

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

No. , 1976.

A BILL

To amend the Dairy Industry Authority Act, 1970, in relation to milk quotas and interstate milk; to reconstitute the Dairy Industry Prices Tribunal and appoint a Special Officer to investigate complaints by dairymen, and for certain other purposes.

[MR DAY—18 November, 1976.]

BE

Dairy Industry Authority (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Dairy Industry Short title. Authority (Amendment) Act, 1976".

2. (1) This section and sections 1, 3 and 4 shall Commence-
commence on the date of assent to this Act. ment.

10 (2) Section 5 shall, in its application to a provision of Schedules 1-6, commence on the day on which that provision commences.

(3) The several provisions of Schedules 1-6 shall commence on such day or days as may be appointed by the 15 Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(4) Section 6 shall commence on the day on which Schedule 5 commences.

3. The Dairy Industry Authority Act, 1970, is referred Principal
20 to in this Act as the Principal Act. Act.

4. This Act contains the following Schedules :— Schedules.

SCHEDULE 1.—AMENDMENTS TO PART I OF THE
PRINCIPAL ACT.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 2.—AMENDMENTS TO PART III OF THE PRINCIPAL ACT.

SCHEDULE 3.—REPEAL OF PART IV OF THE PRINCIPAL ACT.

5 SCHEDULE 4.—INSERTION OF PART IVA INTO THE PRINCIPAL ACT.

SCHEDULE 5.—AMENDMENTS TO PART V OF THE PRINCIPAL ACT.

10 SCHEDULE 6.—AMENDMENTS TO PART IX OF THE PRINCIPAL ACT.

5. The Principal Act is amended in the manner set forth in Schedules 1-6. Amendment of Act No. 29, 1970.

6. (1) Any person holding office as a member, or as the deputy of a member, of the Dairy Industry Prices Tribunal constituted under Part V of the Principal Act immediately before the commencement of Schedule 5 shall cease to hold that office on that commencement. Members of Dairy Industry Prices Tribunal—cessation of office.

(2) The termination of a person's term of office under subsection (1) shall not be an expiration of that person's term of office for the purposes of section 42 (5) of the Principal Act, as amended by this Act.

Dairy Industry Authority (Amendment).

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO PART I OF THE PRINCIPAL ACT.

(1) (a) Section 2—

5 From the matter relating to Part III, Division 3,
omit "33, 34", insert instead "33-34A".

(b) Section 2—

Omit the matter relating to Part IV.

(c) Section 2—

Before the matter relating to Part V, insert :—

10 PART IVA.—INVESTIGATION OF COMPLAINTS
BY DAIRYMEN—ss. 41A-41G.

(2) Section 4 (1), definition of "treatment"—

After "testing", insert ", analysing".

SCHEDULE 2.

Sec. 5.

15 AMENDMENTS TO PART III OF THE PRINCIPAL ACT.

(1) (a) Section 18 (1) (d)—

Omit "prepare a scheme", insert instead "prepare
and implement a scheme or schemes".

(b) Section 18 (1) (d)—

20 Omit "vary any scheme prepared", insert instead
"vary, replace or cancel any scheme prepared or
implemented".

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—
continued.

(c) Section 18 (1) (d)—

5 Omit “and, for the purposes of any such scheme,
allocate quotas to any person producing milk
for delivery to the Authority”.

(d) Section 18 (1) (h1)—

After section 18 (1) (h), insert :—

10 (h1) where an examination, a test or an
analysis carried out on milk in the
possession of any person indicates that
that milk is deleterious to health, un-
wholesome or impure, by notice in
15 writing served on that person, direct that
person—

(i) not to supply any milk for con-
sumption or use until such time
as the Authority, in the like
20 manner, withdraws that direction;
and

(ii) to deal with or dispose of milk
that would, but for that notice,
have been so supplied in such
25 manner as may be specified in
the notice;

(e) Section 18 (1A)—

After section 18 (1), insert :—

30 (1A) The Authority may exercise any of its
powers under subsection (1) (h), (h1) and (1),
whether the matter or thing in respect of which
the power is exercised is or is not in or of New
South Wales.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—
continued.

(f) Section 18 (2)—

5 After “(h)”, insert “, (h1)”.

(g) Section 18 (4)—

After section 18 (3), insert :—

10 (4) No proceedings, whether at law or in equity, shall be taken, and no issue shall be raised, against the Authority in any court in any circumstances in relation to anything done, or anything omitted to be done, by the Authority pursuant to—

15 (a) subsection (1) (d) or any scheme prepared under subsection (1) (d), whether that thing was done or omitted to be done before or after the date of commencement of Schedule 2 (1) (c) to the Dairy Industry Authority (Amendment) Act, 1976; or

20 (b) Part IV, as in force before the date of commencement of Schedule 3 to the Dairy Industry Authority (Amendment) Act, 1976.

25 (2) Section 18A—

After section 18, insert :—

18A. (1) In this section—

“officer” means—

(a) an officer of the Authority; or

Inspection
of vehicles.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—
continued.

5 (b) any person authorised by the Health
Commission of New South Wales
constituted under the Health Com-
mission Act, 1972, to act as an
officer for the purposes of the Pure
Food Act, 1908,

10 authorised by the Authority to be an officer
for the purposes of this section ;

“place” includes road, whether public or
otherwise.

15 (2) An officer may, at any place, display a
traffic sign of a type prescribed in such a manner as to
be clearly visible to the driver or person in charge of
a vehicle approaching that place.

20 (3) The driver or person in charge of a
vehicle approaching towards a sign referred to in
subsection (2) shall stop or cause the vehicle to be
stopped within a reasonable distance of the sign and
keep the vehicle stationary for the purposes of
enabling an officer to exercise the powers conferred
upon him by or under this or any other Act.

25 (4) An officer may, upon production of the
prescribed evidence of his authority, if demanded—

30 (a) inspect any vehicle, any milk in or on any
vehicle and examine any books, documents,
papers, scales, measures, appliances, appa-
ratus, containers or utensils, referring to or
used in connection with milk in or on any
vehicle ;

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—
continued.

- 5 (b) take, without payment, samples of any milk in or on any vehicle;
- (c) take notes, copies or extracts of or from any books, documents or papers referred to in paragraph (a); and
- 10 (d) open any part of any vehicle or anything in or on any vehicle or require the driver or person in charge of any vehicle to open any part of it or anything in or on it for the purposes of paragraph (a), (b) or (c).
- (5) Any person who—
- 15 (a) being the driver or person in charge of any vehicle fails to comply with or observe the requirements of subsection (3); or
- 20 (b) refuses or wilfully neglects to submit any vehicle, any part of a vehicle or anything in or on a vehicle to inspection by an officer in pursuance of this section, or who, being the driver or person in charge of a vehicle refuses or wilfully neglects to open any part of it or anything in or on it,
- 25 is guilty of an offence against this Act.

(6) In this section, "milk" includes milk that is not New South Wales milk.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—
continued.

(3) Section 19 (2)—

5 At the end of section 19, insert :—

- 10** (2) The Authority may exercise any of its powers under subsection (1) (other than the acquisition of undertakings in accordance with Division 2 of Part VI), whether the matter or thing in respect of which the power is exercised is or is not in or of New South Wales.

(4) (a) Section 33 (6) (b)—

Omit “and”.

(b) Section 33 (6) (c), (d), (e)—

15 Omit section 33 (6) (c), insert instead :—

- 20** (c) conditions requiring the holder of the certificate to subject milk treated, deposited, stored, distributed, supplied or sold by him to such treatment as is specified in the certificate;

- 25** (d) conditions requiring the holder of the certificate to permit the Authority or an officer within the meaning of section 18A to exercise, in relation to that holder's activities as a dairyman or milk vendor, any of the powers that the Authority or such an officer may exercise under section 18 (1) (b), 18 (1) (c) or 18A (4); and

- 30** (e) such other conditions as the Authority deems necessary for the purpose of carrying out or giving effect to any of the provisions of this Act.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—
continued.

(5) (a) Section 34 (1) (a)—

5 Omit the paragraph, insert instead :—

- 10 (a) if he has been convicted of two or more offences against any laws of any State or Territory of the Commonwealth, or of the Commonwealth, in relation to the production, treatment, storage, distribution, supply or sale of milk;

(b) Section 34 (1A)—

After section 34 (1), insert :—

- 15 (1A) The Authority may cancel the certificate of registration issued to any person if that person fails to comply with any condition to which that certificate is subject.

(6) Section 34A—

Before the heading to Division 4 of Part III, insert :—

20 34A. (1) A person carrying on the activity or a person who proposes to carry on the activity of— ^{Interstate milk vendors.}

- (a) pasteurising, sterilising or otherwise treating milk; or
25 (b) depositing, storing, distributing, supplying or selling milk,

Dairy Industry Authority (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—
continued.

5 for distribution, supply or sale in New South Wales
in the course of trade, commerce or intercourse among
the States (whether that distribution, supply or
sale is by himself or by another person) may,
notwithstanding that that activity—

10 (c) is, or is to be, carried on outside New South
Wales; or

(d) is, or is to be, carried on in respect of milk
that is not New South Wales milk,

apply in the manner provided by section 33 (3) for
a certificate of registration.

15 (2) The Authority may determine an appli-
cation authorised by subsection (1) in respect of an
activity in the like manner as it may determine an
application made by a person carrying on or proposing
20 to carry on the same activity in New South Wales or
in respect of New South Wales milk, as the case may
be.

(3) In respect of an application referred to
in subsection (1), and a certificate of registration
issued as a result of such an application, section 34
25 shall be read as if—

(a) the words “in the opinion of the Authority”,
wherever occurring, were omitted from
subsection (1);

30 (b) the words “either of the grounds specified
in paragraph (a) or (b) of” were omitted
from subsection (2) and the words “the
ground specified in subsection (1A) or any
of the grounds specified in” were inserted
instead; and

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—
continued.

5 (c) subsections (3), (4) and (5) were omitted
and the following subsections were inserted
instead :—

(3) A person dissatisfied with the
Authority's decision—

10 (a) to issue him with a certificate of
registration as a milk vendor that
authorises him to carry on only
such activities as a milk vendor
as are specified in the certificate ;

15 (b) to issue him with a certificate of
registration as a milk vendor
subject to conditions ; or

20 (c) to vary the conditions to which
his certificate of registration as a
milk vendor is subject or to
impose conditions or additional
conditions to which that certificate
is to be subject,

and a person—

25 (d) notified pursuant to subsection
(2) ; or

30 (e) whose application for a certificate
of registration as a milk vendor
has been refused upon any of the
grounds specified in subsection
(1),

Dairy Industry Authority (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—
continued.

5 may in the manner, and within a time
 prescribed, appeal against the decision, or
 the cancellation or refusal, to a court of
 petty sessions held before a stipendiary
 magistrate.

10 (4) Subject to subsection (5), a court
 of petty sessions to which an appeal is made
 under this section shall hear and determine
 the appeal.

15 (5) An appeal against a decision of a
 court of petty sessions under this section
 may be made to the Supreme Court.

 (6) A court shall not allow an appeal
 made under this section if—

20 (a) in the case of an appeal against
 a decision referred to in subsection
 (3) (a), (b) or (c), it was
 reasonably necessary in the
 interest of public health for that
 decision to be made; or

25 (b) in the case of an appeal against
 the cancellation or refusal of a
 certificate of registration, that
 cancellation or refusal was
 reasonably necessary in the
 interest of public health.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—
continued.

(7) (a) Section 35 (1)—

5 Omit “As on and from a day to be appointed by
the Governor and notified by proclamation pub-
lished in the Gazette (being a day after the day
appointed and notified under subsection two of
10 section one of this Act), any”, insert instead
“Any”.

(b) Section 35 (1) (a)—

Omit “within the meaning of the Pure Food Act,
1908, and the regulations made under that Act”,
insert instead “or sterilised”.

15 (c) Section 35 (1A), (1B)—

After section 35 (1), insert :—

20 (1A) As on and from a day to be appointed
by the Governor and notified by proclamation
published in the Gazette (being a day not earlier
than the date of publication of the proclamation
in the Gazette), any person who sells, otherwise
than to a milk vendor or to a dairy produce
factory within the meaning of the Dairy Industry
25 Act, 1915, milk that has not been pasteurised or
sterilised by the holder of a certificate of registra-
tion under this Part that authorises that holder
to carry on the activity of pasteurising or sterilis-
ing, as the case may be, milk, is guilty of an
offence against this Act.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—
continued.

5 (1B) As on and from a day to be appointed
by the Governor and notified by proclamation
published in the Gazette (being a day not earlier
than the date of publication of the proclamation
in the Gazette), any person who sells, otherwise
10 than to a milk vendor or to a dairy produce fac-
tory within the meaning of the Dairy Industry
Act, 1915, packaged or bottled milk that has not
been packaged or bottled, as the case may be, by
the holder of a certificate of registration under
15 this Part that authorises that holder to carry on
the activity of packaging or bottling, as the case
may be, milk, is guilty of an offence against this
Act.

(d) Section 35 (3)—

After section 35 (2), insert :—

20 (3) In this section, "milk" includes milk that
is not New South Wales milk.

SCHEDULE 3.

Sec. 5.

REPEAL OF PART IV OF THE PRINCIPAL ACT.

Part IV—

25 Omit the Part.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 4.

Sec. 5.

INSERTION OF PART IVA INTO THE PRINCIPAL ACT.

Part IVA—

Before Part V, insert :—

5

PART IVA.

INVESTIGATION OF COMPLAINTS BY DAIRYMEN.

41A. In this Part, except in so far as the context or subject-matter otherwise indicates or requires—

Interpretation:
Pt. IVA.

10

“conduct” means—

- (a) any conduct; or
- (b) any conduct of a class, from time to time prescribed;

“investigation” means investigation by the Special Officer;—

15

“Special Officer” means the Special Officer referred to in section 41B.

20

41B. (1) There shall be a Special Officer who shall have and may exercise and discharge the powers, authorities, duties and functions conferred or imposed upon him by or under this Part.

Special Officer.

25

(2) The Special Officer shall be the person who is the Director-General of the Department of Agriculture for the purposes of the Public Service Act, 1902, or an officer of the Department of Agriculture from time to time nominated by him.

(3) The Special Officer shall not, as the Special Officer, be subject to the Public Service Act, 1902.

Dairy Industry Authority (Amendment).

SCHEDULE 4—*continued.*INSERTION OF PART IV_A INTO THE PRINCIPAL ACT—
continued.

- 5 41C. (1) Subject to this section, any dairyman may Complaint.
complain to the Minister about the conduct of the
Authority in so far as that conduct affects that dairyman.
- (2) A complaint under this section shall be in
writing and shall provide details of the conduct com-
10 plained of, the remedy or relief sought and the reasons
why the remedy or relief should be granted or provided.
- 41D. (1) Where any dairyman has complained to the Action on
Minister pursuant to this Part, the Minister may make complaint.
that complaint the subject of an investigation.
- (2) Where the Minister refuses to make a com-
15 plaint the subject of an investigation, he shall inform the
complainant in writing of the decision and the reasons
for the decision.
- (3) Where a complaint is made the subject of
20 an investigation, the Minister shall give notice in writing
of his decision—
- (a) to the complainant;
 - (b) to the Special Officer; and
 - (c) to the Authority.
- (4) A notice under subsection (3) (b) or (c)
25 shall contain a copy of the complaint.
- (5) The Minister may, before deciding whether
to make any conduct complained of the subject of an
investigation, seek such information as he may require
from the Authority or the complainant.

Dairy Industry Authority (Amendment).

SCHEDULE 4—*continued.*

INSERTION OF PART IVA INTO THE PRINCIPAL ACT—
continued.

5 41E. (1) Where the Special Officer receives a notice referred to in section 41D (3) concerning a complaint he shall carry out an investigation of the conduct the subject of the complaint.

(2) An investigation shall be made in the absence of the public.

10 (3) For the purposes of an investigation, the Special Officer may require the Authority—

- (a) to give him a statement of information;
- (b) to produce to him any document or other thing;
- 15 (c) to give him a copy of any document; and
- (d) to answer any question.

20 (4) A requirement under subsection (3) shall be in writing and shall specify or describe the information, document or thing required, or the question to be answered, and shall fix a time for compliance.

(5) The Authority shall comply with a requirement of the Special Officer pursuant to subsection (3) unless the Minister, of his own motion or at the request of the Authority, sets aside that requirement.

25 (6) This Part does not enable the Special Officer to require the Authority—

- (a) to give any statement of information;
- (b) to produce any document or other thing;
- (c) to give a copy of any document; or

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 4—*continued.*

INSERTION OF PART IV_A INTO THE PRINCIPAL ACT—
continued.

- (d) to answer any question,
- 5 which relates to conduct of business at meetings of the Authority or proceedings of cabinet or any committee of cabinet.
- (7) In an investigation, the Special Officer shall, if requested by the Minister, consult him on the
- 10 conduct the subject of the investigation.
- 41F. Where, in an investigation, the Special Officer considers that there are grounds for adverse comment in respect of the Authority, or any member, officer or employee of the Authority, the Special Officer, before
- 15 making any such comment in any report or recommendation to the Minister, shall, so far as is practicable—
- (a) inform the Authority or that person of the substance of the grounds for adverse comment; and
- 20 (b) give the Authority or that person an opportunity to make submissions.
- 41G. (1) After an investigation under this Part the Special Officer shall make a recommendation to the Minister.
- 25 (2) Subject to the provisions of this Act, the Minister, after considering a recommendation of the Special Officer, may decide to take such action or direct that such action be taken as he thinks fit in respect of that recommendation.

Persons to be heard.

Action following investigation.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 4—*continued.*

INSERTION OF PART IV^A INTO THE PRINCIPAL ACT—
continued.

5 (3) Where the Minister has decided to take action or direct that action be taken that is inconsistent with the conduct the subject of a complaint, he shall notify the Authority of the grounds upon which he proposes to take, or direct the taking of, that action.

10 (4) The Authority, when notified pursuant to subsection (3) in respect of a complaint, may make submissions to the Minister.

(5) The Minister may vary a decision referred to in subsection (3) after considering any submissions made by the Authority in respect of that decision.

15 (6) Except as provided in subsection (7), the Minister shall advise a complainant in writing of his decision under subsection (2) and give effect to that decision.

20 (7) Where the Minister's decision is a decision referred to in subsection (3), he shall, after consideration of any submissions made by the Authority—

(a) advise the complainant in writing of that decision, or of that decision as varied pursuant to subsection (5); and

25 (b) give effect to that decision, or that decision as so varied.

Dairy Industry Authority (Amendment).

SCHEDULE 5.

Sec. 5.

AMENDMENTS TO PART V OF THE PRINCIPAL ACT.

(1) (a) Section 42 (2), (3)—

Omit the subsections, insert instead :—

5

(2) After the commencement of Schedule 5 to the Dairy Industry Authority (Amendment) Act, 1976, the Tribunal shall consist of 3 members appointed by the Minister, of whom—

10

- (a) one shall be appointed as the Chairman of the Tribunal;
- (b) one shall be appointed to represent the Authority; and
- (c) one shall be appointed to represent consumers of milk.

15

(3) A member, officer or employee of the Authority shall not be appointed as a member of the Tribunal pursuant to subsection (2) (c), or as the deputy of a member of the Tribunal appointed pursuant to subsection (2) (c).

20

(b) Section 42 (4)—

Omit “an appointed”, insert instead “a”.

(c) Section 42 (5)—

Omit “an appointed”, insert instead “a”.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—
continued.

(d) Section 42 (6), (7), (7A)—

5 Omit the subsections, insert instead :—

(6) Where a vacancy occurs in the office of
a member of the Tribunal, otherwise than by
reason of the expiration of that member's term
of office, that term of office shall be deemed to
10 have expired.

(7) A person who is of or above the age of 70
years shall not be appointed as a member of the
Tribunal.

(e) Section 42 (9)—

15 Omit the subsection.

(f) Section 42 (10)—

Omit the subsection, insert instead :—

(10) Each member of the Tribunal shall
receive such fees for attending meetings of the
Tribunal and such allowances as the Minister
may from time to time determine in respect of
20 him.

(g) Section 42 (11)—

Omit "An appointed", insert instead "A".

25 (h) Section 42 (11) (d)—

Omit the paragraph.

(i) Section 42 (11) (f), (f1)—

Omit the paragraphs, insert instead :—

(f) if he attains the age of 70 years; or

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—
continued.

- (j) Section 42 (12)—
5 Omit “appointed”.
- (k) Section 42 (13)—
Omit “an appointed”, insert instead “a”.
- (2) (a) Section 46 (3) (b)—
Omit “and”.
- 10 (b) Section 46 (3) (c), (d)—
Omit section 46 (3) (c), insert instead :—
(c) shall, if the Minister so directs, hold in
the manner prescribed, a public inquiry
and shall have regard to any information
15 received during that inquiry; and
(d) may have regard to such other
information as the Tribunal considers it
necessary or desirable to have regard.
- (c) Section 46 (4)—
20 After “investigation”, insert “or holding an
inquiry”.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—
continued.

(3) Section 48A—

5 After section 48, insert :—

48A. (1) Notwithstanding the provisions of any other Act or of any regulations, rules or by-laws under any other Act, whether passed or made before or after the date of commencement of Schedule 5 to the Dairy Industry Authority (Amendment) Act, 1976, any price that may be fixed under this Part shall not be fixed otherwise than under this Part.

(2) Subsection (1) shall not, before a price is fixed in respect of a thing under this Act, affect any price fixed under any other Act or under any regulations, rules or by-laws under any other Act in respect of that thing.

(3) Any price fixed in respect of a thing under any other Act or under any regulations, rules or by-laws under any other Act shall, on the fixing of a price in respect of that thing under this Act, cease to have effect.

(4) Section 51—

25 Omit “the member of the Tribunal referred to in paragraph (c) of subsection two of section forty-two of this Act”, insert instead “members of the Tribunal”.

Dairy Industry Authority (Amendment).

SCHEDULE 6.

Sec. 5.

AMENDMENTS TO PART IX OF THE PRINCIPAL ACT.

(1) Section 89 (1) (e1)—

After section 89 (1) (e), insert :—

- 5 (e1) the treatment of milk by holders of certificates
of registration;

(2) Section 89 (3)—

After “(b)”, insert “, (e1)”.

BY AUTHORITY

D. WEST. GOVERNMENT PRINTER, NEW SOUTH WALES—1976

[32c]

1875
No. 100
The Board of Directors
of the
City of New York
has the honor to
acknowledge the
receipt of your
check for the
sum of \$100.00
and to inform you
that the same
has been deposited
to the credit of
the City of New York
and is available
for your use.

DAIRY INDUSTRY AUTHORITY (AMENDMENT) BILL, 1976

EXPLANATORY NOTE

THE objects of this Bill are—

- (a) to repeal provisions relating to the allocation of quotas (Schedules 2 (1) (c) and 3) and to provide that no court proceedings can be taken against the Dairy Industry Authority (hereinafter called "the Authority") in relation to anything done or anything omitted to be done by the Authority pursuant to those provisions or pursuant to certain other provisions under which the Authority determines the quantities of milk which may be delivered to or accepted by the Authority (Schedule 2 (1) (g));
- (b) to prevent a person supplying any milk until such time as the Authority directs, where an examination, a test or an analysis has indicated that milk in the possession of that person is deleterious to health, unwholesome or impure (Schedule 2 (1) (d));
- (c) to provide for the stopping and inspection of vehicles and the inspection of milk and records, apparatus and other things referring to or used in connection with milk in or on vehicles (Schedule 2 (2));
- (d) to further specify conditions to which a certificate of registration issued under the Act may be made subject (Schedule 2 (4));
- (e) to provide that the Authority may refuse to issue a certificate of registration to a person or cancel a person's certificate of registration if he has been convicted of two or more offences against the laws of any State or Territory, in addition to New South Wales laws, in relation to milk (Schedule 2 (5) (a));
- (f) to enable the Authority to cancel a certificate of registration if the holder fails to comply with any condition to which the certificate is subject (Schedule 2 (5) (b));
- (g) to—
 - (i) enable interstate milk vendors to apply for certificates of registration under the Act (Schedule 2 (6));
 - (ii) allow interstate milk vendors certain rights of appeal against decisions of the Authority (Schedule 2 (6)); and
 - (iii) ensure that certain provisions of the Act will apply to milk produced outside New South Wales (subject to the limitations on the State's power to legislate) (Schedule 2 (1) (e), (2), (3) and (7) (d));

- (h) to provide that milk sold, otherwise than to a milk vendor or a dairy produce factory, must be pasteurised, sterilised or treated in the prescribed manner (in place of existing provisions which require pasteurisation within the meaning of the Pure Food Act, 1908, or treatment in the prescribed manner) (Schedule 2 (7) (b));
 - (i) to provide that, as on and from a day to be appointed, milk sold, otherwise than to a milk vendor or a dairy produce factory, must be pasteurised or sterilised by the holder of a certificate of registration under the Act and, where packaged or bottled, must be packaged or bottled by the holder of a certificate of registration under the Act (Schedule 2 (7) (c));
 - (j) to appoint a Special Officer, being the Director-General of the Department of Agriculture or an officer of that Department nominated by him, to investigate any complaint made to the Minister by a dairyman about the conduct of the Authority in so far as that conduct affects himself and to set out the procedure relating to the making of and dealing with complaints, including provisions requiring the Special Officer to make a recommendation to the Minister and enabling the Minister to take certain action after considering that recommendation (Schedule 4);
 - (k) to reconstitute the Dairy Industry Prices Tribunal so that it consists of 3 members appointed by the Minister, being a Chairman, a representative of the Authority and a representative of consumers (Schedule 5 (1));
 - (l) to provide that the retiring age for all members of the Dairy Industry Prices Tribunal shall be 70 years (Schedule 5 (1) (d) and (i));
 - (m) to enable the Minister to direct the Dairy Industry Prices Tribunal to hold public inquiries (Schedule 5 (2));
 - (n) to provide that prices that may be fixed by the Dairy Industry Prices Tribunal shall not be fixed under any other Act, regulation, rule or by-law (Schedule 5 (3)); and
 - (o) to make other provisions of a minor, consequential or ancillary nature.
-

PROOF

No. , 1976.

A BILL

To amend the Dairy Industry Authority Act, 1970, in relation to milk quotas and interstate milk; to reconstitute the Dairy Industry Prices Tribunal and appoint a Special Officer to investigate complaints by dairymen, and for certain other purposes.

[Mr DAY—18 November, 1976.]

BE

Dairy Industry Authority (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by
and with the advice and consent of the Legislative
Council and Legislative Assembly of New South Wales in
Parliament assembled, and by the authority of the same, as
5 follows:—

1. This Act may be cited as the "Dairy Industry Short title.
Authority (Amendment) Act, 1976".

2. (1) This section and sections 1, 3 and 4 shall Commence-
commence on the date of assent to this Act. ment.

10 (2) Section 5 shall, in its application to a provision
of Schedules 1-6, commence on the day on which that
provision commences.

(3) The several provisions of Schedules 1-6 shall
commence on such day or days as may be appointed by the
15 Governor in respect thereof and as may be notified by
proclamation published in the Gazette.

(4) Section 6 shall commence on the day on which
Schedule 5 commences.

3. The Dairy Industry Authority Act, 1970, is referred Principal
20 to in this Act as the Principal Act. Act.

4. This Act contains the following Schedules :— Schedules.

SCHEDULE 1.—AMENDMENTS TO PART I OF THE
PRINCIPAL ACT.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 2.—AMENDMENTS TO PART III OF THE
PRINCIPAL ACT.

SCHEDULE 3.—REPEAL OF PART IV OF THE
PRINCIPAL ACT.

5 SCHEDULE 4.—INSERTION OF PART IVA INTO THE
PRINCIPAL ACT.

SCHEDULE 5.—AMENDMENTS TO PART V OF THE
PRINCIPAL ACT.

10 SCHEDULE 6.—AMENDMENTS TO PART IX OF THE
PRINCIPAL ACT.

5. The Principal Act is amended in the manner set forth
in Schedules 1-6. Amendment
of Act No.
29, 1970.

6. (1) Any person holding office as a member, or as
the deputy of a member, of the Dairy Industry Prices Tribunal
15 constituted under Part V of the Principal Act immediately
before the commencement of Schedule 5 shall cease to hold
that office on that commencement. Members of
Dairy
Industry
Prices
Tribunal—
cessation of
office.

(2) The termination of a person's term of office under
subsection (1) shall not be an expiration of that person's
20 term of office for the purposes of section 42 (5) of the
Principal Act, as amended by this Act.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO PART I OF THE PRINCIPAL ACT.

(1) (a) Section 2—

5 From the matter relating to Part III, Division 3,
omit "33, 34", insert instead "33-34A".

(b) Section 2—

Omit the matter relating to Part IV.

(c) Section 2—

Before the matter relating to Part V, insert :—

10 PART IVA.—INVESTIGATION OF COMPLAINTS
BY DAIRYMEN—ss. 41A-41G.

(2) Section 4 (1), definition of "treatment"—

After "testing", insert ", analysing".

SCHEDULE 2.

Sec. 5.

15 AMENDMENTS TO PART III OF THE PRINCIPAL ACT.

(1) (a) Section 18 (1) (d)—

Omit "prepare a scheme", insert instead "prepare
and implement a scheme or schemes".

(b) Section 18 (1) (d)—

20 Omit "vary any scheme prepared", insert instead
"vary, replace or cancel any scheme prepared or
implemented".

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—
continued.

(c) Section 18 (1) (d)—

5 Omit “and, for the purposes of any such scheme,
allocate quotas to any person producing milk
for delivery to the Authority”.

(d) Section 18 (1) (h1)—

After section 18 (1) (h), insert :—

10 (h1) where an examination, a test or an
analysis carried out on milk in the
possession of any person indicates that
that milk is deleterious to health, un-
wholesome or impure, by notice in
15 writing served on that person, direct that
person—

(i) not to supply any milk for con-
sumption or use until such time
20 as the Authority, in the like
manner, withdraws that direction;
and

(ii) to deal with or dispose of milk
that would, but for that notice,
25 have been so supplied in such
manner as may be specified in
the notice;

(e) Section 18 (1A)—

After section 18 (1), insert :—

30 (1A) The Authority may exercise any of its
powers under subsection (1) (h), (h1) and (1),
whether the matter or thing in respect of which
the power is exercised is or is not in or of New
South Wales.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—
continued.

(f) Section 18 (2)—

5 After “(h)”, insert “, (h1)”.

(g) Section 18 (4)—

After section 18 (3), insert :—

10 (4) No proceedings, whether at law or in equity, shall be taken, and no issue shall be raised, against the Authority in any court in any circumstances in relation to anything done, or anything omitted to be done, by the Authority pursuant to—

15 (a) subsection (1) (d) or any scheme prepared under subsection (1) (d), whether that thing was done or omitted to be done before or after the date of commencement of Schedule 2 (1) (c) to the Dairy Industry Authority (Amendment) Act, 1976; or

20 (b) Part IV, as in force before the date of commencement of Schedule 3 to the Dairy Industry Authority (Amendment) Act, 1976.

25 (2) Section 18A—

After section 18, insert :—

18A. (1) In this section—

“officer” means—

(a) an officer of the Authority; or

Inspection
of vehicles.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—
continued.

5 (b) any person authorised by the Health
Commission of New South Wales
constituted under the Health Com-
mission Act, 1972, to act as an
officer for the purposes of the Pure
Food Act, 1908,

10 authorised by the Authority to be an officer
for the purposes of this section ;

“place” includes road, whether public or
otherwise.

15 (2) An officer may, at any place, display a
traffic sign of a type prescribed in such a manner as to
be clearly visible to the driver or person in charge of
a vehicle approaching that place.

20 (3) The driver or person in charge of a
vehicle approaching towards a sign referred to in
subsection (2) shall stop or cause the vehicle to be
stopped within a reasonable distance of the sign and
keep the vehicle stationary for the purposes of
enabling an officer to exercise the powers conferred
upon him by or under this or any other Act.

25 (4) An officer may, upon production of the
prescribed evidence of his authority, if demanded—

30 (a) inspect any vehicle, any milk in or on any
vehicle and examine any books, documents,
papers, scales, measures, appliances, appa-
ratus, containers or utensils, referring to or
used in connection with milk in or on any
vehicle ;

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—
continued.

- 5 (b) take, without payment, samples of any milk
in or on any vehicle;
- (c) take notes, copies or extracts of or from
any books, documents or papers referred
to in paragraph (a); and
- 10 (d) open any part of any vehicle or anything in
or on any vehicle or require the driver or
person in charge of any vehicle to open any
part of it or anything in or on it for the
purposes of paragraph (a), (b) or (c).
- (5) Any person who—
- 15 (a) being the driver or person in charge of any
vehicle fails to comply with or observe the
requirements of subsection (3); or
- (b) refuses or wilfully neglects to submit any
20 vehicle, any part of a vehicle or anything
in or on a vehicle to inspection by an officer
in pursuance of this section, or who, being
the driver or person in charge of a vehicle
refuses or wilfully neglects to open any part
of it or anything in or on it,
- 25 is guilty of an offence against this Act.

(6) In this section, "milk" includes milk
that is not New South Wales milk.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—
continued.

(3) Section 19 (2)—

5 At the end of section 19, insert :—

10 (2) The Authority may exercise any of its powers under subsection (1) (other than the acquisition of undertakings in accordance with Division 2 of Part VI), whether the matter or thing in respect of which the power is exercised is or is not in or of New South Wales.

(4) (a) Section 33 (6) (b)—

Omit “and”.

(b) Section 33 (6) (c), (d), (e)—

15 Omit section 33 (6) (c), insert instead :—

20 (c) conditions requiring the holder of the certificate to subject milk treated, deposited, stored, distributed, supplied or sold by him to such treatment as is specified in the certificate;

25 (d) conditions requiring the holder of the certificate to permit the Authority or an officer within the meaning of section 18A to exercise, in relation to that holder’s activities as a dairyman or milk vendor, any of the powers that the Authority or such an officer may exercise under section 18 (1) (b), 18 (1) (c) or 18A (4); and

30 (e) such other conditions as the Authority deems necessary for the purpose of carrying out or giving effect to any of the provisions of this Act.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—
continued.

(5) (a) Section 34 (1) (a)—

5 Omit the paragraph, insert instead :—

- (a) if he has been convicted of two or more offences against any laws of any State or Territory of the Commonwealth, or of the Commonwealth, in relation to the production, treatment, storage, distribution, supply or sale of milk ;
- 10

(b) Section 34 (1A)—

After section 34 (1), insert :—

- (1A) The Authority may cancel the certificate of registration issued to any person if that person fails to comply with any condition to which that certificate is subject.
- 15

(6) Section 34A—

Before the heading to Division 4 of Part III, insert :—

20 34A. (1) A person carrying on the activity or a person who proposes to carry on the activity of—

Interstate
milk
vendors.

- (a) pasteurising, sterilising or otherwise treating milk ; or
- (b) depositing, storing, distributing, supplying or selling milk,
- 25

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—
continued.

5 for distribution, supply or sale in New South Wales
in the course of trade, commerce or intercourse among
the States (whether that distribution, supply or
sale is by himself or by another person) may,
notwithstanding that that activity—

10 (c) is, or is to be, carried on outside New South
Wales; or

(d) is, or is to be, carried on in respect of milk
that is not New South Wales milk,

apply in the manner provided by section 33 (3) for
a certificate of registration.

15 (2) The Authority may determine an appli-
cation authorised by subsection (1) in respect of an
activity in the like manner as it may determine an
application made by a person carrying on or proposing
to carry on the same activity in New South Wales or
20 in respect of New South Wales milk, as the case may
be.

(3) In respect of an application referred to
in subsection (1), and a certificate of registration
issued as a result of such an application, section 34
25 shall be read as if—

(a) the words “in the opinion of the Authority”,
wherever occurring, were omitted from
subsection (1);

30 (b) the words “either of the grounds specified
in paragraph (a) or (b) of” were omitted
from subsection (2) and the words “the
ground specified in subsection (1A) or any
of the grounds specified in” were inserted
instead; and

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—
continued.

5 (c) subsections (3), (4) and (5) were omitted
and the following subsections were inserted
instead :—

(3) A person dissatisfied with the
Authority's decision—

10 (a) to issue him with a certificate of
registration as a milk vendor that
authorises him to carry on only
such activities as a milk vendor
as are specified in the certificate ;

15 (b) to issue him with a certificate of
registration as a milk vendor
subject to conditions ; or

20 (c) to vary the conditions to which
his certificate of registration as a
milk vendor is subject or to
impose conditions or additional
conditions to which that certificate
is to be subject,

and a person—

25 (d) notified pursuant to subsection
(2) ; or

30 (e) whose application for a certificate
of registration as a milk vendor
has been refused upon any of the
grounds specified in subsection
(1),

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—
continued.

5 may in the manner, and within a time
 prescribed, appeal against the decision, or
 the cancellation or refusal, to a court of
 petty sessions held before a stipendiary
 magistrate.

10 (4) Subject to subsection (5), a court
 of petty sessions to which an appeal is made
 under this section shall hear and determine
 the appeal.

15 (5) An appeal against a decision of a
 court of petty sessions under this section
 may be made to the Supreme Court.

(6) A court shall not allow an appeal
made under this section if—

20 (a) in the case of an appeal against
 a decision referred to in subsec-
 tion (3) (a), (b) or (c), it was
 reasonably necessary in the
 interest of public health for that
 decision to be made; or

25 (b) in the case of an appeal against
 the cancellation or refusal of a
 certificate of registration, that
 cancellation or refusal was
 reasonably necessary in the
 interest of public health.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—
continued.

(7) (a) Section 35 (1)—

5 Omit "As on and from a day to be appointed by
the Governor and notified by proclamation pub-
lished in the Gazette (being a day after the day
appointed and notified under subsection two of
10 section one of this Act), any", insert instead
"Any".

(b) Section 35 (1) (a)—

Omit "within the meaning of the Pure Food Act,
1908, and the regulations made under that Act",
insert instead "or sterilised".

15 (c) Section 35 (1A), (1B)—

After section 35 (1), insert :—

20 (1A) As on and from a day to be appointed
by the Governor and notified by proclamation
published in the Gazette (being a day not earlier
than the date of publication of the proclamation
in the Gazette), any person who sells, otherwise
than to a milk vendor or to a dairy produce
factory within the meaning of the Dairy Industry
Act, 1915, milk that has not been pasteurised or
25 sterilised by the holder of a certificate of registra-
tion under this Part that authorises that holder
to carry on the activity of pasteurising or sterilis-
ing, as the case may be, milk, is guilty of an
offence against this Act.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—
continued.

5 (1B) As on and from a day to be appointed
by the Governor and notified by proclamation
published in the Gazette (being a day not earlier
than the date of publication of the proclamation
in the Gazette), any person who sells, otherwise
10 than to a milk vendor or to a dairy produce fac-
tory within the meaning of the Dairy Industry
Act, 1915, packaged or bottled milk that has not
been packaged or bottled, as the case may be, by
the holder of a certificate of registration under
15 this Part that authorises that holder to carry on
the activity of packaging or bottling, as the case
may be, milk, is guilty of an offence against this
Act.

(d) Section 35 (3)—

After section 35 (2), insert :—

20 (3) In this section, "milk" includes milk that
is not New South Wales milk.

SCHEDULE 3.

Sec. 5.

REPEAL OF PART IV OF THE PRINCIPAL ACT.

Part IV—

25 Omit the Part.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 4.

Sec. 5.

INSERTION OF PART IVA INTO THE PRINCIPAL ACT.

Part IVA—

Before Part V, insert :—

PART IVA.

INVESTIGATION OF COMPLAINTS BY DAIRYMEN.

41A. In this Part, except in so far as the context or subject-matter otherwise indicates or requires—

Interpretation:
Pt. IVA.

“conduct” means—

(a) any conduct; or

(b) any conduct of a class,

from time to time prescribed;

“investigation” means investigation by the Special Officer;

“Special Officer” means the Special Officer referred to in section 41B.

41B. (1) There shall be a Special Officer who shall have and may exercise and discharge the powers, authorities, duties and functions conferred or imposed upon him by or under this Part.

(2) The Special Officer shall be the person who is the Director-General of the Department of Agriculture for the purposes of the Public Service Act, 1902, or an officer of the Department of Agriculture from time to time nominated by him.

(3) The Special Officer shall not, as the Special Officer, be subject to the Public Service Act, 1902.

Dairy Industry Authority (Amendment).

SCHEDULE 4—*continued.*

INSERTION OF PART IVA INTO THE PRINCIPAL ACT—
continued.

5 41C. (1) Subject to this section, any dairyman may ^{Complaint.}
complain to the Minister about the conduct of the
Authority in so far as that conduct affects that dairyman.

(2) A complaint under this section shall be in
writing and shall provide details of the conduct com-
10 plained of, the remedy or relief sought and the reasons
why the remedy or relief should be granted or provided.

41D. (1) Where any dairyman has complained to the ^{Action on}
Minister pursuant to this Part, the Minister may make ^{complaint.}
that complaint the subject of an investigation.

15 (2) Where the Minister refuses to make a com-
plaint the subject of an investigation, he shall inform the
complainant in writing of the decision and the reasons
for the decision.

20 (3) Where a complaint is made the subject of
an investigation, the Minister shall give notice in writing
of his decision—

- (a) to the complainant;
- (b) to the Special Officer; and
- (c) to the Authority.

25 (4) A notice under subsection (3) (b) or (c)
shall contain a copy of the complaint.

(5) The Minister may, before deciding whether
to make any conduct complained of the subject of an
investigation, seek such information as he may require
from the Authority or the complainant.

Dairy Industry Authority (Amendment).

SCHEDULE 4—*continued.*

INSERTION OF PART IVA INTO THE PRINCIPAL ACT—
continued.

5 41E. (1) Where the Special Officer receives a notice referred to in section 41D (3) concerning a complaint he shall carry out an investigation of the conduct the subject of the complaint. ^{Investigation.}

(2) An investigation shall be made in the absence of the public.

10 (3) For the purposes of an investigation, the Special Officer may require the Authority—

(a) to give him a statement of information;

(b) to produce to him any document or other thing;

15 (c) to give him a copy of any document; and

(d) to answer any question.

20 (4) A requirement under subsection (3) shall be in writing and shall specify or describe the information, document or thing required, or the question to be answered, and shall fix a time for compliance.

(5) The Authority shall comply with a requirement of the Special Officer pursuant to subsection (3) unless the Minister, of his own motion or at the request of the Authority, sets aside that requirement.

25 (6) This Part does not enable the Special Officer to require the Authority—

(a) to give any statement of information;

(b) to produce any document or other thing;

(c) to give a copy of any document; or

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 4—*continued.*

INSERTION OF PART IVA INTO THE PRINCIPAL ACT—
continued.

- (d) to answer any question,
- 5 which relates to conduct of business at meetings of the
Authority or proceedings of cabinet or any committee of
cabinet.
- (7) In an investigation, the Special Officer
10 shall, if requested by the Minister, consult him on the
conduct the subject of the investigation.
- 41F. Where, in an investigation, the Special Officer Persons to
be heard.
considers that there are grounds for adverse comment in
respect of the Authority, or any member, officer or
employee of the Authority, the Special Officer, before
15 making any such comment in any report or recommenda-
tion to the Minister, shall, so far as is practicable—
- (a) inform the Authority or that person of the
substance of the grounds for adverse comment;
and
- 20 (b) give the Authority or that person an
opportunity to make submissions.
- 41G. (1) After an investigation under this Part the Action
following
investi-
gation.
Special Officer shall make a recommendation to the
Minister.
- 25 (2) Subject to the provisions of this Act, the
Minister, after considering a recommendation of the
Special Officer, may decide to take such action or direct
that such action be taken as he thinks fit in respect of
that recommendation.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 4—*continued.*

INSERTION OF PART IVA INTO THE PRINCIPAL ACT—
continued.

5 (3) Where the Minister has decided to take action or direct that action be taken that is inconsistent with the conduct the subject of a complaint, he shall notify the Authority of the grounds upon which he proposes to take, or direct the taking of, that action.

10 (4) The Authority, when notified pursuant to subsection (3) in respect of a complaint, may make submissions to the Minister.

(5) The Minister may vary a decision referred to in subsection (3) after considering any submissions made by the Authority in respect of that decision.

15 (6) Except as provided in subsection (7), the Minister shall advise a complainant in writing of his decision under subsection (2) and give effect to that decision.

20 (7) Where the Minister's decision is a decision referred to in subsection (3), he shall, after consideration of any submissions made by the Authority—

(a) advise the complainant in writing of that decision, or of that decision as varied pursuant to subsection (5); and

25 (b) give effect to that decision, or that decision as so varied.

Dairy Industry Authority (Amendment).

SCHEDULE 5.

Sec. 5.

AMENDMENTS TO PART V OF THE PRINCIPAL ACT.

(1) (a) Section 42 (2), (3)—

Omit the subsections, insert instead :—

5 (2) After the commencement of Schedule 5 to the Dairy Industry Authority (Amendment) Act, 1976, the Tribunal shall consist of 3 members appointed by the Minister, of whom—

- 10 (a) one shall be appointed as the Chairman of the Tribunal;
- (b) one shall be appointed to represent the Authority; and
- (c) one shall be appointed to represent consumers of milk.

15 (3) A member, officer or employee of the Authority shall not be appointed as a member of the Tribunal pursuant to subsection (2) (c), or as the deputy of a member of the Tribunal appointed pursuant to subsection (2) (c).

20 (b) Section 42 (4)—

Omit “an appointed”, insert instead “a”.

(c) Section 42 (5)—

Omit “an appointed”, insert instead “a”.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—
continued.

(d) Section 42 (6), (7), (7A)—

5 Omit the subsections, insert instead :—

(6) Where a vacancy occurs in the office of a member of the Tribunal, otherwise than by reason of the expiration of that member's term of office, that term of office shall be deemed to have expired.

10

(7) A person who is of or above the age of 70 years shall not be appointed as a member of the Tribunal.

(e) Section 42 (9)—

15 Omit the subsection.

(f) Section 42 (10)—

Omit the subsection, insert instead :—

(10) Each member of the Tribunal shall receive such fees for attending meetings of the Tribunal and such allowances as the Minister may from time to time determine in respect of him.

20

(g) Section 42 (11)—

Omit "An appointed", insert instead "A".

25 (h) Section 42 (11) (d)—

Omit the paragraph.

(i) Section 42 (11) (f), (f1)—

Omit the paragraphs, insert instead :—

(f) if he attains the age of 70 years; or
SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—
continued.

- (j) Section 42 (12)—
5 Omit “appointed”.
- (k) Section 42 (13)—
Omit “an appointed”, insert instead “a”.
- (2) (a) Section 46 (3) (b)—
Omit “and”.
- 10 (b) Section 46 (3) (c), (d)—
Omit section 46 (3) (c), insert instead :—
(c) shall, if the Minister so directs, hold in
the manner prescribed, a public inquiry
and shall have regard to any information
15 received during that inquiry; and
(d) may have regard to such other
information as the Tribunal considers it
necessary or desirable to have regard.
- (c) Section 46 (4)—
20 After “investigation”, insert “or holding an
inquiry”.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—
continued.

(3) Section 48A—

5 After section 48, insert :—

48A. (1) Notwithstanding the provisions of any other Act or of any regulations, rules or by-laws under any other Act, whether passed or made before or after the date of commencement of Schedule 5 to the Dairy Industry Authority (Amendment) Act, 1976, any price that may be fixed under this Part shall not be fixed otherwise than under this Part. Prices not to be fixed under other Acts, etc.

10

(2) Subsection (1) shall not, before a price is fixed in respect of a thing under this Act, affect any price fixed under any other Act or under any regulations, rules or by-laws under any other Act in respect of that thing.

15

(3) Any price fixed in respect of a thing under any other Act or under any regulations, rules or by-laws under any other Act shall, on the fixing of a price in respect of that thing under this Act, cease to have effect.

20

(4) Section 51—

Omit “the member of the Tribunal referred to in paragraph (c) of subsection two of section forty-two of this Act”, insert instead “members of the Tribunal”.

25

Dairy Industry Authority (Amendment).

SCHEDULE 6.

Sec. 5.

AMENDMENTS TO PART IX OF THE PRINCIPAL ACT.

(1) Section 89 (1) (e1)—

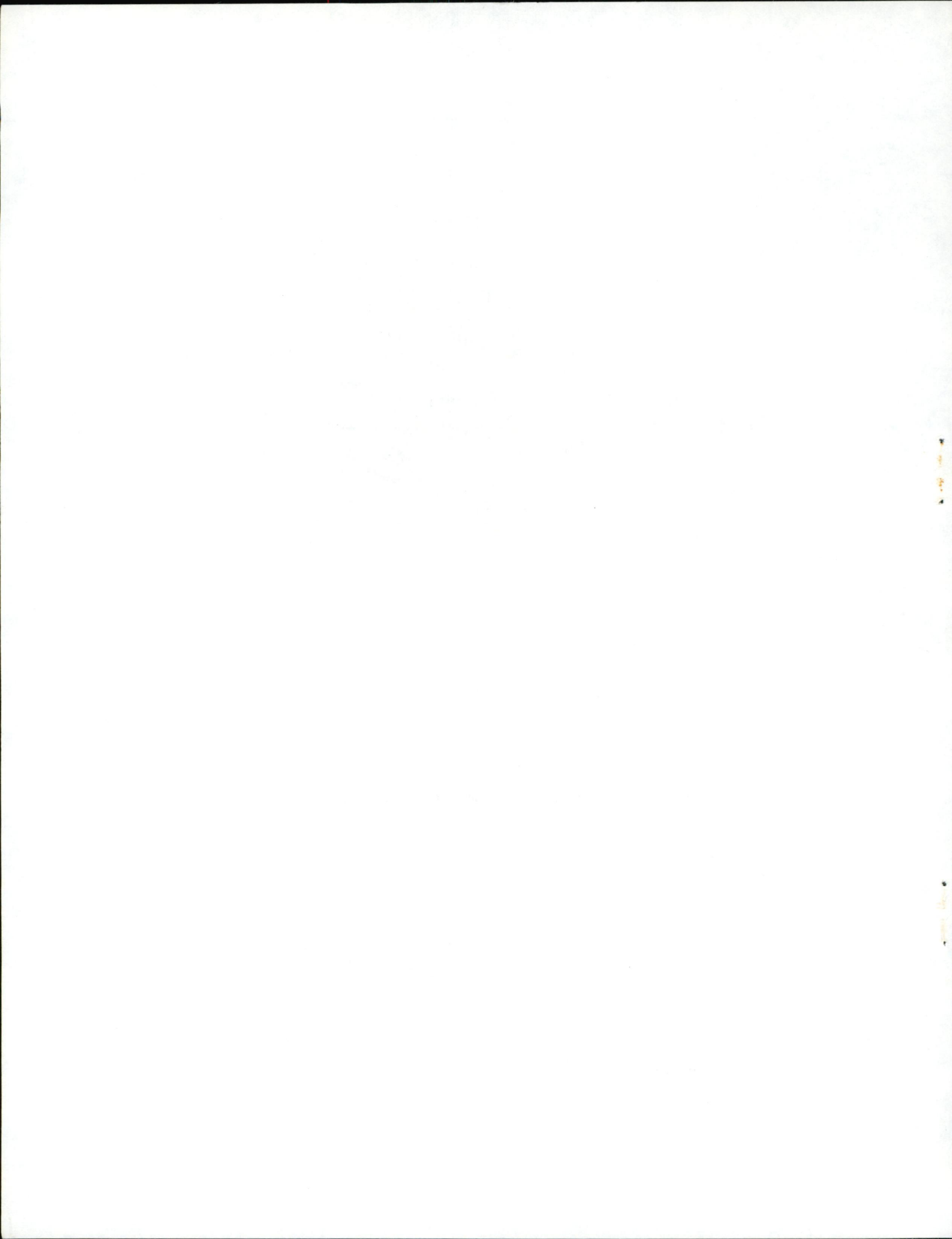
After section 89 (1) (e), insert :—

5 (e1) the treatment of milk by holders of certificates
of registration;

(2) Section 89 (3)—

After “(b)”, insert “, (e1)”.

BY AUTHORITY
D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1976



DAIRY INDUSTRY AUTHORITY (AMENDMENT) BILL.

*Schedule of the Amendments referred to in Legislative Council's
Message of 26 November, 1976.*

No. 1.—Page 5, Schedule 2, lines 4 to 7 inclusive. *Omit* all words on these lines.

No. 2.—Page 6, Schedule 2, lines 6 to 25 inclusive. *Omit* all words on these lines.

THE UNIVERSITY OF CHICAGO
DEPARTMENT OF CHEMISTRY

REPORT OF THE COMMITTEE ON THE
PROGRESS OF CHEMISTRY

FOR THE YEAR 1954

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 25 November, 1976.*

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

A. W. SAXON,
Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, 26 November, 1976.*

New South Wales



ANNO VICESIMO QUINTO

ELIZABETHÆ II REGINÆ

Act No. , 1976.

An Act to amend the Dairy Industry Authority Act, 1970, in relation to milk quotas and interstate milk; to reconstitute the Dairy Industry Prices Tribunal and appoint a Special Officer to investigate complaints by dairymen, and for certain other purposes.

BE

21702 196—A

NOTE.—The words to be *omitted* are ruled through.

Dairy Industry Authority (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Dairy Industry Authority (Amendment) Act, 1976". Short title.

2. (1) This section and sections 1, 3 and 4 shall commence on the date of assent to this Act. Commencement.

10 (2) Section 5 shall, in its application to a provision of Schedules 1-6, commence on the day on which that provision commences.

(3) The several provisions of Schedules 1-6 shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(4) Section 6 shall commence on the day on which Schedule 5 commences.

15 3. The Dairy Industry Authority Act, 1970, is referred to in this Act as the Principal Act. Principal Act.

4. This Act contains the following Schedules:— Schedules.

SCHEDULE 1.—AMENDMENTS TO PART I OF THE PRINCIPAL ACT.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 2.—AMENDMENTS TO PART III OF THE
PRINCIPAL ACT.

SCHEDULE 3.—REPEAL OF PART IV OF THE
PRINCIPAL ACT.

5 SCHEDULE 4.—INSERTION OF PART IVA INTO THE
PRINCIPAL ACT.

SCHEDULE 5.—AMENDMENTS TO PART V OF THE
PRINCIPAL ACT.

10 SCHEDULE 6.—AMENDMENTS TO PART IX OF THE
PRINCIPAL ACT.

5. The Principal Act is amended in the manner set forth
in Schedules 1-6. Amendment
of Act No.
29, 1970.

6. (1) Any person holding office as a member, or as
the deputy of a member, of the Dairy Industry Prices Tribunal
constituted under Part V of the Principal Act immediately
before the commencement of Schedule 5 shall cease to hold
that office on that commencement. Members of
Dairy
Industry
Prices
Tribunal—
cessation of
office.

(2) The termination of a person's term of office under
subsection (1) shall not be an expiration of that person's
term of office for the purposes of section 42 (5) of the
Principal Act, as amended by this Act.

Dairy Industry Authority (Amendment).

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO PART I OF THE PRINCIPAL ACT.

(1) (a) Section 2—

5 From the matter relating to Part III, Division 3,
omit “33, 34”, insert instead “33–34A”.

(b) Section 2—

Omit the matter relating to Part IV.

(c) Section 2—

10 Before the matter relating to Part V, insert:—

PART IVA.—INVESTIGATION OF COMPLAINTS
BY DAIRYMEN—ss. 41A–41G.

(2) Section 4 (1), definition of “treatment”—

After “testing”, insert “, analysing”.

SCHEDULE 2.

Sec. 5.

15 AMENDMENTS TO PART III OF THE PRINCIPAL ACT.

(1) (a) Section 18 (1) (d)—

Omit “prepare a scheme”, insert instead “prepare
and implement a scheme or schemes”.

(b) Section 18 (1) (d)—

20 Omit “vary any scheme prepared”, insert instead
“vary, replace or cancel any scheme prepared or
implemented”.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—
continued.

(e) Section 18 (1) (d)—

5 Omit “and, for the purposes of any such
scheme, allocate quotas to any person pro-
ducing milk for delivery to the Authority”.

(d) Section 18 (1) (h1)—

After section 18 (1) (h), insert :—

10 (h1) where an examination, a test or an
analysis carried out on milk in the
possession of any person indicates that
that milk is deleterious to health, un-
wholesome or impure, by notice in
15 writing served on that person, direct that
person—

(i) not to supply any milk for con-
sumption or use until such time
as the Authority, in the like
20 manner, withdraws that direction;
and

(ii) to deal with or dispose of milk
that would, but for that notice,
have been so supplied in such
25 manner as may be specified in
the notice;

(e) Section 18 (1A)—

After section 18 (1), insert :—

30 (1A) The Authority may exercise any of its
powers under subsection (1) (h), (h1) and (I),
whether the matter or thing in respect of which
the power is exercised is or is not in or of New
South Wales.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—
continued.

(f) Section 18 (2)—

5 After “(h)”, insert “, (h1)”.

~~(g) Section 18 (4)—~~

After section 18 (3), insert :—

10 ~~(4) No proceedings, whether at law or in equity, shall be taken, and no issue shall be raised, against the Authority in any court in any circumstances in relation to anything done, or anything omitted to be done, by the Authority pursuant to—~~

15 ~~(a) subsection (1) (d) or any scheme prepared under subsection (1) (d), whether that thing was done or omitted to be done before or after the date of commencement of Schedule 2 (1) (e) to the Dairy Industry Authority (Amendment) Act, 1976; or~~

20 ~~(b) Part IV, as in force before the date of commencement of Schedule 3 to the Dairy Industry Authority (Amendment) Act, 1976.~~

25 (2) Section 18A—

After section 18, insert :—

18A. (1) In this section—

“officer” means—

30 (a) an officer of the Authority; or

Inspection
of vehicles.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—
continued.

5 (b) any person authorised by the Health
Commission of New South Wales
constituted under the Health Com-
mission Act, 1972, to act as an
officer for the purposes of the Pure
Food Act, 1908,

10 authorised by the Authority to be an officer
for the purposes of this section ;

“place” includes road, whether public or
otherwise.

15 (2) An officer may, at any place, display a
traffic sign of a type prescribed in such a manner as to
be clearly visible to the driver or person in charge of
a vehicle approaching that place.

20 (3) The driver or person in charge of a
vehicle approaching towards a sign referred to in
subsection (2) shall stop or cause the vehicle to be
stopped within a reasonable distance of the sign and
keep the vehicle stationary for the purposes of
enabling an officer to exercise the powers conferred
upon him by or under this or any other Act.

25 (4) An officer may, upon production of the
prescribed evidence of his authority, if demanded—

30 (a) inspect any vehicle, any milk in or on any
vehicle and examine any books, documents,
papers, scales, measures, appliances, appa-
ratus, containers or utensils, referring to or
used in connection with milk in or on any
vehicle ;

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—
continued.

- 5 (b) take, without payment, samples of any milk
in or on any vehicle;
- (c) take notes, copies or extracts of or from
any books, documents or papers referred
to in paragraph (a); and
- 10 (d) open any part of any vehicle or anything in
or on any vehicle or require the driver or
person in charge of any vehicle to open any
part of it or anything in or on it for the
purposes of paragraph (a), (b) or (c).
- (5) Any person who—
- 15 (a) being the driver or person in charge of any
vehicle fails to comply with or observe the
requirements of subsection (3); or
- (b) refuses or wilfully neglects to submit any
20 vehicle, any part of a vehicle or anything
in or on a vehicle to inspection by an officer
in pursuance of this section, or who, being
the driver or person in charge of a vehicle
refuses or wilfully neglects to open any part
of it or anything in or on it,
- 25 is guilty of an offence against this Act.

(6) In this section, "milk" includes milk
that is not New South Wales milk.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—
continued.

(3) Section 19 (2)—

5 At the end of section 19, insert :—

10 (2) The Authority may exercise any of its powers under subsection (1) (other than the acquisition of undertakings in accordance with Division 2 of Part VI), whether the matter or thing in respect of which the power is exercised is or is not in or of New South Wales.

(4) (a) Section 33 (6) (b)—

Omit “and”.

(b) Section 33 (6) (c), (d), (e)—

15 Omit section 33 (6) (c), insert instead :—

20 (c) conditions requiring the holder of the certificate to subject milk treated, deposited, stored, distributed, supplied or sold by him to such treatment as is specified in the certificate;

25 (d) conditions requiring the holder of the certificate to permit the Authority or an officer within the meaning of section 18A to exercise, in relation to that holder's activities as a dairyman or milk vendor, any of the powers that the Authority or such an officer may exercise under section 18 (1) (b), 18 (1) (c) or 18A (4); and

30 (e) such other conditions as the Authority deems necessary for the purpose of carrying out or giving effect to any of the provisions of this Act.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—
continued.

(5) (a) Section 34 (1) (a)—

5 Omit the paragraph, insert instead :—

- 10 (a) if he has been convicted of two or more offences against any laws of any State or Territory of the Commonwealth, or of the Commonwealth, in relation to the production, treatment, storage, distribution, supply or sale of milk;

(b) Section 34 (1A)—

After section 34 (1), insert :—

- 15 (1A) The Authority may cancel the certificate of registration issued to any person if that person fails to comply with any condition to which that certificate is subject.

(6) Section 34A—

Before the heading to Division 4 of Part III, insert :—

20 34A. (1) A person carrying on the activity or a person who proposes to carry on the activity of— ^{Interstate milk vendors.}

- (a) pasteurising, sterilising or otherwise treating milk; or
25 (b) depositing, storing, distributing, supplying or selling milk,

Dairy Industry Authority (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—
continued.

5 for distribution, supply or sale in New South Wales
in the course of trade, commerce or intercourse among
the States (whether that distribution, supply or
sale is by himself or by another person) may,
notwithstanding that that activity—

10 (c) is, or is to be, carried on outside New South
Wales; or

(d) is, or is to be, carried on in respect of milk
that is not New South Wales milk,

apply in the manner provided by section 33 (3) for
a certificate of registration.

15 (2) The Authority may determine an appli-
cation authorised by subsection (1) in respect of an
activity in the like manner as it may determine an
application made by a person carrying on or proposing
20 to carry on the same activity in New South Wales or
in respect of New South Wales milk, as the case may
be.

(3) In respect of an application referred to
in subsection (1), and a certificate of registration
issued as a result of such an application, section 34
25 shall be read as if—

(a) the words “in the opinion of the Authority”,
wherever occurring, were omitted from
subsection (1);

30 (b) the words “either of the grounds specified
in paragraph (a) or (b) of” were omitted
from subsection (2) and the words “the
ground specified in subsection (1A) or any
of the grounds specified in” were inserted
instead; and

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—
continued.

5 (c) subsections (3), (4) and (5) were omitted
and the following subsections were inserted
instead :—

(3) A person dissatisfied with the
Authority's decision—

10 (a) to issue him with a certificate of
registration as a milk vendor that
authorises him to carry on only
such activities as a milk vendor
as are specified in the certificate;

15 (b) to issue him with a certificate of
registration as a milk vendor
subject to conditions; or

20 (c) to vary the conditions to which
his certificate of registration as a
milk vendor is subject or to
impose conditions or additional
conditions to which that certificate
is to be subject.

and a person—

25 (d) notified pursuant to subsection
(2); or

30 (e) whose application for a certificate
of registration as a milk vendor
has been refused upon any of the
grounds specified in subsection
(1),

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—
continued.

5 may in the manner, and within a time prescribed, appeal against the decision, or the cancellation or refusal, to a court of petty sessions held before a stipendiary magistrate.

10 (4) Subject to subsection (5), a court of petty sessions to which an appeal is made under this section shall hear and determine the appeal.

15 (5) An appeal against a decision of a court of petty sessions under this section may be made to the Supreme Court.

(6) A court shall not allow an appeal made under this section if—

20 (a) in the case of an appeal against a decision referred to in subsection (3) (a), (b) or (c), it was reasonably necessary in the interest of public health for that decision to be made; or

25 (b) in the case of an appeal against the cancellation or refusal of a certificate of registration, that cancellation or refusal was reasonably necessary in the interest of public health.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—
continued.

(7) (a) Section 35 (1)—

5 Omit “As on and from a day to be appointed by
the Governor and notified by proclamation pub-
lished in the Gazette (being a day after the day
appointed and notified under subsection two of
10 section one of this Act), any”, insert instead
“Any”.

(b) Section 35 (1) (a)—

Omit “within the meaning of the Pure Food Act,
1908, and the regulations made under that Act”,
insert instead “or sterilised”.

15 (c) Section 35 (1A), (1B)—

After section 35 (1), insert :—

20 (1A) As on and from a day to be appointed
by the Governor and notified by proclamation
published in the Gazette (being a day not earlier
than the date of publication of the proclamation
in the Gazette), any person who sells, otherwise
than to a milk vendor or to a dairy produce
factory within the meaning of the Dairy Industry
Act, 1915, milk that has not been pasteurised or
25 sterilised by the holder of a certificate of registra-
tion under this Part that authorises that holder
to carry on the activity of pasteurising or sterilis-
ing, as the case may be, milk, is guilty of an
offence against this Act.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—
continued.

5 (1B) As on and from a day to be appointed
by the Governor and notified by proclamation
published in the Gazette (being a day not earlier
than the date of publication of the proclamation
in the Gazette), any person who sells, otherwise
10 than to a milk vendor or to a dairy produce factory
within the meaning of the Dairy Industry
Act, 1915, packaged or bottled milk that has not
been packaged or bottled, as the case may be, by
the holder of a certificate of registration under
15 this Part that authorises that holder to carry on
the activity of packaging or bottling, as the case
may be, milk, is guilty of an offence against this
Act.

(d) Section 35 (3)—

After section 35 (2), insert :—

20 (3) In this section, "milk" includes milk that
is not New South Wales milk.

SCHEDULE 3.

Sec. 5.

REPEAL OF PART IV OF THE PRINCIPAL ACT.

Part IV—

25 Omit the Part.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 4.

Sec. 5.

INSERTION OF PART IVA INTO THE PRINCIPAL ACT.

Part IVA—

Before Part V, insert :—

5

PART IVA.

INVESTIGATION OF COMPLAINTS BY DAIRYMEN.

41A. In this Part, except in so far as the context or subject-matter otherwise indicates or requires—
Interpretation: Pt. IVA.

10

“conduct” means—

(a) any conduct; or

(b) any conduct of a class,

from time to time prescribed;

“investigation” means investigation by the Special Officer;

15

“Special Officer” means the Special Officer referred to in section 41B.

20

41B. (1) There shall be a Special Officer who shall have and may exercise and discharge the powers, authorities, duties and functions conferred or imposed upon him by or under this Part.
Special Officer.

25

(2) The Special Officer shall be the person who is the Director-General of the Department of Agriculture for the purposes of the Public Service Act, 1902, or an officer of the Department of Agriculture from time to time nominated by him.

(3) The Special Officer shall not, as the Special Officer, be subject to the Public Service Act, 1902.

Dairy Industry Authority (Amendment).

SCHEDULE 4—*continued.*

INSERTION OF PART IVA INTO THE PRINCIPAL ACT—
continued.

5 41C. (1) Subject to this section, any dairyman may ^{Complaint.} complain to the Minister about the conduct of the Authority in so far as that conduct affects that dairyman.

10 (2) A complaint under this section shall be in writing and shall provide details of the conduct complained of, the remedy or relief sought and the reasons why the remedy or relief should be granted or provided.

41D. (1) Where any dairyman has complained to the ^{Action on} Minister pursuant to this Part, the Minister may make ^{complaint.} that complaint the subject of an investigation.

15 (2) Where the Minister refuses to make a complaint the subject of an investigation, he shall inform the complainant in writing of the decision and the reasons for the decision.

20 (3) Where a complaint is made the subject of an investigation, the Minister shall give notice in writing of his decision—

- (a) to the complainant;
- (b) to the Special Officer; and
- (c) to the Authority.

25 (4) A notice under subsection (3) (b) or (c) shall contain a copy of the complaint.

(5) The Minister may, before deciding whether to make any conduct complained of the subject of an investigation, seek such information as he may require from the Authority or the complainant.

Dairy Industry Authority (Amendment).

SCHEDULE 4—*continued.*

INSERTION OF PART IVA INTO THE PRINCIPAL ACT—
continued.

5 41E. (1) Where the Special Officer receives a notice referred to in section 41D (3) concerning a complaint he shall carry out an investigation of the conduct the subject of the complaint.

(2) An investigation shall be made in the absence of the public.

10 (3) For the purposes of an investigation, the Special Officer may require the Authority—

(a) to give him a statement of information;

(b) to produce to him any document or other thing;

15 (c) to give him a copy of any document; and

(d) to answer any question.

20 (4) A requirement under subsection (3) shall be in writing and shall specify or describe the information, document or thing required, or the question to be answered, and shall fix a time for compliance.

(5) The Authority shall comply with a requirement of the Special Officer pursuant to subsection (3) unless the Minister, of his own motion or at the request of the Authority, sets aside that requirement.

25 (6) This Part does not enable the Special Officer to require the Authority—

(a) to give any statement of information;

(b) to produce any document or other thing;

(c) to give a copy of any document; or

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 4—*continued.*

INSERTION OF PART IV_A INTO THE PRINCIPAL ACT—
continued.

(d) to answer any question,
5 which relates to conduct of business at meetings of the
Authority or proceedings of cabinet or any committee of
cabinet.

(7) In an investigation, the Special Officer
10 shall, if requested by the Minister, consult him on the
conduct the subject of the investigation.

41F. Where, in an investigation, the Special Officer <sup>Persons to
be heard.</sup> considers that there are grounds for adverse comment in
respect of the Authority, or any member, officer or
15 employee of the Authority, the Special Officer, before
making any such comment in any report or recommenda-
tion to the Minister, shall, so far as is practicable—

- (a) inform the Authority or that person of the
substance of the grounds for adverse comment;
and
20 (b) give the Authority or that person an
opportunity to make submissions.

41G. (1) After an investigation under this Part the <sup>Action
following
investi-
gation.</sup> Special Officer shall make a recommendation to the
Minister.

25 (2) Subject to the provisions of this Act, the
Minister, after considering a recommendation of the
Special Officer, may decide to take such action or direct
that such action be taken as he thinks fit in respect of
that recommendation.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 4—*continued.*

INSERTION OF PART IV_A INTO THE PRINCIPAL ACT—
continued.

5 (3) Where the Minister has decided to take action or direct that action be taken that is inconsistent with the conduct the subject of a complaint, he shall notify the Authority of the grounds upon which he proposes to take, or direct the taking of, that action.

10 (4) The Authority, when notified pursuant to subsection (3) in respect of a complaint, may make submissions to the Minister.

(5) The Minister may vary a decision referred to in subsection (3) after considering any submissions made by the Authority in respect of that decision.

15 (6) Except as provided in subsection (7), the Minister shall advise a complainant in writing of his decision under subsection (2) and give effect to that decision.

20 (7) Where the Minister's decision is a decision referred to in subsection (3), he shall, after consideration of any submissions made by the Authority—

- (a) advise the complainant in writing of that decision, or of that decision as varied pursuant to subsection (5); and
- 25 (b) give effect to that decision, or that decision as so varied.

Dairy Industry Authority (Amendment).

SCHEDULE 5.

Sec. 5.

AMENDMENTS TO PART V OF THE PRINCIPAL ACT.

(1) (a) Section 42 (2), (3)—

Omit the subsections, insert instead :—

5 (2) After the commencement of Schedule 5 to the Dairy Industry Authority (Amendment) Act, 1976, the Tribunal shall consist of 3 members appointed by the Minister, of whom—

- 10 (a) one shall be appointed as the Chairman of the Tribunal;
- (b) one shall be appointed to represent the Authority; and
- (c) one shall be appointed to represent consumers of milk.

15 (3) A member, officer or employee of the Authority shall not be appointed as a member of the Tribunal pursuant to subsection (2) (c), or as the deputy of a member of the Tribunal appointed pursuant to subsection (2) (c).

20 (b) Section 42 (4)—

Omit “an appointed”, insert instead “a”.

(c) Section 42 (5)—

Omit “an appointed”, insert instead “a”.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—
continued.

(d) Section 42 (6), (7), (7A)—

5 Omit the subsections, insert instead :—

(6) Where a vacancy occurs in the office of
a member of the Tribunal, otherwise than by
reason of the expiration of that member's term
of office, that term of office shall be deemed to
10 have expired.

(7) A person who is of or above the age of 70
years shall not be appointed as a member of the
Tribunal.

(e) Section 42 (9)—

15 Omit the subsection.

(f) Section 42 (10)—

Omit the subsection, insert instead :—

(10) Each member of the Tribunal shall
receive such fees for attending meetings of the
Tribunal and such allowances as the Minister
may from time to time determine in respect of
20 him.

(g) Section 42 (11)—

Omit "An appointed", insert instead "A".

25 (h) Section 42 (11) (d)—

Omit the paragraph.

(i) Section 42 (11) (f), (f1)—

Omit the paragraphs, insert instead :—

(f) if he attains the age of 70 years; or

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—
continued.

- (j) Section 42 (12)—
5 Omit “appointed”.
- (k) Section 42 (13)—
Omit “an appointed”, insert instead “a”.
- (2) (a) Section 46 (3) (b)—
Omit “and”.
- 10 (b) Section 46 (3) (c), (d)—
Omit section 46 (3) (c), insert instead :—
(c) shall, if the Minister so directs, hold in
the manner prescribed, a public inquiry
and shall have regard to any information
15 received during that inquiry; and
(d) may have regard to such other
information as the Tribunal considers it
necessary or desirable to have regard.
- (c) Section 46 (4)—
20 After “investigation”, insert “or holding an
inquiry”.

SCHEDULE

Dairy Industry Authority (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—
continued.

(3) Section 48A—

5 After section 48, insert :—

48A. (1) Notwithstanding the provisions of any other Act or of any regulations, rules or by-laws under any other Act, whether passed or made before or after the date of commencement of Schedule 5 to the Dairy Industry Authority (Amendment) Act, 1976, any price that may be fixed under this Part shall not be fixed otherwise than under this Part.

Prices not
to be fixed
under other
Acts, etc.

10 (2) Subsection (1) shall not, before a price is fixed in respect of a thing under this Act, affect any price fixed under any other Act or under any regulations, rules or by-laws under any other Act in respect of that thing.

15 (3) Any price fixed in respect of a thing under any other Act or under any regulations, rules or by-laws under any other Act shall, on the fixing of a price in respect of that thing under this Act, cease to have effect.

20 (4) Section 51—

25 Omit “the member of the Tribunal referred to in paragraph (c) of subsection two of section forty-two of this Act”, insert instead “members of the Tribunal”.

Dairy Industry Authority (Amendment).

SCHEDULE 6.

Sec. 5.

AMENDMENTS TO PART IX OF THE PRINCIPAL ACT.

(1) Section 89 (1) (e1)—

After section 89 (1) (e), insert :—

5 (e1) the treatment of milk by holders of certificates
of registration;

(2) Section 89 (3)—

After “(b)”, insert “, (e1)”.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1976

[32c]

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1889

1890