

1968/147



THE MILK MARKETING ORDER 1968

ARTHUR PORRITT, Governor-General
ORDER IN COUNCIL

At the Government Buildings at Wellington this 19th day of August 1968

Present:

THE RIGHT HON. KEITH HOLYOAKE, C.H., PRESIDING IN COUNCIL

PURSUANT to the Milk Act 1967, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following order.

ANALYSIS

| | |
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ORDER

1. Title and commencement—(1) This order may be cited as the Milk Marketing Order 1968.

(2) This order shall come into force on the 1st day of September 1968.

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

“The Act” means the Milk Act 1967:

“Approved association” means any association of milk producers approved by the Board pursuant to section 53 (1) of the Act:

“Board” means the New Zealand Milk Board:

“Commercial user” means any person who buys milk for sale for consumption on premises occupied by him (whether in the form in which it is received by him or otherwise and whether separately or in combination with any other substance):

“Consumer” means any person who buys milk for any purpose other than resale:

“Margin or allowance” means any price, margin or allowance fixed, approved, authorised, otherwise determined or varied, and includes any special price or allowance fixed, approved, authorised, otherwise determined or varied pursuant to section 25 of the Act:

“Milk” has the same meaning as in the Act, but does not include cream or goat’s milk:

“Milk district” means a milk district constituted and declared under the Act:

“Minister” means the Minister of Agriculture:

“Producer vendor” means any milk producer who produces and sells milk with the written authority of the Board:

“Shop dairy” means any shop where milk is sold for consumption or use off the premises and where the milk so sold is sold in the form in which it was received into the shop:

“Town milk producer price” means the price for the time being fixed by the Minister in that behalf after consultation with the Board by a notice published pursuant to section 25 (2) of the Act:

“Treatment station” means any plant or premises for the treatment of milk operated pursuant to the Act:

“Vendor” means a milk vendor as defined in the Act; but does not include—

- (a) an operator of a treatment station; or
- (b) an approved association.

3. Application of order—(1) This order applies to all milk sold for human consumption in any milk district after the coming into force of this order.

(2) No person shall be entitled to any payment for the purpose of ensuring the receipt of margins or allowances in respect of milk to which this order applies unless—

- (a) The service in respect of which the margin or allowance is claimed has been carried out so as to comply with any Act, regulation, or other requirement of law, or any requirement of any person or body authorised by Act, regulation, or law to impose the requirement; and
- (b) Prior authority has been obtained from the Board to the carrying out of the service; and
- (c) The Board is satisfied that the service has been performed; and
- (d) The Board is satisfied that the person has performed and observed all the terms and conditions of any current consent or approval granted by the Board.

4. Claims for margins or allowances—(1) Where any vendor has resold any milk and has performed any services in respect of such milk for which any margins or allowances are fixed or approved by the Milk Prices Authority or by the Board, such vendor shall be entitled to claim payment in accordance with this clause of an amount to ensure to him any such margin or allowance to which he may be entitled.

(2) Any claim under this clause shall be made in a form approved by the Board and shall reach it not later than the eighth day of the month next following that in which the said services are claimed to have been performed.

(3) If it appears that the services have been performed and the claim is otherwise in order, the Board may allow the claim and pay to the claimant the amount of his claim:

Provided that where an approved association or the operator of a treatment station has agreed in respect of any periods during which this order is in operation to act as the Board's agent for payment of claims made under this clause, any claim allowed by the Board may be paid to the claimant by any such agent:

Provided also that the allowance and payment of any claim as aforesaid shall not debar the Board from reopening that claim if the Board has reason to believe that the claim was incorrect in any particular, and the Board may recover from the claimant, as a debt due to the Board, any amount received by the claimant in excess of that to which he was entitled under this order.

Provided further that for the purpose of computing the amount of any deficiency or excess to be paid by or to the Board under the provisions of this clause, the total amounts paid or payable shall be calculated on the basis that all relevant sales of milk to which the order applies have been effected at the maximum permissible prices in each instance.

5. Records showing sales of milk—(1) For each calendar month every approved association, and the operator of every treatment station, and every milk producer in respect of sales by him to a vendor, shall keep records showing in respect of milk to which this order applies—

- (a) The total quantity sold during the month to commercial users, consumers, and occupiers of shop dairies, and the total amount paid or payable in respect of any such sales;
- (b) The total quantity sold during the month to all vendors;
- (c) The total amounts, computed in accordance with clause 4 hereof, paid or payable in respect of any such milk to and by vendors; and
- (d) Any other particulars that the Board may require.

(2) A copy of the said record or any extract or extracts therefrom, or any particulars in relation to this order, shall be supplied by the approved association, operator of a treatment station, or milk producer to the Board as and when it may require.

(3) The Board may require any such copy, extract, statement, or particulars to be certified as correct by the Secretary or other responsible officer of the approved association or treatment station or by the milk producer.

(4) For each calendar month every vendor and producer vendor shall keep records showing in respect of milk to which this order applies—

- (a) Daily totals of milk sold or resold, whether such milk has been paid for by cash or by presentation of tokens or coupons;
- (b) Detailed records showing the daily totals of credit sales to each commercial user or consumer or occupier of a shop dairy; and
- (c) Detailed records showing the daily totals of all sales to each commercial user or consumer in quantities of 2 gallons or over per delivery and the daily totals of all sales to occupiers of each shop dairy for resale and showing the names and addresses of the commercial users or consumers or occupiers of shop dairies to whom milk has been sold or resold.

6. Payments—(1) If in any month the total amount paid or payable by vendors, occupiers of shop dairies, commercial users, or consumers to an approved association in respect of milk to which this order applies is not equal to the town milk producer price for the time being increased by—

- (a) The appropriate margins or allowances in respect of the services performed by the approved association; and
- (b) All such amounts as may have been paid by the approved association to vendors pursuant to clause 4 hereof—

the amount of the deficiency shall be paid to the approved association by the Board.

(2) If in any month the total amount paid or payable by vendors, occupiers of shop dairies, commercial users, or consumers to an approved association in respect of milk to which this order applies exceeds the town milk producer price increased as provided by subclause (1) hereof, the amount of the excess shall be paid by the approved association to the Board.

(3) If in any month the total amount paid or payable by vendors, occupiers of shop dairies, commercial users, or consumers to the operator of a treatment station in respect of milk to which this order applies is not equal to the town milk producer price for the time being increased by—

- (a) The appropriate margins or allowances in respect of any approved association supplying milk to the operator of the treatment station;
- (b) The appropriate margins or allowances in respect of services performed by the operator of the treatment station; and
- (c) All such amounts as may have been paid by the operator of the treatment station to vendors pursuant to clause 4 hereof—

the amount of the deficiency shall be paid to the operator of the treatment station by the Board.

(4) If in any month the total amount paid or payable by vendors, occupiers of shop dairies, commercial users, or consumers to the operator of a treatment station in respect of milk to which this order applies exceeds the town milk producer price increased as provided by subclause (3) hereof, the amount of the excess shall be paid by the operator of the treatment station to the Board.

(5) If in any month the total amount paid or payable by the occupiers of shop dairies, commercial users, or consumers to a producer vendor in respect of milk to which this order applies is not equal to the town milk producer price for the time being increased by the appropriate margins or allowances in respect of services performed by the producer vendor, the amount of the deficiency shall be paid to the producer vendor by the Board.

(6) If in any month the total amount paid or payable by occupiers of shop dairies, commercial users, or consumers to a producer vendor in respect of milk to which this order applies exceeds the town milk producer price increased as provided by subclause (5) hereof, the amount of the excess shall be paid by the producer vendor to the Board.

(7) If in any month the total amount paid or payable by vendors to a milk producer in respect of milk to which this order applies is not equal to the town milk producer price for the time being increased by the appropriate margins or allowances in respect of services performed by the milk producer, the amount of the deficiency shall be paid to the milk producer by the Board.

(8) If in any month the total amount paid or payable by vendors to a milk producer in respect of milk to which this order applies exceeds the town milk producer price for the time being increased as provided by subclause (7) hereof, the amount of the excess shall be paid by the milk producer to the Board.

(9) For the purpose of computing the amount of any deficiency or excess to be paid by or to the Board under the provisions of this clause, the total amounts paid or payable shall be calculated on the basis that all relevant sales of milk to which the order applies have been effected at the maximum permissible prices in each instance.

7. Revocations—The orders specified in the Schedule to this order are hereby revoked.

SCHEDULE

Clause 7

ORDERS REVOKED

| Title | Reference |
|--|-----------|
| The Milk Marketing Order 1962 | 1962/153 |
| The Milk Marketing Order 1962, Amendment No. 1 | 1963/115 |
| The Milk Marketing Order 1962, Amendment No. 2 | 1963/154 |
| The Milk Marketing Order 1962, Amendment No. 3 | 1964/123 |
| The Milk Marketing Order 1962, Amendment No. 4 | 1965/148 |
| The Milk Marketing Order 1962, Amendment No. 5 | 1966/148 |
| The Milk Marketing Order 1962, Amendment No. 6 | 1967/190 |
| The Milk Marketing Order 1962, Amendment No. 7 | 1967/215 |
| The Milk Marketing Order 1962, Amendment No. 8 | 1968/5 |
| The Milk Price Order 1967 | 1967/114 |
| The Cream Price Order 1967 | 1967/108 |

P. J. BROOKS,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the order, but is intended to indicate its general effect.

Clause 2 defines terms which with minor modifications follow the interpretation given by clause 2 of the Milk Marketing Order 1962. The definition of "accommodation milk" has been deleted. The definition of "margins and allowances" has been added.

Clause 3 (2) (d) is new and requires the Board to be satisfied that all terms and conditions of any current consent or approval granted by the Board to any person have been performed or observed before any payment under this clause is made to him.

Clause 4 entitles a vendor who has resold any milk and performed services in respect of that milk for which margins or allowances are fixed or approved, to claim an amount to ensure to him any such margin or allowance to which he may be entitled, and provides a procedure for making such a claim.

Clause 5 requires records to be kept by approved associations, treatment stations, milk producers, vendors, and producer-vendors showing sales of milk made by them.

Clause 6 re-enacts provisions ensuring that persons entitled to margins or allowances receive payment from the Board, and correspondingly in other cases, that the Board receives payment for the purpose of ensuring that such persons do not receive more than they are entitled.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 22 August 1968.

This order is administered in the Department of Agriculture.