.”

(2) Section 5 of the principal Act is hereby consequentially amended by inserting, after subsection (2), the following subsection:

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

(3) Notwithstanding section 3 (2) of the principal Act (as substituted by subsection (1) of this section),—

(a) No person shall, after the commencement of this Act, be appointed a member of the Board with effect from a date before the 1st day of January 1981; and

(b) Subject to subsection (4) of this section, every member of the Board holding office immediately before the commencement of this Act shall continue to hold office until the expiration of the term for which he was appointed; but shall be eligible for reappointment.

(4) On the 1st day of January 1981 the members of the Board on the commencement of this Act holding office as Chairman of the Board, or as a representative of the Government, or as a member appointed on the nomination of—

- (a) The Municipal Association of New Zealand Incorporated; or
- (b) The New Zealand Counties Association Incorporated; or
- (c) The Minister for the Welfare of Women and Children,—

shall go out of office as members of the Board; but shall be eligible for reappointment.

(5) Section 4 (2) of the principal Act is hereby consequentially repealed.

**3. Chairman and Deputy Chairman—**(1) Section 6 of the principal Act is hereby amended by repealing subsections (1) to (3), and substituting the following subsections:

“(1) From time to time as the offices become vacant, the members of the Board shall elect from among those members of the Board appointed under any of paragraphs (a) to (e) of section 3 (2) of this Act a Chairman and a Deputy Chairman.

“(2) A member of the Board who is elected Chairman or Deputy Chairman shall hold that office until—

“(a) He ceases to be a member of the Board; or

“(b) The expiration of the term as a member of the Board during which he was elected—

(whichever is the sooner); but where he is reappointed to the Board he shall be eligible to be re-elected Chairman or Deputy Chairman.”

(2) Section 5 (4) of the principal Act is hereby consequentially amended by omitting the words “If the member who vacated office was the Chairman, the person appointed Chairman in his place shall be appointed for a term of three years. In every other case”.

(3) Section 7 (2) of the principal Act is hereby consequentially repealed.

**4. Meetings of Board**—(1) Section 8 (2A) of the principal Act (as inserted by section 2 of the Milk Amendment Act 1971) is hereby amended by omitting the word “appoint”, and substituting the word “elect”.

(2) The said section 8 is hereby further amended by repealing subsections (4) to (6), and substituting the following subsection:

“(3A) In the absence of the Director-General of Agriculture and Fisheries from any meeting of the Board, or of any committee of the Board of which he is a member, any officer of his Ministry authorised in that behalf may attend that meeting in his stead, and while so attending shall be deemed to be a member of the Board or, as the case may be, of that committee; 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.”

**5. Board to control certain capital expenditure**—(1) The principal Act is hereby amended by inserting, after section 24, the following section:

“24A. (1) No person shall, without the prior written consent of the Board, incur, or undertake, agree, contract, or otherwise arrange to incur, any capital expenditure relating to—

“(a) The purchase of any land; or

“(b) The purchase, establishment, construction, or extension, of any premises,—

for use for, or in connection with, or as part of, a milk station (within the meaning of the Dairy Industry Act 1952).

“(2) Every contract or agreement entered into contrary to subsection (1) of this section shall be void.”

(2) Section 49 of the principal Act is hereby consequentially amended—

(a) By omitting from subsection (1) the word “Every”, and substituting the words “Subject to section 24A of this Act, every”:

(b) By omitting from subsection (5) the word “Every”, and substituting the words “Subject to section 24A of this Act, every”:

(c) By repealing the proviso to subsection (5).

(3) Section 52 of the principal Act is hereby consequentially amended by omitting the words "For the purposes of this", and substituting the words "Subject to section 24A of this Act, for the purposes of this".

**6. Fixing prices and conditions of sale of milk—**(1) Section 25 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsections:

"(3) Notwithstanding section 93 (1) of the Commerce Act 1975, the following shall from time to time, without the consent of the Commerce Commission, be fixed under section 89 or section 90 of that Act as if they were included in the Positive List of Controlled Goods and Services (within the meaning of section 82 (1) of that Act):

"(a) The standard profit margins in respect of the sale of milk (other than goats' milk) by the occupiers of premises on which such milk is sold, in the form in which it was purchased, for use or human consumption off those premises:

"(b) The standard rates of allowances payable throughout New Zealand in the absence of special circumstances in respect of the treatment and delivery of milk;—

and different margins and allowances may be fixed for different classes of milk.

"(3A) The practice whereby any 2 or more persons apply to the Secretary of Trade and Industry for an increase in any profit margin or allowance described in subsection (3) of this section is hereby expressly authorised."

(2) The said section 25 is hereby further amended by repealing subsection (7) (as substituted by section 2 of the Milk Amendment Act 1970), and substituting the following subsection:

"(7) Any notice under subsection (2) or subsection (4) of this section (other than a notice fixing any price for milk sold by way of retail) fixing or determining any prices, margins, or allowances, not already prescribed, or increasing any prices, margins, or allowances, may be made to operate retrospectively."

(3) The Milk Prices Authority is hereby abolished.

(4) Section 25 (8) of the principal Act is hereby consequentially amended by omitting the words " , or as the case may require, the Milk Prices Authority".

(5) Section 2 of the principal Act is hereby consequentially amended by repealing the definition of the term "Authority".

(6) Section 33 of the principal Act is hereby consequentially amended—

(a) By repealing subsection (1), and substituting the following subsection:

"(1) The Board is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951."; and

(b) By omitting from subsection (2) the words "and to members of the Authority".

(7) The said section 25 is hereby consequentially amended by repealing subsection (14), and substituting the following subsection:

"(14) Nothing in the Commerce Act 1975 shall affect the exercise of any of the powers conferred by any provision of this section other than subsections (3) and (3A)."

(8) Part II of the principal Act, the Milk Amendment Act 1970, and sections 8 to 10 of the Milk Amendment Act 1971, are hereby consequentially repealed.

(9) The notices specified in the Schedule to this Act are hereby consequentially revoked.

(10) Notwithstanding subsection (9) of this section, until an allowance replacing an allowance specified in any notice specified in the Schedule to this Act is fixed under section 89 of the Commerce Act 1975, that latter allowance shall continue to be payable as if this Act had not been passed.

(11) There shall be deemed to have been fixed under section 89 of the Commerce Act 1975, on the commencement of this Act,—

(a) A profit margin of 4 cents per litre in respect of milk (other than cream and goats' milk); and

(b) A profit margin of 20 cents per litre in respect of cream—

sold after the commencement of this Act by the persons specified in section 25 (3) (a) of the principal Act.

**7. Levy on milk**—(1) Section 31 of the principal Act is hereby amended by repealing subsection (3) (as substituted by section 3 (1) of the Milk Amendment Act 1978), and substituting the following subsection:

"(3) The rate of the levy shall not exceed 1 cent per litre for milk, or 10 cents per litre for cream."

(2) The said section 31 is hereby further amended by repealing subsection (6), and substituting the following subsections:

“(6) No levy shall be imposed under this section except with the prior approval of the Minister; and the rates of any levy so imposed shall not be altered except with the approval of the Minister.

“(7) The amount of the levy, or any part thereof, shall, except as is otherwise provided by any regulations for the time being in force, be paid and collected in such manner as the Minister directs.”

(3) Section 3 of the Milk Amendment Act 1978 is hereby consequentially repealed.

**8. Offences**—Section 63 (1) of the principal Act is hereby amended by omitting the words “two hundred dollars”, and substituting the expression “\$1,000”.

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## SCHEDULE

Section 6 (9), (10)

### NOTICES REVOKED

The Cream Treatment Allowances Notice 1975.  
The Cream Treatment Allowances Notice, Amendment No. 1.  
The Cream Treatment Allowances Notice, Amendment No. 2.  
The Cream Treatment Allowances Notice, Amendment No. 3.  
The Milk Treatment Allowances Notice 1977.  
The Milk Treatment Allowances Notice, Amendment No. 1.  
The Milk Treatment Allowances Notice, Amendment No. 2.  
The Milk Treatment Allowances Notice, Amendment No. 3.  
The Milk Treatment Allowances Notice, Amendment No. 4.  
The Milk Treatment Allowances Notice, Amendment No. 5.  
The Milk Treatment Allowances Notice, Amendment No. 6.  
The Cream Delivery Allowances Notice 1980.  
The Milk Delivery Allowances Notice 1980.  
The Milk Treatment Delivery Allowances Notice, Amendment No. 1.

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

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