

MILK BILL

EXPLANATORY NOTE

THIS Bill repeals and replaces the Milk Act 1967. It provides for the continued home delivery of milk, but in other respects reduces the regulation of the processing, supply, and distribution of milk for human consumption. The Bill expires on 31 March 1993 (or any earlier date fixed by Order in Council); and on its expiry the town milk industry will be completely deregulated except to the extent that it may continue to be affected by the Commerce Act 1986 and general legislation relating to health and hygiene.

PART I

PRELIMINARY

Clause 1 relates to the Short Title and commencement. The Bill is to come into force on 1 April 1988.

Clause 2 relates to interpretation.

Clause 3 provides that the Bill binds the Crown.

PART II

TOWN MILK INDUSTRY

Clause 4 establishes the New Zealand Milk Authority. It will comprise 3 members appointed by the Governor-General on the recommendation of the Minister (the Minister of Trade and Industry, whose Department will administer the Bill) after consultation with organisations representing the town milk industry.

Clause 5 specifies the Authority's functions. Its specific functions are to licence milk processors, determine home delivery districts, determine a margin between the prices for milk sold in shops and milk delivered to homes, monitor the operation of the town milk industry, and report to the Minister on matters relating to the sale or delivery of milk.

Clause 6 confers on the Authority the powers required to perform its functions.

Clause 7 requires the Authority to comply with policy directions given by the Government. Directions must be written, and copies must be published in the *Gazette* and laid before the House of Representatives.

No. 25—1

Clause 8 enables intending milk processors to apply for licences to process milk (*Clause 23 (1)* is a “grandfather” clause, and grants licences to all existing processors.)

Clause 9 applies to the granting of licences to process milk. Every licence must be granted in respect of one or more home delivery districts; and a licence will be granted only if no other processor is serving the district or districts concerned, and the Authority is satisfied that the applicant can provide an adequate supply of milk for consumers.

Only licensed persons may process milk.

Clause 10 empowers the Authority to cancel licences to process milk. A licence may not be cancelled unless the processor is not providing an adequate supply of milk for consumers.

Clause 11 relates to consumers within the home delivery districts of processors. Ordinary consumers will have a choice of buying milk from shops or having milk delivered by or on behalf of the processor of their district. But some commercial consumers will be able to choose between competing processors.

Subclause (1) allows consumers of 1500 litres or more milk per week for manufacture, or (as in the case of institutions such as hospitals) their own use, to deal with any processor.

Subclause (2) allows retailers, and all other manufacturers, to apply to the Authority for permission to deal with any processor. The Authority is required to give permission unless satisfied that the home delivery service of the district concerned would be jeopardised as a result.

Clause 12 empowers the Authority to alter home delivery districts in order to preserve or enhance the home delivery service. However no processors’ districts are to be reduced or removed unless the processor is unable to supply them adequately or has been convicted of failing to comply with the required standards of delivery.

Clause 13 gives persons affected by decisions of the Authority the right to have the decisions re-examined by an arbitrator.

Clause 14 empowers the Authority to determine standards for the delivery of milk to consumers, and requires processors to comply with those standards. (Failure to comply is an offence under *clause 19*.)

Clause 15 forbids processors to sell milk to a consumer of any other processor unless the consumer is permitted under *clause 11* to deal with any processor.

Clause 16 empowers the Authority to determine a maximum margin between the prices at which processors may sell milk to their own consumers, and the prices at which the milk they sell to retailers may be resold. Retailers are not to sell milk at a price that is less by more than the maximum margin than the price at which the processor who sold it to them sells milk to consumers.

Clause 17 empowers the Authority to demand from processors information relating to the prices and quantities of milk the processors sell, and the delivery of milk in their districts.

Clause 18 empowers the Authority to fund itself by imposing a levy on processors. The levy must not exceed 1 cent per litre.

Clause 19 makes it an offence to contravene the Bill. Bodies corporate may be fined up to \$50,000, and other persons up to \$5,000.

PART III

TRANSITIONAL PROVISIONS RELATING TO MILK VENDORS

Clause 20 allows existing milk vendors to be bought out of the industry. A vendor is entitled to compensation if the vendor has not contracted with a processor to continue in the business of milk delivery, and enters a bond to repay the compensation (or an appropriate proportion) to the Authority if the vendor contracts to do so within 2 years of the Bill's commencement.

Compensation is to be \$1,000 more than the value of the vendor's goodwill under the existing Milk Act 1967.

A vendor who, within 2 years of the Bill's commencement, contracts with a processor to continue in the business of milk delivery may require the Authority to guarantee any bond (for up to \$5,000) relating to tokens.

Clause 21 limits the ability of processors to charge existing vendors premiums for the right to contract to deliver milk. A vendor whose present goodwill is \$5,000 or more may not be charged a premium at all. A vendor whose present goodwill is less than \$5,000 may be charged no more than the difference.

PART IV

REPEALS, SAVINGS, AND EXPIRY

Clause 22 repeals the Milk Act 1967 and its amendments, abolishes the Milk Board and the Milk Appeal Authority, and vests their assets, etc., in the Minister.

Clause 23 grants existing processors licences, requires the Authority to allocate them home delivery districts as soon as possible, and in the meantime deems the present districts of their milk vendors to be their home delivery districts.

Also, *subclause (4)* sets an initial maximum retail margin of 3 cents per litre.

Clause 24 provides for the Bill to expire on 31 March 1993 or an earlier day fixed by Order in Council. On the expiry of the Bill, the Authority's assets, etc., vest in the Minister.

Hon. Colin Moyle

MILK

ANALYSIS

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	15. Processors not to sell to consumers in other home delivery districts
	16. Retail price margin
	17. Authority may demand information
	18. Authority may impose levy
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	PART III
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	20. Milk vendors
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	22. Repeals, and abolition of Milk Board
	23. Savings
	24. Expiry of Act Schedules

A BILL INTITLED

An Act to provide for the continued home delivery of milk; and to reduce in other respects the regulation of the processing, supply, and distribution of milk for human consumption

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BE IT ENACTED by the Parliament of New Zealand as follows:

PART I

PRELIMINARY

10 **1. Short Title and commencement**—(1) This Act may be cited as the Milk Act 1987.

(2) This Act shall come into force on the 1st day of April 1988.

2. Interpretation—In this Act, unless the context otherwise requires,—

“Authority” means the New Zealand Milk Authority established by **section 4 (1)** of this Act:

“Consumers”, in relation to a home delivery district, means all persons who customarily—

(a) Purchase milk within the district for human consumption; or

(b) Purchase milk for resale within the district for human consumption; or

(c) Purchase milk for manufacture within the district into other products for human consumption,—

not for the time being excluded under **section 11** of this Act from the delivery requirements of the district:

“Home delivery district”, in relation to a processor, means a district in respect of which the processor’s licence under **section 9** of this Act was granted; and

(a) Includes any area for the time being added to any such district, and any district allocated to the processor, under **section 12** of this Act; but

(b) Does not include any area for the time being taken from any such district, or removed from the processor, under that section:

“Milk” means cow’s milk that (whether or not it has been treated or processed in any other way) has been pasteurised, and is intended to be sold in liquid form for human consumption; but does not include flavoured milk, ultra heat treated milk, or any cream that has been separated from milk:

“Milk vendor” means a person who, immediately before the commencement of this Act, was approved as a milk vendor under **section 17** or **section 20** of the Milk Act 1967; and includes the personal representative of any such person:

“Minister” means the Minister of Trade and Industry:

“Processor” means a person for the time being holding a licence granted under **section 9** of this Act:

“Working day” means a day that is not a Saturday, a Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, Waitangi Day, the Sovereign’s birthday, or a day during a period commencing on any Christmas Day and ending with the 15th day of the following January.

3. Act binds the Crown—This Act binds the Crown.

PART II

TOWN MILK INDUSTRY

4. New Zealand Milk Authority—(1) There is hereby
5 established the New Zealand Milk Authority.

(2) The Authority comprises 3 members appointed by the Governor-General on the recommendation of the Minister, made after consultation with organisations in the opinion of the Minister representing the various sectors of the town milk
10 industry.

(3) The Authority is a body corporate with perpetual succession and a common seal; and is capable of holding personal (but not real) property, suing and being sued, and otherwise doing and suffering everything bodies corporate may
15 lawfully do and suffer.

(4) No member or deputy member of the Authority is personally liable for any act done or omitted by the member or deputy member, or by the Authority—

(a) In good faith; and
20 (b) In pursuance or intended pursuance of the functions and powers conferred on the Authority by this Act.

(5) The provisions of the First Schedule to this Act apply to the Authority.

5. Functions of Authority—The functions of the Authority
25 are—

- (a) To licence milk processors:
- (b) To determine, allocate, modify, and reallocate home delivery districts:
- (c) To determine the retail price margin for milk:
- 30 (d) To monitor the supply of milk, the operation of home delivery services by milk processors, and the retail prices of milk:
- (e) To report to the Minister on matters relating to the sale or delivery of milk:
- 35 (f) Any other functions conferred on it by this Act or any other enactment.

6. Powers of Authority—The Authority has—

- (a) The powers conferred on it by this Act or any other enactment; and
- 40 (b) All other powers reasonably necessary to enable it to perform its functions.

7. Authority to comply with general Government policies—(1) Subject to the provisions of this Act, the Authority shall, in the performance and exercise of its functions and powers, comply with any general or special written directions relating to the policy of the Government given to it by the Minister. 5

(2) As soon as is practicable after giving the Authority any direction under subsection (1) of this section, the Minister shall—

- (a) Publish a copy of it in the *Gazette*; and
- (b) Lay a copy of it before the House of Representatives. 10

8. Applications for licences to process milk—(1) Any person may apply to the Authority for a licence to process milk.

(2) Every application shall be made on a form supplied by the Authority, and shall specify one or more districts in which the applicant intends to provide a home delivery service, and any other information the Authority requires. 15

9. Granting of licences—(1) Subject to subsections (2) and (3) of this section, if the Authority is satisfied on reasonable grounds that—

- (a) There is no person (other than the applicant) licensed under this section to process milk in respect of the districts specified by an applicant under section 8 of this Act (or in respect of any modified or different district or districts in respect of which the Authority is prepared to grant the applicant a licence); and 20 25
- (b) The applicant is or will be able at all times to provide sufficient wholesome milk to satisfy the requirements for milk of the consumers of the districts concerned,—

it shall, by written notice to the applicant specifying the districts concerned, grant the applicant a licence to process milk in respect of the districts. 30

(2) Where the Authority intends to grant to an applicant under section 8 of this Act a licence to process milk in respect of districts other than those the applicant specified, it shall first notify the applicant in writing of its intention; and it shall not grant the licence to the applicant unless the applicant has notified it that the applicant agrees to those districts. 35

(3) Where, in the opinion of the Authority, the granting to an applicant under section 8 of this Act of a licence to process milk in respect of any district would affect any processor, the Authority shall not grant it without first— 40

- (a) Notifying the applicant and the processor of the proposed decision and of the fact that the processor has 20 working days to make a submission to the Authority on the application; and
- 5 (b) Sending the applicant a copy of any written submission received by the Authority from the processor within 20 working days of the processor's being notified, together with notice that the applicant has 20 working days to make a submission to the Authority on the processor's submission; and
- 10 (c) Considering—
- (i) The processor's submission; and
- (ii) Any written submission concerning the processor's submission received by the Authority
- 15 from the applicant within 20 working days of the applicant's receiving a copy of the processor's submission.
- (4) No person who is not a processor shall pack, pasteurise, process, or treat any milk.

20 **10. Cancellation of licences**—(1) Subject to subsection (2) of this section, the Authority may cancel a processor's licence if satisfied on reasonable grounds that the processor is not at all times providing sufficient wholesome milk to satisfy the requirements for milk of the consumers of all its home delivery

25 districts.

(2) The Authority shall not cancel a processor's licence under subsection (1) of this section without first—

- (a) Notifying the processor of the Authority's intention to do so, and of the grounds upon which it intends to do so and the fact that the processor has 20 working days to make a submission to the Authority on the proposed cancellation; and
- 30 (b) Considering any written submission it receives from the processor within 20 working days of the processor's receiving the notice.
- 35 (3) On application by a processor, the Authority shall cancel the processor's licence.

11. Certain consumers excluded from delivery requirements—(1) Every person who normally purchases

40 1500 litres or more of milk each week for—

- (a) Manufacture within a home delivery district into other products for sale for human consumption; or
- (b) The person's own use within a home delivery district; or

- (c) Both,—
is excluded from the delivery requirements of the district.
- (2) Any consumer of a home delivery district who customarily purchases milk—
- (a) For resale within the district for human consumption; or 5
(b) For manufacture within the district into other products for sale for human consumption,—
- may apply to the Authority for exclusion from the delivery requirements of the district; and, subject to **subsection (3)** of this section, the Authority shall exclude the person unless satisfied 10 that the exclusion would be likely to affect adversely the ability of the district's processor at all times to provide the district's other consumers, in accordance with the standards for the time being determined under **section 14** of this Act, with sufficient wholesome milk to satisfy their requirements for milk. 15
- (3) The Authority shall not exclude any person from the delivery requirements of any home delivery district without first—
- (a) Notifying the processor concerned of the proposed exclusion and of the fact that the processor has 20 20 working days to make a submission to the Authority on the proposed exclusion; and
- (b) Sending the person a copy of any written submission received by the Authority from the processor within 20 working days of the processor's being notified, 25 together with notice that the person has 20 working days to make a submission to the Authority on the processor's submission; and
- (c) Considering—
- (i) The processor's submission; and 30
(ii) Any written submission concerning the processor's submission received by the Authority from the person within 20 working days of the person's receiving a copy of the processor's submission. 35

12. Authority may modify home delivery districts—

- (1) Subject to **subsections (2) and (3)** of this section, the Authority may for the purpose of preserving or enhancing the delivery of milk to consumers of the district or districts concerned, by 40 written notice to a processor specifying the action concerned, remove, increase, reduce, or otherwise modify any of the processor's home delivery districts, or allocate to the processor any additional home delivery district.

(2) The Authority shall not take any action under **subsection (1)** of this section that has the effect that a processor's home delivery districts after the taking of the action have consumers who require less milk than the consumers of the processor's home delivery districts before the taking of the action required, unless—

5 (a) The Authority is satisfied that the processor is not at all times able to provide sufficient wholesome milk to satisfy the requirements for milk of the consumers of the latter districts; or

10 (b) The processor has been convicted of an offence in respect of acting in contravention of, or failing to comply with, **section 14 (4)** of this Act in relation to the latter districts; or

15 (c) The processor consents to the action.

(3) The Authority shall not take any action under **subsection (1)** of this section without—

20 (a) Notifying every processor who or that, in the opinion of the Authority, may be affected by the proposed action, of the proposed action and of the fact that the processor has 20 working days to make a submission to the Authority on the proposed action; and

25 (b) Sending every such processor a copy of every written submission (if any) received by the Authority from any other such processor within 20 working days of the other processor's being notified, together with notice that the processor has 20 working days to make a submission to the Authority on the other processor's submission; and

30 (c) Considering—

(i) Every submission a copy of which has been sent to a processor under **paragraph (b)** of this subsection; and

35 (ii) Every written submission concerning those submissions or any of them received by the Authority from any such processor within 20 working days of the processor's receiving a copy of the submission or submissions concerned.

13. Re-examination of decisions—(1) Where the Authority decides to refuse an applicant under **section 8** of this Act a licence to process milk, the applicant has a right of re-examination of the decision by an arbitrator.

(2) Where the Authority decides to notify an applicant under **section 8** of this Act that it intends to grant the applicant a

licence to process milk in respect of districts other than those the applicant specified, the applicant has a right of re-examination of the decision by an arbitrator.

(3) Where the Authority decides to cancel a processor's licence to process milk, the processor has a right of re-examination of the decision by an arbitrator. 5

(4) Where the Authority decides to refuse to exclude from the delivery requirements of a home delivery district an applicant under section 11 (2) of this Act, the applicant has a right of re-examination of the decision by an arbitrator. 10

(5) Where the Authority decides to exclude from the delivery requirements of a home delivery district an applicant under section 11 (2) of this Act, the district's processor has a right of re-examination of the decision by an arbitrator.

(6) Where the Authority decides to remove, increase, reduce, or otherwise modify any of a processor's home delivery districts, or allocate to the processor any additional home delivery district, the processor, and every other processor affected by the decision, has a right of re-examination of the decision by an arbitrator. 15 20

(7) The **Second** Schedule to this Act applies to the right of re-examination conferred by this section.

14. Authority to determine minimum standards—

(1) Subject to subsection (2) of this section, the Authority shall from time to time, by notice in the *Gazette*, determine in relation to the delivery of milk by and on behalf of processors, minimum standards relating to— 25

(a) The frequency of delivery of milk to consumers; and

(b) The times at which milk is to be delivered to consumers;— 30

and different standards may be determined for consumers of different classes or descriptions.

(2) No notice under subsection (1) of this section shall come into force before the expiration of 10 working days after the date of its publication. 35

(3) The Authority may from time to time, on application by a processor, exempt the processor from any requirement of the standards determined under subsection (1) of this section; and may at any time, by written notice to the processor, cancel or modify the exemption. 40

(4) No processor shall deliver milk, or cause milk to be delivered, to consumers in its home delivery districts otherwise than in accordance with the standards for the time being determined under this section.

15. Processors not to sell to consumers in other home delivery districts—(1) Subject to subsection (2) of this section, no processor, and no person acting on behalf of a processor, shall sell or deliver any milk within a home delivery district of
5 any other processor.

(2) Any processor may sell or deliver milk to a person for the time being excluded under section 11 of this Act from the delivery requirements of the home delivery district in which the person is situated.

10 **16. Retail price margin**—(1) Subject to subsections (2) and (3) of this section, the Authority may from time to time, by notice in the *Gazette*, determine (as an amount or as a percentage) the maximum margin between—

15 (a) Either—

(i) The price at which any processor sells milk to the consumers of the processor's home delivery district; or

20 (ii) In the case of processors who have 2 or more home delivery districts, the lowest of the prices at which any processor sells milk to the consumers of any of the processor's home delivery districts; and

(b) The price at which persons excluded from the delivery requirements of any home delivery district may resell milk purchased from the processor.

25 (2) No notice under subsection (1) of this section shall come into force before the expiration of 10 working days after the date of its publication.

30 (3) The Authority shall not determine a notice under subsection (1) of this section without first consulting organisations in the opinion of the Authority representing the various sectors of the town milk industry.

(4) No person excluded from the delivery requirements of any home delivery district shall resell any milk at a price less by more than the margin for the time being determined under
35 subsection (1) of this section than—

(a) The price at which the processor from whom the person acquired it sells milk to the consumers of the processor's home delivery district; or

40 (b) In the case of a processor with 2 or more home delivery districts, the lowest of the prices at which the processor from whom the person acquired it sells milk to the consumers of any of the processor's home delivery districts.

17. Authority may demand information—A processor shall, as soon as is reasonably practicable after receiving written demand from the Authority, give the Authority such of the following information as the Authority specifies:

- (a) The prices (per litre) at which the processor sells milk to consumers in any of the processor's home delivery districts: 5
- (b) Any information relating to the delivery of milk to the houses and businesses of consumers in any such district by or on behalf of the processor: 10
- (c) Any information relating to the quantities of milk normally sold in any such district by or on behalf of the processor, the categories of milk so sold, and the categories of person to whom or which milk is so sold.

18. Authority may impose levy—(1) Subject to **subsections (2) and (3)** of this section, the Authority may from time to time by notice in the *Gazette*, for the purpose of providing funds to enable the Authority to perform its functions,— 15

- (a) Impose on processors a levy (at a rate not exceeding 1 cent per litre) on the milk they process; and 20
- (b) Subject to **paragraph (a)** of this subsection, specify the rate and method of calculation of the levy.
- (2) The Authority shall not impose a levy under **subsection (1)** of this section without first consulting organisations in the opinion of the Authority representing the various sectors of the town milk industry. 25
- (3) No notice under **subsection (1)** of this section shall come into force before the expiration of 10 working days after the date of its publication.
- (4) Every processor shall, within 30 days of its falling due, pay 30 to the Authority any levy imposed under **subsection (1)** of this section.
- (5) The Authority may recover from any processor, as a debt due to the Authority, any amount not paid under **subsection (4)** of this section. 35

19. Offences and penalties—Every person commits an offence against this Act, and shall be liable on summary conviction to—

- (a) A fine not exceeding \$50,000 in the case of a body corporate; and 40
- (b) A fine not exceeding \$5,000 in any other case,— who acts in contravention of or fails to comply with any provision of this Act.

PART III

TRANSITIONAL PROVISIONS RELATING TO MILK VENDORS

20. **Milk vendors**—(1) Any milk vendor may, within 3 months of the commencement of this Act, by written notice to the Authority apply to the Authority for compensation for the loss of the goodwill of the vendor's milk delivery business.

(2) Where the Authority is satisfied that an applicant under subsection (1)—

(a) Has not entered into any arrangement with a processor to engage in the delivery of milk to consumers (whether as employee, agent, contractor, or otherwise howsoever); and

(b) Has executed a bond requiring the vendor to repay to the Authority all or an appropriate proportion of the compensation if within 2 years of the commencement of this Act the vendor enters into any such arrangement,—

it shall pay the vendor compensation for the loss of the goodwill of the vendor's milk delivery business.

(3) The amount of compensation to be paid by the Authority for the loss of the goodwill of a milk vendor's home delivery business is \$1,000 more than the maximum amount that would have been payable under section 32 of the Milk Act 1967 on the 1st day of November 1987.

(4) A milk vendor who, before or within 3 months of the commencement of this Act, enters into an arrangement with a processor to engage in the delivery of milk to consumers may by written notice to the Authority require the Authority to pay or guarantee any bond (for an amount not exceeding \$5,000) relating to milk tokens, execution of which is required by the processor as a term of the agreement; and in that case the Authority shall do so.

21. **Limitations on goodwill payments**—(1) Where the milk delivery business of a vendor had, immediately before the commencement of this Act, a maximum goodwill (calculated in accordance with section 32 of the Milk Act 1967) of less than \$5,000, no processor shall require the vendor to pay for or as a condition of entering into an agreement with the processor to engage in the delivery of milk to consumers any sum greater than the difference between \$5,000 and the maximum goodwill.

(2) Where the milk delivery business of a vendor had, immediately before the commencement of this Act, a

maximum goodwill (calculated as aforesaid) of \$5,000 or more, no processor shall require the vendor to pay any sum for or as a condition of entering into such an agreement.

(3) **Subsections (1) and (2)** of this section do not apply to any sum required to be paid as a bond relating to milk tokens; but they apply to any other sum, whether described as goodwill or otherwise howsoever. 5

PART IV

REPEALS, SAVINGS, AND EXPIRY

22. Repeals, and abolition of Milk Board—(1) The enactments specified in the **Third Schedule** to this Act are hereby repealed. 10

(2) The Orders in Council, notices, and determinations specified in the **Fourth Schedule** to this Act are hereby revoked.

(3) The New Zealand Milk Board constituted under the Milk Act 1967 is hereby abolished. 15

(4) The Milk Appeal Authority established by section 57A of the Milk Act 1967 is hereby abolished.

(5) All rights, assets, liabilities, and debts that the said Board had immediately before the commencement of this Act shall, on that commencement, be deemed to have become rights, assets, liabilities, and debts of the Minister. 20

23. Savings—(1) Every person who, immediately before the commencement of this Act, had a consent under section 24 of the Milk Act 1967 to treat milk, or establish or operate any plant for the treatment of milk (hereafter in this section referred to as an existing processor) shall be deemed to have been granted a licence under **section 9** of this Act on that commencement. 25

(2) As soon as is practicable after the commencement of this Act, the Authority shall, by written notice to each existing processor, allocate one or more home delivery districts to the processor; and, subject to **section 13** of this Act, each district so allocated shall be deemed to have been allocated under **section 9** of this Act. 30 35

(3) Until an existing processor is allocated home delivery districts under **subsection (2)** of this section, this Act applies to every area within which, in the month before the commencement of this Act, milk vendors customarily delivered milk processed by the processor, as if the area is a home delivery district of the processor. 40

(4) Until a margin is in fact determined under **section 16 (1)** of this Act, a margin of 3 cents per litre shall be deemed to have been so determined.

24. Expiry of Act—(1) This Act shall expire with the close
5 of the 31st day of March 1993 or any earlier day specified by the Governor-General by Order in Council.

(2) On the expiry of this Act,—

- (a) The Authority shall be deemed to have been abolished;
and
 - 10 (b) All rights, assets, liabilities, and debts that the Authority had immediately before the expiry shall be deemed to have become rights, assets, liabilities and debts of the Minister.
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SCHEDULES

Section 4 (5)

FIRST SCHEDULE

ADMINISTRATIVE PROVISIONS APPLYING TO NEW ZEALAND MILK INDUSTRY

1. President of Authority—(1) From time to time, as the office is or becomes vacant, the Minister shall appoint one member of the Authority to be President.

(2) No person who has a pecuniary interest (otherwise than as a consumer) in the production, treatment, distribution, or sale of milk shall be appointed President.

2. Terms of office—(1) Every member of the Authority shall hold office for a term of 2 years but may from time to time be reappointed.

(2) Notwithstanding **subclause (1)** of this clause, every member of the Authority shall continue in office until a successor is appointed or the office becomes vacant under **clause 3** of this schedule, whichever is the sooner.

3. Extraordinary vacancies—(1) The Governor-General may dismiss any member of the Authority for disability, neglect of duty, or misconduct, proved to the satisfaction of the Governor-General.

(2) The Governor-General may dismiss the President of the Authority if satisfied that the President has a pecuniary interest (otherwise than as a consumer) in the production, treatment, distribution, or sale of milk.

(3) Any member of the Authority may resign by written notice to the Minister.

(4) The office of a member of the Authority becomes vacant, and the vacancy is extraordinary, if the member dies, resigns, or is dismissed.

(5) Notwithstanding **clause 2(1)** of this Schedule, every member of the Authority appointed to fill an extraordinary vacancy shall hold office for the residue of the term of the vacating member.

(6) The powers of the Authority are not affected by any vacancy in its membership.

4. Deputies of members—(1) If satisfied that a member of the Authority is unable by reason of illness, absence, or other sufficient reason to discharge the duties of the member's office, the Minister may, after consulting the Authority appoint a deputy to act for the member.

(2) At any meeting of the Authority not attended by a member, the member's deputy may act in place of the member.

(3) Neither the appointment of a deputy nor any act done by a deputy or the Authority shall in any proceedings be questioned on the ground that the occasion for any deputy's appointment had not arisen or had ceased.

5. Meetings of Authority—(1) The Authority shall meet at times and places it or its President from time to time determines.

(2) The quorum for a meeting of the Authority is 2 members.

(3) At meetings of the Authority—

(a) The President shall preside if present:

(b) If the President is absent, the President's deputy shall preside if present:

(c) If the President and President's deputy are absent, a member agreed by the members present or, if they cannot agree, chosen by lot, shall preside.

FIRST SCHEDULE—*continued*ADMINISTRATIVE PROVISIONS APPLYING TO NEW ZEALAND MILK
INDUSTRY—*continued*

(4) Subject to **subclause (6)** of this clause, every question before the Authority shall be decided by a majority of the valid votes recorded on it.

(5) The person presiding at a meeting of the Authority has a deliberative vote and, in the event of an equality of votes, a casting vote.

(6) A written resolution signed, or assented to by letter, telegram, facsimile transmission, or telex, by all members of the Authority (not being deputies) is as valid and effectual as if duly passed at a meeting of the Authority.

(7) Except as provided in this Act, the Authority may regulate its own procedures.

6. Authority to fix its own remuneration and travelling allowances—The members of the Authority shall be paid fees, salary, allowances, and travelling allowances and expenses for the time being determined by the Authority.

7. Officers and employees—(1) The Authority may employ any officers and employees it thinks necessary to perform its functions efficiently.

(2) The Authority may pay its officers and employees any salaries, wages, and allowances it thinks fit.

8. Authority may enter into contracts—Without limiting the generality of **section 6** of this Act, the Authority may agree with any department of State or other organisation for the performance of any of the Authority's functions; and in that case the department or organisation concerned may act accordingly.

9. Contracts generally—The Authority is a public body for the purposes of the Public Bodies Contracts Act 1959.

10. Investment of funds—The Authority may invest any of its funds available for investment in any manner it wishes.

11. Bank accounts—The Authority may open and maintain bank accounts at any banks within New Zealand.

12. Authority to prepare financial statements—(1) As soon as is practicable after the 31st day of May in each year, the Authority shall prepare the following statements:

- (a) Statements of the Authority's financial position at the end of the year ending with that day:
- (b) Statements of all changes in the Authority's financial position during the year:
- (c) Statements of the Authority's revenue and expenditure during the year:
- (d) Such other statements as are necessary to show fully the Authority's financial position during the year.

FIRST SCHEDULE—*continued*ADMINISTRATIVE PROVISIONS APPLYING TO NEW ZEALAND MILK
INDUSTRY—*continued*

13. Audit of accounts and financial statements—(1) The Audit Office shall audit the accounts of the Authority, and the financial statements referred to in **clause 12** of this Schedule.

(2) For the purposes of **subclause (1)** of this clause, the Audit Office shall have and may exercise and perform all the functions, duties, and powers that it has under the Public Finance Act 1977 in respect of the money and shares of a local authority.

14. Annual report and statements to be laid before House of Representatives—(1) As soon as is practicable after the statements referred to in **clause 12** of this schedule have been prepared in respect of any year and audited, the Authority shall prepare and give to the Minister a report of its proceedings and operations for the year, together with a copy of the statements and the report of the Audit Office on them, and a report on the operation and state of the town milk industry during the year.

(2) As soon as is practicable after receiving copies of any such report, statements, and report of the Audit Office, the Minister shall lay copies before the House of Representatives.

SECOND SCHEDULE

Section 13 (7)

PROVISIONS RELATING TO RE-EXAMINATION OF DECISIONS

1. Authority to give reasons—Subject to **clause 2** of this schedule, where the Authority makes a decision of which any person has a right of re-examination, it shall give every person who has that right—

- (a) Notice in writing of its reasons for making the decision; together with
- (b) Notice in writing that the person has 10 working days to apply for re-examination of the decision.

2. Notification of processors—**Clause 1** of this schedule does not require the Authority to notify any processor of its reason's for making a decision of the kind referred to in **section 13 (6)** of this Act unless, in the opinion of the Authority, the processor may be affected by the decision.

3. When decisions to take effect—(1) Subject to *paragraphs (m) and (o)* of **subclause (2)** of this clause, a decision of which any person has a right of re-examination takes effect upon the expiration of 10 working days after—

- (a) The receipt of notice under **clause 1** of this schedule by the person required by that subsection to be notified, where only one person is required to be notified; and
- (b) The receipt of notice under **clause 1** of this schedule by the person required by that subsection to be notified who is the last to be notified, in every other case.

(2) Where, before a decision would otherwise take effect under **subclause (1)** of this clause, any person who has a right of re-examination of the decision gives the Authority notice in writing that the person requires the decision to be re-examined, the following provisions apply:

- (a) In this subclause, "the parties" means every person who—
 - (i) Is required by **clause 1** of this schedule to be notified of the Authority's reasons for the decision; or
 - (ii) Has a right of re-examination of the decision, and has before the decision would otherwise have taken effect, given the Authority notice in writing that the person requires the decision to be re-examined:
- (b) Every arbitrator appointed under this subclause shall be the holder of a current practising certificate as a barrister and solicitor of the High Court:
- (c) Subject to **paragraph (b)** of this subclause, where, before the expiration of 10 working days after the decision would otherwise have taken effect, the parties and the Authority agree on an arbitrator, the agreed person shall be arbitrator in relation to the decision:
- (d) Where the parties and the Authority do not agree on an arbitrator before that expiration, the Authority shall forthwith on that expiration give the Minister written notice that an arbitrator must be appointed, together with a brief written description of the nature of the decision and a copy of the Authority's reasons for making it:
- (e) Subject to **paragraph (b)** of this subclause, within 5 working days of being notified under **paragraph (d)** of this subclause, the Minister shall by written notice to the Authority appoint an arbitrator to re-examine the decision:
- (f) Forthwith upon knowing the identity of the arbitrator, the Authority shall give all the parties written notice that—
 - (i) The decision is to be re-examined; and

SECOND SCHEDULE—*continued*PROVISIONS RELATING TO RE-EXAMINATION OF DECISIONS—*continued*

- (ii) The parties have 10 working days to forward to the Authority their written submissions to the arbitrator:
- (g) Forthwith upon the expiration of 10 working days after the receipt of notice under **paragraph (f)** of this subclause by the party who is the last to be notified, the Authority shall send to each party and the arbitrator copies of—
 - (i) Every submission received by the Authority before that expiration; and
 - (ii) The Authority's own written submission to the arbitrator,—
 - together with notice that the parties have 10 working days to give the Authority written responses to those submissions:
- (h) Forthwith upon the expiration of 10 working days after the receipt of notice under **paragraph (g)** of this subclause by the party who is the last to be notified, the Authority shall send to each party and the arbitrator copies of—
 - (i) Every response received by the Authority before that expiration; and
 - (ii) The Authority's own response to the submissions:
- (i) The arbitrator may request any additional written information or submission from any party or the Authority:
- (j) Subject to **paragraph (i)** of this subclause, the arbitrator shall issue to the Authority, as soon as is possible after receiving the responses, a written determination relating to the decision:
- (k) Subject to **paragraph (l)** of this subclause, the arbitrator shall either—
 - (i) Confirm the decision; or
 - (ii) Substitute for it any other decision the Authority might lawfully have made:
- (l) The arbitrator shall confirm the decision unless satisfied that some other decision is more appropriate:
- (m) The confirmed or substituted decision shall take effect when it is received by the Authority or on any later date specified in the determination:
- (n) The Authority shall give the parties copies of the determination forthwith on receiving it:
- (o) Where, before a determination is issued, all the parties have notified the Authority that they have abandoned the re-examination of the decision, the decision shall take effect immediately and, subject to **paragraph (p)** of this subclause no determination shall proceed:
- (p) Every determination shall specify the arbitrator's costs in undertaking the arbitration and the proportions in which the parties and the Authority should pay them, and where a re-examination is abandoned, the arbitrator shall issue a determination specifying those matters:
- (q) The Authority shall pay all the arbitrator's costs, but may recover from each of the parties, as a debt due to the Authority, the appropriate proportion of those costs.

THIRD SCHEDULE

Section 22 (1)

ENACTMENTS REPEALED

- 1953, No. 7—The Ministry of Agriculture and Fisheries Act 1953: So much of the Schedule as relates to the Milk Act 1967.
- 1967, No. 53—The Milk Act 1967 (R.S. Vol. 18, p. 451).
- 1971, No. 75—The Milk Amendment Act 1971 (R.S. Vol. 18, p. 502).
- 1973, No. 75—The Milk Amendment Act 1973 (R.S. Vol. 18, p. 503).
- 1978, No. 30—The Milk Amendment Act 1978 (R.S. Vol. 18, p. 504).
- 1980, No. 60—The Milk Amendment Act 1980 (R.S. Vol. 18, p. 504).
- 1982, No. 41—The Milk Amendment Act 1982 (R.S. Vol. 18, p. 507).
- 1986, No. 5—The Commerce Act 1986: So much of the Second Schedule as relates to the Milk Act 1967.
- 1987, No. 40—The Milk Amendment Act 1982 (R.S. Vol. 18, p. 507).

FOURTH SCHEDULE

Section 22 (2)

ORDERS IN COUNCIL, NOTICES, AND DETERMINATIONS REVOKED

Title or Description	Gazette reference or Statutory Regulations Serial Number
The Milk Board Election Regulations 1945	S.R. 1945/78
The Milk Board Election Regulations 1945, Amendment No. 1	S.R. 1947/190
The Milk Boards (Travelling Expenses) Regulations 1948	S.R. 1948/90
The Milk Delivery Regulations 1949	S.R. 1949/150
The Milk Authorities Appeals Regulations 1952	S.R. 1952/35
The Western Bay of Plenty Supply Association Order 1965	S.R. 1965/85
The Milk Marketing Order 1968	S.R. 1968/147
The Milk Districts Order 1968	<i>Gazette</i> 1968, Vol. II, p. 1403
The Milk Treatment and Delivery Allowances Notice 1968	<i>Gazette</i> 1968, Vol. II, p. 1645
The notice approving associations of producers and operators of premises and plant for the treatment of milk	<i>Gazette</i> 1968, Vol. II, p. 1466
Milk prices notices	<i>Gazette</i> 1968, Vol. II, pp. 1467-1470
The Milk Production and Supply Regulations 1973	S.R. 1973/145
The Milk Regulations 1973	S.R. 1973/150
The Milk Marketing Order 1986, Amendment No. 1	S.R. 1973/237
The Milk Production and Supply Regulations 1973, Amendment No. 2	S.R. 1976/162
The Milk Order 1978	S.R. 1978/273
The Milk Marketing Order 1968, Amendment No. 2	S.R. 1979/159
The Milk Stations Regulations 1979	S.R. 1979/165

FOURTH SCHEDULE—*continued*ORDERS IN COUNCIL, NOTICES, AND DETERMINATIONS REVOKED—*continued*

TITLE OR DESCRIPTION	<i>Gazette</i> reference or Statutory Regulations Serial Number
The Milk Treatment Regulations Revocation Order 1979	S.R. 1979/166
The Milk Districts Order 1968, Amendment	<i>Gazette</i> 1979, p. 299
The Milk Producer Allowances Notice 1981	<i>Gazette</i> 1982, p. 179
The Milk Production and Supply Regulations 1973, Amendment No. 3	S.R. 1985/264
The Milk Price Notice (No. 2) 1985	<i>Gazette</i> 1985, p. 3632
The Milk Producer Prices and Allowances Notice 1986	<i>Gazette</i> 1986, p. 3727
The Milk Price Notice 1986	<i>Gazette</i> 1986, p. 4037
The Milk Producer Prices and Allowances Notice 1986, Amendment No. 1	<i>Gazette</i> 1987, p. 1794
The Milk Delivery (Margins and Allowances) Order 1987	<i>Gazette</i> 1987, p. 1801
The Milk Treatment Allowances Determination 1987	<i>Gazette</i> 1987, p. 1964