

MILK AMENDMENT BILL

EXPLANATORY NOTE

PART I of this Bill reconstitutes the Central Milk Council and gives it wider powers for the organization of the town milk industry.

PART II makes miscellaneous amendments to the Milk Act 1944.

PART I

CENTRAL MILK COUNCIL

Clause 2 postpones the commencement of this Part until a day to be appointed.

Clause 3 is an interpretation clause.

Clauses 4 to 9 replace sections 96 to 98 of the principal Act, which deal with the constitution of the Central Milk Council, the filling of extraordinary vacancies, the protection of members, and meetings of the Council. The Council is still to consist of seven members, but the constitution is altered. One member is to be appointed as Chairman, one is to be a nominated representative of Milk Authorities, three are to be nominated representatives of milk producers, one is to be a nominated representative of milk vendors, and one is to be appointed to represent the interests of women and children (*clause 4*). Members are to be appointed by the Governor-General on the recommendation of the Minister of Marketing, except the last mentioned member, who will be appointed on the recommendation of the Minister for the Welfare of Women and Children (*clause 5 (1)*). Employees of the milk producers' and milk vendors' organizations are not eligible for nomination as representatives of those bodies (*clause 5 (2)*). The term of office is three years, but nominated members will retire in rotation (*clause 6*). *Clause 9 (4)* authorizes representatives of the Marketing Department and the Departments of Health and Agriculture to attend meetings of the Council and speak, without taking any other part in the proceedings.

Clause 10 empowers the Minister to appoint a Deputy Chairman to attend meetings from which the Chairman is absent, and to act as Chairman on those occasions. The Deputy Chairman has no other powers or functions.

Clause 11 provides for the appointment of a public servant as Secretary of the Council.

Clause 12 makes the usual provision for the making of contracts by the Council.

Clause 13 re-enacts section 100 of the principal Act (as to the objects of the Council).

Clause 14 re-enacts section 101 of the principal Act (as to the functions of the Council) with minor modifications and with the addition of the new functions set out in paragraphs (a), (b), (c), and (n) of *subclause (1)*. The new provisions relate to the promotion of the efficient organization of the town milk industry, the investigation of the activities and efficiency of bodies and persons engaged in the industry, and the making of recommendations to the Government as to prices, margins, and allowances for the town milk scheme and as to matters on which regulations should be made under the principal Act or under the Bill.

Clause 15 requires the Council to comply with the general policy of the Government in relation to its functions, and with general or special directions given to it by the Minister pursuant to that policy.

Clause 16 appoints the Marketing Department the agent of the Council to give effect to its decisions.

Clause 17 authorizes the Council to delegate any of its powers or functions to the Director, or, with the written consent of the Minister, to other persons. The Director may, with the consent in each case of the Council, subdelegate to officers of the Public Service.

Clause 18 authorizes prices and allowances for the sale and handling of milk to be fixed by Order in Council on the recommendation of the Central Milk Council; but this may not be done while subsidies are payable in respect of the town milk industry (*subclause (4)*). At present the town milk scheme is administered under section 6 of the Marketing Amendment Act 1937.

Clause 19 authorizes the holding of inquiries as to the organization of the town milk industry in milk districts and other areas. Where the inquiry relates to a milk district or to two or more adjoining districts, the Council is to appoint a committee of inquiry consisting of an independent Chairman, a member of the Council, and a nominee of the Milk Authority or Milk Authorities concerned (*subclause (1)*). Where the inquiry relates only to an area outside a milk district, the committee of inquiry is to consist of one or more of the members of the Council, with or without other persons (*subclause (2)*). The terms of reference will be fixed by the Council within the limits of *subclause (3)*. The committee will report to the Council (*subclause (4)*), and the Council may then make recommendations to the Government (*subclause (6)*). *Subclause (7)* consequentially repeals that part of section 103 of the principal Act which authorizes the Council to appoint a committee to conduct an inquiry as to the adequacy and effectiveness of the steps taken by a Milk Authority in exercising its functions.

Clause 20 provides that the Council may recommend the dissolution of any milk treatment corporation established by regulations under the Marketing Act 1936 and the Agriculture (Emergency Powers) Act 1934 (see *clause 3*) if, after an inquiry under *clause 19*, the Council is of opinion that the activities of the corporation cannot be carried on in an economic manner.

Clause 21 authorizes the Council to exercise any of the functions or powers of the Milk Authority of any district if, after an inquiry under *clause 19*, it is satisfied that the Milk Authority has failed to act or is not taking adequate steps.

Clause 22 authorizes the Council to exercise similar functions and powers in relation to any area which is outside a milk district and which is declared by Order in Council to be a special area for the purposes of the clause. *Subclause (3)* gives the Council power to delegate any of its functions or powers under this clause to a committee.

Clauses 23 to 27 deal with the funds of the Council and their application. While subsidies continue to be paid in respect of the town milk industry the Council's funds are to be such amount as may be appropriated by Parliament under *clause 24*. When subsidies cease, the Council may make a levy on milk sold in New Zealand (*clause 23*). All moneys are to be kept in a Central Milk Council Account under *clause 25*, and applied under *clause 26* in payment of expenditure incurred by the Council in exercising its functions, including remuneration and travelling expenses payable under *clause 27*.

Clause 28 authorizes the Council to insure its members against personal accident while engaged in their duties.

Clause 29 provides for a maximum unauthorized expenditure of £100 a year.

Clause 30 requires full accounts to be kept and to be audited by the Audit Office.

Clause 31 authorizes the making of regulations, on the recommendation of the Council, for the purposes set out in *subclause (1)*. The regulations may be of general application or may be applied to specified districts or areas; but under *subclause (2)*, no regulations under *paragraphs (a) (b) and (c) of subclause (1)* are to be applied to a specified milk district unless an inquiry has first been held under *clause 19* of the Bill and the Council has recommended their application to the district.

Clause 32 extends the power of inspection possessed by the Council under section 108 of the principal Act, so as to give it the same powers as to the taking of samples as a Milk Authority has under section 72. *Subclause (4)* provides that the result of a test or analysis of milk may be disclosed to the Milk Authority and, if the sample was taken from milk in the possession of a producer, to any association of producers to which he belongs; but in either case it must also be disclosed to the owner.

Clause 33 requires a report and statement of accounts of the Council to be sent to the Minister and laid before Parliament each year.

Clause 34 consequentially repeals sections 96 to 102 of the principal Act.

PART II

MISCELLANEOUS

Clause 35 places the administration of the principal Act under the Minister of Marketing, and makes consequential amendments.

Clause 36 redefines "milk" so as to include goats' milk.

Clause 37 merely corrects a drafting mistake made in a previous amendment.

Clause 38 provides that a member of a Milk Board who vacates office by reason of his ceasing to be a member of a constituent local authority is to retain his seat on the Board until the election to the Board of his successor. Section 22 of the Statutes Amendment Act 1950 is consequentially repealed.

Clause 39 authorizes local authorities of constituent districts to contribute to the funds of the Milk Authority or to guarantee loans raised by it, or to make advances to it.

Clause 40 re-enacts the provisions of section 37 of the Finance Act 1950 as to the powers of local authorities of constituent districts to acquire shares in milk treatment companies. It also empowers any such local authority, with the consent of the Central Milk Council acting on the recommendation of the Milk Authority, to establish its own milk treatment station (*subclauses (1) (a) and (2)*).

The effect of *clause 41* is that a Milk Authority may not acquire or operate a milk treatment station, or grant (or revoke, except for breach of conditions) a licence for a milk treatment station, without the prior consent of the Central Milk Council.

Clause 42 makes it clear that a Milk Authority has power to rezone milk rounds from time to time.

Clause 43 extends section 62 of the principal Act. Under that section mixtures containing milk and brought into a milk district for use in the manufacture of ice cream are treated as milk for the purposes of the principal Act, and are therefore under the control of the Milk Authority. This clause extends that control to cover cream made or prepared in the district for use in ice-cream making, and also to cover mixtures containing cream, dried milk, condensed milk, or condensed cream to be used for that purpose. *Subclause (3)* authorizes the Milk Authority, in special circumstances, to relax the restrictions on the use of such mixtures by issuing permits.

Clause 44 authorizes a Milk Authority, for the purposes of adjusting its zoning system, to issue any temporary licence without the licensee having a right to compensation or the right of appeal when the licence is terminated on notice.

Clause 45 extends the zoning powers of Milk Authorities. The effect is that a licence to a milk roundsman may be issued not only for a particular zone, but also for a specified gallonage, which will be determined by the Milk Authority (subject to appeal) at the average number of gallons a day being sold by the roundsman at the time of the determination. The licensee may thereafter sell more than the specified gallonage and retain the additional profits, but any additional goodwill accruing to the milk round by reason of excess sales belongs to the Milk Authority. This will enable the Milk Authority, when a licensee's sales have increased to more than his specified gallonage, to reduce the size of his zone on a rezoning, without having to pay him compensation for the loss of anything above the specified gallonage, or alternatively to allow the licensee to retain the right to operate in his existing zone by requiring him to purchase or lease the goodwill accruing from the excess gallonage. The Milk Authority may, on the other hand, compensate a licensee whose sales have fallen below his specified gallonage owing to circumstances beyond his control. Any licensee may appeal under the principal Act against the decision of the Milk Authority in fixing his specified gallonage or in requiring him to purchase or lease the goodwill of the excess gallonage.

Clause 46 extends the time for which an offer by a roundsman to sell his round to a Milk Authority under section 68 of the principal Act is to remain open before he may sell the round to any other person. At present the section requires the offer to remain open for fourteen days. Under this clause it is to remain open for fourteen days after the next meeting of the Milk Authority or for six weeks from the date of the offer, whichever period first expires.

Clause 47 requires every roundsman disposing of his round to disclose to the other party to the transaction full particulars of any special allowances which the roundsman receives under the town milk scheme and to which the other party is not or may not be entitled. If he does not do so the other party may rescind the transaction.

Clause 48 provides that no Milk Authority may, without the prior consent of the Central Milk Council, make a levy on milk while subsidies are payable in respect of the town milk industry.

Clause 49 exempts milk provided for schools from any levy made by a Milk Authority.

Clause 50 makes it clear that section 85 of the principal Act (which relates to offences) applies to breaches of regulations under the Act as well as to breaches of the Act itself.

Clause 51 provides that regulations prescribing conditions applying to approved supply associations under section 92 of the principal Act are to be made in accordance with recommendations of the Central Milk Council.

Clause 52 provides for the approval of supply associations for specified areas outside milk districts, with the same effect as approvals of supply associations for milk districts.

Clause 53 re-enacts section 93 of the principal Act, with amendments. The effect is that where there is an approved supply association for a district or area, no milk may be brought into the district or area for sale, or sold there, except milk supplied by or through the association.

Clause 54 deals with producers whose premises are within three miles of the boundaries of a milk district as at first constituted under the principal Act, and who have vendors' licences issued by the Milk Authority of the district. At present they are permitted to bring their milk into the district, and to sell it there, even if they do not belong to an approved supply association. This clause makes them subject to any regulations which may be made under the principal Act (for example, regulations as to licensing under *clause 31* of this Bill).

[AS REPORTED FROM THE PUBLIC HEALTH COMMITTEE]

House of Representatives, 22 November 1951

Words struck out by Public Health Committee are shown in italics within bold brackets or in roman enclosed in panel; words inserted are shown in black or in roman with rule down side.

Hon. Mr. Holyoake

MILK AMENDMENT

ANALYSIS

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1. Short Title.	21. Powers of Central Milk Council in respect of milk districts.
PART I	
CENTRAL MILK COUNCIL	
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5. Appointment of members of Council.	<i>Finance</i>
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7. Extraordinary vacancies.	24. Provision for funds of Council pending raising of levy.
8. Members of Council not personally liable.	25. Central Milk Council Account.
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10. Deputy Chairman of Council for purposes of meetings.	27. Remuneration and travelling expenses and allowances.
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16. Marketing Department to be agent of Council.	31. Regulations, in accordance with recommendations of Council, for organization of town milk industry.
17. Delegation of Council's powers or functions.	32. Inspections and taking of samples by Council.
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19. Inquiries as to organization of town milk industry. Repeal.	34. Repeals and savings.

PART II	
MISCELLANEOUS	
35. Administration of principal Act by Minister of Marketing.	44. Provision of temporary licences to roundsmen without compensation or appeal on revocation.
36. Definition of "milk" extended. Repeal.	45. Special provisions as to zoning of milk rounds. Appeals.
37. Section 21 of principal Act (as to qualification of members of Milk Boards) amended. Commencement.	46. Section 68 of principal Act (as to restriction of right to sell milk round) amended.
38. Section 22 of principal Act (as to vacation of office by members of Milk Boards) amended. Repeal.	47. Duty of person disposing of milk round to disclose particulars of special allowances.
39. Powers of local authority of constituent district to contribute or advance moneys to Milk Authority.	48. Restriction on power of Milk Authority to impose levy on milk.
40. Powers of local authority of constituent district as to milk treatment stations. Repeals.	49. Levy under section 74 of principal Act not to apply to milk.
41. Restrictions on powers of Milk Authority as to treatment of milk.	50. Section 85 of principal Act (as to offences) amended.
42. Section 57 of principal Act (as to general powers of Milk Authority) amended.	51. Section 92 of principal Act (as to regulations relating to approval of Supply Associations) amended.
43. Section 62 of principal Act (as to mixtures used for ice cream) amended.	52. Approval of producers' associations and supply associations for areas outside milk districts.
	53. Effect of approval of Supply Association.
	54. Section 94 of principal Act (as to position of producer-vendor) amended.

A BILL INTITULED

Title.

AN ACT to amend the Milk Act 1944.

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

Short Title.

1. This Act may be cited as the Milk Amendment Act 1951, and shall be read together with and deemed part of the Milk Act 1944 (hereinafter referred to as the principal Act).

1944, No. 30

PART I

CENTRAL MILK COUNCIL

Commencement of this Part.

2. This Part of this Act shall come into force on a day to be appointed for the commencement thereof by the Governor-General by Proclamation.

Interpretation.

3. For the purposes of this Act and the principal Act, the expression "milk treatment corporation" means any body of persons incorporated under the Marketing Act 1936 and the Agriculture (Emergency Powers) Act 1934, and having amongst its functions the acquisition, treatment, and sale of milk.

1936, No. 5

1934, No. 34

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4. (1) The Central Milk Council established under section ninety-six of the principal Act shall hereafter consist of seven members, being—

Reconstitution
of Central
Milk Council.

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

(b) One member nominated by the Municipal Association of New Zealand, Incorporated, who shall be a member of a Milk Board or of the Milk Committee of a Borough Council which is a
10 Milk Authority:

(c) Three members nominated by the Town Milk Producers' Federation of New Zealand, Incorporated, of whom one shall be nominated to represent milk producers in the Provincial District of Auckland, one shall be nominated to represent milk producers in the Provincial Districts of Taranaki, Hawke's Bay, and Wellington, and one shall be nominated to represent milk producers in the South Island:

15 20 (d) One member nominated by the Dominion Federation of Milk Vendors, Incorporated:

(e) One member, who shall be deemed to be representing the interests of women and children.

(2) The Council shall be a body corporate with
25 perpetual succession and a common seal, and shall be capable of holding real and personal property, of suing and being sued, and of doing and suffering all such other acts and things as bodies corporate may lawfully do and suffer.

30 (3) The Central Milk Council as constituted immediately before the commencement of this Part of this Act is hereby dissolved.

5. (1) The members of the Council shall be appointed by the Governor-General, and shall be so appointed on
35 the recommendation of the Minister of Marketing, except in the case of the member deemed to be representing the interests of women and children, who shall be so appointed on the recommendation of the Minister for the Welfare of Women and Children.

Appointment of
members of
Council.

40 *New*

(1A) No person shall be qualified for appointment as Chairman of the Council if he has a pecuniary interest in the production, treatment, distribution, or sale of milk for human consumption, apart from any
45 interest in common with the public or as a member of an incorporated company in which there are more than twenty members, to which he does not supply milk, and of which he is neither a director nor the general manager.

(2) No person shall be capable of being appointed to be a member under paragraph (c) or paragraph (d) of subsection one of section four of this Act if he is an employee of the Town Milk Producers' Federation of New Zealand, Incorporated, or of the Dominion Federation of Milk Vendors, Incorporated. 5

New

(3) No milk producer shall be capable of being appointed to be a member under paragraph (d) of subsection one of section four of this Act. 10

Terms of office
of members
of Council.

6. (1) Except as otherwise provided in this Act, every member of the Council shall be appointed for a term of three years, but may from time to time be reappointed.

(2) Notwithstanding anything to the contrary in this Act, every member of the Council, unless he sooner vacates his office otherwise than by effluxion of time, shall continue to hold his office until his successor comes into office. 15

(3) With respect to the first members of the Council appointed under paragraphs (b) and (d) of subsection one of section four of this Act, the following provisions shall apply:— 20

(a) One of those members shall retire at the expiration of two years from the date of his appointment and the other member shall retire at the expiration of three years from the date of his appointment: 25

(b) The member so to retire at the expiration of two years shall be determined by agreement of the two members concerned, and, failing agreement, the member so to retire shall be determined by lot. 30

(4) With respect to the first members of the Council appointed under paragraph (c) of the said subsection one, the following provisions shall apply:— 35

(a) One of those members shall retire at the expiration of one year from the date of their appointment, another of those members shall retire at the expiration of two years from that date, and the other member shall retire at the expiration of three years from that date: 40

(b) The member so to retire at the expiration of one year shall be determined by agreement of the three members, and the member so to retire at the expiration of two years shall be determined by agreement of the two members then remaining; and failing agreement on either occasion the member then to retire shall be determined by lot. 45

7. (1) Any member of the Council may at any time be removed from office by the Governor-General for disability, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Governor-General. Extraordinary vacancies.

5 (2) The office of a member of the Council shall become vacant, and the vacancy shall be deemed to be an extraordinary vacancy, if he—

(a) Dies; or

10 (b) Resigns his office by written notice given to the Minister; or

(c) Is removed from office; or

(d) Being a member nominated by the Municipal Association of New Zealand, Incorporated, ceases to be a member of a Milk Board or of a Milk Committee; or

15 (e) Being a member nominated by the Town Milk Producers' Federation of New Zealand, Incorporated, or by the Dominion Federation of Milk Vendors, Incorporated, becomes an employee of either of those bodies.

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

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

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

35 8. No member of the Council shall be personally liable for any act done or omitted by the Council or by any member thereof in good faith and in pursuance or intended pursuance of the powers and authority of the Council.

Members of Council not personally liable.

40 9. (1) Meetings of the Council shall be held at such times and places as the Council or the Chairman from time to time determines.

Meetings of Council.

(2) At all meetings of the Council *four* members, of whom one shall be the Chairman or, in his absence, the Deputy Chairman, shall constitute a quorum.

(3) The Chairman shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote.

(4) All or any of the following persons may attend any meeting of the Council and speak at the meeting, but shall not take any other part in the proceedings, namely:— 5

(a) The Director of Marketing, or any officer of the Marketing Department authorized by him in that behalf: 10

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

(c) The Director-General of Agriculture, or any officer of the Department of Agriculture authorized by him in that behalf. 15

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

Deputy Chairman of Council for purposes of meetings.

10. (1) The Minister may from time to time appoint any person, whether a member of the Council or not, to be the Deputy Chairman of the Council for the purposes of this section. 20

(2) If any person so appointed is not a member of the Council, he may attend any meeting of the Council from which the Chairman is absent, and, while so attending, but not otherwise, shall be deemed for all purposes to be a member of the Council. 25

(3) In the absence of the Chairman from any meeting of the Council, the Deputy Chairman shall preside, and shall for the purposes of the meeting have all the powers of the Chairman. 30

Struck Out

Secretary.

11. There may be appointed, as an officer of the Public Service, a Secretary to the Council. 35

New

Secretary.

11A. There may from time to time be appointed, under the provisions of the Public Service Act 1912, a Secretary to the Council.

Contracts of Council.

12. (1) Any contract which if made between private persons must be by deed shall, if made by the Council, be in writing under the seal of the Council. 40

(2) Any contract which if made between private persons must be in writing signed by the parties to be charged therewith shall, if made by the Council, be either under the seal of the Council or in writing signed by any person acting on behalf of and under the authority of the Council. 45

(3) Any contract which if made between private persons may be made orally may be similarly made by or on behalf of the Council by any person acting under the authority of the Council, but no oral contract shall be made involving the payment by the Council of any sum exceeding twenty pounds.

(4) Notwithstanding anything in the foregoing provisions of this section, no contract made by or on behalf of the Council shall be invalid by reason only that it was not made in manner provided by this section, if it was made pursuant to a resolution of the Council or to give effect to a resolution of the Council.

Functions and Powers of Council

13. The general objects for which the Council is established are—

- (a) The provision of an adequate supply of milk of good quality for human consumption:
- (b) The organization of the production, treatment, and distribution of milk on an economic basis, having regard to the need for an adequate supply of milk of good quality.

14. (1) The general functions of the Council shall be—

- (a) To promote and organize the making of such provision and the doing of such things, and if necessary, subject to the provisions of this Act, to make such provision and do such things, as the Council deems necessary for the attainment of the objects for which the Council is established and generally for ensuring efficiency in the production, supply, collection, treatment, storage, distribution, carriage, delivery, and sale of milk:
- (b) To investigate, having regard to the objects for which the Council is established, the activities and efficiency of Milk Authorities, Milk Committees, milk treatment corporations, persons, and bodies of persons, whether incorporated or not, engaged in or exercising control over or exercising any functions in respect of the production, supply, collection, treatment, storage, distribution, delivery, or sale of milk:

Objects for which Council is established.

Functions of Council.

- (c) To make recommendations to the Government as to the prices at which, and the margins within which, milk may be bought or sold, and as to the rates of allowances to be made in respect of the collection, treatment, storage, distribution, and sale of milk, and as to the conditions subject to which milk shall be sold: 5
- (d) To co-ordinate and generally to guide and supervise the activities of Milk Authorities:
- (e) To devise and promote, as far as may be practicable, improved methods of producing, collecting, treating, carrying, delivering, and distributing milk (including the distribution of milk in sealed containers): 10
- (f) To devise and promote, as far as may be practicable, means to prevent or eliminate wasteful, unnecessary, or unhygienic agencies, methods, practices, costs, or charges in connection with the production, supply, collection, treatment, storage, carriage, distribution, delivery, or sale of milk: 15 20
- (g) To carry on research and investigation, including chemical, physical, bacteriological, and economic research, relating to milk and milk products: 25
- (h) To publish reports, information, and advice concerning the production, supply, collection, treatment, carriage, delivery, keeping, storage, preservation, and use of milk, and by those and other means to encourage the consumption of milk: 30
- (i) To encourage and assist any experimental, educational, or research work which in the opinion of the Council is in the interests of consumers, producers, or vendors of milk: 35
- (j) To co-ordinate, having regard to the objects for which the Council is established, the activities of Government Departments, local authorities, and other public bodies in relation to any of the foregoing matters: 40
- (k) To report to the Government from time to time upon matters affecting the objects for which the Council is established:

- (l) To make recommendations to the Government as to the constitution, union, alteration, or abolition of milk districts and Milk Authorities:
- 5 (m) To make recommendations to the Government as to standards for milk which in the opinion of the Council should be adopted for the purposes of the principal Act or this Act or the Marketing Act 1936:
- 10 (n) To make recommendations to the Government as to any matter in respect of which regulations should, in the opinion of the Council, be made under the principal Act or this Act:
- (o) To make inquiries and recommendations on any matters referred to it by the Government.
- 15 (2) The Council shall have such other functions as are imposed upon it by this Act or by any other Act.
- (3) The Council may carry out its functions either independently or in conjunction with any Government
- 20 Departments, local authorities, or other public bodies, or any other persons or bodies of persons.

1936, No. 5

New

- (4) The Council shall, in so far as the carrying out of any of its functions under this Act relating to the supply of milk affects the zoning of dairy factories, consult with the New Zealand Dairy Board.

15. In the exercise of its functions the Council shall comply with the general policy of the Government in relation to those functions, and with any general or special directions given to the Council by the Minister pursuant to that policy.

Council to comply with general policy of Government in relation to Council's functions.

16. The Marketing Department is hereby appointed the agent of the Council for the purpose of giving effect to the decisions of the Council, and for that purpose may exercise and perform any of the functions and powers of the Council on its behalf.

Marketing Department to be agent of Council.

17. (1) The Council may from time to time, by resolution, delegate any of its powers or functions under this Act or the principal Act to the Director of Marketing or, with the written consent of the Minister, to any other person or persons.

Delegation of Council's powers or functions.

(2) Where any power or function is delegated to the Director as aforesaid, he may from time to time, with the consent in each case of the Council given by resolution, delegate to any officer or officers of the Public Service the power or function so delegated to him by the Council. 5

(3) Subject to any general or special directions given or conditions attached by the Council or by the Director, as the case may be, any person to whom any power or function is delegated under this section may exercise or perform the power or function in the same manner and with the same effect as if it had been conferred on him directly by the principal Act or this Act and not by delegation. 10

(4) Every person 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. 15

(5) Any delegation under this section may be made to a specified officer or person or to officers or persons of a specified class, or may be made to the holder for the time being of a specified office or appointment or to the holders of offices or appointments of a specified class. 20

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

(7) No delegation under this section shall prevent the exercise of any power or function by the Council or, as the case may require, by the Director. 25

Power to fix, on recommendation of Council, prices and conditions of sale of milk.

18. (1) Subject to the provisions of subsection *four* of this section, the Governor-General may from time to time, by Order in Council, in accordance with recommendations made by the Central Milk Council to the Minister,— 30

(a) Fix the prices at which milk produced or sold for human consumption may be bought or sold: 35

(b) Fix margins, whether as maximum prices or minimum prices or by reference to the amounts or percentages by which selling prices may exceed buying prices, within which such milk as aforesaid may be bought or sold: 40

(c) Fix rates of allowances to be made in respect of the collection, treatment, storage, distribution, and sale of such milk as aforesaid: 40

(d) Prescribe conditions subject to which sales of such milk as aforesaid shall be made.

(2) Any Order in Council under this section may authorize the Central Milk Council from time to time—

5 (a) To approve the making of special allowances, whether in addition to or in substitution for allowances provided for by the Order, in respect of any of the matters referred to in paragraph (c) of subsection *one* of this section in cases where the Council is satisfied that special circumstances justify the making of such allowances, and to fix the rates of such special allowances:

10 (b) To authorize the charging of special prices, whether in addition to or in substitution for prices provided for by the Order, in respect of the purchase or sale of milk as aforesaid, in cases where the Council is satisfied that special circumstances justify the charging of such prices, and to fix the amounts of such special prices:

15 (c) To prescribe terms and conditions upon and subject to which such special allowances or prices as aforesaid may be made or charged.

20 (3) The Governor-General may from time to time in like manner vary or revoke any Order in Council under this section.

25 (4) No Order in Council shall be made under subsection *one* of this section at any time while any moneys are payable out of the Consolidated Fund by way of subsidy in respect of the town milk industry.

30 (5) Prices, margins, rates of allowances, or conditions may be fixed or prescribed under this section in respect of the whole of New Zealand or in respect of any specified milk district, or in respect of any specified locality, area, or part of New Zealand, and different prices, margins, rates, or conditions may be fixed or prescribed in respect of different districts, localities, areas, or parts of New Zealand.

35 (6) Prices, margins, rates of allowances, or conditions may be fixed or prescribed under this section in respect of specified persons or in respect of different classes of persons, and in respect of different classes of milk, and in respect of different circumstances or classes of circumstances.

40

1937, No. 21
1947, No. 60

(7) While any Order in Council under this section continues in force, nothing in section six of the Marketing Amendment Act 1937 or section thirty-eight of the Statutes Amendment Act 1947 (which authorize the Marketing Department to fix prices, margins, rates of allowances, and conditions in respect of certain foods) shall apply with respect to any milk to which the Order in Council applies. 5

(8) Every person commits an offence against the principal Act and is liable to a fine not exceeding one hundred pounds who, whether as principal or agent, and whether by himself or his employee,— 10

(a) Sells or agrees or offers to sell any milk to which any Order in Council under this section applies at a price other than the appropriate price fixed in respect thereof: 15

(b) Sells any such milk as aforesaid and thereafter demands or accepts for the milk a price other than the appropriate price so fixed:

(c) Gives or offers or agrees to give to any person in respect of any such milk as aforesaid any unauthorized rebate, refund, discount, allowance, premium, or other valuable consideration, or, as purchaser or seller or otherwise howsoever, is knowingly a party to any device, plan, or scheme whereby the purchaser obtains or is enabled to obtain any such milk as aforesaid except at the appropriate price so fixed. 20 25

(9) Every person who aids, abets, counsels, or procures or is in any way knowingly concerned in the commission of an offence against this section shall be deemed to have committed that offence. 30

1947, No. 51

(10) Nothing in the Control of Prices Act 1947 shall be construed to affect the exercise of the powers conferred by this section. 35

Inquiries as to organization of town milk industry.

19. (1) If at any time the Council, having regard to the objects for which it is established, considers it desirable that an inquiry should be conducted as to the organization of the town milk industry in any milk district, or in any two or more adjoining milk districts, or in any such milk district or milk districts as aforesaid together with any area contiguous to any such district, the Council may appoint for the purposes of 40

this section a committee consisting of three persons, of whom--

(a) One person, not being a member of the Council, shall be appointed as Chairman:

5 (b) One person shall be a member of the Council:

(c) One person shall be appointed on the nomination of the Milk Authority of the district, or, as the case may require, on the joint nomination of the Milk Authorities of the districts, in respect of which the inquiry is to be conducted:

10

Provided that if no person is so nominated within one month after the date of a request in writing in that behalf made by the Council to the Milk Authority or Milk Authorities, the Council may advise the Minister of that fact, and the Minister may appoint some fit person who shall thereupon be deemed to have been appointed on such nomination as aforesaid.

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(2) If at any time the Council, having regard to the objects for which it is established, considers it desirable that an inquiry should be conducted as to the organization of the town milk industry in any area that is not for the time being within any milk district, the Council may appoint one or more of its members, either with or without some other person or persons, to be a committee for the purposes of this section.

25

(3) Any committee appointed under this section shall conduct an inquiry as to such matters as may be referred to it by the Council, being all or any of the following matters, namely:—

30

(a) In the case of any inquiry under this section, matters relating to the organization of the production, supply, collection, treatment, distribution, delivery, or sale of milk, or to the activities and efficiency of persons or of bodies of persons, whether incorporated or not, engaged therein, in any district or districts or area in respect of which the inquiry is to be conducted; and

35

(b) In the case of an inquiry in respect of any milk district or milk districts, whether together with any area or not, matters relating to the activities and efficiency of the Milk Authority of any such district, or the adequacy and effectiveness of the steps taken by it, in exercising its functions. 5

(4) Every committee appointed under this section shall be deemed for the purposes of the inquiry to be a committee of the Council, and shall, after the inquiry, report its findings to the Council. 10

See Reprint
of Statutes,
Vol. I, p. 1036

(5) Every committee appointed under this section shall, for the purposes of enabling it to conduct the inquiry, be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908, and, subject to the provisions of any regulations made under the principal Act or this Act, the provisions of sections three to nine of that Act shall apply to the committee accordingly, and shall apply to the inquiry as if it were an inquiry under that Act. 15
20

New

(5A) The Council may appoint any qualified person to be an advisory officer to assist any committee appointed under this section. 25

(6) Without limiting the powers conferred on the Council by sections *twenty-one* and *twenty-two* of this Act, the Council, after any inquiry under this section, may make such recommendations to the Government as it thinks fit, including any recommendation for the making or application of any regulations under this Act or the principal Act in respect of the district or area. 30

Repeal.

(7) Paragraph (a) of subsection one of section one hundred and three of the principal Act is hereby repealed. 35

Council may
recommend
dissolution of
milk treatment
corporation.

20. Without limiting the generality of the power to make recommendations conferred by subsection *six* of section *nineteen* of this Act, if after any inquiry under that section the Council is of opinion that the activities of any milk treatment corporation cannot, for reasons beyond the control of that corporation, be continued in an economic manner, it may recommend to the Government that that corporation be dissolved, and may make such further recommendations as it thinks fit as to the exercise of the functions of that corporation by any other body of persons. 40
45

21. (1) Subject to the provisions of this Act and of any regulations made under this Act, the Central Milk Council may at any time exercise or perform in respect of any milk district any function, power, or duty of a Milk Authority if, after an inquiry pursuant to section *nineteen* of this Act, the Council is satisfied that the Milk Authority of the district is not exercising or performing that function, power, or duty, or is not taking adequate steps in the exercise or performance of it.

Powers of
Central Milk
Council in
respect of milk
districts.

(2) Before exercising or performing any such function, power, or duty as aforesaid, the Council shall give notice in writing to the Milk Authority of its intention so to do.

(3) In respect of the exercise or performance by the Council of any function, power, or duty under this section, the provisions of the principal Act shall, as far as they are applicable and with the necessary modifications, and subject to the provisions of any regulations under this Act, apply as if the Council were the Milk Authority of the district.

(4) Where any provision applied by subsection *three* of this section requires or authorizes the Milk Authority to do anything by special order or to make any by-law for any purpose, that provision shall, for the purposes of this section, be read and construed as if it authorized the Governor-General to do that thing, or, as the case may require, to make any regulation for that purpose, by Order in Council in accordance with recommendations in that behalf made by the Central Milk Council to the Minister.

22. (1) The Governor-General may from time to time, by Order in Council, in accordance with recommendations made by the Central Milk Council to the Minister, declare any area, being an area of which the boundaries are defined in the Order in Council and which is not for the time being included in any milk district, to be a special area, with such name as may be specified in the Order in Council, in respect of which the Central Milk Council may exercise and perform any of the functions, powers, and duties of a Milk Authority.

Powers of
Central Milk
Council in
respect of areas
outside milk
districts.

(2) Subject to the provisions of this Act and of any regulations made under this Act, and while any Order in Council under this section remains in force, the Central Milk Council may exercise or perform in respect of the special area to which the Order in Council relates any such function, power, or duty as aforesaid, and the provisions of the principal Act shall, as far as they are applicable and with the necessary modifications, apply with respect to the special area as if it were a milk district and as if the Council were the Milk Authority thereof. 5 10

(3) Without limiting the power of delegation conferred on the Council by section *seventeen* of this Act, it is hereby declared that the Council may from time to time appoint in respect of any special area under this section a committee consisting of two or more persons, whether members of the Council or not, and may delegate to the committee any of the functions, powers, or duties conferred on the Council by this section. Every such committee shall be subject in all things to the control of the Council, and shall carry out all directions, general or special, of the Council in relation to the committee or its affairs. Subject as aforesaid, the committee may exercise or perform any function, power, or duty 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 section and not by delegation. The provisions of subsections *four*, *six*, and *seven* of section *seventeen* of this Act shall, with the necessary modifications, apply to the committee and to every such delegation as aforesaid. 15 20 25 30

(4) Where any provision applied by subsection *two* of this section requires or authorizes the Milk Authority to do anything by special order or to make any by-law for any purpose, that provision shall, for the purposes of this section, be read and construed as if it authorized the Governor-General to do that thing, or, as the case may require, to make any regulation for that purpose, by Order in Council in accordance with recommendations in that behalf made by the Central Milk Council to the Minister. 35 40

(5) The Governor-General, by Order in Council made in accordance with any such recommendations as aforesaid, may from time to time alter and redefine the boundaries of any special area by the inclusion therein or the exclusion therefrom of any area, or may revoke any Order in Council under this section.

Finance

23. (1) For the purpose of providing funds to enable the Council to exercise its functions, the Council may from time to time impose in accordance with this Act a levy on milk sold in New Zealand:

Levy on milk for purposes of Council.

Provided that no levy shall be imposed under this section at any time while any moneys are payable by way of subsidy out of the Consolidated Fund in respect of the town milk industry.

(2) Different rates of levy may be fixed under this section in respect of milk and cream.

(3) The rate of the levy shall not exceed a half-penny a gallon in the case of milk, and fivepence a gallon in the case of cream.

(4) The Council shall make the levy by resolution, and the amount thereof may, subject to the provisions of subsection *three* of this section, be increased or reduced from time to time by resolution of the Council.

(5) The making of the levy and any increase or decrease thereof shall be publicly notified.

(6) Any levy payable under this section shall be paid and collected in such manner as may be prescribed by regulations made under this Act.

24. Pending the imposition and collection of the levy referred to in section *twenty-three* of this Act, there shall from time to time be paid to the Council, for the purposes of the principal Act and this Act, such moneys as may be appropriated by Parliament for the purpose.

Provision for funds of Council pending raising of levy.

25. (1) All moneys received by the Council shall be paid forthwith into an account, to be called the Central Milk Council Account, at a bank approved by the Minister.

Central Milk Council Account.

(2) The Central Milk Council Account shall be operated upon by cheque signed by the Secretary to the Council and by one other person, being a member of the Council or the Director or any person for the time being authorized in writing by the Director in that behalf. 5

Application of moneys in Central Milk Council Account.

26. (1) The moneys for the time being in the Central Milk Council Account shall from time to time be applied as follows:—

(a) In payment of all costs, charges, and expenses incurred by the Council or for which the Council may become liable in the exercise of its functions and powers: 10

(b) In payment of the remuneration, allowances, and travelling expenses payable, pursuant to this Act, to members of the Council or of any committee of the Council: 15

(c) Otherwise for the payment of any expenditure lawfully incurred by the Council.

(2) The Council may from time to time, as it thinks fit, invest any moneys not for the time being required for any of the purposes mentioned in subsection *one* of this section,— 20

(a) In New Zealand Government securities:

(b) On deposit 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. 25

Remuneration and travelling expenses and allowances.

27. (1) The Council shall pay to the Chairman and to the members of the Council and to the members of any committee appointed by the Council such remuneration by way of salary, fees, or allowances as the Minister of Finance from time to time approves: 30

Provided that any moneys received under this subsection by any member who is an officer of the Public Service shall be subject to the provisions of the Public Service Act 1912. 35

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

(2) The Council shall pay to the Chairman and to the members of the Council and to the members of any committee appointed by the Council such travelling expenses and allowances as the Minister of Finance from time to time approves, 40

28. It shall be lawful for the Council from time to time to enter into contracts of insurance insuring members of the Council against loss from personal accident arising out of and in the course of the exercise of their powers or duties as members, and to pay the premiums payable in respect of such contracts.

Insurance of members against personal accident while engaged in duties.

29. The Council may in every financial year expend for purposes not authorized by any Act or law for the time being in force any sum or sums not amounting in the whole to more than one hundred pounds.

Unauthorized expenditure.

30. (1) The Council shall keep or cause to be kept full and correct accounts of all moneys received and expended by it.

Accounts and audit.

(2) The accounts of the Council shall be audited by the Audit Office, which for that purpose shall have all such powers as it has under the Public Revenues Act 1926 in respect of public moneys and the audit of local authorities' accounts.

See Reprint of Statutes, Vol. VII, p. 10

General

31. (1) The Governor-General may from time to time, by Order in Council, in accordance with recommendations made by the Central Milk Council to the Minister, make all such regulations as may in his opinion be necessary or expedient for all or any of the following purposes:—

Regulations, in accordance with recommendations of Council, for organization of town milk industry.

(a) Ensuring the efficient and economic conduct of the town milk industry in relation to the production, quality, testing, supply, collection, treatment, storage, carriage, distribution, delivery, and sale of milk:

(b) Preventing or eliminating wasteful or unnecessary expenditure in the conduct of any such activities as aforesaid:

(c) Providing for the licensing of milk producers, milk vendors, and persons engaged in the treatment of milk, and prescribing the grounds on which and the conditions subject to which licences may be granted, refused, renewed, suspended, or cancelled:

- (d) Conferring on the Central Milk Council such powers as may reasonably be necessary to enable it to exercise any of its functions under the principal Act or this Act:
- (e) Making such provision as may be necessary to give effect to sections *twenty-one* and *twenty-two* of this Act, and excluding or modifying, so far as may be necessary or expedient for the purposes of those sections, the application of any of the provisions of the principal Act to any district or area to which either of those sections applies: 5 10
- (f) Prescribing principles and rules to be observed and complied with by Milk Authorities in carrying out their duties in respect of the zoning of milk rounds: 15
- (g) Prohibiting or restricting the granting to milk producers by Milk Authorities of licences to sell milk, except with the prior consent of the Central Milk Council, and prescribing conditions subject to which milk producers may sell milk under such licences: 20
- (h) Prescribing conditions to be observed by associations of milk producers that are not for the time being approved associations under Part VII of the principal Act: 25
- (i) Regulating or restricting the leasing, bailment, or other disposition of milk rounds:
- (j) Prescribing the books, records, and accounts to be kept by persons or associations engaged in the production, supply, collection, treatment, storage, distribution, delivery, or sale of milk, and prescribing the particulars to be shown therein: 30
- (k) Prescribing standards of quality of milk that may be sold, and prescribing different standards according to the treatment to which the milk is to be subjected or according to the purpose for which it is to be used or according to any other circumstances: 35 40

- 5 (l) Prescribing standards of quality to which milk must conform or the tests which it must pass before it may be pasteurized, and prohibiting the pasteurization of milk that does not conform to the standards or pass the tests so prescribed:
- (m) Prescribing the manner in which milk is to be treated, carried, deposited, stored, distributed, or sold:
- 10 (n) Prescribing processes or methods to be followed in the treatment, carriage, deposit, storage, distribution, or sale of milk:
- (o) Prohibiting the delivery of milk except in sealed bottles or in sealed containers of a kind approved in accordance with the regulations:
- 15 (p) Prescribing conditions subject to which written or advertising matter may be placed on milk containers:
- (q) Prescribing matters in respect of which fees shall be payable, and the amounts of such fees.
- 20

(2) Any regulations under this section may apply generally throughout New Zealand or within any specified part or parts thereof or any specified milk district or districts, and may from time to time, by notice in the *Gazette*, be applied by the Minister, in accordance with the recommendations of the Central Milk Council, to any specified part of New Zealand or any specified milk district; and any such notice may at any time in like manner be revoked or varied:

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30 Provided that no regulation under paragraph (a) or paragraph (b) or paragraph (c) of subsection one of this section shall, if it purports to exercise, or to enable the Central Milk Council or any other person to exercise or perform, any function, power, or duty which a Milk Authority is authorized or required to exercise or perform under the principal Act, be made or applied in respect of any specified milk district, unless an inquiry has previously been held in respect of the district pursuant to section *nineteen* of this Act and the Council has notified the Minister that in its opinion the regulation should be so made or applied in respect of that district.

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(3) The operation of any regulations made under this section may, if it is so provided therein, be wholly suspended until they are applied by the Minister pursuant to subsection *two* of this section.

(4) Any regulation made under this section may be general or may be limited in its application to any specified class or classes of persons. 5

(5) So far as the by-laws of any Milk Authority are inconsistent with or repugnant to any regulations under this section for the time being in force in the district of that Milk Authority, the by-laws shall be deemed to be subject to the regulations. 10

(6) Nothing in this section shall be construed to limit the general power to make regulations under section one hundred and seventeen of the principal Act. The provisions of subsection two of that section (which requires regulations to be laid before Parliament) shall apply to regulations made under this section. 15

Inspections and
taking of
samples by
Council.

32. (1) Section one hundred and eight of the principal Act is hereby amended by adding the words “ and may take or purchase samples of milk from the premises or from any such measure, appliance, apparatus, utensil, or vehicle as aforesaid ”. 20

(2) The said section one hundred and eight is hereby further amended by adding the following subsections as subsections two to five thereof:— 25

“ (2) It shall be lawful for the Central Milk Council, by arrangement with any Government Department, Milk Authority, or local authority, to authorize any Inspectors or officers of that Department, Milk Authority, or local authority to exercise on behalf of the Council any of its powers under this section. Any such arrangement may include provision for the payment by the Council of any portion of the remuneration of such Inspectors or officers as aforesaid. 30 35

“ (3) Where any such Inspector or officer is authorized to exercise any powers pursuant to subsection *two* of this section, it shall be lawful for him to exercise those powers on behalf of the Council, and on so doing he shall report the results of his investigations to the Council only. 40

“ (4) Where any sample is taken under this section and any test or analysis thereof is made on behalf of the Council, the Council may, if it thinks fit,—

5 “ (a) In the case of a sample taken from milk in the possession of any milk producer, disclose the result of the test or analysis to any association of milk producers to which the producer belongs:

10 “ (b) In any case, disclose the result of the test or analysis to the Milk Authority of the district in which the milk was intended to be sold:

15 “ Provided that the Council shall not disclose any such result as aforesaid to any association of producers or any Milk Authority unless it also discloses it to the owner of the milk.

20 “ (5) Regulations may be made under this Act prescribing the procedure for the taking or purchase of samples under this section, regulating the testing or analysis of samples, and prescribing the form and effect of any certificate or other document relating to any such test or analysis.”

25 **33.** The principal Act is hereby amended by repealing section one hundred and twelve, and substituting the following section:—

30 “112. (1) In the month of June in each year, or as soon thereafter as may be practicable, the Council shall prepare a report of the operations of the Council and a proper statement of the accounts of the Council, together with a balance sheet, for the year ended the thirty-first day of March then last past.

35 “ (2) Within ten days after the completion of the audit of the accounts and balance sheet by the Audit Office, the report and the statement of accounts and balance sheet shall be sent by the Council to the Minister. A copy of the report and statement of accounts and balance sheet shall be laid before Parliament within twenty-eight days after its receipt by the Minister if Parliament is then in session, and, if not, then within
40 twenty-eight days after the commencement of the next ensuing session.”

Annual report
and statement
of accounts
of Council.

Repeals and savings.

34. (1) Sections ninety-six to one hundred and two of the principal Act are hereby repealed.

(2) All requirements, directions, notices, approvals, consents, determinations, and decisions, and generally all acts of authority made, given, or done by the Central Milk Council before the commencement of this Part of this Act, and subsisting or in force on the commencement of this Part, shall enure for the purposes of the principal Act and this Act as if they had been made, given or done by the Council under this Part, and shall accordingly, where necessary, be deemed to have been so made, given, or done. 5 10

PART II

MISCELLANEOUS

Administration of principal Act by Minister of Marketing.

35. (1) Section two of the principal Act is hereby amended by inserting in subsection one, after the definition of the expression "milk vendor", the following definition:—

“ ‘Minister’ means the Minister of Marketing:”.

1947, No. 55

(2) Section two of the Milk Amendment Act 1947 is hereby amended by omitting from subsection two, and also from subsection three, the words "Minister of Health", and substituting in each case the word "Minister". 20

1949, No. 39

(3) Section fifteen of the Finance Act 1949 is hereby amended by omitting from subsection one, and also from subsection two, the words "Minister of Health", and substituting in each case the words "Minister of Marketing". 25

Definition of "milk" extended.

1945, No. 40

36. (1) Section two of the principal Act, as amended by subsection one of section fifty-one of the Statutes Amendment Act 1945, is hereby further amended by repealing the definition of the term "milk", and substituting the following definition:—

“ ‘Milk’ means cows’ milk or goats’ milk, and includes cream; but does not include dried milk, condensed milk, or condensed cream, or milk intended for manufacture into butter, cheese, casein, dried milk, condensed milk, or condensed cream:”.

Repeal.

(2) Subsection one of section fifty-one of the Statutes Amendment Act 1945 is hereby consequentially repealed. 40

37. (1) Section twenty-one of the principal Act is hereby amended by omitting from subsection two, as amended by section nine of the Marketing Amendment Act 1948, the words "the principal Act", and substituting the words "the Marketing Act 1936".

Section 21 of principal Act (as to qualification of members of Milk Boards) amended.

1948, No. 54
1936, No. 5

(2) This section shall be deemed to have come into force on the twenty-sixth day of November, nineteen hundred and forty-eight (being the date of the passing of the Marketing Amendment Act 1948).

Commencement.

38. (1) Section twenty-two of the principal Act is hereby amended by adding to subsection one the following proviso:—

Section 22 of principal Act (as to vacation of office by members of Milk Boards) amended.

"Provided that any member to whom paragraph (d) of this subsection applies shall continue to hold office as a member of the Board until his successor comes into office in accordance with this Act."

(2) Section twenty-two of the Statutes Amendment Act 1950 is hereby repealed.

Repeal.
1950, No. 91

39. (1) The local authority of any constituent district of any milk district may from time to time, out of its general fund or account, contribute such moneys as it thinks fit towards the funds of the Milk Authority of the milk district for the purpose of assisting the Milk Authority in the exercise of its powers under the principal Act.

Powers of local authority of constituent district to contribute or advance moneys to Milk Authority.

(2) Any such local authority as aforesaid may from time to time guarantee the repayment of any moneys borrowed by the Milk Authority pursuant to the principal Act, and the payment of interest on any moneys so borrowed. Where the local authority becomes liable to make any payment under any such guarantee as aforesaid, it may make the payment out of its general fund or account or out of any moneys borrowed by it under this section.

(3) Any such local authority as aforesaid may from time to time advance moneys out of its general fund or account, or out of any moneys borrowed by it under this section, to the Milk Authority for any purpose for which the Milk Authority is authorized by the principal

Act to borrow moneys. Nothing in this subsection shall be construed to limit or affect the application of the Local Government Loans Board Act 1926 to the borrowing of such moneys by the Milk Authority.

(4) For the purpose of providing funds to enable it to make any payment for which it becomes liable pursuant to subsection *two* of this section, or to enable it to make any advance under subsection *three* of this section, or for the purpose of refunding to its general fund or account any moneys paid or advanced thereout under either of those subsections, any such local authority as aforesaid may borrow moneys by way of special loan under the Local Bodies' Loans Act 1926, by special order, without taking the steps prescribed by sections nine to thirteen of that Act.

40. (1) The local authority of any constituent district of any milk district shall have power—

(a) With the prior consent of the Central Milk Council, acting on the recommendation of the Milk Authority of the milk district, to acquire, establish, maintain, or operate a plant for the treatment of milk, and in connection therewith to carry on the business of a dealer in milk and such other operations as are reasonably incidental thereto; or

(b) To acquire and hold shares or stock in the capital of any company incorporated under the Companies Act 1933, being a company whose principal object is the treatment of milk. For the purposes of this paragraph, the principal business which the company for the time being carries on shall be deemed to be the principal object of the company, notwithstanding that it may have authority to carry on any other business.

(2) For the purposes of paragraph (a) of subsection *one* of this section, the local authority shall have the same powers as a Milk Authority has under sections fifty-nine and sixty of the principal Act (which relate to the acquisition and maintenance of land, buildings, and plant and to the borrowing of moneys), and the provisions of those sections shall, as far as they are applicable and with the necessary modifications, apply accordingly.

(3) In order to provide funds for the acquisition of shares or stock under paragraph (b) of subsection *one* of this section, or for the payment of calls on any shares

See Reprint
of Statutes,
Vol. V, p. 415

Ibid, p. 360

Powers of local
authority of
constituent
district as
to milk
treatment
stations.

1933, No. 29

held under that paragraph, the local authority shall have the same power to borrow moneys as a Milk Authority has under section sixty of the principal Act.

(4) This section is in substitution for subsections one A and one B of section five of the Milk Amendment Act 1947, as inserted by section thirty-seven of the Finance Act 1950, and the said subsections one A and one B and the said section thirty-seven are hereby accordingly repealed.

Repeals.
1947, No. 55.

1950, No. 93.

41. (1) Section fifty-nine of the principal Act is hereby amended by adding the following proviso:—

Restrictions on powers of Milk Authority as to treatment of milk.

“ Provided that no Milk Authority shall acquire any land, or acquire or construct any building, or acquire, erect, or operate any plant, machinery, or works, for the treatment of milk without the prior consent in writing of the Central Milk Council.”

(2) Section fifty-six of the principal Act is hereby amended by inserting, at the beginning of that section, the words “ Subject to the provisions of this Act ”.

(3) Section sixty-five of the principal Act is hereby amended by adding to subsection one the following proviso:—

“ Provided that no Milk Authority shall grant any licence for the treatment of milk, or for the installation or operation of any plant for the treatment of milk, or for the use of any premises for the treatment of milk, or revoke any such licence except for breach of the conditions thereof, without the prior consent in writing of the Central Milk Council.”

(4) Section sixty-seven of the principal Act is hereby amended by adding the following proviso:—

“ Provided that no Milk Authority shall acquire the business of any person engaged in the treatment of milk without the prior consent in writing of the Central Milk Council.”

42. Section fifty-seven of the principal Act is hereby amended by adding the following subsection:—

Section 57 of principal Act (as to general powers of Milk Authority) amended.

“ (3) Subject to the provisions of any regulations or by-laws made under this Act, any Milk Authority may from time to time alter and redefine the boundaries of all or any of the zones for the time being forming part of a system of zoning in its district—

“ (a) By including in the system of zoning any area in the district that has not previously been included:

“ (b) By including in any zone any part of any other zone or any area that has not previously been included in any zone:

“ (c) By excluding any area from any zone.”

Section 62 of principal Act (as to mixtures used for ice cream) amended.

43. (1) Section sixty-two of the principal Act is hereby amended as follows:— 5

(a) By inserting in subsection one, after the words “ compound containing milk ”, the words “ cream, dried milk, condensed milk, or condensed cream is made or prepared in or ”: 10

(b) By omitting from subsection two the words “ which has been brought into the district ”.

(2) The said section sixty-two is hereby further amended by adding the following subsection:—

“ (3) Notwithstanding anything in this section, the Milk Authority may, in special circumstances, grant to any person a permit in writing authorizing that person so to use any such mixture or compound as aforesaid during such period and upon and subject to such terms and conditions as may be specified in the permit. Any such permit may at any time in like manner be varied or revoked.” 15 20

Provision for temporary licences to roundsmen without compensation or appeal on revocation.

44. (1) Section sixty-five of the principal Act is hereby further amended by inserting, after subsection five, the following subsection:— 25

“ (5A) Where any portion of any district has not been included in a system of zoning as aforesaid, or has been included in a system of zoning in respect of which the Milk Authority is of opinion that it is expedient to alter the zones or any of them, the Milk Authority may, in its discretion, grant to any roundsman, for the sale or delivery of milk in that portion, a licence (hereinafter referred to as a temporary licence)— 30

“ (a) Subject to the condition that the Milk Authority may at any time revoke the licence on giving to the licensee such notice in writing as may be specified in the licence; and, if the Milk Authority thinks fit, 35

“ (b) Subject to the condition that the licensee shall pay to the Milk Authority such consideration by way of lump sum or periodical payment as it thinks fit; and any sum so payable shall be a debt owing to the Milk Authority by the licensee.” 40

(2) Section sixty-six of the principal Act is hereby amended by adding to subsection one the following proviso:—

5 “ Provided that no compensation shall be payable in respect of any revocation or suspension of or refusal to renew any temporary licence granted to a roundsman under section sixty-five of this Act.”

(3) Section seventy-one of the principal Act is hereby amended by adding to subsection seven (which relates to cases in which no appeal may be brought) the following paragraph:—

10 “ (c) Where the Milk Authority has refused to grant or renew a temporary licence, or has revoked a temporary licence by giving notice of the revocation thereof pursuant to the terms of the licence.”

15 45. The principal Act is hereby amended by inserting, after section sixty-five, the following section:—

Special provisions as to zoning of milk rounds.

20 “ 65A. (1) For the purposes of any system of zoning for the time being in force or to come into force in any milk district, the Milk Authority of the district may determine, in respect of any licence held by or to be granted to a roundsman for the sale or delivery of milk in any zone, the quantity of milk (hereinafter referred to as the specified gallonage) sold or delivered in that zone. Where two or more licences are so held or granted in respect of one zone, a specified gallonage may be determined in respect of each licence.

New

30 In determining the specified gallonage the Milk Authority shall specify separately the quantity of milk sold or to be sold by wholesale and the quantity sold or to be sold by retail.

35 “ (2) When the specified gallonage is so determined, it shall not thereafter be varied except—

“ (a) In accordance with the succeeding provisions of this section; or

“ (b) By the Court on any appeal under section seventy-one of this Act.

40 “ (3) The specified gallonage shall be endorsed on the licence and be specified in every renewal of the licence following the determination thereof.

“ (4) The specified gallonage shall be a quantity equivalent to the average number of gallons of milk a day which, in the opinion of the Milk Authority, is being sold or delivered by the roundsman in that zone at the time of the determination thereof, or, in the case of the grant of a licence for a milk round in respect of which a licence has not previously been in force, the average number of gallons of milk a day which, in the opinion of the Milk Authority, will be sold or delivered by the licensee in that round immediately after the granting of the licence. 5 10

“ (5) Where a specified gallonage is determined in respect of any licence as aforesaid, the goodwill of the milk round shall, for the purposes of any sale, lease, bailment, or other disposal thereof by the licensee or any other person entitled to dispose thereof, be based upon the specified gallonage; and any goodwill accruing in respect of the milk round by reason of the sale or delivery by the licensee of milk in excess of the specified gallonage shall be deemed to be the property of the Milk Authority. 15 20

“ (6) Nothing in this section shall be construed to prevent the sale or delivery by any licensee, pursuant to his licence, of any quantity of milk in excess of the specified gallonage, or to entitle the Milk Authority to any of the proceeds of the sale by the licensee of any milk in excess of the specified gallonage. 25

“ (7) Subject to the provisions of any regulations or by-laws under this Act, on any alteration in the boundaries of any zone or zones the Milk Authority may, in its discretion,— 30

“ (a) Increase the specified gallonage in respect of any licence for the time being in force in any zone:

“ (b) Make it a condition of the granting of any licence or any renewal of a licence to any roundsman in respect of any zone for which the specified gallonage is so increased that the licensee pay to the Milk Authority such consideration by way of lump sum or periodical payment as the Milk Authority shall determine in respect of the increase, having regard to the value of the goodwill of milk rounds of the appropriate class. 35 40

“ (8) Subject to the provisions of any regulations or by-laws under this Act, the Milk Authority may at any time, whether in conjunction with any alteration of boundaries of zones or not, make it a condition of
5 the granting of any licence or any renewal of a licence to any roundsman that the licensee pay to the Milk Authority, in respect of the whole or any part of the amount by which the quantity of milk being sold or delivered by him exceeds the specified gallonage
10 applicable to his milk round immediately before the granting or renewal of the licence, such consideration by way of lump sum or periodical payment as the Milk Authority shall determine, having regard to the value of the goodwill of milk rounds of the appropriate class;
15 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.

“ (9) Where pursuant to this section any consideration is payable to the Milk Authority by any
20 licensee, every sum so payable shall be a debt owing to the Milk Authority by the licensee.

“ (10) Subject to the provisions of any regulations or by-laws under this Act, if at any time the Milk Authority is satisfied that the quantity of milk being
25 sold or delivered by any roundsman pursuant to his licence is, owing to circumstances beyond the control of the licensee, less than the specified gallonage applicable to his milk round, the Milk Authority may, whether in conjunction with any alteration of boundaries
30 of zones or not, pay to the licensee compensation in respect of the whole or, as the case may require, any part of the deficiency; and may reduce the specified gallonage in respect of that milk round by an amount equivalent to the deficiency or part thereof in respect
35 of which compensation is so payable. The amount of the compensation shall be determined in accordance with subsections two, four, and five of section sixty-six of this Act, and the provisions of those subsections shall accordingly apply as if the compensation were claimed
40 under that section.

“ (11) Any alteration under this section in the specified gallonage in respect of any licence shall be endorsed on the licence.

“ (12) Every licensee to whom this section applies shall, for the purposes of this section, produce his licence to the Milk Authority when required so to do.

“ (13) For the purposes of this section, the Milk Authority may from time to time, by notice in writing, require any roundsman who is the holder of a licence for the sale or delivery of milk in any area or zone within the district to supply to the Milk Authority such particulars of sales or deliveries of milk made by him in that area or zone as the Milk Authority, subject to any regulations or by-laws made under this Act, may require.”

New

Appeals.

45A. Section seventy-one of the principal Act (which relates to the right of persons aggrieved by certain decisions of the Milk Authority to appeal to a Magistrate’s Court) is hereby amended by omitting from subsection one the words “ or in attaching any condition to the licence of a roundsman restricting his operations ”, and substituting the words “ or in attaching any condition to the licence of any person restricting his operations, or in determining or varying the specified gallonage of milk in respect of any licence, or in attaching any condition to the licence of a roundsman under section sixty-five A of this Act ”.

Struck out

Appeals.

(2) Section seventy-one of the principal Act (which relates to the right of persons aggrieved by certain decisions of a Milk Authority to appeal to a Magistrate’s Court) is hereby amended by inserting in subsection one, after the word “ operations ”, the words “ or in determining or varying the specified gallonage of milk in respect of any licence, or in attaching any condition to the licence of a roundsman under section sixty-five A of this Act ”.

Section 68 of principal Act (as to restriction of right to sell milk round) amended.

46. (1) Section sixty-eight of the principal Act is hereby amended by omitting from subsection one the words “ The offer shall remain open for fourteen days from the date upon which it is made ”, and substituting the words “ The offer shall remain open until the expiration of a period of fourteen days from the date of the meeting of the Milk Authority next following the date on which the offer is made, or until the expiration of a period of six weeks from the date on which the offer is made, whichever period first expires ”.

New

(2) The said section sixty-eight is hereby further amended by adding to subsection one the following words: "Where an offer under this subsection is declined or is deemed to have been declined by the Milk Authority, the provisions of this subsection shall apply to any subsequent sale, or any subsequent contract, agreement, or undertaking, entered into by the roundsman or person entitled to dispose of the goodwill, unless the Milk Authority has, within three months previous thereto, declined an offer made to it pursuant to this subsection.

(3) The said section sixty-eight is hereby further amended by inserting, after subsection one, the following subsection:—

"(1A) The offer referred to in subsection one of this section shall not include or be deemed to include any real property."

47. (1) It shall be the duty of every roundsman or other person entitled to dispose of a milk round who enters into or proposes to enter into any contract with any other person (in this section referred to as the purchaser) for the sale, leasing, bailment, or other disposition of the milk round or the goodwill thereof to disclose to the purchaser, before entering into the contract, full particulars of any special allowance, concession, or subsidy which is being received by him in respect of the milk round pursuant to any scheme fixing prices, margins, or rates of allowances under section six of the Marketing Amendment Act 1937 or pursuant to any Order in Council under this Act, and to which the purchaser is not or may not be entitled if the milk round is so disposed of.

Duty of person disposing of milk round to disclose particulars of special allowances.

(2) If on the making of any such contract as aforesaid the provisions of this section are not complied with, the contract shall be voidable at the instance of the purchaser.

(3) Nothing in this section shall be construed to limit or affect any other right or remedy to which the purchaser may be entitled in respect of the contract under any enactment or rule of law.

48. Notwithstanding anything in section seventy-four of the principal Act, no levy shall be imposed under that section at any time while any moneys are payable by way of subsidy out of the Consolidated Fund in respect of the town milk industry, except with the prior consent in writing of the Central Milk Council:

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Restriction on power of Milk Authority to impose levy on milk.

Provided that nothing in this section shall be construed to affect the collection of moneys payable under any levy lawfully imposed by any Milk Authority under the said section seventy-four before the passing of this Act.

Levy under section 74 of principal Act not to apply to school milk.

49. Section seventy-four of the principal Act is hereby amended by adding to subsection one the following proviso:—

“ Provided that no levy under this section shall apply to any milk supplied for consumption in any school, kindergarten, day nursery, or other similar institution pursuant to any contract between the Crown and the person so supplying that milk.”

Section 85 of principal Act (as to offences) amended.

50. Section eighty-five of the principal Act is hereby amended by adding to paragraph (b) the words “or under any such regulation as aforesaid ”.

Section 92 of principal Act (as to regulations relating to approval of Supply Associations) amended.

51. Section ninety-two of the principal Act is hereby amended by inserting in subsection eight, after the words “ under this Act ”, the words “ in accordance with recommendations made by the Central Milk Council to the Minister ”.

Approval of producers' associations and supply associations for areas outside milk districts.

52. The principal Act is hereby further amended by inserting, after section ninety-two, the following section:—

“ 92A. (1) The Central Milk Council may for the purposes of this Act approve in respect of any specified area that is not for the time being included in any milk district any association of milk producers which conforms to the requirements of section ninety-two of this Act, as applied by this section, and to the requirements of any regulations made for the purposes thereof, as an association of producers which is entitled to supply milk for use or consumption in that area.

“ (2) The provisions of subsections two to eight of section ninety-two of this Act shall, as far as they are applicable and with the necessary modifications, apply for the purposes of this section as if references therein to any district were references to a specified area under this section.

“ (3) Where any Order in Council is issued approving any association or committee for the purposes of this section, the area to which the approval relates shall be defined in the Order in Council.

“ (4) The Governor-General may from time to time, by Order in Council, in accordance with recommendations made by the Central Milk Council to the Minister, alter and redefine the boundaries of any area to which this section applies, by the inclusion of any area therein or the exclusion of any area therefrom.”

53. The principal Act is hereby amended by repealing section ninety-three, and substituting the following section:—

Effect of approval of Supply Association.

“ 93. In any case where there is an approved Supply Association in respect of any milk district, or any area outside any milk district, no person shall bring any milk into the district, or, as the case may be, into the area, for sale within the district or area, or sell any milk within the district or area, except such milk as may be supplied by or through an approved association of milk producers:

“ Provided that—

“ (a) If in the case of a milk district the Milk Authority is satisfied that the approved Supply Association cannot supply sufficient milk to meet the requirements within the district, the Milk Authority may, with the consent of the Central Milk Council or of the Director, bring or authorize to be brought into the district, or authorize to be sold therein, sufficient other milk to meet the deficiency:

“ (b) If in the case of an area outside a milk district the Central Milk Council or the Director is satisfied that the approved Supply Association cannot supply sufficient milk to meet the requirements within the area, the Council or, as the case may be, the Director may, subject to the provisions of any regulations under this Act, authorize to be brought into the area, or to be sold therein, sufficient other milk to meet the deficiency.”

54. Section ninety-four of the principal Act is hereby amended by inserting at the beginning of subsection one the words “ **[Subject to the provisions of] Except as provided by** any regulations under this Act ”.

Section 94 of principal Act (as to position of producer-vendor) amended.