

1996

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

Presented and read a first time

(SENATOR BELL)

A BILL

FOR

An Act to restore property to King Island Dairy Products Pty Ltd

Preamble

The Parliament of the Commonwealth of Australia is of the opinion that King Island Dairy Products Pty Ltd and its members were done a grievous wrong and injustice by the Government of the State of Tasmania and certain of its servants, and by Transequity Limited and certain of its servants when the assets and property of King Island Dairy Products Pty Ltd were sold by instruction of the Government of the State of Tasmania to Transequity Ltd in or about October 1986, and the Parliament of the Commonwealth of Australia desires by this Act to right, as far as it is possible to do so, such wrong and injustice by restoring the property to King Island Dairy Products Pty Ltd by this enactment.

The Parliament of Australia enacts:

Short title

1. This Act may be cited as the *Restitution of Property to King Island Dairy Products Pty Ltd Act 1996*.

Commencement

5 2. This Act commences on the day on which it receives the Royal Assent.

Interpretation

3. In this Act:

10 *the sale* means the sale of the property of King Island Dairy Products Pty Ltd by the receiver appointed to King Island Dairy Products Pty Ltd by the Government of Tasmania in or about October 1986.

15 *the property* refers to all property of whatsoever nature and includes all land, buildings, equipment, fixtures, trade marks and other intellectual property which were owned or possessed by King Island Dairy Products Pty Ltd immediately prior to and at the time of the sale.

Sale declared invalid

4. The sale of the property to Transequity Limited, a corporation according to the laws of Australia, is declared invalid according to law on the proclamation of this Act.

20 Divestment of ownership

5. Island Foods Limited is divested of all ownership, legal and equitable, in the property and of any benefits which may have accrued to or become attached to any of the property since October 1986.

Restoration of property to King Island Dairy Products Pty Ltd

25 6. The property and all of the rights of ownership or possession therein is transferred to and restored to King Island Dairy Products Pty Ltd together with any benefits which may have accrued to any of the property since October 1986, such transfer and restitution to take effect on the proclamation of this Act.

Compensation

7. Compensation is to be paid by the Commonwealth of Australia to King Island Dairy Products Pty Ltd for the loss sustained by it by the sale of the property in October 1986 and such compensation is to be a sum not less than is sufficient to discharge any securities existing over such property or any part thereof at the date of proclamation of this Act and sufficient to allow King Island Dairy Products Pty Ltd to recommence its business and operations as a manufacturer and purveyor of dairy products.

8. Compensation in appropriate amounts is to be paid to all persons, corporate or otherwise, who were not party to or in any way connected with the sale of the property in October 1986 and who may suffer any loss due to the enactment of this Act.

Board of Trustees

9. There is established for the purposes of this Act a Board of Trustees.

10. The Board shall consist of such persons as the Governor-General of the Commonwealth may decide, but in any event no fewer than 3 and no more than 5 such persons are to be appointed by the Governor-General not later than 14 days after proclamation of this Act.

11. Members of the Board shall be paid such allowances as the Governor-General determines.

12. The members of the Board shall elect one of their number to be the Chair of the Board.

13. All decisions of the Board shall be decided by a majority of the votes of the members of the Board, and if there is an equal number of votes for and against any resolution then the Chair shall have a casting vote in addition to his or her deliberative vote.

Functions of Board of Trustees

14. The functions of the Board on behalf of the Commonwealth are:

- (a) to do all things necessary to divest Island Foods Limited of the property and all benefits which have accrued or attached thereto since October 1986 and to transfer all the property and the said benefits to King Island Dairy Products Pty Ltd together with full ownership and title therein;

- (b) to identify and compile an inventory of all property subject to this Act;
- (c) to determine who is entitled to compensation under section 8 of this Act and the amount of such compensation;
- 5 (d) to determine the amount to be paid to King Island Dairy Products Pty Ltd under section 7 of this Act;
- (e) to pay to all persons such as the Board may determine are entitled to compensation and to pay to King Island Dairy Products Pty Ltd the amounts the Board has determined are required to be paid to it;
- 10 (f) to regularly report to the Governor-General in respect of all things done by it and all decisions made by it; and
- (g) to complete its duties not later than 90 days after proclamation of this Act or such further time as the Parliament may allow.
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Powers of Board of Trustees

15. The Board has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

16. Without limiting the generality of the preceding section, the Board
20 has power:

- (a) to administer the Fund;
- (b) to design and have made a Seal of the Board; and
- (c) to sign and seal documents required to be signed to enable the Board to perform its functions.

25 **Establishment and auditing of fund**

17. A Fund is to be established to pay all monies required by this Act to be paid.

18. Amounts required or permitted to be paid under this Act shall be paid out of moneys appropriated by the Parliament for the purpose.

30 19. The Board shall keep proper accounts and records of its transactions and affairs and shall do all things necessary to ensure that all payments out of moneys of the fund are correctly made and properly authorised and that adequate control is maintained over all property and money under the control of the Board.

20. The Attorney-General shall inspect and audit the accounts and records of financial transactions of the Board and shall forthwith draw the attention of the Minister for Finance to any irregularity which the Attorney-General considers is sufficiently important to justify his or her so doing.

5 21. The Attorney-General or an officer appointed by him or her is entitled at all reasonable times to full and free access to all accounts, records and papers relating to the Fund and to the affairs of the Board, with power to make copies of any papers or documents.

Attorney-General may require information

10 22. The Attorney-General, or an officer appointed by him or her, may require any member of the Board to provide him or her with such information which, in the opinion of the Attorney-General or the officer appointed by him or her, is necessary for the purpose of inspection under this Act and the member of the Board of whom such a request is made is required
15 to answer or provide any information so requested that is in the possession or knowledge of the member of the Board, or which information can by reasonable inquiry be ascertained by him or her.

Board not subject to taxation

20 23. The Board is not subject to taxation under any law of the Commonwealth or of a State or Territory of the Commonwealth.

Review of decisions

25 24. In the event of any person objecting in writing to any decision or act of the Board, the Board shall give reasonable consideration to such objection and in the event of the objection being made in writing, the Board is required to observe the rules of natural justice and fairness in considering, deliberating and resolving the objection.



